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Contents

Federal Register

Vol. 53, No. 225

Tuesday, November 22, 1988

Separate Parts In This Issue

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 53, No. 225
Tuesday, November 22, 1988

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-CE-35-AD; Amdt. 39-6073]

Airworthiness Directives; Bendix/King KDM 7000B Distance Measuring Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Bendix/King KDM 7000B distance measuring equipment (DME) units, installed in, but not limited to, Boeing 727 series, 737 series, 747 series, British Aerospace Model 146, Fokker Models F-27 and F-28, and McDonnell Douglas MD-80 series airplanes. This AD requires modification of the range gate and tracking board to insure adequate channeling line isolation. This AD is prompted by a report that if power to a KDM 7000B is removed or if a failure of the KDM 7000B occurs in installations where a KDM 7000B is paired with a Collins 51RV4 VHF navigation receiver or certain Bendix/King KNR 6030 VHF navigation receivers and where the DME and navigation receiver channeling lines are paralleled, the associated navigation receiver may be rechanneled to another frequency without the knowledge of the flight crew. Such an occurrence can cause unannunciated erroneous navigation data being presented to the flight crew during instrument flight conditions and could result in hazardous flight path deviations.

DATES: *Effective Date:* December 20, 1988.

Compliance: Compliance required as indicated in the body of the AD.

ADDRESSES: Alert Service Bulletin Number KDM 7000B-34-14, dated November 4, 1988, applicable to this AD may be obtained from Allied-Signal Aerospace Sector, Bendix/King Air Transport Avionics Division, P.O. Box 9327, Fort Lauderdale, FL 33310. This information may also be examined at the Rules Docket, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Ralph W. Rissmiller, Jr., Aerospace Engineer, Wichita Aircraft Certification Office, ACE-130W, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4419.

SUPPLEMENTARY INFORMATION: During recent tests conducted by Boeing Commercial Airplanes, rechanneling of a Collins 51RV4 VHF navigation receiver was observed when the circuit breaker on a Bendix/King KDM 7000B DME was opened. Investigation revealed that some installations of this equipment employ a single set of wafer switches and shared wiring to provide 2×5 frequency selection information to paired navigation (VOR/Localizer/Glideslope) receivers and distance measuring equipment. As a result of an engineering change introduced approximately 3½ years ago, a 10 kohm leakage path to ground on the 50 Khz tuning and DME hold lines was introduced during any condition in which DME external power is removed or internal power fails. Some navigation receivers, such as the Bendix/King KNR 6030 (s/n 2278 and below) and Collins 51RV4, are susceptible to this leakage path and may interpret it as a ground regardless of the 50 Khz selection on the control unit. If this condition occurs, the navigation receiver will tune to 50 Khz whether the frequency selector is in the 00 Khz or 50 Khz position. As a result, Bendix/King has issued Alert Service Bulletin Number KDM 7000B-34-14, dated November 4, 1988, which specifies a modification of the affected units.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other DME of the same type design, an AD is being issued requiring modification of the affected KDM 7000B DME units. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, 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 major under section 8 of 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 regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

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 FAR 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 AD:

Bendix/King: Applies to Model KDM 7000B Distance Measuring Equipment (DME), Part Number 066-1019-21/-23/-26/-33/-43/-57 (Serial Numbers 21855 through and including 22526), certificated to the applicable requirements of Technical Standard Order C66a, installed in, but not limited to, Boeing 727 series, 737 series, 747 series, British Aerospace Model 146, Fokker Models F-27 and F-28, and McDonnell Douglas MD-80 series airplanes.

Compliance: Required as indicated in the body of the AD, unless already accomplished.

To prevent uncommanded channeling of the associated VOR/Localizer/Glideslope navigation receiver and resultant erroneous navigation data with no warning information, accomplish the following:

(a) For affected KDM 7000B distance measuring equipment units, prior to installation in an aircraft, or if already installed in an aircraft, within the next 50 hours time-in-service following the effective date of this AD, modify the KDM 7000B DME in accordance with the instructions contained in Bendix/King Alert Service Bulletin KDM 7000B-34-14, dated November 4, 1988. This modification must be accomplished by a properly rated certified repair station.

(b) Airplanes may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD may be accomplished.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

All persons affected by this directive may obtain copies of the document referred to herein upon request to Allied-Signal Aerospace Sector, Bendix/King Air Transport Avionics Division, P.O. Box 9327, Fort Lauderdale, Florida 33310; or may examine the document referred to herein at the FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on December 20, 1988.

Issued in Kansas City, Missouri, on November 9, 1988.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-26954 Filed 11-21-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-161-AD; Amdt. 39-6078]

Airworthiness Directives; Cessna Model S550 and 650 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain Cessna Model S550 and 650 series airplanes, which currently requires disconnection of electrical power to the interior cabinetry until a modification of the wiring and electrical components is installed. That action was prompted by a report of an electrical malfunction that resulted in fire damage in the galley area. This amendment requires an additional modification to be accomplished prior to reconnection of electrical power. This amendment is prompted by additional reports of electrical malfunctions of modifications installed in accordance with the existing AD. This condition, if not corrected, could result in cabin smoke, charred paneling, and/or fire.

EFFECTIVE DATE: December 12, 1988.

ADDRESSES: The applicable service information may be obtained from Cessna Aircraft Company, P.O. Box 7706, Wichita, Kansas 67277. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Witchita, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph W. Rissmiller, Jr., Aerospace Engineer, Systems and Equipment Branch, ACE-130W, FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4419.

SUPPLEMENTARY INFORMATION: On June 6, 1987, the FAA issued AD 87-03-15, Amendment 39-5647 (52 FR 23428; June 22, 1987), applicable to Cessna Model S550 and 650 series airplanes, which requires disconnection of the electrical power of the interior cabinetry until a modification of the wiring and electrical components is installed. That action was prompted by reports of chafing of the cabin accessory wiring used to power or to control items such as lighting, water heaters, and entertainment units on the airplanes. The chafing is such that the copper wire has made contact with the graphite layer in the composite paneling used in the various interior cabinetry, and has resulted in cabin smoke, charred paneling, and, in two incidents, fire. The reported incidents have occurred on Cessna Model 650 series airplanes; however, similar construction and the same type of materials are also used in Cessna Model S550 series airplanes.

Subsequent to the issuance of AD 87-03-15, the FAA has received additional reports of damage caused by electrical malfunctions in the galley area; one incident resulted in charred paneling and smoke. These incidents have occurred on airplanes that had been modified in accordance with Cessna Service Letter SLS550-25-02, Revision 3, or SL650-25-02, Revision 3, as specified in AD 87-03-15. Investigation revealed that these problems resulted from inadequate wire protection and electrical isolation of components from the graphite paneling used in the airplanes.

The FAA has reviewed and approved Cessna Service Letters SLS550-25-02, Revision 4, and SL650-25-02, Revision 4, both dated October 21, 1988, which describe procedures for installation of additional modifications which are necessary before electrical power can be safely restored to interior cabinetry wiring and electrical components.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD supersedes AD 87-03-15 to require disconnection of electrical power to the interior cabinetry (in accordance with the Cessna service bulletins specified in AD 87-03-15), until additional modification of the interior cabinetry wiring and electrical component installation is accomplished, in accordance with the Cessna service letters previously mentioned.

Additionally, the applicability of this AD has been revised to exclude certain Model S550 series airplanes which are not equipped with the affected interior cabinetry.

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 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 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 superseding AD 87-03-15, Amendment 39-5647 (52 FR 23428; June 22, 1987), with the following new airworthiness directive:

Cessna: Applies to Model S550 series airplanes, Serial Numbers (S/N) S550-0001 through S550-0039, and S550-0041 through S550-0120, except the lavatory vanities on S550-0100 through S550-0120; and Model 650 series airplanes, S/N 650-0001 through 650-0126, excedpt the lavatory vanities on S/N 650-0087 and 650-0105 through 650-0126; certificated in any category. Compliance required as indicated, unless previously accomplished.

To preclude wiring failure, which can result in cabin smoke and/or fire, accomplish the following:

A. For Cessna Model S550 series airplanes: Before next activation of the airplane's electrical power, disconnect the electrical power to the interior cabinetry in accordance with the accomplishment instructions of Cessna Alert Service Bulletin SBAS550-25-16, dated February 3, 1987.

1. Electrical wiring may be reconnected following modification of the interior cabinetry wiring and electrical components described in, and in accordance with, Cessna Service Letter SLS550-25-02, Revision 4, dated October 21, 1988.

B. For Cessna Model 650 series airplanes: Before next activation of the airplane's electrical power, disconnect the electrical power to the interior cabinetry in accordance with the accomplishment instructions of Cessna Alert Service Bulletin SBA650-25-12, dated February 3, 1987.

1. Electrical wiring may be reconnected following modification of the interior cabinetry wiring and electrical components described in, and in accordance with, Cessna Service Letter SL650-25-02, Revision 4, dated October 21, 1988.

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, Wichita Aircraft Certification Office, FAA, Central Region.

Note.—The request for alternate means of compliance should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Wichita 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 alrady received the appropriate service information from the manufacturer may obtain copies upon request to Cessna Aircraft Company, P.O. Box 7706, Wichita, Kansas 67277. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

This amendment supersedes AD 87-03-15, Amendment 39-5647.

This amendment becomes effective December 12, 1988.

Issued in Seattle, Washington, on November 14, 1988.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-26956 Filed 11-21-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 88-AGL-21]

Establishment of Springfield, OH, Control Zone and Alteration of Dayton Wright-Patterson AFB, OH, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to establish a separate Springfield, OH, control zone to serve Springfield-Beckley Municipal Airport and alter the existing Dayton Wright-Patterson Air Force Base (AFB), OH, control zone. Wright-Patterson AFB has a full-time control tower and weather reporting service whereas the Springfield-Beckley control tower and weather reporting service are offered on a part-time basis. Some pilots are confused as to which weather is the official weather in the control zone and believe that when the Springfield-Beckley control tower is not operating, the control zone there does not exist. The intended effect of this action is to split the existing control zone into two separate zones, thereby reflecting both civilian and military operational requirements and relieving pilot confusion.

EFFECTIVE DATE: 0901 u.t.c., February 9, 1989.

FOR FURTHER INFORMATION CONTACT: Harold G. Hale, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION:

History

On Wednesday, September 21, 1988, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish the Springfield, OH, control zone and modify the existing Dayton Wright-Patterson AFB, OH, control zone (53 FR 36581).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 4, 1988.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes the Springfield, OH, control zone and modifies the existing Dayton Wright-Patterson AFB, OH, control zone.

The establishment of a control zone for Springfield, OH, and modifying the Dayton Wright-Patterson AFB, OH, control zone will alleviate pilot confusion. Each zone will have their own weather reporting and hours of operation.

This control zone split will have no greater effect on the public than does the existing area. The airspace required for the two zones is actually a reduction of controlled airspace. The existing 6-mile radius of Springfield-Beckley Municipal Airport will be reduced to a 5-mile radius and the southwest extension from the radius zone will be 6 miles instead of 8.5 miles. The Springfield, OH, control zone will be effective during the specific dates and

times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory. Dayton Wright-Patterson AFB, OH, dates and times remain status quo.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control Zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Springfield, OH [New]

Within a 5-mile radius of the Springfield-Beckley Municipal Airport, Springfield, OH, (39°50'25" N., long. 83°50'25" W.); and within 3.5 miles each side of the 055° bearing from the airport, extending from the 5-mile radius area to 9.5 miles northeast, and within 2.5 miles each side of the 241° bearing from the airport, extending from the 5-mile radius area to 6 miles southwest, excluding that portion overlying the Dayton Wright-Patterson AFB, OH, control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

3. Section 71.171 is amended as follows:

Dayton Wright-Patterson AFB, OH [Revised]

Within a 5-mile radius of Wright-Patterson AFB (lat. 39°49'34" N., long. 84°02'54" W.).

Issued in Des Plaines, Illinois on November 7, 1988.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 88-26955 Filed 11-21-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 88-ASW-41]

Establishment of Transition Area; Ruidoso, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will establish a new transition area at Ruidoso, NM. The development of a new standard instrument approach procedure (SIAP) to the Sierra Blanca Regional Airport, utilizing the new Capitan Nondirectional Radio Beacon (NDB), has made this amendment necessary. The intended effect of this amendment is to provide adequate controlled airspace for aircraft executing the new SIAP to the airport. Coincident with this action is the changing of the status of the Sierra Blanca Regional Airport from visual flight rules (VFR) to instrument flight rules (IFR).

EFFECTIVE DATE: 0901 u.t.c., February 9, 1989.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone (817) 624-5561.

SUPPLEMENTARY INFORMATION:

History

On August 15, 1988, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing a new transition area located at Ruidoso, NM (53 FR 33503).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D, dated January 4, 1988.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will establish a new transition area at Ruidoso, NM. The development of a new SIAP to the Sierra Blanca Regional Airport, utilizing the new Capitan NDB, has necessitated this amendment. The intended effect of this amendment is to provide adequate controlled airspace for aircraft executing this new SIAP. Coincident with this action, the status of the Sierra Blanca Regional Airport will change from VFR to IFR.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Ruidoso, NM [New]

That airspace extending upward from 700 feet above the surface within an 8.5-mile

radius of the Sierra Blanca Regional Airport (latitude 38°27'42" N., longitude 105°31'31" W.).

Issued in Forth Worth, TX, on November 7, 1988.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 88-26959 Filed 11-21-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 25735; Amdt. No. 1387]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200). FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

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

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

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

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

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

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

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

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on November 11, 1988.

Robert L. Goodrich,

Acting Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—[AMENDED]

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

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

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

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

Effective February 9, 1989

Jamestown, ND—Jamestown Muni, VOR RWY 13, Amdt. 7
Jamestown, ND—Jamestown Muni, VOR RWY 31, Amdt. 8
Jamestown, ND—Jamestown Muni, LOC/DME BC RWY 13, Amdt. 7
Jamestown, ND—Jamestown Muni, NDB RWY 31, Amdt. 6
Jamestown, ND—Jamestown Muni, ILS RWY 31, Amdt. 7
Lakeview, OR—Lake County, NDB-A, Amdt. 2

Effective January 12, 1989

Orlando, FL—Orlando Executive, VOR RWY 13, Amdt. 14
Orlando, FL—Orlando Executive, LOC BC RWY 25, Amdt. 18
Orlando, FL—Orlando Executive, NDB RWY 7, Amdt. 15
Orlando, FL—Orlando Executive, ILS RWY 7, Amdt. 21
Orlando, FL—Orlando Executive, RADAR-1, Amdt. 24
Alton/St. Louis, IL—St. Louis Regional, VOR-A, Amdt. 8
Alton/St. Louis, IL—St. Louis Regional, LOC BC RWY 11, Amdt. 6
Alton/St. Louis, IL—St. Louis Regional, NDB RWY 17, Amdt. 10
Alton/St. Louis, IL—St. Louis Regional, NDB RWY 29, Amdt. 9
Alton/St. Louis, IL—St. Louis Regional, ILS RWY 29, Amdt. 9
Peoria, IL—Greater Peoria, VOR or TACAN RWY 13, Amdt. 22
Peoria, IL—Greater Peoria, VOR/DME or TACAN RWY 31, Amdt. 8
Peoria, IL—Greater Peoria, NDB RWY 31, Amdt. 14
Peoria, IL—Greater Peoria, ILS RWY 13, Amdt. 5
Peoria, IL—Greater Peoria, ILS RWY 31, Amdt. 5
Peoria, IL—Greater Peoria, RNAV RWY 4, Amdt. 6
Peoria, IL—Greater Peoria, RNAV RWY 22, Amdt. 8
Peoria, IL—Greater Peoria, RADAR/1, Amdt. 11
Newton, IA—Newton Muni, VOR RWY 13, Amdt. 7
Newton, IA—Newton Muni, VOR RWY 31, Amdt. 7
Newton, IA—Newton Muni, RNAV RWY 31, Amdt. 1 *Cancelled*
Jennings, LA—Jennings, NDB RWY 13, Orig., *Cancelled*
Bar Harbor, ME—Hancock County-Bar Harbor, ILS RWY 22, Amdt. 3
Holland, MI—Tulip City, VOR-A, Amdt. 9
Holland, MI—Tulip City, RNAV RWY 8, Amdt. 1
Holland, MI—Tulip City, RNAV RWY 26, Amdt. 4
Albuquerque, NM—Albuquerque Intl, NDB RWY 17, Orig.
East Hampton, NY—East Hampton, VOR-A, Amdt. 9
Athens/Albany, OH—Ohio University, LOC RWY 25, Amdt. 2
Coshockton, OH—Richard Downing, VOR-A, Amdt. 8
Coshockton, OH—Richard Downing, RNAV RWY 22, Amdt. 2
Bedford, PA—Bedford, VOR/DME-A, Amdt. 2

Effective December 15, 1988

Pago Pago, AS—Pago Pago Intl, VOR/DME or TACAN-B, Amdt. 5
Santa Ana, CA—John Wayne Airport—Orange County, LDA/DME RWY 19R, Orig.
Denver, CO—Centennial, ILS RWY 35R, Amdt. 6
Denver, CO—Centennial, RNAV RWY 28, Amdt. 5
Denver, CO—Stapleton Intl, ILS RWY 35R, Amdt. 12
Gunnison, CO—Gunnison County, VOR-A, Amdt. 6
Paris, IL—Edgar County, VOR/DME-A, Amdt. 5
Paris, IL—Edgar County, NDB RWY 27, Amdt. 7
Bellaire, MI—Antrim County, VOR RWY 2, Amdt. 1
Bellaire, MI—Antrim County, NDB RWY 2, Amdt. 1
Grand Ledge, MI—Abrams Muni, VOR-A, Amdt. 4
Jefferson City, MO—Jefferson City Meml, LOC RWY 30, Amdt. 6, *Cancelled*
Jefferson City, MO—Jefferson City Meml, ILS RWY 30, Orig.
Tonopah, NV, Tonopah—VOR-A, Amdt. 3
Oklahoma City, OK—Will Rogers World, ILS RWY 35R, Amdt.7
Gallatin, TN—Sumner County Regional, NDB RWY 35, Orig.
Houston, TX—William P. Hobby, ILS RWY 30L, Orig.
Blanding, UT—Blanding Muni, NDB RWY 35, Amdt. 6
Salt Lake City, UT—Salt Lake City Intl, ILS/DME RWY 16R, Amdt. 4
Martinsville, VA—Blue Ridge, SDF RWY 30, Amdt.1
Beckley, WV—Raleigh County Memorial, VOR/DME RWY 1, Amdt. 2

[FR Doc. 88-26960 Filed 11-21-88; 8:45 am]
BILLING CODE 4910-14-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 86F-0316]

Indirect Food Additives; Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to revise the temperature limitation set for uses of vinylidene chloride/methyl acrylate copolymers as articles or components of articles in contact with food. This action responds to a petition filed by The Dow Chemical Co.

DATES: Effective November 22, 1988; written objections and requests for a hearing by December 22, 1988. The Director of the Office of the Federal Register approves the incorporation by reference of certain publications at 21 CFR 177.1990(c)(3) effective on November 22, 1988.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, 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: In a notice published in the **Federal Register** of August 19, 1986 (51 FR 29612), FDA announced that a petition (FAP 6B3938) had been filed by The Dow Chemical Co., 2040 Dow Center, Midland, MI 48640, proposing that § 177.1990 *Vinylidene chloride/methyl acrylate copolymers* (21 CFR 177.1990) be amended to provide for additional safe uses of vinylidene chloride/methyl acrylate copolymers as articles or components of articles intended for use in contact with food. The petition specifically requested that the temperature limitation set for use of the copolymers be raised from 121 °C (250 °F) to 135 °C (275 °F).

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe, and that § 177.1990(c)(3) and (e) should be amended as set forth below. The agency is also incorporating by reference in § 177.1990(c)(3) an alternative method of

analysis for residual vinylidene chloride and residual methyl acrylate.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before December 22, 1988, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR Part 177 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 177.1990 is amended by revising paragraphs (c)(3) and (e) to read as follows:

§ 177.1990 Vinylidene chloride/methyl acrylate copolymers.

* * * * *

(c) * * *

(3) Residual vinylidene chloride and residual methyl acrylate in the copolymer in the form in which it will contact food (unsupported film, barrier layer, or as a copolymer for blending) will not exceed 10 parts per million and 5 parts per million, respectively, as determined by either a gas chromatographic method titled "Determination of Residual Vinylidene Chloride and Methyl Acrylate in Vinylidene Chloride/Methyl Acrylate Copolymer Resins and Films," or, alternatively, "Residual Methyl Acrylate and Vinylidene Chloride Monomers in Saran MA/VDC Resins and Pellets by Headspace Gas Chromatography," dated March 3, 1986, which are incorporated by reference in accordance with 5 U.S.C. 552(a). Copies are available from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

(e) *Conditions of use.* The copolymers may be safely used as articles or components of articles intended for use in producing, manufacturing, processing, preparing, treating, packaging, transporting, or holding food, including processing of packaged food at temperatures not to exceed 135 °C (275 °F).

* * * * *

Dated: November 16, 1988.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88–26990 Filed 11–21–88; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 178

[Docket No. 86F–0375]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of vinylidene chloride/methyl acrylate copolymers as a food contact surface in packaging systems employing hydrogen peroxide as a sterilizing agent. This action is in response to a petition filed by The Dow Chemical Co.

DATES: Effective November 22, 1988; written objections and requests for a hearing by December 22, 1988.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF–355), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 2, 1986 (51 FR 35287), FDA announced that a food additive petition (FAP 6B3953) had been filed by The Dow Chemical Co., Midland, MI 48674, proposing that § 178.1005 *Hydrogen peroxide solution* (21 CFR 178.1005) be amended to provide for the safe use of hydrogen peroxide as a sterilant for food packaging materials composed of vinylidene chloride/methyl acrylate copolymers complying with § 177.1990 *Vinylidene chloride/methyl acrylate copolymers* (21 CFR 177.1990).

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended in § 178.1005(e)(1).

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in

reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environmental, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before December 22, 1988, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularly the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the hearing of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizers.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 178.1005 is amended by revising paragraph (e)(1) to read as follows:

§ 178.1005 Hydrogen peroxide solution.

* * * * *

(e) * * *

(1) Hydrogen peroxide solution identified in and complying with the specifications in this section may be used by itself or in combination with other processes to treat food-contact surfaces to attain commercial sterility at least equivalent to that attainable by thermal processing for metal containers as provided for in Part 113 of this chapter. Food-contact surfaces include the following:

Substances	Limitations
Ethylene-acrylic acid copolymers.	Complying with § 177.1310 of this chapter.
Ethylene-methyl acrylate copolymer resins.	Complying with § 177.1340 of this chapter.
Ethylene-vinyl acetate copolymers.	Complying with § 177.1350 of this chapter.
Ionomeric resins	Complying with § 177.1330 of this chapter.
Olefin polymers	Complying with § 177.1520 of this chapter.
Polyethlene-terephthalate polymers.	Complying with § 177.1630 of this chapter (excluding polymers described in § 177.1630(c)) of this chapter.
Polystryrene and rubber-modified polystyrene polymers.	Complying with § 177.1640 of this chapter.
Vinylidene chloride/methyl acrylate copolymers.	Complying with § 177.1990 of this chapter.

* * * * *

Dated: November 14, 1988.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88–26988 Filed 11–21–88; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: United States Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The U.S. Parole Commission is issuing a rule which interprets 18 U.S.C. 4210(b)(2) as requiring the automatic forfeiture of all time on parole when the Commission revokes parole and the parolee has sustained a conviction for any crime punishable by imprisonment. The purpose of this interpretation is to resolve a doubt recently raised by a federal appellate court as to whether forfeiture of "street time" is discretionary with the Commission, or whether it is a non-discretionary penalty imposed by law.

EFFECTIVE DATE: December 22, 1988.

FOR FURTHER INFORMATION CONTACT: Janice G. McLeod, Attorney, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland, Telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: Prior to 1976, federal law prohibited any of the time a parolee spent on parole to be credited toward his sentence, if his parole were revoked for any reason. 18 U.S.C. 4205 (1948). In 1976, Congress revised this penalty at 18 U.S.C. 4210(b) to limit automatic forfeiture of "street time" to situations where the parolee has sustained a new conviction for a crime committed while on parole, if that crime is punishable by imprisonment, detention, or incarceration in any penal facility.

Forfeiture of street time was made discretionary in the case of absconders from supervision, in 18 U.S.C. 4210(c). But the Commission was not given the option to forgo forfeiture in the case of a new conviction under section 4210(b)(2). The only decision that statute leaves to be made by the Commission is whether "all or any part of the unexpired term being served at the time of parole" shall be concurrent with, or consecutive to, any new sentence. This language, by definition, presupposes no credit for the time served after the date of release on parole.

This view was accepted in *Harris* v. *Day*, 649 F.2d 755, 760 (10th Cir. 1981), holding that "the parolee who has been convicted of a new crime automatically forfeits the time spent on parole."

However, in *Boniface* v. *Carlson*, 856 F.2d (9th Cir. 1988), another appellate court assumed, but did not hold, that "forfeiture is not automatic or certain but is discretionary with the Commission." The Commission believes that this assumption is in error, and that *Harris* v. *Day*, *supra*, is the correct interpretation of the law.

Therefore, the U.S. Parole Commission has unanimously voted to promulgate a formal interpretation of its enabling statute.

This rule change will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Probation and Parole, Prisoners.

28 CFR Part 2 is amended as follows:

PART 2—[AMENDED]

1. The authority citation for 28 CFR Part 2 continues to read:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR 2.52(c)(2) is revised to read as follows:

§ 2.52 Revocation decisions.

* * * * *

(c) * * *

(2) It is the Commission's interpretation of 18 U.S.C. 4210(b)(2) that, if a parolee has been convicted of a new offense committed subsequent to his release on parole, which is punishable by any term of imprisonment, detention, or incarceration in any penal facility, forfeiture of time from the date of such release to the date of execution of the warrant is an automatic statutory penalty, and such time shall not be credited to the service of the sentence. An actual term of confinement or imprisonment need not have been imposed for such conviction; it suffices that the statute under which the parolee was convicted permits the trial court to impose any term of confinement or imprisonment in any penal facility. If such conviction occurs subsequent to a revocation hearing the Commission may reopen the case and schedule a further hearing relative to time forfeiture and such further disposition as may be appropriate. However, in no event shall the violator term imposed under this subsection, taken together with the time served before release, exceed the total length of the original sentence.

* * * * *

Issued at Chevy Chase, Maryland, November 1, 1988.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 88-26850 Filed 11-21-88; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners; Regional Office File Disclosure

AGENCY: United States Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Parole Commission is making a procedural revision to its rule at 28 CFR 2.56 entitled "Disclosure of Parole Commission Regional Office File", with regard to the handling of Bureau of Prisons' documents found in Parole Commission files. The Commission will now provide for the referral of any Bureau of Prisons (BOP) documents in a parole file to the Bureau for disclosure processing when the requester indicates that he wants copies of BOP documents found in his parole file. This change is intended to make the Commission's disclosure procedures conform with the departmental regulation governing referral of documents.

EFFECTIVE DATE: December 22, 1988.

FOR FURTHER INFORMATION CONTACT: Janice G. McLeod, Attorney, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland, Telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: At present, when there are Bureau of Prisons' documents in a parole file that fall within the scope of an inmate or parolee's disclosure request, the Commission refers the requester to the Bureau of Prisons for copies of these documents.

In order to be more responsive to inmate and parolee disclosure requests and to conform with a departmental regulation found at 28 CFR 16.4(c) concerning referral of documents, the Parole Commission is amending its disclosure regulation to provide for the referral of any Bureau of Prisons documents in a parole file to the Bureau of Prisons in those instances where the requestor indicates that he wants copies of any BOP document in his parole file.

This procedural change will be implemented by written notice to the requestor that his parole file contains Bureau of Prisons documents. The requestor will be asked to inform the Commission if he wants the Bureau of Prisons documents in his parole file processed. If so requested, the Commission would then copy and refer to the Bureau of Prisons any documents that originated with that agency for disclosure processing and a direct response to the requestor.

Bureau of Prisons documents found in a parole file are duplicates of documents found in an institutional (BOP) file. Many inmate and parolee requestors simultaneously submit disclosure requests to the Bureau of Prisons and the Parole Commission. Since the inmate has access to the reviewable disclosure section of his institutional file at his place of incarceration, requests for disclosure submitted to the BOP by inmates are generally processed before a request that is simultaneously submitted to the Parole Commission. Thus, any BOP documents in a Parole Commission file may have already been processed and released to the requestor by the Bureau of Prisons by the time the Commission processes a pending disclosure request. This may result in the inmate paying reproduction costs twice for the same documents.

This rule change will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Probation and parole, Prisoners.

28 CFR Part 2 is amended as follows:

PART 2—[AMENDED]

1. The authority citation for 28 CFR Part 2 continues to read:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR 2.56(b) is revised to read as follows:

§ 2.56 Disclosure of Parole Commission regional office file.

* * * * *

(b) *Scope of disclosure.* Disclosure under this section shall extend to Commission documents concerning the prisoner or parolee making the request. Documents which are contained in the regional file and which are prepared by agencies other than the Commission which are also subject to the provisions of the Freedom of Information Act, shall be referred to the appropriate agency for a response pursuant to its regulations, unless the document has previously been prepared for disclosure pursuant to § 2.55, or is fully disclosable on its face, or has been prepared by the Bureau of Prisons. Any Bureau of Prisons

documents in a parole file are duplicates of records in the inmate's institutional file. Before referring these documents to the Bureau of Prisons (BOP), the Commission will ask the requestor whether he also wants the BOP documents in his parole file processed.

Dated: November 1, 1988.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 88-26848 Filed 11-21-88; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-225-D]

Occupational Exposure to Formaldehyde; Start-Up Date

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule; extension of start-up date.

SUMMARY: On December 4, 1987, the Occupational Safety and Health Administration (OSHA) published in the **Federal Register** a final rule regulating occupational exposure to formaldehyde (29 CFR 1910.1048, 52 FR 46168). On February 2, 1988, the Office of Management and Budget (OMB), in accordance with its authority under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and 5 CFR Part 1320, approved the information collection requirements contained in the final rule with the exception of those contained in paragraphs (m)(1)(i) through (m)(4)(ii), and on October 7, 1988, OMB approved paragraph (m)(1)(i) for one year and paragraphs (m)(1)(ii)–(m)(4)(ii) for three years.

On November 8, 1988, OSHA announced that it intended to provide a sixty-day start-up period from the date of OMB's approval until December 6, 1988, before it would begin enforcing the newly approved hazard communication provisions. 53 FR 45080. OSHA also announced that it would use the period November 8 through November 29 to collect additional comment concerning matters raised in an application for an administrative stay of the labeling requirement filed by the Formaldehyde Institute and others. Specifically, OSHA sought comment concerning the appropriateness of the labeling requirement and the feasibility of measuring formaldehyde emissions at the 0.1 ppm level, and whether the Agency should undertake additional rulemaking to reconsider the labeling requirement in paragraph (m)(1)(i) through (m)(4)(ii). The Agency set November 29, 1988, as the closing date for comments in order to complete its consideration of the Formaldehyde Institute's application for an administrative stay by the December 6 effective date.

This notice further extends the start-up date for compliance with the newly approved hazard communication provisions to December 20, 1988. The extension is necessary to permit judicial consideration of a motion filed by the Formaldehyde Institute on November 10, 1988, seeking a court-ordered stay of the cancer labeling requirements of the standard.

EFFECTIVE DATE: December 20, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Office of Information and Consumer Affairs, U.S. Department of Labor, Room N-3647, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION: OSHA is extending the start-up date for the hazard communication requirements at paragraphs (m)(1)(i) through (m)(4)(ii) of 29 CFR 1910.1048 in order to afford the United Staes Court of Appeals for the District of Columbia Circuit a meaningful opportunity to act on the Formaldehyde Institute's November 10 motion for a judicial stay, if such action is necessary. See, *UAW, et al.* v. *John A. Pendergrass*, DC Cir. No. 87-1743.

The Formaldehyde Institute's motion for a judicial stay of the cancer labeling provisions challenges both their efficacy and feasibility. This is also the substance of the Institute's application for an administrative stay. OSHA is now in the process of receiving additional comment on the feasibility and efficacy of that provision. The Agency will complete its consideration of those comments and announce its decision concerning the Institute's petition by December 6, 1988. It would be wasteful and confusing for the Agency, in the context of a response to the Institute's motion, to set before the court views concerning the previously-developed record while at the same time collecting further evidence that could affect the Agency's assessment of the need for a stay. Moreover, the Institute's motion for a judicial stay could be rendered moot, in whole or in part, by the Agency's December 6 ruling on the application for an administrative stay.

Authority and Signature

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210.

This action is taken pursuant to sections 4(b), 6(b), and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1597, 1599; 29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 9-83 (48 FR 35736) and 29 CFR Part 1911.

List of Subjects in 29 CFR Part 1910

Formaldehyde, Occupational Safety and Health, Chemicals, Cancer, Health, Risk assessment.

Signed at Washington, DC this 17th day of November 1988.

John A. Pendergrass,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 88-26992 Filed 11-21-88; 8:45 am]

BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3475-1]

Approval and Promulgation of Implementation Plans; Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: By this Notice, EPA is approving amendments to the State of Oregon visibility protection program, submitted by the Oregon Department of Environmental Quality (ODEQ) on March 3, 1987, as a revision to the Oregon state implementation plan (SIP). These amendments were submitted to satisfy the requirements of section 169A (Visibility Protection) of the Clean Air Act (hereinafter referred to as the Act).

EFFECTIVE DATE: December 22, 1988.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Air Programs Branch (10A-87-10), Environmental Protection Agency, 1200 Sixth Avenue, AT-092, Seattle, Washington 98101.

State of Oregon, Department of Environmental Quality, 811 Southwest Sixth Avenue, Portland, OR 97204.

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, AT–092, Seattle, Washington 98101, Telephone: (206) 442–4253, FTS: 399–4253.

SUPPLEMENTARY INFORMATION:

I. Background

Section 169A of the Act requires visibility protection for mandatory Class I federal areas where EPA has determined visibility is an important value. On December 2, 1980, EPA promulgated the required visibility regulations at 45 FR 80084, codified at 40 CFR 51.300 *et seq.*

On April 10, 1986 (51 FR 12323), EPA approved certain provisions of the Oregon Administrative Rules (OAR) as a revision to the Oregon state implementation plan (SIP) in order to implement visibility monitoring and visibility new source review provisions as required by section 169A of the Act and 40 CFR 51.305 and 40 CFR 51.307 of EPA regulations, respectively. Specifically, EPA approved OAR, Chapter 340, Division 20, section 047, subsection 5.2 "Visibility Protection Plan for Class I Areas" (relating to visibility monitoring and new source review) and OAR, Chapter 340, Division 20, sections 225; 230(1) (e) and (f); 245 (3), (5), and (7); and 276 (relating to visibility new source review), as meeting the requirements of 40 CFR Part 51, Subpart P "Protection of Visibility" relating to visibility monitoring and new source review.

On March 3, 1987, the State of Oregon Department of Environmental Quality (ODEQ) submitted amendments to the Oregon visibility protection plan as a revision to the Oregon SIP in order to implement the remaining provisions of 40 CFR Part 51, Subpart P "Protection of Visibility." These amendments included completely revised OAR 340–20–047, § 5.2 "Visibility Protection Plan for Class I Areas," OAR 629–43–043 "Smoke Management Plan," and Oregon Department of Forestry/Oregon Department of Environmental Quality Interagency Directive 1–4–1–601 "Operational Guidance for the Oregon Smoke Management Program."

EPA reviewed these amendments to the Oregon visibility protection plan and found that the revised provisions met the criteria for visibility protection as promulgated by EPA in 40 CFR Part 51, Subpart P. EPA therefore proposed to approve these amendments as a revision to the Oregon SIP on June 22, 1988 (53 FR 23418).

On June 22, 1988 (53 FR 23418), EPA provided a 30 day public comment period on this proposed approval. No comments were received.

II. Summary of Action

EPA is today approving amendments to the Oregon visibility protection program as a revision to the Oregon SIP. Specifically, EPA is approving the revised OAR 340–20–047, § 5.2 "Visibility Protection Plan for Class I Areas," the revised OAR 629–43–043 "Smoke Management Plan," and the revised Directive 1–4–601 "Operational Guidance for the Oregon Smoke Management Program."

III. Administrative Review

The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I certify that this revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 23, 1989. This action may not be challenged later in proceedings to to enforce its requirements (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Date: October 28, 1988.

Lee M. Thomas,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the state of Oregon was approved by the Director of the Federal Register on July 1, 1982.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart MM—Oregon

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1970 is amended by adding paragraph (c)(83) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(83) On March 3, 1987 the Director of the Department of Environmental Quality submitted amendments to the Oregon visibility protection program as a revisions to the Oregon state implementation plan, specifically OAR 340–20–047, section 5.2 "Visibility Protection Plan for Class I Areas," OAR 629–43–043 "Smoke Management Plan," and Directive 1–4–1–601 "Operational Guidance for the Oregon Smoke Management Program."

(i) Incorporation by reference.

(A) Two letters dated March 3, 1987 from the Director of the Department of Environmental Quality to EPA Region 10 establishing the effective dates for Oregon Administrative Rules referenced in paragraphs (c)(83)(i) (B), (C), and (D) of this section.

(B) Oregon Administrative Rule, Chapter 340, Division 20, section 047, section 5.2 "Visibility Protection Plan for Class I Areas" as adopted by the Environmental Quality Commission on October 24, 1986.

(C) Oregon Administrative Rule, Chapter 629, Division 43, section 043 "Smoke Management Plan" as adopted by the Environmental Quality Commission on December 12, 1986.

(D) Directive 1–4–1–601 "Operational Guidance for the Oregon Smoke Management Program" as adopted by the Environmental Quality Commission on December 12, 1986.

[FR Doc. 88–26054 Filed 11–21–88; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[FRL–3468–4]

Approval and Promulgation of Implementation Plan for the State of Texas; Good Engineering Practice-Stack Height Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This **Federal Register** notice approves Texas Air Control Board Regulation VI, § 116.3(a)(14), for Good Engineering Practice-Stack Height (GEP–SH) and Dispersion Techniques. Although the EPA generally approves the Texas stack height rules on the grounds that the State satisfies the requirements of 40 CFR Part 51, the EPA also provides notice that this action may be subject to modification when EPA completes rulemaking to respond to the decision in *NRDC v. Thomas*, 838 F. 2d 1224 (D.C. Cir. 1988). This GEP–SH Regulation, § 116.3(a)(14), enables the State to ensure that the degree of

emission limitation required for the control of any air pollutant under its SIP is not affected by that portion of any stack height which exceeds GEP or by any other dispersion technique.

Today's notice is published to advise the public that EPA is approving the Texas State GEP–SH regulations. The rationale for this approval is contained in this notice and further documented in the *Technical Support Document.*

DATE: This action will be effective on January 23, 1989, unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Copies of the State's submittal and EPA's *Technical Support Document* along with other information are available for inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least twenty-four hours before the visiting day.

SIP New Source Section, Air Programs Branch, Air, Pesticides and Toxics Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone: (214) 655–7214.

Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723, Telephone: (512) 451–5711.

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, P.E.; SIP New Source Section, Air Programs Branch, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, telephone (214) 655–7214.

SUPPLEMENTARY INFORMATION: Section 123 of the Clean Air Act, amended August 1977, regulates the manner in which techniques for dispersion of pollutants from a source may be considered in setting emission limitations. Specifically, section 123 requires that the degree of emission limitation shall not be affected by the portion of a stack which exceeds GEP or by "any other dispersion technique."

To fulfill the requirements of the Act, the EPA Administrator initially promulgated GEP–SH regulations on February 8, 1982, (47 FR 5864) by limiting stack height credits and other dispersion techniques. Portions of these regulations were successfully challenged in the U.S. Court of Appeals for the D.C. Circuit (see *Sierra Club* v. *EPA*, 719 F.2d 436 (D.C. Cir. 1983)). As the result of this court settlement, the EPA published the revisions to these regulations in the **Federal Register** notice of July 8, 1985, (50 FR 27892).

Pursuant to section 406(d)(2) of the Clean Air Act Amendments of 1977, the EPA has required that all States (1) review and revise, as necessary, their SIPs to include provisions that limit stack height credits and dispersion techniques in accordance with the EPA's July 8, 1985, revised regulations and (2) review all existing emission limitations to determine whether any of these limitations have been affected by impermissible stack height credits above GEP or by any other dispersion techniques. For any limitations that have been so affected, States have been required to prepare revised limitations consistent with their revised SIPs. This approval concerns only the first of these requirements. The EPA is reviewing the emission limitations of the existing sources by using the criteria provided in the **Federal Register** notice of July 8, 1985. The EPA will publish the results of this review and revision, if any, to emission limitations of the affected sources under a separate notice.

State Submission

On October 26, 1987, the Governor of Texas submitted a copy of the Texas GEP–SH, Air Control Board Regulation VI, § 116.3(a)(14), adopted by the Texas Air Control Board (TACB) on July 17, 1987, as a SIP revision along with the State's other supporting documents. TACB Regulation VI, § 116.3(a)(14), incorporates by reference the Federal regulations found in 40 CFR 51.100 (hh)–(kk) and as amended by the **Federal Register** notice of July 8, 1985 (50 FR 27892). In addition, Texas Incorporated the Federal regulatory definitions for "owner or operator" (40 CFR 51.100(f)), "emission limitation and emission standards" (40 CFR 51.100(z)), "Stack" (40 CFR 51.100(ff)), and "a stack in existence" (40 CFR 51.100(gg)). The State meets the requirements of Federal New Source program by incorporating 40 CFR 51.118 (a)–(b) and 40 CFR 51.164 for implementation and enforcement of the GEP–SH provisions in reviewing the New Source applications. All of the provisions adopted and incorporated under § 116.3(a)(14) are applicable to the owners or operators of proposed new facilities or modification of existing facilities in the State of Texas. The Governor's submission of October 26, 1987, included revisions to other sections of Regulation VI; however, today's notice only approves § 116.3(a)(14), provisions for stack height regulations. The EPA will publish its action on the remaining sections of this regulation at a later date.

Final Action

The EPA has reviewed the State's submittal and determined that the State regulations and procedures adequately meet the requirements of the Federal stack height and dispersion technique regulations, and thus the State regulations are in conformance with section 123 of the Clean Air Act. Therefore, the EPA is approving TACB Regulation VI, § 116.3(a)(14), as a revision to the Texas SIP.

In the interim, the EPA's stack height regulations were challenged in *NRDC* v. *Thomas*, 838 F .2d 1224 (D.C. Cir. 1988). On January 22, 1988, the U.S. Appeals Court for the D.C. Circuit issued its decision affirming the regulations in large part, but remanding three provisions to the EPA for reconsideration. These provisions are: (1) Grandfathering pre-October 11, 1983, within-formula stack height increases from demonstration requirements (40 CFR 51.100(kk)(2)); (2) Dispersion credit for sources originally designed and constructed with merged or multiflue stacks (40 CFR 51.100(h)(2)(ii)(A)); and (3) Grandfathering pre-1979 use of the refined H + 1.5L formula (40 CFR 51.100(ii)(2)).

Although the EPA generally approves Texas stack height rules on the grounds that the State satisfies the requirements of 40 CFR Part 51, the EPA also provides notice that this action may be subject to modification when EPA completes rulemaking to respond to the decision in *NRDC* v. *Thomas*, 838 F .2d 1224 (D.C. Cir. 1988). If the EPA's response to the *NRDC* remand modifies the July 8, 1985 regulations, the EPA will notify the State of Texas that its rules must be changed to comport with the EPA's modified requirements. This may result in revised emissions limitations or may affect other actions taken by the State of Texas and source owners or operators.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of publication unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this

action will be effective on January 23, 1989.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 23, 1989. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

Incorporation by reference of the Texas State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Incorporation by reference, Particulate matter, Carbon monoxide, Hydrocarbons.

Date: October 12, 1988.

Lee M. Thomas,

Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart SS—Texas

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2270 is amended by adding paragraph (c)(62) to read as follows:

§ 52.2270 Identification plan.

* * * * *

(c) * * *

(62) Revision to the Texas State Implementation Plan for Good Engineering Practice—Stack Height regulations, Texas Air Control Board Regulation VI, § 116.3(a)(14), as adopted by the Texas Air Control Board on July 17, 1987, were submitted by the Governor of Texas on October 26, 1987. This revision included definitions for "owner or operator", "emission limitation and emission standards", "stack", "a stack in existence", "dispersion technique", "good engineering practice", "nearby", "excessive concentration", and regulations related to "stack height provisions" and "stack height procedures" for new source review.

(i) Incorporation by reference.

(A) Texas Air Control Board Regulation VI, § 116.3(a)(14), adopted by the Board on July 17, 1987.

(ii) Other material—None.

[FR Doc. 88–24829 Filed 11–21–88; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–40

[FPMR Temp. Reg. G–52]

Use of Carrier Contractor for Express Small Package Transportation

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation prescribes policies and procedures applicable to Federal civilian agencies and departments when next day express small package transportation service from and to specified cities is required. In addition, this regulation identifies the new contractor and new contract rates effective October 1, 1988.

DATES: *Effective date:* October 1, 1988. *Expiration date:* September 30, 1989, unless sooner canceled or revised.

FOR FURTHER INFORMATION CONTACT: Dan Carro, Travel and Transportation Management Division (FBT), Washington, DC 20406, telephone FTS 557–1261 or commercial 703–557–1261.

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

List of Subjects in 41 CFR Part 101–40

Freight, Government property, Moving of household goods, Office relocations, Transportation.

PART 101–40 [AMENDED]

The authority citation for Part 101–40 continues to read as follows:

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

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

FEDERAL PROPERTY MANAGEMENT REGULATIONS, TEMPORARY REGULATION G–52

October 24, 1988.

To: Heads of Federal agencies.

Subject: Use of carrier contractor for express small package transportation.

1. *Purpose.* This regulation prescribes policies and procedures applicable to Federal civilian agencies and departments when next day express small package transportation service from and to specified cities is required. In addition, this regulation identifies the new contractor and the new contract rates effective October 1, 1988.

2. *Effective date.* This regulation is effective October 1, 1988.

3. *Expiration date.* This regulation expires September 30, 1989, unless sooner canceled or revised.

4. *Background.* Under section 201(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481(a)), the General Services Administration (GSA) is responsible for prescribing policies and procedures that are advantageous to the Government in terms of economy, efficiency, or service, regarding program activities in the area of transportation and traffic management. Accordingly, GSA has entered into a contract with the carrier listed in Attachment A for the transportation of express small packages from and to specified locations in the United States (including Alaska and Hawaii) and Puerto Rico, where the contractor or its agent presently provides or will provide next day service. In consideration of the contract rates listed in Attachment A and to the extent provided in this regulation, the Government has agreed to place all its transportation requirements for express small package service with the contractor.

5. *Scope.*

a. This regulation is mandatory for all civilian executive agencies pursuant to section 201(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481(a)), and also may be used by (1) cost-reimbursable contractors working for the Government, (2) the legislative and judicial branches of the U.S. Government, and (3) the Department of Defense.

b. Next day express small package transportation is premium transportation. Therefore, agencies and other qualified users shall make prudent use of the services available under this regulation. When next day service is not

required to accomplish an agency's mission, other less costly methods of transportation shall be used.

6. *Definitions.*

a. "Agency" means any ordering activity (including cost-reimbursable contactors) authorized to obtain contractor services at the contract rate.

b. "Commercial form" means a commercial uniform straight bill of lading, a commercial express receipt, or any other commercial instrument constituting a contract of carriage subject to the terms and conditions set forth in Standard Form 1103, U.S. Government Bill of Lading. (See 41 CFR 101–41.302–3.)

c. "Commercial forms and procedures" means a provision whereby shipments are made using commercial forms and commercial billing procedures instead of Government bills of lading (SF 1103) and their related billing procedures. (See 41 CFR 101–41.304–2.)

d. "Contractor" means the contract awardee listed in Attachment A.

e. "Contract rate" means a shipment charge listed in Attachment A.

f. "Express small package" means a package weighing 50 pounds or less, measuring a maximum of 108 inches in length and girth combined, and containing general commodities except:

(1) Hazardous materials as defined in 49 CFR 172.101;

(2) Property of extraordinary value;

(3) Live animals or plants;

(4) Precious metals or stones;

(5) Weapons or firearms;

(6) Liquor or tobacco products;

(7) Currency, including money orders;

(8) Narcotics or other controlled substances, unless otherwise accepted by the contractor;

(9) Any other article which the contactor prohibits its commerical customers from shipping; and

(10) Letters, unless adhering to the criteria established by the U.S. Postal Service as specified in subpar. 7a, below.

g. "Geographical areas" means locations lying wholly or partially within cities, towns, and communities identified by the U.S. Postal Service national five-digit ZIP code in the contractor's service guide or analogous listing.

h. "Holiday' means a Federal holiday.

i. "Special service" means any other agency-required services, such as weekend delivery, escorted courier service, insurance, proof of delivery, additional airbill copies, etc., which, if requested, will be subject to fees not higher than those charged to the contractor's regular commercial customers.

j. "Standard service" means pickup and next day delivery (including desk pickup and desk delivery) between the hours of 8 a.m. and 5 p.m., Mondays through Fridays, except holidays.

7. *Applicability.*

a. The scope of the express small package contract does not include "letters"; i.e., routine first class mail, as defined in U.S. Postal Service Regulations, 39 CFR 310.1 (Private Express Statutes) unless the letters are so "extremely urgent" that the value or usefullness of the letters would be lost or greatly diminished if not delivered within the time limits noted in par. (2), below. "Letter" is generally defined as "a message directed to a specific person or address and recorded in or on a tangible object." (See 39 CFR 310.1 for specific exclusions from the definition.)

(1) It is conclusively presumed that a letter is "extremely urgent" if the amount paid for carriage under the contract is at least $3 or twice the applicable U.S. postage for first class mail (including priority mail), whichever is greater. If a single shipment consists of a number of letters that are picked up together at a single origin for shipment to a single destination, postage may be computed as though the shipment constitutes a single letter. For other types of charges, a bona fide estimate of the average number of letters or shipments may be divided into the charge.

(2) If the value or usefulness of a letter would be lost or greatly diminished if the letter were not delivered under the following conditions, then the letter is considered "extremely urgent" and may be shipped by the contractor under the express small package contract:

(a) Where the letter is dispatched within 50 miles of the intended destination, delivery must be completed with 6 hours or by the close of the addressee's normal business hours on the date of dispatch, whichever is later, except that letters dispatched after noon and before midnight must be delivered by 10 a.m. of the addressee's next business day;

(b) For all other letters, delivery must be completed within 12 hours or by noon of the addressee's next business day;

(c) Agencies shall ensure that all outside covers or containers of letters are prominently marked with the words "Extremely Urgent—Private Carriage Authorized." In addition, each outside cover shall show the names and addresses of the contractor, the sender, and the addressee;

(d) The determination that a letter or letters meet the extreme urgency provisions of 39 CFR 320.6 shall be made by the responsible sending office. If such letters are sent to an agency mailroom for pickup by a private carrier rather than pickup at the sending office, the sending office shall ensure that such letters are marked clearly with the legend "Extremely Urgent—Private Carriage Authorized"; or

(e) Any letters, the extreme urgency of which meets the requirements of 39 CFR 320.6, sent by a private express carrier, shall be placed in plain envelopes.

(3) In addition to the exception for extremely urgent letters, data processing materials may be shipped as an express small package if the data processing materials are conveyed (a) to a data processing center, if carriage is completed within 12 hours or by noon of the addressee's next business day and if data processing work is commenced on such materials within 36 hours of their receipt at the center; or (b) back from the data processing center to the address of the office originating the incoming materials, if carriage is completed within 12 hours or by noon of the addressee's next business day and if data processing work was commenced on the incoming materials within 36 hours of their receipt at the center.

(4) For further guidance with respect to shipments of letters, including data processing materials, see U.S. Postal Service Regulations at 39 CFR Parts 310 and 320, or call the Law Department of the U.S. Postal Service at FTS 245–4616.

b. The provisions of this regulation apply only when agencies subject to this regulation are using commercial forms and procedures. These agencies shall ship their express small packages by the contractor specified in Attachment A, except that the Government reserves the right to use the U.S. Postal Service when in the Government's best interest.

c. To the extent cost-reimbursable contractors are authorized by an agency to ship under this regulation and are reimbursed the transportation costs as direct allowable costs, the contract rates and services provided in this regulation apply to cost-reimbursable contractors. Agencies shall instruct their cost-reimbursable contractors that, before a shipment is made under this regulation, the commercial shipping document must be annotated with either of the following notations, as appropriate:

(1) *When the Government is shown as the consignee.* "Transportation is for the (name of specific agency) and the actual total transportation charges paid to the carrier by the consignor are assignable to, and shall be reimbursed by, the Government"; or

(2) *When the Government is not shown as either the consignor or consignee.* "Transportation is for the

(name of specific agency) and the actual total transportation charges paid to the carrier by the consignor or consignee shall be reimbursed by the Government, pursuant to cost-reimbursement contract number . This may be confirmed by contracting (name and address of the contract administration office listed in the contract).

d. If the contractor offers and publishes for use by the general public a charge that is lower than the contract rate for the same service, agencies shall pay the lower charge.

e. The contract rate does not apply for local pickup and delivery between locations in the metropolitan area of any city, town, or community.

8. *Contractor responsibilities.*

a. In consideration of payment for services provided at the contract rates, the contractor will furnish:

(1) Standard service (see subpar. 6j);

(2) Delivery service for "extremely urgent" letters (see par. 7);

(3) Pickup service on the same day pickup is requested (see subpar. 12a); and

(4) Delivery service on the next day (excluding Saturdays, Sundays, and holidays) following receipt from the shipper. Next day delivery service will not apply when delivery is delayed due to acts of God, the public enemy, the authority of law, or the acts of the consignor (shipper) or consignee (receiver).

b. Packages not delivered on the next day as prescribed in subpar. 8a(4) shall be transported free of charge.

c. When an agency uses a purchase order (PO), blanket purchase agreement (BPA) , or other simplified procedure as permitted by Title 48, Code of Federal Regulations, Subpart 13.2, to order service with the contractor, such instruments should provide the following information: name of the contractor; account number(s) (per instructions of the specific ordering activity within the agency if the contractor assigns such identification numbers and the agency requests them per ordering activity); the GSA contract number; "bill to" address; term of the BPA/PO; and the total dollar value authorized under the BPA/PO (some agencies may require more than one account number per ordering activity if they wish to differentiate billing of different type shipments). If the BPA/PO's contain a dollar value limitation, the contractor will monitor the BPA/PO's and promptly notify the issuing agency/activity when the contractor's service charges approach the dollar value ceilings noted on the BPA/PO's. The contractor will also monitor the BPA/PO's to determine if such instruments restrict the ordering of contractor's service to only certain authorized personnel of an agency/activity. If there are restrictions, the contractor will communicate with the issuer of the BPA/PO to clarify the intent and purpose of the restriction or to remove the restriction, as agreed to by the Government agency involved. Agencies are encouraged to anticipate and incorporate, on the face of their BPA's and PO's, any extra-contractual services they might need. In any event, the contractor's financial system will have the flexibility to separately account for contractual and extra-contractual services provided to the agency which may have been authorized by separate documents (BPA/PO's), and also "break out" the charges for such services on subsequent invoices.

9. *Payment responsibilities.*

a. Payment by Government agencies for contractor services are subject to the Prompt Payment Act of 1982. Agencies will normally pay the contractor within 30 calendar days from receipt of a proper invoice. If interest is payable, it will commence with the 45th calendar day following receipt of a proper invoice by the ordering Government activity. Regarding the aging of accounts, the contractor will begin aging an account 5 calendar days after the postmark date of the invoice to allow for mailing and receipt by the Government. (Aging will not begin with the date service was provided or the date of the invoice itself.) For example, if a shipment took place on October 17, the billing cycle for that shipper closed October 20, and the invoice was generated and dated October 23, and mailed October 25, the contractor could begin account aging October 30. Also, the contractor will advise each agency payment office in writing of the address where payment should be sent to the contractor. The date of the check issued by the agency in payment of the account or the date the payment was issued by wire transfer through the Treasury Financial Communications System shall be considered the date payment is made.

b. At the option of the agency, and with concurrence of the contractor, use of automated electronic billing and payment systems, or other sophisticated methods to simplify the verification and control process, may be separately negotiated and established by agreement between the Government agency and the contractor.

c. The contractor will provide duplicate copies of the commercial form (air bill) used by the ordering activity as a contract of carriage to agency finance offices, or to the ordering activities themselves, if required, at the normal and customary fee charged to the general public. However, agencies should, at the time of account set-up, establish an invoice verification process so that copies of these commerical bills of lading (air bills) will be maintained in a central agency location where invoice verification can take place, thus precluding the need for agencies to obtain copies of the shipping document from the contractor.

d. Agencies shall instruct their cost-reimbursable contractors shipping under this regulation to ensure that the commercial document bears a proper "bill to" address and appropriate account reference(s) to facilitate the prompt processing and payment of the contractor's invoice by the due date.

10. *Delinquent payments and service suspension.*

a. The contractor is authorized to suspend service to any account if:

(1) The delinquent amounts are undisputed and overdue more than 90 calendar days;

(2) The contractor notified the account holder in writing 60 calendar days after billing that the account is overdue and will be suspended if not settled within 30 calendar days; and

(3) The contractor simultaneously furnishes the appropriate GSA zone office a copy of the written delinquency notice.

b. Within 5 calendar days of suspension of service, the contractor will send a list of agency accounts which have been suspended to the contracting officer and simultaneously to the appropriate GSA zone office. Only those ordering activities within an agency which are identified as separate accounts and are delinquent, as stated therein, will be suspended. All ordering activities within an agency will not be suspended. Contractors will restore service to a suspended activity within 5 calendar days of the agency's payment of the outstanding bills over 90 days.

c. When a question arises concerning the proper amount of charges for services rendered (e.g., improper billing, failure to post payments, erroneous charges, etc.), agencies shall give notice of the apparent error, defect, or impropriety in an invoice to the contractor's billing office in writing within 15 calendar days of receipt of the invoice, pursuant to 31 U.S.C. 3903(5) and OMB Circular A–125, sec. 6b, which implement the Prompt Payment Act.

d. No suspension of service will be initiated where disputes exist if an activity has paid the balance of undisputed billings. The GSA contracting officer will make the final

decisions concerning any disputed charges.

11. *Shipment weight and charge.* Rates applicable under this regulation will be assessed on the total weight of each shipment moving at one time from one consignor to one consignee. For example, if three packages weigh one pound each, the applicable charge of the shipment will be computed at the rate applicable to one 3-pound package.

12. *Agency procedures for obtaining service.*

a. Pickup service as noted in subpar. 6j may be ordered on an as-needed basis. In these instances, agencies shall allow the contractor a minimum of 2 hours to make the pickup. For repetitive shipments, agencies may arrange with the contractor to install "lock boxes" and/or furnish regular pickup service at specified times on specified days to meet the shipper's requirements. Agencies should arrange such security clearances and passes as may be necessary to enable the contractor to perform pickup services in a timely fashion in accordance with agency procedures.

b. When and where practicable, agencies shall minimize transportation and administrative costs by consolidating into one shipment packages moving at one time from one consignor to one consignee.

c. Agencies shall determine the weight of each shipment and have the weight indicated on the appropriate commercial form. The total weight of a shipment shall be rounded to the nearest whole pound. Shipments weighing less than 1 pound shall be shown as weighing 1 pound.

d. Where the Government requires special services beyond the scope of the contract (such as weekend or holiday pickup and delivery, escorted courier services, insurance, airbill copies, and proof of delivery, international service, and service to communities not served next day by the contractor or its agent), an agency will have the option either to purchase these services from the contractor at the same fees charged to its regular commercial customers or use another carrier.

e. Agencies shall provide the contractor with a billing address at the time an agency account is established. To ensure that billings are directed to the proper paying office and subsequent payments are credited, agencies may establish a centralized payment system or clearly identify individual shipping activities/accounts to which billings are to be directed. Some agencies may require more than one account number per ordering activity if they wish to differentiate billing of different type shipments.

f. Agencies using a purchase order (PO), a blanket purchase agreement (BPA) pursuant to 48 CFR Subpart 13.2, or other simplified acquisition procedures, should provide the following information:

(1) Name of contractor;

(2) Account number(s);

(3) GSA contract number GS–OOF–95031;

(4) Purchase order number;

(5) "Bill to" address;

(6) Term of the BPA/PO; and

(7) Total dollar value authorized under the BPA/PO.

g. The contractor's Government coordinator may be contacted to establish accounts or resolve service issues. (See attachment A.)

13. *Contractor performance.* The performance of contractor responsibilities as specified in par. 8 is essential to meet the objectives for which the express small package contract and these regulations were developed. Agencies should notify the appropriate GSA zone office, Federal Supply Service Bureau, Attn: Traffic and Travel Services Zone Manager, in writing, when the contractor fails to meet its contractual responsibilities. For purposes of this paragraph, the appropriate GSA zone office is that office listed in attachment C having jurisdiction over specified locations from which a shipment originates. These agency reports shall be compiled and forwarded for appropriate action to the GSA Travel and Transportation Management Division (FBT), Washington, DC 20406.

14. *Comments.* Comments and recommendations concerning use of this program or implementing regulations may be submitted to the General Services Administrator, Travel and Transportation Management Division (FBT), Washington, DC 20406.

15. *Effects on other directives.* FPMR Temporary Regulation G–51 is canceled.

Richard G. Austin,

Acting Administrator of General Services.

October 24, 1988.

Attachment A—Contractor, Shipment Charges, and Geographical Areas

Contractor Code and Name: ABX—Airborne Express

Shipment weight (lbs)	Shipment charge
1	$5.00
2	5.89
3	6.78
4	7.67
5	8.56
6	9.45
7	10.34
8	11.23
9	12.12
10	13.01
11	13.90
12	14.79
13	15.68
14	16.57
15	17.46
16	18.35
17	19.24
18	20.13
19	21.02
20	21.91
21	22.80
22	23.69
23	24.58
24	25.47
25	26.36
26	27.25
27	28.14
28	29.03
29	29.92
30	30.81
31	31.70
32	32.59
33	33.48
34	34.37
35	35.26
36	36.15
37	37.04
38	37.93
39	38.82
40	39.71
41	40.60
42	41.49
43	42.38
44	43.27
45	44.16
46	45.05
47	45.94
48	46.83
49	47.72
50	48.61

Geographical Areas Served

The ABX contract rates listed in this attachment apply to any location within the geographical area of cities, towns, and communities in the United States (including Alaska and Hawaii) and Puerto Rico, where ABX or its agent presently, or in the future, provides or will provide next day service to the extent prescribed in par. 8 of this regulation. The geographical area of cities, towns, and communities is the U.S. Postal Service national five-digit ZIP code area listed in ABX's publication, "Airborne Express Service Guide," or as may be subsequently identified by ABX as being served next day. Agencies are encouraged to use the ABX service guide, which ABX will furnish on request. Agencies may determine up-to-date areas of service and obtain other information by contacting either the ABX Government coordinator at (703) 631–3440, the ABX offices listed in Attachment B, or the appropriate GSA office listed in Attachment C.

Attachment B—Airborne Express Offices

Alabama

Birmingham—205–591–6076

Decatur—205–355–5216
Dothan—205–792–1278
Florence—205–767–6408
Huntsville—205–772–9388
Mobile—205–633–0466
Montgomery—205–277–5039
Toll Free in Alabama to Montgomery—800–523–4872

Alaska

Anchorage—907–243–4313
Fairbanks—800–478–4313
Kenai—800–478–4313

Arizona

Phoenix—602–273–3060
Tucson—602–889–5768

Arkansas

Fayetteville—501–751–0990
Fort Smith—501–646–2946
Little Rock—501–376–0701
Toll free in Arkansas to Little Rock—800–426–6680
Springdale—501–521–3988

California

Bakersfield—805–392–1054
Fresno—209–251–7152
Hollywood—213–747–6980
Irvine—714–545–5070
Los Angeles—213–642–0195
Monterey—408–761–2631
Toll Free in California to Monterey—800–346–4561
Oakland—415–635–9850
Ontario—714–947–9819
Orange County—714–891–6063
Sacramento—916–925–1500
Toll free in Northern California to Sacramento—800–382–8211
San Diego—619–233–5475
San Francisco—415–826–7337
San Jose—408–745–7612
San Luis Obispo—800–621–4165
Santa Barbara—805–964–9876
Toll free in California to Santa Barbara—800–621–4165
Stockton—209–941–0881
Sunnyvale—408–745–7612
Van Nuys—818–983–0134

Colorado

Boulder—303–939–8444
Colorado Springs—303–596–4950
Denver—303–288–0075
Englewood—303–680–9092

Connecticut

Hartford—203–527–8161
Stratford—203–378–2557
Windsor Locks—203–623–2686
Toll free to Port Chester, NY, from Connecticut—800–431–1170

District of Columbia

Washington—703–548–1420

Florida

Bradenton—800–238–6388
Clearwater—813–461–3331
Cocoa Beach—305–783–8590
Deerfield Beach—305–525–0416
Gainesville—904–372–2918
Jacksonville—904–757–2455
Toll free in Florida to Jacksonville—800–824–3495
Melbourne—305–676–2261
Miami—305–592–7670
Toll free in Florida to Miami—800–445–3003
Ocala—904–368–2524
Orlando—305–855–1090
Toll free in Florida to Orlando—800–432–2016
Palm Beach/West Palm Beach—305–686–2300
Panama City—800–553–2060
Pensacola—904–479–1747
Polk County—800–238–6388
Sarasota—800–238–6388
St. Petersburg—813–461–3331
Tallahassee—800–238–6388
Tampa—813–883–3660

Georgia

Atlanta—404–761–7199
Toll free in Georgia to Atlanta—800–282–3094
Savannah—912–964–4972
Smyrna—404–438–8050

Hawaii

Hilo—808–961–5585
Honolulu—808–836–2966

Idaho

Boise—208–383–3065

Illinois

Chicago—312–671–7400
Decatur—217–428–9033
Marion—618–997–6949
Moline—309–799–7027
Peoria—309–697–4717
Toll free in Illinois to Peoria—800–423–9406
Rockford—815–963–5578
Springfield—217–529–3048

Indiana

Elkhart—219–674–6658
Evansville—812–424–3318
Fort Wayne—219–747–6164
Goshen—219–674–6658
Indianapolis—317–243–7521
Toll free in Indiana to Indianapolis—800–232–2490
Mishawaka—219–233–4642
South Bend—219–233–4642
Toll free in Indiana to South Bend—800–552–2727
Toll free in Michigan to South Bend—800–356–4048

Iowa

Burlington—319–752–8023
Cedar Rapids—319–366–6219
Des Moines—515–244–4111
Toll free in Iowa to Des Moines—800–622–8329
Dubuque—319–557–9609
Iowa City—319–338–1569
Waterloo—319–232–0001
Sioux City—712–252–2805

Kansas

Topeka—913–862–0640
Wichita—316–943–9371

Kentucky

Bardstown—800–221–7208
Elizabethtown—800–221–7208
Lexington—606–281–9400
Louisville—502–266–5600
Toll free in Central Kentucky to Louisville—800–221–7208
Shelbyville—800–221–7208

Louisiana

Alexandria—800–874–4484
Baton Rouge—504–343–4710
Toll free in Louisiana to Baton Rouge—800–222–3049
Houma—800–874–4484
Lafayette—318–234–2239
Lake Charles—800–874–4484
New Orleans—504–467–2973
Shreveport—318–631–0637
Toll free in Louisiana to Shreveport—800–223–6258
Toll free in East Texas to Shreveport—800–551–8164

Maine

Portland—207–772–6322
Toll free in Maine to Portland—800–722–1240

Maryland

Baltimore—301–859–3560

Massachusetts

Boston—617–286–0600
Springfield—413–781–3278

Michigan

Battle Creek—616–962–3200
Benton Harbor—616–925–2024
Detroit—313–946–6800
Flint—313–234–8001
Grand Rapids—616–949–9650
Kalamazoo—616–385–3652
Lansing—616–482–5205
Saginaw—517–695–5301
St. Joseph—616–925–2024

Minnesota

Minneapolis—612–726–1191
St. Paul—612–726–1191
Toll free in North Dakota, South Dakota, Wisconsin, Illinois—800–328–8341

Mississippi

Biloxi—800–334–2265
Gulfport—800–334–2265
Jackson—601–939–6012
Toll free in Mississippi to Jackson—800–367–4324

Missouri

Columbia—314–874–1010
Jefferson City—314–634–805
Kansas City—816–243–5920
St. Louis—314–426–7600
Toll free from Kentucky, Tennessee, Kansas, Illinois, to St. Louis—800–325–1015
Springfield—417–869–0879
Toll free in Missouri to Springfield—800–433–1851

Nebraska

Lincoln—402–467–5293
Toll free in Nebraska to Lincoln—800–742–1112
Omaha—402–422–6850
Toll free in Nebraska to Omaha—800–248–8866

Nevada

Las Vegas—702–736–4184
Reno—702–323–6221

New Hampshire

Manchester—603–668–0743

New Jersey

Newark—201–589–0220
Pennsauken—609–663–5540
Trenton—201–225–5850

New Mexico

Albuquerque—505–842–4288
Toll free in New Mexico to Albuquerque—800–851–6655
Las Cruces—505–526–9316

New York

Albany—518–869–3573
Binghampton—607–748–5628
The Bronx—212–608–9191
Buffalo—716–634–6900
Long Island—516–932–7620
Manhattan—212–608–9191
Newburgh—914–564–8595
New York—718–632–8800
Port Chester—914–937–2007
Toll free from Connecticut to Port Chester—800–431–1170
Rochester—716–436–2390
Syracuse—315–455–5591

North Carolina

Chapel Hill—919–840–4375
Charlotte—704–523–9335
Toll free in North Carolina to Charlotte—800–521–4973
Durham—919–840–4375
Greensboro—919–668–0046
Highpoint—919–454–4705
Raleigh—919–840–4375
Toll free in North Carolina to Raleigh—800–662–7224
Winston Salem—919–761–0626

Ohio

Akron—216–535–4110
Toll free in Ohio to Akron—800–367–6481
Canton—800–367–6481
Cincinnati—606–371–1832
Cleveland—216–267–0610
Columbus—614–471–9669
Dayton—513–898–1344
Toledo—419–891–1010
Youngstown—800–367–6481

Oklahoma

Oklahoma City—405–681–0723
Tulsa—918–836–0106
Toll free in Oklahoma to Tulsa—800–722–6033

Oregon

Eugene—503–485–4612
Medford—503–779–1177
Portland—503–249–4661
Redmond—800–452–1103

Pennsylvania

Allentown—215–770–0800
Erie—814–453–6288
Harrisburg—717–944–4061
Toll free in Pennsylvania to Harrisburg—800–932–0795
King of Prussia—215–539–4202
Philadelphia—215–492–9900
Pittsburgh—412–788–2500
Toll free in Pennsylvania to Pittsburgh—800–292–9617

Puerto Rico

San Juan—809–752–7840

Rhode Island

Providence—401–331–1556

South Carolina

Charleston—803–747–7219
Columbia—803–796–7397
Greenville—803–297–8899
Toll free in South Carolina to Greenville—800–551–7035
Hilton Head—803–842–5557
Myrtle Beach—803–626–7889

Tennessee

Bristol—615–323–4191
Chattanooga—615–892–0522
Toll free from Georgia and Alabama to Chattanooga—800–435–3929
Knoxville—615–970–3070
Memphis—901–345–5960
Nashville—615–360–3822

Texas

Abilene—915–676–8581
Amarillo—806–376–5270
Austin—512–476–6933
Toll free in Texas to Austin—800–252–3542
Brownsville—512–546–5034
Bryan—409–779–3278
College Station—409–779–3278
Corpus Christi—512–289–1275
Dallas—214–574–5900
East Texas—800–551–8164
Edinburg—512–381–1981
El Paso—915–779–3838
Fort Worth—214–574–5900
Harlingen—512–428–4952
Houston—713–443–8510
Toll free in Texas to Houston—800–833–8354
Lubbock—806–747–8778
Toll free in Texas to Lubbock—800–692–4517
McAllan—512–381–1981
Midland—915–563–3115
Port Isabel—512–546–5034
San Angelo—800–692–4517
San Antonio—512–828–9621
Toll free in Texas to San Antonio—800–221–3324
S. Padre Island—512–546–5034
Temple—817–756–7255
Waco—817–756–7255
Wichita Falls—817–855–1461

Utah

Salt Lake City—801–596–2555
Toll free in Utah to Salt Lake City—800–237–5324
Toll free in Idaho, Montana, Wyoming, and Nevada to Salt Lake City—800–233–9656

Vermont

Burlington—802–864–7333

Virginia

Alexandria—703–548–1420
Chantilly—703–631–3446
Charlottesville—800–552–2003
Hampton—804–596–1601
Lynchburg—804–237–3137
Newport News—804–596–1601
Norfolk—804–855–3361
Richmond—804–222–3804
Toll free in Virginia to Richmond—800–552–2003
Roanoke—703–345–5279
Staunton—800–552–2003
Virginia Beach—804–855–3361

Washington

Moses Lake—800–533–8210
Pasco—509–943–4696
Toll free in Washington to Pasco—800–533–8210
Seattle—206–433–4451
Toll free in Washington to Seattle—800–562–5054
Spokane—509–624–3355
Toll free in Washington to Spokane—800–233–5020
Toll free from Idaho and Montana to Spokane—800–631–3102
Tacoma—206–383–4066
Vancouver—206–699–5494
Walla Walla—800–533–8210
Wenatchee—800–533–8210
Yakima—509–457–5449

West Virginia

Charleston—304–755–3331
Toll free in West Virginia to Charleston—800–642–3655
Toll free in Kentucky and Ohio to Charleston—800–631–9565

Wisconsin

Appleton—414–735–9514
Beloit—800–362–7224
Green Bay—414–432–8104
Janesville—800–362–7224
Madison—608–244–7707
Toll free in Wisconsin to Madison—800–362–7224
Milwaukee—414–482–1200
Toll free in Wisconsin to Milwaukee—800–242–3840
Oshkosh—414–688–2321

Note: If there is any trouble locating the telephone number of any local Airborne Express office, call this special Toll Free number for information: 800–328–4937. In Washington State call 800–562–2227.

Attachment C—Areas of Jurisdiction, Federal Supply Service Bureaus, Traffic and Travel Services Zone Offices

Eastern Zone

Jurisdiction: AL, CT, DE, FL, GA, KY, MA, MD (note A), ME, MS, NC, NH, NJ, NY, PA, Puerto Rico, RI, SC, TN, VT, VA (note B), Virgin Islands, WV
Address: GSA, Attn: 4FBT, 75 Spring Street, SW., Atlanta, GA 30303
Telephone: FTS 242–5121; CML (404) 331–5121

Central Zone

Jurisdiction: IA, IL, IN, KS, MI, MN, MO, NE, OH, WI
Address: GSA, Attn: 6FBT, 1500 E. Bannister Street, Kansas City, MO 64131
Telephone: FTS (not available); CML (816) 523–6029

Southwestern Zone

Jurisdiction: AR, CO, LA, MT, ND, NM, OK, SD, TX, UT, WY
Address: GSA, Attn: 7FBT, 819 Taylor Street, Fort Worth, TX 76102
Telephone: FTS 334–2737; CML (817) 334–2737

Western Zone

Jurisdiction: AK, American Samoa, AZ, CA, GU, HI, ID, NV, Northern Mariana Islands, OR, Pacific Trust Territories, WA

Address: GSA, Attn: 9FBT, 525 Market Street, San Francisco, CA 94105
Telephone: FTS 454–9288; CML (415) 974–9288

National Capital Region (NCR)

Jurisdiction: DC, MD (note C), VA (note D)
Address: GSA, Attn: WFBT, 7th & D Streets, SW., Washington, DC 20407
Telephone: FTS 472–1626; CML (202) 472–1626

Note A.—Except for those counties under NCR jurisdiction as listed in note C.

Note B.—Except for those cities and counties under NCR jurisdiction as listed in note D.

Note C.—Counties of Prince Georges and Montgomery only.

Note D.—Cities of Alexandria, Fairfax, Manassas, and Manassas Park, and counties of Arlington, Fairfax, Loudoun, and Prince William only.

[FR Doc. 88–26981 Filed 11–21–88; 8:45 am]
BILLING CODE 6820–24–M

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41 CFR Part 101–44

[FPMR Amdt. H–169]

Donation of Federal Surplus Personal Property To Nonprofit Providers of Assistance To Homeless Individuals

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation establishes policies and procedures for donating Federal surplus personal property to programs that provide assistance to the homeless. It is issued to comply with section 502 of the Stewart B. McKinney Homeless Assistance Act, which makes nonprofit tax-exempt providers of assistance to homeless individuals eligible for donations of Federal surplus personal property. This regulation will ensure that property usable for providing food, shelter, or other services to homeless individuals is made available to providers of assistance to the homeless.

EFFECTIVE DATE: November 22, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley M. Duda, Director, Property Management Division, (703) 557–1240.

SUPPLEMENTARY INFORMATION: This regulation cancels and removes FPMR Temporary Regulation H–26 (52 FR 47393, December 14, 1987) from the appendix at the end of Subchapter H in 41 CFR Chapter 101.

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

List of Subjects in 41 CFR Part 101–44

Government property management, Reporting requirements, Surplus Government property.

Accordingly, 41 CFR Part 101–44 is amended as follows:

PART 101–44—DONATION OF PERSONAL PROPERTY

1. The authority citation for Part 101–44 continues to read as follows:

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

Subpart 101–44.2—Donations To Public Agencies and Nonprofit Tax-exempt Activities

2. Section 101–44.202 is amended by revising paragraph (c)(5) to read as follows:

§ 101–44.202 State plan of operation.

* * * * *

(c) * * *

(5) *Financing and service charges.* The State plan shall set forth the means and methods by which the State agency will be financed. When the State agency is authorized to assess and collect service charges from participating donees to cover direct and reasonable indirect costs of its activities, the method of establishing the charges shall be set forth in the plan. The charges shall be fair and equitable and based on services performed by the State agency, including but not limited to screening, packing, crating, removal, and transportation. When the State agency provides minimal services in connection with the acquisition of property, except for document processing and other administrative actions, the charge levied by the State agency shall be minimal. The State plan shall provide for minimal charges to be assessed in such cases and include the bases of computation. When property is made available to nonprofit providers of assistance to homeless individuals, the State plan shall provide for this property to be distributed at a nominal cost for care and handling of the property. The plan of operation shall set forth how funds accumulated from service charges, or from other sources such as sales or compliance proceeds, are to be used for the operation of the State agency and the benefit of participating donees. Service charge funds may be used to cover direct and indirect costs of the State agency's operation, to purchase necessary equipment, and to maintain a reasonable working capital reserve. Such funds may be deposited or invested as permitted by State law, provided the plan of operation sets forth the types of depositories and/or investments contemplated. Service charge funds may be used for rehabilitating donable surplus property, including the purchase of replacement parts. Subject to State authority and the plan of operation, the State agency may expend service charge funds to acquire or improve office or distribution center facilities. When such acquisition or improvements are contemplated, the plan shall set forth what disposition is to be made of any financial assets realized upon the sale or other disposal of the facilities. When refunds of service charges in excess of the State agency's working capital reserve are to be made to participating donees, the plan shall so state and provide details of how such refunds are to be made, such as a reduction in service charges or a cash refund, prorated in an equitable manner.

* * * * *

3. Section 101–44.207 is amended by adding paragraphs (a)(12.1) and (18.1) and revising paragraph (c) to read as follows:

§ 101–44.207 Eligibility.

* * * * *

(a) * * *

(12.1) "Homeless individual" means an individual who lacks a fixed, regular, and adequate nighttime residence, or who has a primary nighttime residence that is: (i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); (ii) an institution that provides a temporary residence for individuals intended to be institutionalized; or (iii) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. For purposes of this regulation, the term does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

* * * * *

(18.1) "Provider of assistance to homeless individuals" means a public agency or a nonprofit, tax-exempt institution or organization that operates

a program which provides assistance such as food, shelter, or other services to homeless individuals, as defined in paragraph (a)(12.1) of this section. Property acquired through the donation program by such institutions or organizations must be used exclusively in their program(s) for providing assistance to homeless individuals.

* * * * *

(c) *Eligibility of nonprofit tax-exempt activities.* Surplus personal property may be donated through the State agency to nonprofit tax-exempt activities, as defined in this section, within the State, such as:

(1) Medical institutions;
(2) Hospitals;
(3) Clinics;
(4) Health centers;
(5) Providers of assistance to homeless individuals;
(6) Schools;
(7) Colleges;
(8) Universities;
(9) Schools for the mentally retarded;
(10) Schools for the physically handicapped;
(11) Child care centers;
(12) Radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations;
(13) Museums attended by the public;
(14) Libraries, serving free all residents of a community, district, State or region; or
(15) Organizations or institutions that receive funds appropriated for programs for older individuals under the Older Americans Act of 1965, as amended, under title IV and title XX of the Social Security Act, or under titles VIII and X of the Economic Opportunity Act of 1964 and the Community Services Block Grant Act. Programs for older individuals include services that are necessary for the general welfare of older individuals, such as social services, transportation services, nutrition services, legal services, and multipurpose senior centers.

* * * * *

4. Section 101–44.208 is amended to revise paragraph (b) to read as follows:

§ 101–44.208 Property distributed to donees.

* * * * *

(b) *Donation purpose.* At the time donable surplus property is acquired by a donee, the donee's authorized representative shall indicate on the State agency's distribution document the primary purpose for which the property is to be used. In the case of public agencies, such usage could be for public purposes, such as conservation, economic development, education, parks and recreation, public health, programs for providing assistance to homeless individuals, public safety, museums, State Indians, or programs for older individuals. When the property is to be used for a combination of these purposes or for some other public purpose, the distribution document shall so indicate. With respect to nonprofit institutions or organizations, the purpose shall be shown as education, public health, programs for providing assistance to homeless individuals, museums, or programs for older individuals.

* * * * *

Subpart 101–44.47—Reports

5. Section 101–44.4701 is amended to revise paragraph (b) to read as follows:

§ 101–44.4071 Reports.

* * * * *

(b) The Administrator of General Services will submit by October 21, 1987, and annually thereafter, a report to the Congress that describes each program that is administered by the agency to assist homeless individuals and the number of homeless individuals served by each program; impediments, including any statutory and regulatory restrictions, to the use of these programs by homeless individuals; and efforts made by GSA to increase the opportunities for homeless individuals to obtain shelter, food, and supportive services.

* * * * *

Subpart 101–44.49—Illustrations of Forms

6. Section 101–44.4902–3040–1 is amended by adding a paragraph at the end of the section to read as follows:

§ 101.44.4902–3040–1 Instructions for preparing GSA Form 3040.

* * * * *

Remarks—Use this area to report on donations to programs that provide assistance to homeless individuals. Include the total amount of property donated, the number of providers that received property, and the number of individuals (estimated if not known) served by each provider. If no donations were made to providers during the report quarter, an indication to that effect should be made.

Dated: October 12, 1988.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 88–26980 Filed 11–21–88; 8:45 am]

BILLING CODE 6820–24–M

41 CFR Parts 201–1, 201–2, 201–23, and 201–24

[FIRMR Temp. Reg. 13, Supp 2]

Temporary Implementation of Paperwork Reduction Reauthorization Act of 1986; Automatic Data Processing Equipment

AGENCY: Information Resources Management Service, GSA.

ACTION: Temporary regulation, supplement.

SUMMARY: This supplement extends Federal Information Resources Management Temporary Regulation 13 for one additional year. Temporary Regulation 13 implemented applicable portions of the Paperwork Reduction Reauthorization Act of 1986. The statute provided a new definition of "automatic data processing equipment" under Pub. L. 89–306, as amended (Brooks Act). Supplement 1 extending Temporary Regulation 13 to December 23, 1987 was published in the **Federal Register** on December 8, 1987 (52 FR 46468). The intent of this extension is to continue temporary implementation of the statute until a proposed amendment is codified. See "Implementation of Title VIII, Paperwork Reduction Reauthorization Act of 1986, Regarding Automatic Data Processing Equipment", which appeared in the **Federal Register** on August 23, 1988 (53 FR 32085).

DATES: *Effective date*: December 23, 1988.

Expiration date: December 23, 1989.

Comments are due: December 22, 1988.

ADDRESS: Comments should be addressed to: General Services Administration (KMPR), Project 88.32T, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: William R. Loy, Regulations Branch (KMPR), Office of Information Resources Management Policy, telephone (202) 566–0194 or FTS, 566–0194.

SUPPLEMENTARY INFORMATION: (1) Temporary Regulation 13 was published in the **Federal Register** on December 23, 1986 (51 FR 45887). Pursuant to 41 U.S.C. 418b(d), the publication of the original rule was waived because of urgent and compelling circumstances to implement Pub. L. 99–500 which was effective as of October 18, 1986. Supplement 1 extended Temporary Regulation 13 to December 23, 1987 (52 FR 46468). The publication of a proposed rule is again waived because the extension of the expiration date of the original rule is of a technical or editorial nature without a

change of substance. The rule continues temporary implementation of the statute while additional rulemaking is in progress. See "Implementation of Title VIII, Paperwork Reduction Reauthorization Act of 1986, Regarding Automatic Data Processing Equipment", which appeared in the **Federal Register** on August 23, 1988 (53 FR 32085).

(2) The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Governmentwide regulation that will have little or no cost effect on society. The temporary rule is not likely to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*).

List of Subjects in 41 CFR Parts 201–1, 201–2, 201–23, and 201–24

Computer technology, Government procurement, Government property management, Information resources activities, Competition, Telecommunications.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and sec. 101(f), 100 Stat. 1783–345; 40 U.S.C. 751(f).

In 41 CFR Chapter 201, FIRMR Temporary Regulation 13, Supplement 2 is added to Appendix A at the end of the chapter.

FIRMR Temporary Regulation 13 Supplement 2

To: Heads of Federal agencies.

Subject: FIRMR Implementation of the "Paperwork Reduction Reauthorization Act of 1986" (Title VIII, Pub. L. 99–500).

1. *Purpose.* This supplement extends the expiration date of FIRMR Temporary Regulation 13 for one additional year. The intent of this extension is to continue temporary implementation of the statute until a proposed amendment is codified.

2. *Effective date.* This regulation is effective December 23, 1988.

3. *Expiration date.* The expiration date of this temporary regulation is extended from December 23, 1988 to December 23, 1989.

Richard G. Austin,

Acting Administrator of General Services.

October 25, 1988.

[FR Doc. 88–26979 Filed 11–21–88; 8:45 am]

BILLING CODE 6820–25–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 406 and 407

[BERC–299–F]

Medicare Program; Hospital Insurance Entitlement and Supplementary Medical Insurance Enrollment and Entitlement

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

ACTION: Final rule.

SUMMARY: These regulations amend the Medicare rules that deal with hospital insurance entitlement and with supplementary medical insurance (SMI) enrollment and entitlement. They also revise rules and deal with State buy-in agreements, that is, agreements under which States may secure SMI benefits for certain Medicaid-eligible individuals by enrolling them in SMI and paying their SMI premiums.

The changes are necessary to conform our rules to changes made in the Medicare and Medicaid laws since the rules were last published.

The purpose is to ensure that those who must apply our rules are not misled or confused by content that fails to reflect statutory changes and modified policy.

DATE: These regulations are effective December 22, 1988.

FOR FURTHER INFORMATION CONTACT: Denis Garrison, (301) 966–5643.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

These amendments conform HCFA regulations to statutory changes enacted since the particular sections were last published. Many of the statutory changes were self-executing, that is, so clear and specific that putting their provisions into effect did not require formal rules. Other have been implemented through changes in the basic regulations for each particular policy area. In both cases, it is necessary to conform all of our regulations so that they are internally consistent and reflect current requirements and procedures. When the regulations that needed to be conformed contained outdated material, confusing language, or incorrect cross-references, we have also made revisions to clarify and correct them.

Most of the statutory provisions are contained in seven laws:

1. The Omnibus Reconciliation Act of 1980 (Pub. L. 96–499) enacted December 5, 1980.

2. The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) enacted August 13, 1981.

3. The Tax Equity and Fiscal Responsibility Act (Pub. L. 97–248) enacted September 3, 1982.

4. The Social Security Amendments of 1983 (Pub. L. 98–21) enacted April 20, 1983.

5. The Deficit Reduction Act of 1984 (Pub. L. 98–369) enacted July 18, 1984.

6. The Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 98–272) enacted April 7, 1988).

7. The Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–509) enacted October 21, 1986).

The above laws are referred to by number. Other laws are identified as necessary.

The conforming changes are needed primarily for the Medicare supplementary medical insurance (SMI) program. Accordingly, it is the SMI regulations in Subpart B of 42 CFR Part 405 (most of which were last published between 1971 and 1978) that have undergone the most extensive revision. Subpart B, which deals with enrollment and entitlement, required extensive revision because of changes in the statute or in other regulations that implement statutory changes.

As part of our ongoing project to establish separate parts for each major area of the Medicare program, the Supbart B content is redesignated as Part 407. For the reader's convenience, a redesignation table for Subpart B is provided at the and of this preamble.

II. Background

The SMI program is the voluntary Medicare Part B program that pays all or part of the costs for physician's services, outpatient services, home health services, services furnished by rural health clinics, ambulatory surgical centers, and comprehensive outpatient rehabilitation facilities. Part B also helps to pay for certain other medical and health services not covered by hospital insurance (Medicare Part A).

The SMI program is available to individuals who are entitled to hospital insurance and to U.S. residents who have attained age 65 and are citizens or are aliens lawfully admitted for permanent residence who have resided in the United States for five consecutive years. This program requires enrollment and payment of monthly premiums.

III. Notice of Proposed Rulemaking

On February 19, 1988, at 53 FR 5008, we proposed amendments that were discussed in detail in the preamble to the NPRM and are summarized below. No comments were received, and only minor technical corrections or editorial changes are made in the proposed rules.

IV. Final Rules

A. Medicare Entitlement Based on Government Employment

1. Statutory Provisions

Section 278 of Pub. L. 97–248 provides, effective January 1, 1983, for taxing Federal wages and crediting Federal employment as a basis for entitlement to hospital insurance (HI).

Section 13205 of Pub. L. 99–272 provides for taxing the wages of State and local government employees hired on or after April 1, 1986, and crediting that employment for entitlement to Medicare Part A hospital insurance. State and local entities have the option of covering employees hired before April 1986, but only with respect to wages for periods after March 31, 1986.

2. Conforming Changes

Subpart B of Part 406 of the Medicare rules is amended to reflect the provisions of sections 278 and 13205.

B. Medicare Entitlement for Disabled Men Entitled to Father's Benefits

1. Statutory Provisions

Section 309(q) of the Social Security Amendments of 1983 (Pub. L. 98–21) extends Medicare entitlement, effective May 1983, to disabled men who are entitled to father's benefits. Under the new provision, which amends section 226(e)(3), a disabled man who is entitled to father's benefits (and cannot become entitled to disabled widower's benefits at the same time), is, if he applies for hospital insurance benefits, *deemed* entitled to disabled widower's benefits as follows:

- If he applied for hospital insurance benefits before may 1984, he was deemed entitled to disabled widower's benefits for any month after April 1981 for which he would have been entitled to those benefits if he had filed an application for them.
- If he applies for hospital insurance benefits in or after May 1984, he will be deemed entitled to disabled widower's benefits for any of up to 12 months before the month of application for which he would have been eligible for those benefits if he had filed an application for them.

2. Conforming Change

Section 406.12 is amended to incorporate this provision.

C. SMI Enrollment, Coverage, and Premium Increase

1. Statutory Provisions

Sections 1837, 1838, and 1839 of the Act deal, respectively, with enrollment periods, coverage periods, and amounts of premiums. Those sections were extensively amended by section 945 of Pub. L. 96–499, section 2151 of Pub. L. 97–35, and section 2338 of Pub. L. 98–369.

Section 945 removed the previous 2-enrollment limitation and established continuous open enrollment instead of the previous 3-month (January through March) annual enrollment period, effective April 1, 1981.

Section 2151 eliminated continuous open enrollment (that is, restored the annual 3-month enrollment period) effective October 1, 1981, but retained the provision allowing an unlimited number of reenrollments. Since the law requires that the monthly premium be increased for individuals who enroll after expiration of their initial enrollment periods and for those who reenroll, the enrollment provisions of sections 945 and 2151 also affected the way the premium increase would be determined.

Section 2338(a) amended section 1839(b), effective January 1, 1983, to provide that, in determining the premium for late enrollment in SMI, the months during which an employer group health plan was primary payer for individuals age 65 to 69 be excluded.

Sections 2338 (b) and (c) corrected an anomaly whereby employed individuals between 65 and 69 years of age, for whom the employer group health plan was primary payer of benefits, were nonetheless obliged to enroll in SMI because of the above noted restrictions on enrollment periods and the increased premiums charged to late enrollees under section 1839(b) of the Medicare law. The amendment added special enrollment periods (SEPs) to existing initial and general enrollment periods, so that Medicare coverage could begin promptly when Medicare would again become the primary payer because the beneficiary had ceased working or attained age 70.

Three sections of Pub. L. 99–272 affect enrollment and premium increases, as follows:

Section 9201(a) amended section 1862(b)(3)(A), effective May 1, 1986, to remove the upper age limit so that employer group health plan benefits continue to be primary to Medicare benefits even after the individual or the individual's spouse attains age 70. Section 9201(c) eliminated the SEP at age 70 since the employer plan continues to be primary as long as employment continues. (Sections 1837(i) and 1838(e) were amended.)

Section 9219(a) makes the provisions for SEPs, and for exclusion of months of employer plan coverage in determining premium increases consistent for all workers. (Sections 1837(i) and 1839(b) were amended.) This means that the provisions apply to two groups for whom employer plan benefits are *not* primary to Medicare because—

- They are neither entitled to, nor eligible for, hospital insurance; or
- They work for employers of fewer than 20 employees.

Since, as discussed above, the age 70 cap has been removed, these rules apply to individuals age 65 or over.

In the determination of premium increases for late enrollment, any months (beginning with January 1983) during which the individual was covered under an employer plan are excluded. The exclusion applies for premiums for months beginning with June 1986. The SEP provision applies to enrollments made in or after August 1986.

Section 9124 added section 1818(c)(7) to provide, effective for premiums for months after June 1986, that the premium increase for late enrollment in hospital insurance be limited to 10 percent and be payable for no longer than twice the number of full twelve-month periods during which the individual could have been, but was not, enrolled in the Medicare Part A program.

Section 9319 of Pub. L. 99–509—

- Added section 1862(b)(4) to make Medicare secondary payer for certain disabled Medicare beneficiaries who are covered under large group health plans; and
- Amended section 1837(i) to provide special enrollment periods for those beneficiaries, so that SMI will begin promptly when employer plan coverage ends.

These provisions are effective January 1, 1987 and will expire on December 31, 1991.

2. Conforming Changes

The regulations dealing with individual SMI enrollment are revised to reflect the statutory changes discussed above. (See Subpart B of Part 407.) Section 407.18 (c), (d), and (e) are revised to restore content that was erroneously dropped from § 405.210(b) when that paragraph was revised by rules published on March 25, 1983 (48 FR 12526). The statutory amendments that

apply to Medicare Part A are reflected in §§ 406.21 and 406.22 of the hospital insurance rules.

D. Effective Date of Voluntary Disenrollment from SMI

1. Statutory Provision

Section 9344(b) of Pub. L. 99–509 amends section 1838(b) to change the effective date of voluntary disenrollment from SMI. Effective for disenrollment requests filed on or after July 1, 1987. SMI coverage ends on the last day of the month following the month in which the disenrollment request is filed. Before this amendment, voluntary termination was effective at the end of the quarter after the quarter in which the disenrollment request was filed.

2. Conforming Changes

The regulations dealing with SMI termination (Subparts B and C of Part 407) reflect this change.

E. State Buy-in Agreements

1. Statutory Provisions

Section 945 of Pub. L. 96–499 also amended section 1843 to provide that, during calendar year 1981:

- A State that did not have a buy-in agreement (that is, an agreement to enroll in SMI individuals eligible for SMI and for cash assistance or Medicaid and pay their SMI premiums), could request such an agreement; and
- A State that already had a buy-in agreement could request a broader coverage group for the agreement.

Section 947 of that same law provides for earlier termination of SMI entitlement when requested by an individual who was deemed enrolled after he or she was no longer eligible to have the SMI premiums paid by the State. (Sections 1838(b) and 1843(g)(2) were amended.)

Under a number of laws enacted since 1980, certain individuals who lose eligibility for cash assistance payments must nevertheless be treated as cash assistance recipients for purposes of Medicaid eligibility. If those individuals are covered under the State's Medicaid program, they are eligible for buy-in coverage. Section 301(e) of the Medicare Catastrophic Coverage Act of 1988 amends section 1843 of the Act to restore, effective "after 1988", the provisions that were in effect during 1981.

2. Conforming Changes

Subpart C of Part 407 (§§ 407.40–407.50) explains the statutory basis for buy-in, defines terms, lists coverage groups, and sets forth the conditions and procedures for termination of buy-in agreements.

IV. Regulatory Impact Statement

Executive Order 12291

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

We have determined that a regulatory impact analysis is not required for these rules because they would not have an annual impact of $100 million or more.

Regulatory Flexibility Analysis

Consistent with the Regulatory Flexibility Act and section 1102(b) of the Social Security Act, we prepare a regulatory flexibility analysis for each rule unless the Secretary certifies that the particular rule will not have a significant economic impact on a substantial number of small entities or a significant impact on the operation of a substantial number of small rural hospitals. A small entity is defined as a small business, a nonprofit enterprise, or a governmental jurisdiction (such as a county, city, or township) with a population of less than 50,000. We consider all providers and suppliers of services to be small entities. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that has fewer than 50 beds and is located anywhere except in a metropolitan statistical area.

We have not prepared a regulatory flexibility analysis because we have determined, and the Secretary certifies, that this rule will not have a significant economic impact on a substantial number of small entities or a significant impact on the operation of a substantial number of small rural hospitals.

Paperwork Reduction Act

These regulations contain no new information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

List of Subjects

42 CFR Part 405

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

42 CFR Part 406

Health facilities, Kidney diseases, Medicare.

42 CFR Part 407

Medicare Part B enrollment and entitlement, State buy-in agreements.

Redesignation Table

42 CFR Part 405, Subpart B

Old sec.	New sec.
405.201	407.1.
405.202	407.2.
405.205	407.10(a).
405.206	407.10(b).
405.207	407.11.
405.210(a)	407.12 and 407.22(b).
405.210(b)	407.17(a) and 407.18.
405.210(c)	407.17(b).
405.211	407.12(a).
405.212 (a) & (c)	407.14(a)(1).
405.212(b) [Reserved]	407. Deleted.
405.212(d)	407.14(a)(2).
405.212(e)	407.14(b).
405.213	407.12(a) and 407.15.
405.214(a) [Reserved]	407. Removed.
405.214 (b) & (c)	407. Removed as inconsistent with changes in the law.
405.214(d)	407.30.
405.215	407.12(b).
405.216	407.20.
405.217(a)	407.40(a).
405.217 (b)–(i)	407.40 (c) and (d), 407.42, and 407.43.
405.220	407.4(b).
405.221	407.25.
405.222	407.47.
405.223	407.27, 407, 148, and 407.50.
405.226	407.32.

42 CFR Chapter IV is amended as set forth below:

I. Part 405 is amended as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart B—[Removed and Reserved]

A. Subpart B (§§ 405.201 through 405.226) is removed and reserved and the table of contents is amended to reflect this change.

B. The content of §§ 405.201 through 405.226 is redesignated under a new Part 407, revised, and presented later in this document.

C. Throughout this Chapter IV, all references to Subpart B and to §§ 405.201—405.226 are changed to refer to Part 407 and its sections, as appropriate.

II. Part 406 is amended as set forth below:

PART 406—HOSPITAL INSURANCE ELIGIBILITY AND ENTITLEMENT

A. The authority citation continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) unless otherwise noted.

B. Subpart A is amended as set forth below:

1. The subpart title is revised to read as follows:

Subpart A—General Provisions

2. In § 406.6, the introductory text of paragraph (c) is republished, in (c)(3) "or" is removed, in (c)(4) the period is revised as "; or", and a new paragraph (c)(5) is added, to read as follows:

§ 406.6 Application or enrollment for hospital insurance.

* * * * *

(c) *Individuals who must file an application for hospital insurance.* An individual must file an application for hospital insurance if he or she seeks entitlement to hospital insurance on the basis of—

* * * * *

(5) The special provisions applicable to government employment as set forth in § 406.15.

C. Subpart B is amended as set forth below:

1. The table of contents is amended by revising the title of § 406.11 and adding a new § 406.15, to read as follows:

Subpart B—Hospital Insurance Without Premiums

§ 406.11 [Amended]

2. Section 406.11 is amended as follows:

a. The section heading is revised to read "§ 406.11 Individual age 65 or over who is not eligible as a social security or railroad retirement beneficiary, or on the basis of government employment."

b. In paragraph (b), "or § 406.15" is inserted immediately after "§ 406.10".

c. In paragraph (b)(1)(ii), "1966" is changed to "1968" and "1968" is changed to "1966".

d. In paragraph (e)(2), "or § 406.15" is added at the end of the sentence.

3. Section 406.12 is amended by revising the heading of paragraph (c), redesignating paragraph (c)(4) as (c)(5) and republishing (c)(5), and adding a new paragraph (c)(4) to read as follows:

§ 406.12 Individual under age 65 who is entitled to social security or railroad retirement disability benefits.

* * * * *

(c) *Deemed entitlement to disabled widow's or widower's monthly benefits.*

* * * * *

(4) *Deemed entitlement for certain individuals entitled to father's benefits.* An individual who is entitled to father's insurance benefits under section 202(g) of the Act cannot at the same time be entitled to disabled widower's benefits. However, if he applies for hospital insurance benefits, he will be deemed to be entitled to disabled widower's monthly benefits as follows:

(i) If he applied for hospital insurance benefits before May 1984, he was deemed entitled to disabled widower's benefits for any month after April 1981 for which he would have been entitled to those benefits if he had filed an application for them.

(ii) If he applies for hospital insurance benefits in or after May 1984, he is deemed entitled to disabled widower's benefits for any month, up to 12 months before the month of application, for which he would have been entitled to those benefits if he had filed an application for them.

(iii) Hospital insurance entitlement under this paragraph (c)(4) could not begin before May 1983.

(5) *Deemed retroactive entitlement for certain disabled widows and widowers.* In some cases, disabled widows or widowers cannot become entitled to monthly cash benefits before the month in which they file application. However, for purposes of meeting the 25-month requirement, disability benefit entitlement will be deemed to have begun with the earliest month (of the 12 months before the application for cash benefits) in which the individual met all the requirements except the filing of an application. (This provision is effective for applications filed on or after January 1, 1978.)

* * * * *

4. New § 406.15 is added, to read as follows:

§ 406.15 Special provisions applicable to Medicare qualified government employment.

(a) *Definition.* As used in this section, "Medicare-qualified government employment" means Federal, State, or local government employment that is subject only to the hospital insurance portion of the tax imposed by the Federal Insurance Contributions Act (F.I.C.A.). This includes—

(1) Wages paid for Federal employment after December 1982.

(2) Wages paid to State and local government employees hired after March 31, 1986.

(3) Wages paid to State and local government employees hired before April 1, 1986 but whose employment after March 31, 1986 is covered, for Medicare purposes only, under an agreement under section 218 of the Act.

(b) *Crediting of wages that are taxable only for Medicare purposes.* Medicare qualified government employment is credited in the same way and in the same amount as social security covered employment is credited for monthly social security cash benefit purposes. However, since only the Medicare portion (not the social security portion) of the F.I.C.A. tax is imposed, Medicare qualified government employment does not help qualify the individual for monthly Social Security cash benefits.

(c) *Required quarters of coverage.* (1) To qualify for hospital insurance on the basis of Medicare qualified government employment, an individual must have the number of quarters of coverage necessary to qualify for hospital insurance under § 406.10, § 406.12, or § 406.13.

(2) An individual who has worked in Medicare qualified government employment may qualify for hospital insurance on the basis of Medicare qualified government employment exclusively, or a combination of Medicare qualified government employment and social security covered employment.

(d) *Transitional provision for Federal employment.* Any individual who was a Federal employee at any time both during and before January 1983 will receive credit for quarters of Federal employment before January 1983 without paying tax. This transitional provision applies even if the Federal employee did not receive Federal wages for January 1983, for instance, because he or she was on approved leave without pay or on loan to a State or foreign agency.

(e) *Conditions of entitlement.* An individual who has worked in Medicare qualified government employment (or any related individual who would be entitled to social security cash benefits on the employee's record if Medicare qualified government employment qualified for those benefits) is entitled to

hospital insurance benefits if he or she—

(1) Would meet the requirements of § 406.10, § 406.12, or § 406.13 if Medicare qualified government employment were social security covered employment; and

(2) Has filed an application for hospital insurance.

For purposes of this section not more than 12 months before the month of application may be counted towards the 25-month qualifying period specified in § 406.12(a).

(f) *Beginning and end of entitlement*—(1) *Basic rule.* Subject to the limitations specified in paragraph (f)(2) and (f)(3) of this section, entitlement begins and ends as specified in § 406.10, § 406.12 or § 406.13, whichever is used to establish hospital insurance entitlement for the Federal, State, or local government employee or related individual.

(2) *Limitations: Federal government employment.* (i) Hospital insurance entitlement based on Federal employment could not begin before January 1983.

(ii) No months before January 1983 may be used to satisfy the qualifying period required for entitlement based on disability.

(3) *Limitations: State and local government employment.* (i) Hospital insurance entitlement based on State or local government employment cannot begin before April 1986.

(ii) No months before April 1986 may be used to satisfy the qualifying period required for entitlement based on disability.

D. Subpart C is amended as set forth below:

Subpart C—Premium Hospital Insurance

1. Section 406.21 is amended to revise paragraphs (a) and (c)(2) and add a new paragraph (e) to read as follows:

§ 406.21 Enrollment and entitlement.

(a) *Basic provision.* An individual who meets the requirements of § 406.20(b) may enroll for premium hospital insurance only during his or her "initial enrollment period", a "general enrollment period", or a "special enrollment period", as set forth in paragraphs (b) through (e) of this section.

* * * * *

(c) *General enrollment period.*

(1) * * *

(2) General enrollment periods are for individuals who do not enroll during the special enrollment period, who failed to enroll during the initial enrollment period, or whose previous period of entitlement had terminated.

* * * * *

(e) *Special enrollment period*—(1) *Terminology.*

As used in this paragraph—

(i) "Employer group health plan" or "Employer plan" has, to the extent not inconsistent with section 1837(i)(1)(B) of the Act, the meaning set forth in section 162(i)(3) of the Internal Revenue Code (IRC) which reads: "* * * 'group health plan' means any plan of, or contributed to by, an employer, to provide medical care * * * to his employees, former employees, or the families of such current or former employees, directly, or through insurance, reimbursement or otherwise". The phrase "plan of" encompasses a plan that is under the auspices of an employer who makes no financial contribution—a so-called "employee-pay-all" plan. Since section 1837(i)(1)(B) of the Act (which is made applicable to premium hospital insurance by section 1818 of the Act) requires that the individual be covered under the plan "by reason of the individual's or the individual's spouse's current employment", the "former employee" language of the IRC definition does not apply.

(ii) "Special enrollment period" (SEP) is a 7-month period that begins when the individual is no longer covered by an employer group health plan.

(2) *Basic rule.* Effective August 1, 1986, individuals may enroll in premium hospital insurance during SEPs that are available to them if they meet the following requirements:

(i) When first eligible to enroll for premium hospital insurance under § 406.20(b), they were covered under an employer group health plan by reason of current employment of the individual or the individual's spouse; and

(ii) The employer plan coverage has ended because of termination of the employment, or for any other reason.

(3) *Beginning date of SEP.* If the individual enrolls during the month in which employer plan coverage ends, that month is considered the first month of the SEP. Otherwise, the SEP begins with the following month.

(4) *Effective date of coverage.* Enrollment during the first month of the SEP will result in coverage effective with the first day of that month; enrollment in the second through seventh months of the SEP will result in coverage effective with the month following the month of enrollment.

(5) *Limitation on right to subsequent SEPs.* Subsequent SEPs become available if the individual reacquires employer plan coverage based on current employment and later loses it. Generally, if an individual fails to enroll during any available SEP, no further SEPs become available. However, if an individual failed to enroll during a previous SEP because employer plan coverage (under the same or a different plan) was restored before the end of that SEP, that failure to enroll would not preclude another SEP now or in the future.

2. Section 406.22 is amended by revising paragraph (a)(2), adding a new paragraph (a)(3) and revising paragraph (c) to read as follows:

§ 406.22 Monthly premiums.

(a) *General provisions.*

(1) * * *

(2) For months, from July 1974 through June 1983, premiums were determined for each 12-month period beginning July 1, and published in the **Federal Register** during the last quarter of the preceding calendar year.

(3) Beginning with 1984, premiums are promulgated each September, effective for the succeeding calendar year. (Because of the change in promulgation and effective dates, there was no change in the premiums for July through December of 1983.)

* * * * *

(c) *Monthly premiums: Increase for late enrollment and for reenrollment.* For an individual who enrolls after the close of the initial enrollment period or reenrolls, the amount of the monthly premium, as determined under paragraph (b) of this section, is increased by 10 percent for each full 12 months in the periods described in §§ 406.23 and 406.24. Effective beginning with premiums due for July 1986, the premium increase is limited to 10 percent and is payable for twice the number of full 12-month periods determined under those sections.

* * * * *

3. Section 406.23 is amended by revising paragraph (a), and adding new paragraphs (c)(3), (c)(4), and (c)(5), to read as follows:

§ 406.23 Determination of months to be counted for premium increase: Enrollment.

(a) *Enrollment before April 1, 1981 or after September 30, 1981.* The months to be counted for premium increase are the months from the end of the initial enrollment period through the end of the general enrollment period or special enrollment period in which the individual enrolls, excluding the following:

(1) Any months before September 1973.

(2) For premiums due for months after May 1986, any months beginning with January 1983 during which the individual was enrolled in an employer group health plan based on the current employment of the individual or the individual's spouse.

(3) Any months during the 7-month special enrollment period under § 406.21(e) during which premium hospital insurance coverage is in effect.

* * * * *

(c) *Examples.*

* * * * *

(3) Effective with July 1986, Mary T, in Example 2, would no longer have to pay an increased premium because she had paid it for twice the number of full 12-month periods during which she could have been, but was not, enrolled in the program.

(4) Vincent C's initial enrollment period ended August 31, 1986. He was covered under his wife's employer group health plan until she retired on May 31, 1989. He enrolled during June 1989, the first month of the special enrollment period under § 406.21(e). No months are countable for premium increase purposes because the exclusions of paragraph (a) of this section apply to all months.

(5) Terry P enrolled in the 1987 general enrollment period, with coverage effective July 1987. There were 28 months after the end of his initial enrollment period through the end of the 1987 general enrollment period. His premium is increased by 10 percent. The increase will be eliminated after he has paid the additional 10 percent for 48 months.

§ 406.25 [Amended]

4. In § 406.25(b)(1), the cross reference, "§ 406.10 or § 406.11" is revised to read "§ 406.10, § 406.11, § 406.13, or § 406.15".

5. In § 406.25(b)(2), the cross reference, "§ 406.10 or § 406.11" is revised to read "§ 406.10, § 406.11, § 406.13, or § 406.15".

III. A new Part 407 is added, to read as set forth below:

PART 407—SUPPLEMENTARY MEDICAL INSURANCE (SMI) ENROLLMENT AND ENTITLEMENT

Subpart A—General Provisions

Sec.

Subpart B—Individual Enrollment and Entitlement for SMI

Subpart C—State Buy-in Agreements

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) unless otherwise noted.

Subpart A—General Provisions

§ 407.1 Basis and scope.

(a) *Statutory basis.* The supplementary medical insurance (SMI) program is authorized by Part B of title XVIII of the Social Security Act.

(1) Section 1831 of the Act establishes the program.

(2) Sections 1836 and 1837 set forth the eligibility and enrollment requirements.

(3) Section 1838 specifies the entitlement periods, which vary depending on the time and method of enrollment and on the basis for termination.

(4) Section 1843 sets forth the requirements for State buy-in agreements under which States may enroll, and pay the SMI premiums for, eligible individuals who are also eligible for cash assistance or Medicaid.

(5) Section 104(b) of the Social Security Amendments of 1965 (Pub. L. 89-87) specifies the limitations that apply to certain aliens and persons convicted of subversive activities.

(b) *Scope.* This part sets forth the eligibility, enrollment, and entitlement requirements and procedures for supplementary medical insurance. (The rules about premiums are in Part 408 of this chapter.)

§ 407.2 General description of program.

Part B of Title XVIII of the Act provides for a voluntary "supplementary medical insurance plan" available to most individuals age 65 or over and to disabled individuals who are under age 65 and entitled to hospital insurance. The SMI program financed by premiums paid by (or for) each individual enrolled in the program, plus contributions from Federal funds. It covers certain physicians' services, outpatient services, home health services, services furnished by rural health clinics (RHCs), ambulatory surgical centers (ASCs), and comprehensive outpatient rehabilitation facilities (CORFs), and other medical and other health services.

§ 407.4 Basic requirements for entitlement.

(a) An individual must meet the following requirements to be entitled to SMI:

(1) *Eligibility.* The individual must meet the eligibility requirements specified in § 407.10(a).

(2) *Enrollment.* The individual must enroll for SMI, or must be enrolled by a State under a buy-in agreement as specified in § 407.40.

(b) SMI pays only for covered expenses incurred during an individual's period of entitlement.

Subpart B—Individual Enrollment and Entitlement for SMI

§ 407.10 Eligibility to enroll.

(a) *Basic rule.* Except as specified in paragraph (b) of this section, an individual is eligible to enroll for SMI if he or she—

(1) Is entitled to hospital insurance under any of the rules set forth in §§ 406.10 through 406.15 of this chapter; or

(2) Meets the following requirements:

(i) Has attained age 65. (An individual is considered to have attained age 65 on the day before the 65th anniversary of his or her birth.)

(ii) Is a resident of the United States.

(iii) Is a citizen of the United States, or an alien lawfully admitted for permanent residence who has resided continuously in the United States during the 5 years preceding the month in which he or she applies for enrollment.

(b) *Exception.* An individual is not eligible to enroll for SMI if he or she has been convicted of—

(1) Spying, sabotage, treason, or subversive activities under chapter 37,

105, or 115 of title 18 of the United States Code; or

(2) Conspiracy to establish dictatorship under section 4 of the Internal Security Act of 1950.

§ 407.11 Forms used to apply for enrollment under Medicare Part B.

The following forms, available free of charge by mail from HCFA, or at any Social Security branch or district office, are used to apply for enrollment under the supplementary medical insurance program.

HCFA–4040—Application for Enrollment in the Supplementary Medical Insurance Program. (This form is used for enrollment by individuals who are not eligible for monthly benefits or for hospital insurance.)

HCFA–40–B—Application for Medical Insurance. (For general use by the SSA District Office in requesting medical insurance protection during the general enrollment period or during the initial enrollment period if the enrollee is not subject to automatic enrollment is SMI.)

HCFA–40–D—Application for Enrollment in the Supplementary Medical Insurance Program. (This form is mailed to individuals who do not have current supplementary medical insurance because of prior refusals, voluntary withdrawal, or premium default from prior coverage. It is used during the annual general enrollment period.)

HCFA–40–F—Application for Medical Insurance. (For use by beneficiaries residing outside the United States.)

HCFA–18–F–5—Application for Hospital Insurance Entitlement. (For use by individuals who are not eligible for retirement benefits under Title II of the Social Security Act or under the Railroad Retirement Act. This form may also be used for enrollment in the supplementary medical insurance program.)

As an alternative, the individual may request enrollment by answering the Part B enrollment questions on an application for monthly Social Security benefits, or by signing a simple statement of request, if he or she is eligible to enroll at that time.

§ 407.12 General enrollment provisions.

(a) *Opportunity to enroll.* (1) An individual who is eligible to enroll for SMI may do so during an initial enrollment period or a general enrollment period as specified in §§ 407.14, and 407.15. An individual who meets the conditions specified in § 407.20 may enroll during a special enrollment period, as provided in that section.

(2) An individual who fails to enroll during his or her initial enrollment period or whose enrollment has been terminated may enroll or reenroll during a general enrollment period, or, if he or she meets the specified conditions, during a special enrollment period.

(b) *Enrollment periods ending on a nonworkday.* (1) If an enrollment period ends on a Federal nonworkday, that period is automatically extended to the next succeeding workday.

(2) A Federal nonworkday is any Saturday, Sunday, or Federal legal holiday or a day that is declared by statute or executive order to be a day on which Federal employees are not required to work.

§ 407.14 Initial enrollment period.

(a) *Duration.* (1) The initial enrollment period is the 7-month period that begins 3 months before the month an individual first meets the eligibility requirements of § 407.10 and ends 3 months after that first month of eligibility.

(2) In determining the initial enrollment period of an individual who is age 65 or over and eligible for enrollment solely because of entitlement to hospital insurance, the individual is considered as first meeting the eligibility requirements for SMI on the first day he or she becomes entitled to hospital insurance or would have been entitled if he or she filed an application for that program.

(b) *Deemed initial enrollment period.* (1) SSA or HCFA will establish a deemed initial enrollment period for an individual who fails to enroll during the initial enrollment period because of a belief, based on erroneous documentary evidence, that he or she had not yet attained age 65. The period will be established as though the individual had attained age 65 on the date indicated by the incorrect information.

(2) A deemed initial enrollment period established under paragraph (b)(1) of this section is used to determine the individual's premium and right to enroll in a general enrollment period if that is advantageous to the individual.

§ 407.15 General enrollment period.

(a) Except as specified in paragraph (b) of this section, the general enrollment period is January through March of each calendar year.

(b) An unlimited general enrollment period existed between April 1 and September 30, 1981. Any eligible individual whose initial enrollment period had ended, or whose previous period of entitlement had terminated, could have enrolled or reenrolled during any month of that 6-month period.

§ 407.17 Automatic enrollment.

(a) *Who is automatically enrolled.* An individual is automatically enrolled for SMI if he or she:

(1) Resides in the United States, except in Puerto Rico;

(2) Becomes entitled to hospital insurance under any of the provisions set forth in §§ 406.10 through 406.15 of this chapter; and

(3) Does not decline SMI enrollment.

(b) *Opportunity to decline automatic enrollment.* (1) SSA will notify an individual that he or she is automatically enrolled under paragraph (a) of this section and grant the individual a specified period (at least 2 months after the month the notice is mailed) to decline enrollment.

(2) The individual may decline enrollment by submitting to SSA or HCFA a signed statement that he or she does not wish SMI.

(3) The statement must be submitted before entitlement begins, or if later, within the time limits set in the notice of enrollment.

§ 407.18 Determining month of automatic enrollment.

(a) An individual who is automatically enrolled in SMI under § 407.17 will have the month of enrollment determined in accordance with paragraphs (b) through (f) of this section. The month of enrollment determines the month of entitlement.

(b) An individual is automatically enrolled in the third month of the initial enrollment period if he or she—

(1) Is entitled to social security benefits under section 202 of the Act on the first day of the initial enrollment period;

(2) Is entitled to hospital insurance based on end-stage renal disease; on entitlement to disability benefits as a social security or railroad retirement beneficiary; or on deemed entitlement to disability benefits on the basis of Medicare-qualified government employment; or

(3) Establishes entitlement to hospital insurance by filing an application and meeting all other requirements (as set forth in Subpart B of Part 406 of this chapter) during the first 3 months of the initial enrollment period.

(c) If an individual establishes entitlement to hospital insurance on the basis of an application filed in the last 4 months of the SMI initial enrollment period, he or she is automatically enrolled for SMI in the month in which the application is filed.

(d) If an individual establishes entitlement to hospital insurance on the basis of an application filed after the SMI initial enrollment period but not during a general enrollment period in effect before April 1, 1981, or after September 30, 1981, he or she is automatically enrolled for SMI on the

first day of the next general enrollment period.

(e) If the individual establishes entitlement to hospital insurance on the basis of an application filed during a SMI general enrollment period in effect before April 1, 1981 or after September 30, 1981, he or she is automatically enrolled on the first day of that period.

(f) If an individual established entitlement to hospital insurance on the basis of an applicaton filed during the general enrollment period of April 1, 1981, through September 30, 1981, he or she was automatically enrolled for SMI on the first day of the month in which the application was filed.

§ 407.20 Special enrollment period related to coverage under an employer group health plan.

(a) *Terminology.* As used in this section—

(1) "Employer group health plan" or "Employer plan" has, to the extent not inconsistent with section 1837(i)(1)(B) of the Act, the meaning set forth in section 162(i)(3) of the Internal Revenue Code (IRC) which reads: "* * * 'group health plan' means any plan of, or contributed to by, an employer, to provide medical care * * * to his employees, former employees, or the families of such current or former employees, directly, or through insurance, reimbursement or otherwise". The phrase "plan of" encompasses a plan that is under the auspices of an employer who makes no financial contribution—a so-called "employee-pay-all" plan. Since section 1837(i)(1)(B) of the Act requires that the individual be covered under the plan "by reason of the individual's or the individual's spouse's current employment", the "former employee" language of the IRC definition does not apply.

(2) "Large group health plan" has the meaning set forth in section 5000(b) of the IRC, which reads: "* * * 'large group health plan' means a plan of, or contributed to by, an employer or employee organization (including a self-insured plan) to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families, that covers employees of a least one employer that normally employed at least 100 employees on a typical business day during the previous calendar year."

(3) "Special enrollment period (SEP)" is a 7-month period that begins when the individual is no longer covered by an employer plan or large group health plan.

(b) *General rule.* SEPs are available to individuals who meet the requirements of this paragraph (b) and those of paragraph (c) or (d) of this section, as appropriate:

(1) They are eligible for SMI on the basis of age or disability, but not on the basis of end-stage renal disease.

(2) When first eligible for SMI coverage (4th month of their initial enrollment period), they were covered under an employer plan or a large group health plan or, if not so covered, they enrolled in SMI during their initial enrollment period.

(3) Coverage under either SMI or an employer plan or large group health plan has been maintained for all months thereafter. Generally, if an individual fails to enroll in SMI during any available SEP, no further SEPs become available. However, if an individual failed to enroll during a SEP because coverage (under the same or a different employer plan or large group health plan) was restored before the end of that SEP, that failure to enroll in SMI does not preclude another SEP now or in the future.

(c) *Specific rules: Individual age 65 or over.* Individuals entitled on the basis of age must meet the following conditions:

(1) Have been covered, on the basis of current employment of the individual or the individual's spouse, under an employer plan; and

(2) Are no longer covered under such a plan on the basis of current employment.

(d) *Specific rules: Disabled Individual.* Individuals entitled on the basis of disability (but not on the basis of end-stage renal disease), must meet the following conditions:

(1) Have been covered under a large group health plan;

(2) Had this coverage as an employee, employer, individual associated with the employer in a business relationship, or as a member of the family of any of those persons; and

(3) No longer have coverage under such a plan.

(3) *Beginning of special enrollment period: Individual age 65 or over.* For an aged individual—

(1) Before May 1986, the SEP began with whichever of the following resulted in earlier SMI entitlement:

(i) The first day of the third month before the month in which the individual attained age 70, if employer group health plan coverage continued to age 70.

(ii) The first day of the month in which the individual was no longer enrolled in an employer plan on the basis of current employment.

(2) In and after May 1986, the SEP begins on the first day of the first month in which the individual is no longer enrolled in an employer plan on the basis of current employment.

(f) *Beginning of special enrollment period: Disabled individual.* The SEP begins with the first day of the first month after December 1986 in which the individual is no longer covered under an employer plan as described in paragraph (d) of this section. Because the provisions applicable to disabled individuals expire on December 31, 1991, the last SEP available under those provisions will begin with January 1992.

(g) *Beginning of special enrollment period:* Partial coverage month. When employer plan coverage ends before the end of a month, the following rules apply—

(1) If the individual enrolls in SMI before the end of the partial coverage month, the SEP begins with that month.

(2) If the individual does not enroll in SMI before the end of the partial coverage month, the SEP begins with the following month.

§ 407.22 Request for individual enrollment.

(a) A request for enrollment is required of an individual who meets the eligibility requirements of § 407.10 and desires SMI, if the individual—

(1) Is not entitled to hospital insurance;

(2) Has previously declined enrollment in SMI;

(3) Has had a previous period of SMI entitlement which terminated;

(4) Resides in Puerto Rico or outside the United States; or

(5) Is enrolling or reenrolling during a special enrollment period under § 407.20.

(b) A request for enrollment under paragraph (a) of this section must:

(1) Be signed by the individual or someone acting in his or her behalf; and

(2) Be filed with SSA or HCFA during the initial enrollment period, a general enrollment period, or a special enrollment period as provided in § 407.20.

§ 407.25 Beginning of entitlement: Individual enrollment.

The following apply whether an individual is self-enrolled or automatically enrolled in SMI:

(a) *Enrollment during initial enrollment period.* (1) If an individual enrolls during the first three months of the initial enrollment period, entitlement begins with the first month of eligibility.

(2) If an individual enrolls during the fourth month of the initial enrollment period, entitlement begins with the following month.

(3) If an individual enrolls during the fifth month of the initial enrollment

period, entitlement begins with the second month after the month of enrollment.

(4) If an individual enrolls in either of the last two months of the initial enrollment period, entitlement begins with the third month after the month of enrollment.

(5) Example. An individual first meets the eligibility requirements for enrollment in April. The initial enrollment period is January through July. The month in which the individual enrolls determines the month that begins the period of entitlement, as follows:

Enrolls in initial enrollment period	Entitlement begins on—
January	April 1 (month eligibility requirements first met).
February	April 1.
March	April 1.
April	May 1 (month following month of enrollment).
May	July 1 (second month after month of enrollment).
June	September 1 (third month after month of enrollment).
July	October 1 (third month after month of enrollment).

(b) *Enrollment on reenrollment during general enrollment period.* (1) if an individual enrolls or reenrolls during a general enrollment period before April 1, 1981 or after September 30, 1981, entitlement begins on July 1 of that calendar year.

(2) If an individual enrolled or reenrolled during the general enrollment period between April 1, 1981 and September 20, 1981, entitlement began with the third month after the month in which the enrollment request was filed.

(c) *Enrollment or reenrollment during a special enrollment period (SEP)—*

(1) *Before May 1986 for those whose employee group health plan coverage continued to age 70—*

(i) If an individual enrolled during the 3 months before attainment of age 70, entitlement began with the month of attainment of age 70; and

(ii) If an individual enrolled during the month of attainment of age 70, or during any of the 3 following months, entitlement began with the month after the month of enrollment.

(2) *For all other enrollees—*

(i) If an individual enrolls during the first month of nonenrollment in an employer group health plan (which, under § 407.20(g), is the first month of the SEP), entitlement begins with the first day of that month.

(ii) If an individual enrolls during the last 6 months of the SEP, entitlement begins with the month after the month of enrollment.

§ 407.27 Termination of entitlement: Individual enrollment.

An individual's entitlement will terminate for any of the following reasons:

(a) *Death.* Entitlement to SMI ends on the last day of the month in which the individual dies.

(b) *Termination of hospital insurance benefits.* If an individual's entitlement to hospital insurance ends before the month in which he or she attains age 65, entitlement to SMI will end on the same day unless it has been previously terminated in accordance with paragraph (c) or (d) of this section.

(c) *Request by individual.* An individual may at any time give HCFA or SSA written notice that he or she no longer wishes to participate in SMI, and request disenrollment.

(1) Before July 1987, entitlement ended at the end of the calendar quarter after the quarter in which the individual filed the disenrollment request.

(2) For disenrollment requests filed in or after July 1987, entitlement ends at the end of the month after the month in which the individual files the disenrollment request.

(d) *Nonpayment of premiums.* If an individual fails to pay the premiums, entitlement will end as provided in the rules for SMI premiums, set forth in Part 408 of this chapter.

§ 407.30 Limitations on enrollment.

(a) *Initial enrollment periods.*—(1) *Individual under age 65.* An individual who has not attained age 65 may have one or more periods of entitlement to hospital insurance, based on disability. Since each period of disability entitlement entitles the individual to hospital insurance and since entitlement to hospital insurance makes the individual eligible for SMI enrollment, an individual may have an SMI initial enrollment period for each continous period of entitlement to hospital insurance.

(2) *Individuals who have attained age 65.* An individual who has attained age 65 may not have more than one initial enrollment period on the basis of age. However, if the individual develops ESRD after age 65, he or she may have another initial enrollment period based on meeting the requirements of § 406.13 of this chapter.

(b) *Number of enrollments.* There is no limitation on the number of enrollments.

(c) *Coverage under buy-in agreements.* For purposes of paragraph (a) of this section, the continued enrollment of an individual following the end of coverage under a State buy-in agreement in considered an initial enrollment.

§ 407.32 Prejudice to enrollment rights because of Federal Government misrepresentation, inaction, or error.

If an individual's enrollment or nonenrollment in SMI is unintentional, inadvertent, or erroneous because of the error, misrepresentation, on inaction of a Federal employee or any person authorized by the Federal Government to act in its behalf, the Social Security Administration or HCFA may take whatever action it determines is necessary to provide appropriate relief. The action may include:

(a) Designation of a special initial or general enrollment period;

(b) Designation of an entitlement period based on that enrollment period;

(c) Adjustment of premiums;

(d) Any combination of actions under paragraphs (a) through (c) of this section; or

(e) Any other remedial action that may be necessary to correct or eliminate the effects of the error, misrepresenttion, or inaction.

Subpart C—State Buy-In Agreements

§ 407.40 Enrollment under a State buy-in agreement.

(a) *Statutory basis.* (1) Section 1843 of the Act, as amended through 1969, permitted a State to enter into an agreement with the Secretary to enroll in the SMI program certain individuals who are eligible for SMI and who are members of the coverage group specified in the agreement. A coverage group could include certain individuals receiving Federally-aided State cash assistance (with the option of excluding individuals also entitled to social security benefits or railroad retirement benefits) or could include all individuals eligible for Medicaid. Before 1981, December 31, 1969 was the last day on which a State could request a buy-in agreement or a modification to include a coverage group broader than the one originally selected.

(2) Section 945(e) of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499) further amended section 1843 to provide that, during calendar year 1981, a State could request a buy-in agreement if it did not already have one, or request a broader coverage group for an existing agreement. Section 301(e)(1) of the Medicare Catastrophic Coverage Act of 1988 amends section 1843 of the Act to restore the 1981 provisions on a permanent basis, effective "after 1988".

(3) Several laws enacted during 1980–1987 require that the buy-in groups available under section 1843 of the Act

be expanded to include certain individuals who lose eligibility for cash assistance payments but, for purposes of Medicaid eligibility, are treated as though they were receiving cash assistance.

(b) *Definitions.* As used in this section, unless the context indicates otherwise—

"Cash assistance" means any of the following kinds of monthly cash benefits, authorized by specified titles of the Act and, for convenience, represented by initials, as follows:

"AABD" stands for aid to the aged, blind or disabled under the first title XVI of the Act in effect until December 31, 1973.

"AB" stands for aid to the blind under title X of the Act.

"AFDC" stands for aid to families with dependent children under Part A of title IV of the Act.

"APTD" stands for aid to the permanently and totally disabled under title XIV of the Act.

"OAA" stands for old-age assistance under title I of the Act.

"SSI" stands for supplemental security income for the aged, blind, and disabled under the second title XVI of the Act, effective January 1, 1974.

"SSP" stands for State supplementary payments, whether mandatory or optional, to an aged, blind, or disabled individual under the second title XVI of the Act.

"*Railroad retirement beneficiary*" means an individual entitled to receive an annuity under the Railroad Retirement Act of 1974.

"*State*" means one of the 50 States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, or the Northern Mariana Islands, except when reference is made to "the 50 States".

"*State buy-in agreement*", or "*buy-in agreement*" means an agreement authorized by section 1843 of the Act, under which a State secures SMI coverage for individuals who are eligible for SMI, and who are receiving cash assistance or are eligible for Medicaid, by enrollling them in SMI and paying the SMI premiums on their behalf.

(c) *Basic rule.* A State that has a buy-in agreement in effect must enroll any individual who is eligible to enroll in SMI under § 407.10 and is a member of the coverage group as specified in the agreement.

(d) *Coverage under buy-in agreements.* (1) The buy-in group options that were available to States during 1981 and are again available after 1988 are specified in §§ 407.42 and 407.43. (These are the same groups that were available to States before 1970, as modified to reflect the intervening legislation.)

(2) A State buy-in agreement may include only one of the specified coverage groups.

(3) Before 1970 and during 1981, a State could request a buy-in agreement covering one of the specified coverage groups or an agreement modification to substitute a broader coverage group for its existing group.

(4) A State may at any time request an agreement modification to subsitute a narrower coverage group for its existing group.

(5) Any buy-in agreement that is currently in effect will continue in effect with the coverage group specified in § 407.42(c) or § 407.43(c) unless it is modified in accordance with paragraph (d)(4) of this section, or terminated in accordance with § 407.45.

§ 407.42 Coverage groups available to the 50 States, the District of Columbia, and the Northern Mariana Islands.

(a) *Categories included in the buy-in coverage groups.* The coverage groups that were available to the 50 States, the District of Columbia, and the Northern Mariana Islands are specified in paragraph (b) of this section in terms of the following categories:

(1) *Category A:* Individuals who—

(i) Receive SSI and SSP; and

(ii) Are covered under the State's Medicaid plan as categorically needy.

(2) *Category B:* Individuals who—

(i) Under the Act, or any other provision of Federal law are treated, for Medicaid eligibility purposes, as though they were receiving SSI or SSP; and

(ii) Are covered under the State's Medicaid plan as categorically needy.

(3) *Category C:* Individuals who are receiving AFDC.

(4) *Category D:* Individuals who, under the Act or any other provision of Federal law are treated, for Medicaid eligibility purposes, as though they were receiving AFDC.

(5) *Category E:* Individuals who, in accordance with § 435.114 or § 435.134 of this chapter, are covered under the State's Medicaid plan despite the increase in social security benefits provided by Pub. L. 92–336.

(6) *Category F:* All other individuals who are eligible for Medicaid.

(b) *Coverage groups available.* Any of the 50 States, the District of Columbia, and the Northern Mariana Islands could have chosen one of the following groups:

(1) *Group 1:* Categories A through F.

(2) *Group 2:* Categories A through E.

(3) *Group 3:* Categories A and B, and individuals in categories C and D who are not social security or railroad retirement beneficiaries, and individuals in category E who are included in that category (in accordance with § 435.134 of this chapter) because they received OAA, AB, APTD, or AABD in August 1972 or would have been eligible to receive OAA, AB, APTD, or AABD for that month if they had applied or had not been institutionalized.

(4) *Group 4:* Categories A and B, and individuals in category E who are included in that category (in accordance with § 435.134 of this chapter) because they received AABD in August 1972 or would have been eligible to receive AABD for that month if they had applied or had not been institutionalized. This option was available only to those States that had an AABD program as of December 31, 1973.

(c) *Coverage groups in effect as of January 1, 1988.*[1] As of January 1, 1988—

(1) The following 28 States and the District of Columbia had group 1 (categories A through F):[2]

Alaska	Michigan
Alabama	Mississippi
Arizona	Montana
Arkansas	Nevada
California	New Jersey
Colorado	New Mexico
District of Columbia	North Carolina
Florida	Ohio
Georgia	Oregon
Hawaii	South Carolina
Idaho	Texas
Indiana	Utah
Iowa	Virginia
Kansas	Washington
Maryland	

(2) The following 19 States had group 2 (categories A through E):

Connecticut	North Dakota
Delaware	Oklahoma
Illinois	Pennsylvania
Louisiana	Rhode Island
Maine	South Dakota
Minnesota	Tennessee
Missouri	Vermont
Nebraska	West Virgina
New Hampshire	Wisconsin
New York	

(3) Massachusetts had group 3 (categories A and B, and certain individuals in categories C, D, and E).

(4) Kentucky had group 4 (categories A and B, and certain individuals in category E).

§ 407.43 Coverage groups available to Guam and the Virgin Islands.

(a) *Categories included in buy-in coverage groups.* The coverage groups that were available to Guam and the Virgin Islands, which are not covered by

[1] The Northern Mariana Islands requested a buy-in agreement during 1981, but took no further action. Wyoming did not request an agreement.

[2] "Having" a coverage group means that if the State provides Medicaid to that particular group now or at any time in the future, the State has both the right and the obligation to buy-in for that group.

the SSI program, are described in paragraph (b) of this section in terms of the following categories:

(1) *Category A:* Individuals receiving OAA, AB, APTD, or AFDC.

(2) *Category B:* Individuals who, under the Act or any other provision of Federal law are treated, for Medicaid eligibility purposes, as though they were receiving AFDC.

(3) *Category C:* Individuals who, in accordance with § 436.112 of this chapter, are covered under the State's Medicaid plan despite the increase in social security benefits provided by Pub. L. 92–336.

(4) *Category D:* All other individuals who are eligible for Medicaid.

(b) *Coverage groups available.* Guam and the Virgin Islands could have chosen any one of the following groups:

(1) *Group 1:* Categories A through D.

(2) *Group 2:* Categories A through C.

(3) *Group 3:* Individuals in categories A and B who are not social security or railroad retirement beneficiaries.

(4) *Group 4:* Individuals in category A who are receiving OAA and individuals in category C who are included in that category (in accordance with § 436.112 of this chapter) because they received OAA for August 1972 or would have been eligible to receive OAA for that month if they had applied or have not been institutionalized.

(5) *Group 5:* Individuals in category A who are receiving OAA and are not social security or railroad retirement beneficiaries.

(c) *Coverage groups in effect as of January 1, 1988.* As of January 1, 1988, Guam and the Virgin Islands has group 1.[3]

§ 407.45 Termination of State buy-in agreements.

(a) *Termination by the State*—(1) *Termination after advance notice.* A State may terminate its buy-in agreement after giving HCFA 3 months advance notice.

(2) *Termination without advance notice.* A State may terminate its buy-in agreement without advance notice if—

(i) The State gives HCFA written certification to the effect that it is no longer legally able to comply with one or more of the provisions of the agreement; and

(ii) Submits a supporting opinion from the appropriate State legal officer, if HCFA requests such an opinion.

(b) *Termination by HCFA.* If HCFA, after giving the State notice and opportunity for hearing, finds that the State has failed to comply substantially with one or more of the provisions of the agreement, other than the requirement for timely payment of premiums, HCFA will give the State written notice to the effect that the agreement will terminate on the date indicated in the notice unless, before that date, HCFA finds that there is no longer that failure to comply. (Rules for collection of overdue premiums, including assessment of interest and offset against FFP due the State, are those set forth in the Notice published on September 30, 1985 at 50 FR 39784.)

§ 407.47 Beginning of coverage under a State buy-in agreement.

(a) *General rule.* Subject to the provisions of paragraphs (b) and (c) of this section, coverage under a buy-in agreement begins as follows:

(1) *Individuals who are, or are treated as, cash assistance recipients.* For individuals who are, or are treated as, cash assistance recipients (that is, are members of categories A through E of § 407.42(a) or categories A through C of § 407.43(a)), coverage begins with the first month in which the individual—

(i) Meets the SMI eligibility requirements specified in § 407.10; and

(ii) Is a member of one of those categories.

(2) *Other individuals eligible for Medicaid.* For individuals who are members of category F of § 407.42(a) or category D of § 407.43(a), coverage begins with the second month after the month in which the indvidual—

(i) Meets the SMI eligibility requirements specified in § 407.10; and

(ii) Is determined to be eligible for Medicaid.

(b) *Effect of effective date of agreement or agreement modification*—(1) *Effective date of agreement.* An individual's coverage period may not begin before the effective date of the buy-in agreement, as specified in the agreement. That date may not be earlier than the third month after the month in which the agreement is executed.

(2) If an indvidual is a member of the State's buy-in coverage group only by virtue of a modification to change that group, the individual's coverage period cannot begin before the effective date of modification, as specified in the agreement modification. That date may not be earlier than the third month following the month in which the modification is executed.

(c) *Coverage based on erroneous report.* If the State erroneously reports to SSA that an individual is a member of its coverage group, the rules of paragraphs (a) and (b) of this section apply, and coverage begins as through the individual were in fact a member of the group. Coverage will end only as provided in § 407.48.

§ 407.48 Termination of coverage under a State buy-in agreement.

An individual's coverage under a buy-in agreement terminates with the earliest of the following events:

(a) *Death.* Coverage ends on the last day of the month in which the individual dies.

(b) *Loss of entitlement to hospital insurance benefits before age 65.* If an individual loses entitlement to hospital insurance benefits before attaining age 65, coverage ends on the last day of the last month for which he or she is entitled to hospital insurance.

(c) *Loss of eligibility for the buy-in coverage group.* If an individual loses eligibility for inclusion in the buy-in coverage group, buy-in coverage ends as follows:

(1) On the last day of the last month for which he or she is eligible for inclusion in the group, if HCFA determines ineligibility or receives a State ineligibility notice by the 25th day of the second month after the month in which the individual becomes ineligible for inclusion in the group.

(2) On the last day of the second month before the month in which HCFA receives a State ineligibility notice later than the time specified in paragraph (c)(1) of this section. A notice received by HCFA after the 25th day of the month is considered to have been received in the following month.

(d) *Termination of buy-in agreement.* If the State's buy-in agreement is terminated, coverage ends on the last day of the last month for which the agreement is in effect.

§ 407.50 Continuation of coverage: Individual enrollment following end of coverage under a State buy-in agreement.

(a) *Deemed enrollment.* When coverage under a buy-in agreement ends because the agreement terminates, or because the individual is no longer eligible for inclusion in the buy-in coverage group, the individual—

(1) Is considered to have enrolled during his or her initial enrollment period; and

(2) Will be entitled to SMI on this basis and liable for SMI premiums beginning with the first month for which he or she is no longer covered under the buy-in agreement.

(b) *Voluntary termination.* (1) An individual may voluntarily terminate entitlement acquired under paragraph (a) of this section by filing, with SSA or HCFA, a request for disenrollment.

[3] Puerto Rico did not request a buy-in agreement.

(2) Voluntary disenrollment is effective as follows:

(i) If the individual files a request within 30 days after the date of HCFA's notice that buy-in coverage has ended, the individual's entitlement ends on the last day of the last month for which the State paid the premium.

(ii) If the individual files the request more than 30 days but not more than 6 months after buy-in coverage ends, entitlement ends on the last day of the month in which the request is filed.

(iii) If the individual files the request later than the 6th month after buy-in coverage ends, entitlement ends at the end of the month after the month in which request is filed.[4]

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

Dated: August 23, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: September 21, 1988.

Otis R. Bowen,

Secretary.

[FR Doc. 88-26687 Filed 11-21-88; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 8

National Security Information

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule amendment.

SUMMARY: The original classification authorities have been changed to conform to the recent reorganization of elements within the activity. These changes follow the requirements of section 5.3(b) of Executive Order 12356, National Security Information.

EFFECTIVE DATE: December 22, 1988.

FOR FURTHER INFORMATION CONTACT: Mary K. Getter, Chief, Information Security Branch, Office of Security, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, Phone (202) 646-3125.

SUPPLEMENTARY INFORMATION:

List of Subjects in 44 CFR Part 8

Classified information.

[4] For requests filed before July 1987, entitlement ended on the last day of the calendar quarter after the quarter in which the disenrollment request was filed.

PART 8—NATIONAL SECURITY INFORMATION

1. The authority citation for Part 8 continues to read as follows:

Authority: Reorganization Plan Number 3 of 1978, Executive Order 12148 and Executive Order 12356.

2. Section 8.2, Original Classification Authority, is amended by revising paragraphs (b)(2), (c), and by adding paragraph (b)(4) to read as follows:

§ 8.2 Original classification authority.

* * * * *

(b) * * *

(2) Associate Director, National Preparedness Directorate

* * * * *

(4) Chief of Staff

(c) The positions delegated original Top Secret Classification Authority in paragraph (b) of this section, are also delegated Original Secret and Confidential Classification Authority by virtue of this delegation. The following positions have been delegated Original Secret and Original Confidential Classification Authority:

(1) Associate Director, State and Local Programs and Support.

(2) Regional Directors.

Any further delegation of original classification authority, for any classification level, will be accomplished only by the Director of the Federal Emergency Management Agency.

Date: November 14, 1988.

John R. Lilley II,

Director of Security.

[FR Doc. 88-26713 Filed 11-21-88; 8:45 am]

BILLING CODE 6718-01-M

44 CFR Part 11

Collection of Debts by the Government Under the Debt Collection Acts

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: The changes made by this rule reflect organizational changes in the Federal Emergency Management Agency (FEMA); increase the dollar limit under which FEMA Debt Collection Officers (DCO's) may settle, terminate or compromise debts from less than $600 to $2,500 or less; and make certain minor technical changes to FEMA's Debt Collection Regulations.

Changes are being made to improve the debt collection process and correct references and organization titles.

DATE: This regulation takes effect December 22, 1988.

FOR FURTHER INFORMATION CONTACT: Richard S. Buck, Accounting Division, Office of the Comptroller, Telephone: (202) 646-4091.

SUPPLEMENTARY INFORMATION: This rule makes minor changes to the existing FEMA Debt Collection Regulation (44 CFR Part 11, Subpart C) which was published as a final rule on September 28, 1984 (49 FR 38267). They reflect changes in internal FEMA organization and increase the authority of Debt Collection Officers (DCO's) to compromise, settle or terminate debt collection actions. DCO's are located in FEMA regional and in Headquarters Offices.

Section 11.30(b), which lists FEMA's "Offices", is changed to reflect organizational changes within FEMA made since the regulation was originally published in 1984.

Section 11.34(c) is added to allow the Agency Collections Officer (ACO) to delegate her or his debt collection authority to designees.

Section 11.35 is changed to grant DCO's authority to compromise debts or to suspend or terminate debt collection action of debts where the principal is $2,500 or less. Presently, the DCO's are authorized to so act in debts where the principal is less than $600. This change results from FEMA's debt collection experience during the past four years, which shows that the dollar limits of the DCO's authority should be raised so that more debts could be handled in the regions near where the debtors are located or in the program offices where there is familiarity with the debtors' relation to the program. These raised limits are consistent with practice in other Federal agencies.

Section 11.39 is eliminated since it relates to internal FEMA administrative procedures.

Section 11.42(a) is revised to allow for hand delivery of FEMA's initial demand for payment in addition to allowing for the use of certified mail, return receipt requested.

The heading of § 11.44 is changed to provide for "common law" offset rather than "Administrative offsets" in cases of Federal agencies, States or units of general local government. Further, DCO's will be permitted to use involuntary offset remedies after receiving ACO approval.

Section 11.48(a) is amended to allow FEMA to have interest accrue from the date that the debt demand letter (which mentions that interest shall be assessed) is mailed, or, in certain cases, when the

debt demand letter mentions some later date on which interest shall start to accrue. Some minor, technical changes are made to have the regulation comport with the provisions of the Debt Collection Act of 1982 (31 U.S.C. 3701 *et seq.*)

Section 11.48(c) is amended to have penalties imposed in accordance with 31 U.S.C. 3717(e) if the debt is not paid in full within *120* days of the date of the initial demand, or if repayment arrangements, satisfactory to FEMA, are not made within that period. This is a change from the currently provided 90 day period. This change results from advice given by the General Accounting Office in Decision B–222845, dated December 9, 1987.

Section 11.48(d) is amended to substitute "administrative charges" for "extraordinary charges". States and units of general local government will be subject to charges for costs of collection in accordance with common law principles. This is consistent with the language of the Federal Claims Collection Standards (4 CFR 102.13(i)(2)) and with Comptroller General's Decision B–212222 (dated January 5, 1984).

Section 11.48(e)(5) is amended to raise the authority of the DCO to waive interest and penalties on debts of $2,500 or less, exclusive of interest and penalties. The ACO's settlement authority is raised from $600 to more than $2,500. This change follows the raising of the limits of authority to settle debts set forth in § 11.35.

Section 11.48(h) is amended to allow interest to be waived if States or local governments substantially prevail in their appeals and if they pay any balance found to be due after the appeal with reasonable promptness, such as 90 days after the rendering of the appeal decision.

Sections 11.50(c) and 11.51(c) are amended to correct references from 4 CFR 101.4(a) to 4 CFR 103.1(b) and 4 CFR 104.1(b), respectively.

Section 11.51(b)(4) is amended to correct references from § 11.50(a)(3) to § 11.50(a)(4).

Section 11.54 is amended to allow FEMA to utilize the General Services Administration's Government-wide debt collection agency contract.

These regulations do not have a significant impact on a substantial number of small entities and have not undergone a regulatory analysis.

This rule is not a "major rule" as defined in Executive Order 12291, dated February 17, 1981, and, hence, no regulatory analysis has been prepared.

The information collection requirements contained in this Debt Collection Regulation, as amended by this proposed rule, have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 3067–0122.

List of Subjects in 44 CFR Part 11

Administrative practices and procedures, Claims.

Accordingly, Title 44 CFR Chapter I, Part 11, Subpart C is amended as follows:

PART 11—[AMENDED]

1. Section 11.30 is amended by revising paragraph (b) to read as follows:

§ 11.30 Scope of regulations.

* * * * *

(b) *Definitions.* For the purpose of this subpart, "office" means any of the following:

(1) United States Fire Administration.

(2) Federal Insurance Administration.

(3) National Preparedness Directorate.

(4) State & Local Programs & Support Directorate.

(5) Office of Training/National Emergency Training Center.

(6) Office of Comptroller, which for purposes of this subpart includes FEMA Headquarters elements which are not included in paragraph (b) (2) through (4) of this section

2. Section 11.34 is amended by adding paragraph (c) which shall read as follows:

§ 11.34 Referral of debts to the Comptroller, Federal Emergency Management Agency.

* * * * *

(c) *Delegation.* The ACO may delegate his or her authority in the FEMA debt collection program and this Subpart to a Deputy or to others in the FEMA Office of Comptroller.

§ 11.35 [Amended]

3. Any reference in § 11.35 that now reads: "less than $600" is revised to read: "$2,500 or less".

§ 11.39 [Removed]

4. Section 11.39 is removed.

§ 11.42 [Amended]

5. The first sentence of § 11.42(a) is revised to read as follows: "An initial demand shall be made in writing and sent by certified mail, return receipt requested, or delivered by hand to the debtor identifying the debt and advising that the full amount due should be paid by a specified date, not less than 30 days from the date of mailing or the hand delivery."

6. Section 11.44 is revised to read as follows:

§ 11.44 Collection of debts from Federal agencies or States or units of general local government by common law offset.

(a) Debts owed by Federal Agencies, States, or units of general local government may be collected by offset in accordance with principles of common law. See *U.S. v. Munsey Trust Co.*, 332 U.S. 234 (1947). Before taking such an involuntary offset against such debtors, the ACO or the DCO must notify such debtors as to:

(1) Nature and origin of the debt.

(2) Amount owed.

(3) FEMA's intent to collect interest at rates equivalent to those paid by the U.S. Government to borrow money on the open market, unless statute, regulation or agreement specifies another interest rate.

(4) Right of the debtor to inspect and copy records relating to the debt. However, FEMA may, in its discretion, utilize exemptions available under the Freedom of Information Act (5 U.S.C. 552(B)).

(5) Name, business address and telephone number of the official having cognizance over the debt.

(b) Prior to instituting involuntary offset against such debtors, DCO's must obtain approval of the ACO.

8. Section 11.48 is amended by revising paragraphs (a), (c), (d), (e)(5), and (h) introductory text, and (h)(1) to read as follows:

§ 11.48 Interest and penalties.

(a) *Interest.* Interest shall be charged on the outstanding principal balance due on debts owed the United States at the rate published by the Secretary of the Treasury under provisions of 31 U.S.C. 3717(a). The interest rate in effect at the time that FEMA first mailed or hand delivered to the debtor written notice, stating that the debt was due and that interest would be assessed on the debt, shall be the rate applied throughout the duration of the debt until the debt is paid in full. Interest shall accrue either from the date that the debtor was first informed that interest would be assessed or some subsequent date specified in the written notice given by FEMA to the debtor stating that interest would be assessed. Interest shall run from the following dates:

* * * * *

(c) *Penalty charges.* Except in the situation described in paragraph (b) of this section, a penalty of 6 per centum per annum shall be charged on the unpaid principal balance due if the debtor fails to pay the debt in full within

120 days of the date of the first written notice by FEMA that penalty charges would be assessed. However, if the debtor enters into a repayment agreement, satisfactory to FEMA, within the 120 day period, then penalty will not be assessed. Penalty will accrue starting on and including the 31st day following the first written notice about penalty. Penalty will not be assessed against Federal agencies, States, or units of general local government.

(d) *Administrative costs for processing delinquent debts.* The debtor shall pay administrative costs of processing delinquent debts in accordance with 31 U.S.C. 3717(e)(1). Administrative costs are deemed to include, but not be limited to, costs of employing commercial firms to locate the debtor, costs of employing contractors for collection services, costs of selling collateral or property to satisfy the debt, etc. States and units of general local government shall be liable for administrative costs to the extent authorized under the common law or other statutory or contractual authority. A debt is deemed to be delinquent if it remains unpaid for 30 days after the initial demand for payment and if the debtor has not entered into a repayment agreement satisfactory to FEMA. A debt is also deemed delinquent if payment is not made by the date specified in FEMA's initial written notification or in the applicable contractual agreement.

(e) *Standards for waiver of interest, penalties and charges.*

* * * * *

(5) If it is determined that the debtor is unable to pay, as shown by complete and sworn statements as to his or her assets and projected income, then interest, penalties and charges may be waived in whole or in part. If the principal outstanding amount of the debt exceeds $2,500, the determination shall be made by the ACO. If the principal outstanding amount of the debt is $2,500 or less, the determination may be made by the DCO or the ACO.

* * * * *

(h) *Collection of interest and penalties while an appeal is pending.* If the debtor notes an appeal either as to the existence or the amount of the debt, interest and penalties may be waived or suspended by the ACO under the following circumstances:

(1) In the case of a State or a unit of general local government, interest shall be assessed on those amounts found due after the appeal process is completed and shall run from the time that the debtor government was first provided written notice by FEMA that interest would be assessed. However, the ACO may waive interest in whole or in part if the State or unit of general local government:

(i) Shows that its taxes or revenues will be insufficient to enable the government to meet essential government expenses.

(ii) Substantially prevails in its appeal, and pays the entire balance found to be due within 90 days of the decision on the appeal being transmitted to the appellant government.

If the State or unit of general local government is to be considered for waiver of interest due to governmental hardship, the ACO may demand that such government provide such economic, financial, or demographic data that the ACO believes to be necessary to assist her to him in determining the existence of such hardship.

* * * * *

9. Section 11.50(c) is revised to read as follows:

§ 11.50 Standards for compromise of debts.

* * * * *

(c) *Authority.* Only the ACO may compromise debts of more than $2,500. Debts of $2,500 or less may be compromised by the ACO or the DCO. Debts exceeding $20,000 may be compromised only after approval by the Department of Justice in accordance with 4 CFR 103.1(b).

§ 11.51 [Amended]

10. That part of § 11.51(b)(4) which now reads "§ 11.50(a)(3)" is revised to read "§ 11.50(a)(4)".

11. That part of § 11.51(c) which reads "4 CFR 101.4(a)" is revised to read "4 CFR 104.1(b)".

12. Section 11.54 is amended by revising paragraph (a) to read as follows:

§ 11.54 Contracts with debt collection agencies.

(a) *General.* FEMA shall utilize mandatory, government-wide debt collection agency contracts negotiated by the General Services Administration or the Department of the Treasury to effect collection of debts owed FEMA.

* * * * *

Date: November 12, 1988.

Julius W. Becton, Jr.,

Director.

[FR Doc. 88-26712 Filed 11-21-88; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 85-388; FCC 88-320]

Public Land Mobile Services; Cellular Services

AGENCY: Federal Communications Commission (FCC).

ACTION: Final rule.

SUMMARY: The Commission has determined that the same five-year fill-in period that it established for the Metropolitan Statistical Areas should be applied to the Rural Service Areas; that such period should be measured from the date of the grant of the original authorization of each system in the RSA; that the transfer policy set forth in the Fourth Notice of Proposed Rulemaking in the same docket should be adopted; and that § 22.31(a)(1) of the Rules should be amended to provide that all applications for each RSA be mutually exclusive regardless of whether their proposed Cellular Geographic Service Areas overlap. Such action is needed in order to provide RSA carriers a reasonable opportunity to adjust their business plans to developing demand. The intended effect of the proposed action is to eliminate delays in the processing of applications for unserved portions of the RSAs and to ensure that cellular radiospectrum is used in as efficient a manner as possible. This action is taken in response to comments received as a result of our Fourth Notice of Proposed Rulemaking, published, 53 FR 25633, July 8, 1988.

EFFECTIVE DATE: December 16, 1988.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Anne Moebes, Mobile Services Division, Common Carrier Bureau; tele: 202-632-6450.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Fifth Report and Order adopted October 13, 1988, and released October, 1988. The full text of this Commission notice is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Fifth Report and Order

1. This order applies the fill-in policy and procedures adopted for the Metropolitan Statistical Areas (MSAs) to the Rural Service Areas (RSAs) and amends the current cellular rules for RSAs accordingly. The amended rules adopting the proposed fill-in policy govern service to the area within each RSA that is not part of the Cellular Geographic Service Area (CGSA) of the licensee for that RSA. Adoption of this order permits RSA licensees to file applications to serve areas outside of their CGSA, but within the RSA, for a period of five years from the date of the initial authorization in each system in an RSA without being subject to competing applications. Thereafter, non-licensees could file applications for unserved portions of the RSA.

The order also provides, as set forth in the Fourth Notice of Proposed Rulemaking, that if the original licensee transfers its entire authorization for its CGSA within the RSA, the fill-in period and the right of expansion without competing applications transfers with the authorization. However, if the licensee transfers any other CGSA in the RSA or less than the total original CGSA authorization to another party, such party would have no right to expand the area covered by the transferred authorization without competing applications unless the transferee obtains a statement signed by the transferor agreeing to such an expansion.

This order is adopted based on the Commission's conclusion that in order to provide RSA carriers a reasonable opportunity to assess and adjust their business plans to developing demand, a fill-in policy for RSAs, similar to that used for MSAs, is preferable to other alternatives.

2. *Final Regulatory Flexibility Analysis.* Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b) it is certified that the final rule will not have a significant impact on a substantial number of small entities. This action is expected to promote efficient and expedient cellular fill-in service to the RSAs and lower the administrative costs associated with the process of granting fill-in licenses in these RSAs.

Ordering Clauses

3. Authority for this rulemaking is contained in sections 1, 4 (i) and (j), 301, 303, and 309 of the Communications Act of 1934, as amended, and section 553 of the Administrative Procedure Act.

4. Accordingly, it is ordered, that Part 22 of the Rules is amended as specified in the Rules Section appended to this summary. The amendments adopted and the policies established in this Order for cellular licensees to expand their CGSAs with the RSA will become effective December 16, 1988.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Amendments to Part 22 of the Commission's Rules

Part 22 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 22—PUBLIC MOBILE SERVICE

1. The authority citation for Part 22 continues to read as follows:

Authority: Sections 4, 303, 48 Stat. 1066, 1082, as amended (47 U.S.C. 154, 303).

2. Section 22.31 is amended by revising paragraph (a)(1) introductory text and adding new paragraph (f) to read as follows:

§ 22.31 Mutually exclusive applications.

(a) * * *

(1) In the Domestic Public Cellular Radio Telecommunications Service, applications shall be considered mutually exclusive if their proposed Cellular Geographic Service Areas (CGSAs) overlap in such a way that a grant of one would preclude the grant of one or more of the other applications, except that applications for the same Rural Service Area (RSA) will be considered mutually exclusive regardless of whether their CGSAs overlap.

* * * * *

(f) *Rural Service Areas.* The provisions of this paragraph shall not apply to initial applications to serve a Rural Cellular Area in the Domestic Public Cellular Radio Telecommunications Service. Applications by entities other than licensees or grantees for a particular RSA to serve unserved areas outside the presently authorized CGSA but within the Rural Service Area (RSA) will not be accepted for five years from the grant of the original construction authorization of each system in an RSA. During this five-year period the original licensee will be authorized to expand its system into unserved areas of the RSA. If the original licensee/grantee transfers its *entire* RSA authorization, consisting of one or more CGSAs to another party, the remainder of the five-year period and the exclusive right of expansion without competing applications transfers with the authorization. However, if the licensee/grantee transfers *less* that its total original authorization to another party, the transferee will not obtain the exclusive right to expand the areas covered by the transferred authorization unless the transferee obtains a signed statement transferring such rights from the licensee/grantee. After the five-year period has expired, the provisions of § 22.31(a)(1) will apply.

[FR Doc. 88-26459 Filed 11-21-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-9; FCC 88-323]

Radio Reading Services; Noncommercial FM Licensees Allowable Costs

AGENCY: Federal Communications Commission.

ACTION: Policy Statement clarifying § 73.593 regarding Subsidiairy Communications Authorizations.

SUMMARY: In this *Policy Statement,* the Commission sets guidelines for the types of costs that noncommercial FM radio stations may recover from radio reading services in return for the service's use of the station's subcarrier.

DATE: *Effective date:* November 22, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Fawn E. Wilderson, Policy and Rules Division, Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In re Allowable Costs for Noncommercial FM Licensees To Charge Radio Reading Services, MM Docket No. 87-9.

Policy Statement

Adopted: October 13, 1988.
Released: October 28, 1988.

I. Introduction

1. This *Policy Statement* is intended to clarify the kinds of costs that a noncommercial radio station may properly charge to the operators of a radio reading service to lease the station's subcarrier capacity pursuant to § 73.593 of our rules.[1] The *Policy*

[1] Section 73.593 reads as follows:

The licensee of a noncommercial educational FM station is not required to use its subcarrier capacity, but if it chooses to do so, it is governed by §§ 73.293 through 73.295 of the Commission's rules regarding

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Statement is the outgrowth of the *Notice of Inquiry* [2] issued last year in the above-captioned proceeding which solicited public comment on the issue of permissible charges to radio reading services. In that *Notice*, we specifically asked commenters to provide us with itemized statements of the charges being assessed by stations for reading service operations. We also asked commenters to identify those types of costs that would not be incurred by the stations but for the provisions of the reading services.

2. In response to the *Notice*, thirteen parties filed comments; eight parties filed reply comments; and two parties filed supplemental comments.[3] Commenters included the Association of Radio Reading Services (ARRS), which represents over 70 radio reading services, approximately three-quarters of the services in operation, the National Association of Broadcasters (NAB), the Corporation for Public Broadcasting (CPB) and National Public Radio (NPR). Additionally, a number of universities which hold public FM licenses filed joint comments.[4] The comments clearly indicate that there is substantial confusion as to what costs can legitimately be charged by a public radio station to the operators of a radio reading service. Having carefully reviewed and analyzed the comments, we are issuing this *Policy Statement* in an attempt to eliminate any existing confusion on the matter of the appropriateness of certain charges by noncommercial FM stations to radio reading services.

II. Background

A. Radio Reading Services

3. A radio reading service is an aural service provided primarily for the blind and visually impaired through the use of an FM licensee's subcarrier capacity. The FM station's subcarrier, which is used to broadcast the reading service, is an *inherent* part of the composite FM baseband frequency.[5] A specially equipped receiver is required by those using the reading service. There are approximately 112 of these services operating in 40 states. Reading services can provide an alternative form of access to printed materials like newspapers, magazines, and books for those with visual or other physical handicaps that will not permit the holding or reading or printed materials.

B. The Previous Rule

4. Historically, § 73.593 restricted public radio stations' use of their subcarrier capacity to those services that were consistent with the noncommercial educational purposes of such stations.[6] This rule specifically identified what types of programs could be offered on a public radio station's subcarrier. One of the permitted uses was for programs intended to serve the special needs and interests of the handicapped. If a station used its subcarrier for any noncommercial educational purpose, it was permitted to charge an amount which could not exceed the sum of the approximate cost of conducting the subcarrier operation (including purchase or lease of equipment, course material, personnel services, etc.), and the general overhead and operational costs attributable to such operations.[7] Thus, under the version of § 73.593 in force prior to 1983, the Commission was careful to ensure that public radio stations could be fully reimbursed for the cost incurred as a result of the use of their subcarriers. This meant that public radio stations could recover both their incremental costs [8] and those portions of their overhead costs [9] resulting from the noncommercial services they were allowed to offer.

C. The Public Broadcasting Amendments Act of 1981

5. In 1981, Congress passed the Public Broadcasting Amendments Act which amended the Communications Act to give public broadcasters, *inter alia*, the authority to use their facilities for remunerative purposes so long as such profit making activities did not interfere with the station's public telecommunications responsibilities.[10] Anticipating that federal government spending for public broadcasting would be reduced, Congress wanted to ensure that public stations would not be hampered in their independent efforts to generate funds for their operations from nongovernmental sources.[11]

D. Report and Order in BC Docket No. 82–1

6. In response to the Public Broadcasting Amendments Act, we reexamined the restrictions imposed by § 73.593 of our rules. In the *Report and Order* in BC Docket No. 82–1,[12] we concluded that the restrictions limiting public FM stations to noncommercial uses of their subcarriers were inconsistent with the spirit of the legislation. Consequently, we amended § 73.593 to authorize noncommercial FM licensees to use their subcarriers for the same range of remunerative activities as commercial radio stations.[13] We emphasized in the *Report and Order* that public stations are not required to use their subcarrier capacity. However, we made it clear that if a public station chooses to use its subcarrier for a commercial purpose, it is obligated to accommodate a radio reading service on its other subcarrier or ensure the availability of other subcarrier capacity.[14] We also explained that

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the types of permissible subcarrier uses and the manner in which subcarrier operations shall be conducted; Provided, however, that remunerative use of a station's subcarrier capacity shall not be detrimental to the provision of existing or potential radio reading services for the blind or otherwise inconsistent with its public broadcasting responsibilities.

[2] *Amendment of Part 73, Subpart C of the Commission's Rules to Require Licensees of Noncommercial FM Stations to Accommodate Requests by Radio Reading Services to Utilize Their Subcarrier Capacity on an Incremental Cost Justified Basis*, 2 FCC Rcd. 680 (1987)(*Memorandum Opinion and Order and Notice of Inquiry* in MM Docket 87–9) [hereinafter either *MO&O* or *Notice*], 52 FR 8084, March 16, 1987 and 52 FR 25892, July 9, 1987.

[3] A list of the parties filing comments may be found in Appendix 1.

[4] The Arizona Board of Regents, James Madison University, Kent State University, Ohio State University and WSKG Telecommunications Council filed joint comments [hereinafter Joint Commenters].

[5] Generally, FM licensees have two subcarrier channels available for use although it is technically possible to have more. Commission rules permit an FM licensee to authorize independent groups to use the station's subcarrier capacity. Section 73.295 of the rules outlines the conditions for subcarrier use and provides an illustrative list of permitted services which include specialized foreign language programming, paging and calling, telemetry, and traffic control signal switching. In order to use a station's subcarrier frequency, certain special equipment is necessary, i.e., a subcarrier generator, an audio compressor/limiter, a dedicated broadcast line, and some type of diagnostic equipment which monitors the baseband signal. During monophonic program transmissions, multiplex subcarriers and their significant sidebands must be within the 20 kHz to 99 kHz range; during stereophonic transmissions, their range is restricted to between 53 kHz and 99 kHz.

[6] 47 CFR 73.593(a)(1)(iii) (1982).

[7] *Id.*

[8] As we explain further below in paragraph 13, by incremental costs we mean those additional costs caused by the provision of the radio reading service's use of the subcarrier.

[9] By overhead costs we mean the basic costs of operating the station, such as salaries, rent and maintenance that would not be changed by the existence or nonexistence of the radio reading service.

[10] Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97–35, 1231, 95 Stat. 357, 731 (codified at 47 U.S.C. 399B (1982)).

[11] 127 Cong. Rec. S 9037–38 (1981) (colloquy between Sen. Schmitt and Sen. Packwood); *see also* S. REP. No. 98, 97th Cong., 1st Session (1981).

[12] *See Amendment of Sections 73.593 of the Commission's Rules*, 48 FR 26608 (June 9, 1983), 54 RR 2d 25, 35 [hereinafter *Report and Order*].

[13] *Id.* at 26614.

[14] *Id.* We provided some general guidelines for stations in accommodating radio reading services but left the implementation to each station's

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public stations would not be required "to bear the fixed or operating costs" of the reading services, but would be expected to provide such services on a "not-for-profit basis." [15] In so doing, we attempted to balance the needs of the stations to receive reimbursement for their services with the public benefit of radio reading services for the handicapped.

7. A year after we issued our *Report and Order*, it became apparent that there was still some confusion over what charges public stations were allowed to recover from radio reading services under our amended rule. Mr. John C. DeWitt wrote a letter on behalf of The American Foundation for the Blind, Inc., asking the Commission to clarify, among other things, whether the not-for-profit charges that public stations passed on to reading services had to be based only on demonstrable incremental costs or whether they could also be based on percentages or proportional bases of the station's operating budget. In response, the Mass Media Bureau, in a letter dated December 3, 1984, stated that a "station should not exceed the incremental costs of conducting the radio reading service" but that "the applicable portion of the station's overhead that relates to providing the radio reading service is included in the incremental costs." [16] Even after the Bureau issued this letter, there was still confusion among noncommercial radio stations and reading service organizations as to allowable and nonallowable costs.

E. Petition for Rulemaking

8. On May 20, 1986, the Association of Radio Reading Services, Inc. (ARRS) filed a *Petition for Rulemaking*, requesting that the Commission impose a mandatory access requirement on noncommercial educational FM licensees to lease their subcarrier capacity to radio reading services and to require that such stations charge only nondiscriminatory, incremental cost-justified rates.[17] ARRS also urged the Commission to issue guidelines that would clarify the term "incremental costs" as initially used in the bureau letter. In its petition, ARRS stresseed that neither the *Report and Order*, nor the rule itself, specified what constituted profit or what costs may be assessed by public stations in determining rates for reading services.

9. Several commenters filed in response to ARRS' petition. Only one commenter strongly favored the imposition of a mandatory access requirement. Other commenters pointed out that ARRS' proposal did not take into account other noncommercial public uses of a station's subcarrier and that mandatory access by reading services would raise serious first amendment issues. Evidence was also presented by commenters which contested ARRS' assertions that our rule amendment had adversely affected the growth of reading services. The comments also revealed a great disparity in the amount that public stations charge radio reading services.

F. Memorandum Opinion and Order and Notice of Inquiry

10. On the basis of the record developed, we issued, on January 16, 1987, a combination *Memorandum Opinion and Order* and *Notice of Inquiry* in the proceeding.[18] In the *MO&O* portion of the item, we rejected a proposal to amend § 73.593 of our rules to *require* that noncommercial FM radio licensees accommodate radio reading services. The record, however, was not adequate to allow us to respond to ARRS' request for a clearer definition of incremental costs, and we determined that it would be inappropriate to attempt to resolve specific cost issues without a further record. In particular, we recognized the need to clarify what portion of general overhead costs can be appropriately allocated to a radio reading service. Accordingly, we issued the companion *Notice of Inquiry* now before us so that we could determine the actual cost of operating a radio reading service and proffer guidance concerning which costs could be passed on to the reading services. The *Notice* asked commenters to explain the apparent cost disparities in charges to radio reading services and to indicate whether our imposition of a particular method of calculating costs would be beneficial.

G. Comments

11. The commenters responding to the *Notice* divided fairly evenly into two groups—the radio reading services and the noncommercial FM stations. Generally, the radio reading services challenged the legitimacy of some or all of the costs charged by the stations; some services provided detailed information on costs or attached itemized bills to substantiate their allegations. On the other hand, the public stations defended their methods of calculating costs and asserted that the rates they charge reading services do not generate profits. Generally, public stations urged the Commission to rely on their discretion in determining costs, asserting that they are in the best position to determine the actual cost to their stations of operating a reading service.

12. *Reasons Given for Cost Disparities.* In our *Notice*, we requested an explanation for the wide disparity in the costs charged to reading services by public radio stations. The comments indicated that the disparities in costs charged are the result of a number of factors. First, noncommercial radio stations may use different methods to determine what to charge a radio reading service. Stations can charge flat, monthly, or hourly rates and the stations often differ in the manner in which these rates are set, e.g., some stations merely discount the rate charged by commercial stations for use of their subcarrier. Second, some stations charge reading services not only for the use of the subcarrier capacity, but also for a variety of other costs including transmission costs, personnel, maintenance and rental of space for housing subcarrier equipment. Third, some disparities can be traced to the fact that the equipment and labor costs associated with the implementation of the reading service vary from station to station.[19] For example, the need for and the cost of capital equipment to activate the subcarrier can vary widely depending on the state of the existing technical facilities at a given public radio station. Fourth, cost differentials can result from stations charging less than the maximum allowable costs under our rules. Finally, stations differ in whether, and to what extent, they charge radio reading services separately for the numerous types of optional or ancillary services [20] that a station may

discretion. *Id.* n. 31. In addition, "ensuring the availability of other subcarrier capacity" could mean that the non-commercial radio station has assured the availability of another radio station's subcarrier for use by radio reading services.

[15] *Id.* n. 32.

[16] Letter from Chief, Mass Media Bureau to John C. DeWitt (December 3, 1984) (hereinafter Bureau letter).

[17] The petition was placed on public notice on July 14, 1986 (Report No. 1605).

[18] *See* n. 2, *supra.*

[19] ARRS and other reading services assert that the actual cost variations, resulting from differing equipment and operating costs in different markets, do not correlate with the variations in the fees being charged. Reply Comments of ARRS at 3.

[20] By "ancillary services" we mean services provided by the station that are in addition to the minimum services necessary to make a subcarrier available to the radio reading service. Examples of ancillary services include advertising assistance, the transmission link from the reading service's separate studio to the station's facilities, and use of studio space. Some stations provide ancillary services and some do not. Of those stations that do provide ancillary services, some explicitly charge for those services and some do not. In the main, the

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offer to a reading service, e.g., production personnel, studio time, or customer support.

13. *Incremental Costs.* A review of the comments reveals that most of the costs which can be potentially passed on to radio reading services fall into the category of either incremental costs or overhead costs. Incremental costs are typically thought to mean the costs that a noncommercial station would not incur *but for* the provision of subcarrier capacity to a reading service. For a definition and discussion of overhead costs, *see* ¶ 14. Most commenters have agreed that it is appropriate to pass on these incremental costs to reading services. However, there is some disagreement as to exactly which costs are "incremental." [21]

14. The reading services who commented offered varying descriptions of these costs which perhaps reflect the different types of services furnished by each station. Most reading services agree, however, that the following would be included in the category of incremental costs:

(1) The cost of electrical power consumed by the subcarrier equipment used by that reading service.[22]

(2) A prorated portion of maintenance and repair costs of subcarrier equipment.[23]

(3) A prorated portion of purchase and installation costs of subcarrier equipment, if the station does not already own this equipment.[24]

In addition, there was general agreement among most commenting reading services that the following should *not* be included in a definition of "incremental costs":

(1) The cost of transmitting the subcarrier's signal from the station's studio to its transmitter.[25]

(2) "Interference prevention" costs.[26]

(3) Lost opportunity costs resulting from accommodating a reading service instead of a fully remunerative lessee.

(4) Check processing or similar fees, unless these same fees have been imposed on the radio stations by their banks.[27]

15. *Overhead Costs.* The stations differ with the reading services on whether they are allowable,[28] with most stations preferring a definition which would allow a proportional charge for such costs. More specifically, they assert that these overhead costs should be chargeable to the reading service only to the extent that the reading service "draws on or shares existing personnel, services or facilities of the station." [29]

16. As indicated above, there was substantial disagreement among the commenters regarding the treatment of overhead costs. Overhead costs are generally understood by the commenters to be the basic costs of operating the public station, which would include salaries, rent, maintenance, etc. In responding to our request for information about actual charges, most of the commenters focused on this issue of the allocation of overhead costs between the stations and reading services. Several reading services contest the legitimacy of charging overhead costs. For example, Written Communications Radio Service (WCRS), an Ohio radio reading service, disputed the validity of numerous overhead costs charged to it by WKSU, Kent State University's noncommercial FM station.[30] Specifically, WCRS contested the allocation by WKSU of a percentage of the salary of each station employee to their reading service,[31] a $20.00 a month charge to process their monthly reimbursement checks for the telephone bill, 2% of the station's annual electric bill, an annual $100 fee for renting a rack that holds the subcarrier monitoring equipment and an annual $1,300.00 legal fee.[32]

17. WKSU claimed that complaints of WCRS stemmed from its basic disagreement with allowing *any* overhead costs to be charged to its operations. WKSU and the Joint Commenters insist that overhead costs are properly chargeable to the reading services, but only to the extent that the reading services draw on or share a station's existing personnel, services or facilities.[33]

18. The controversy concerning the recovery of overhead costs is specifically illustrated in the area of transmission costs. Several reading services object to being charged for transmission of the subcarrier signal between a public station's studio and its transmitter[s].[34] First, they argue that the subcarrier signal is an inherent part of the FM signal once the subcarrier has been activated. Consequently, the subcarrier signal is transmitted simultaneously with the station's main signal. The reading services stress that the signal delivery system is an integral part of the broadcasting system and is in operation regardless of whether or not a radio reading service uses it. The West Virginia Broadcasting Authority (WVEBA), on the other hand, argues that this proceeding should be strictly confined to the costs that can be recovered for the use of the subcarrier and therefore contends that the question of the charges that it passes on to the West Virginia Radio Reading Service (WVRRS) for the use of its microwave transmission system are outside the scope of the *Notice*.[35] Nevertheless, WVEBA defends its charges as proper.[36]

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commenters agree that because these services are optional, their procurement should be the subject of a separate contract between the reading service and the noncommercial station. *See, e.g.*, Reply of ARRS at 7 n.5.

[21] Joint Comments at 3; Reply Comments of West Virginia Educational Broadcasting Authority at 1; Reply Comments of Kent State University at 3; Comments of National Public Radio at 2.

[22] Reply Comments of ARRS at 6; WCRS Complaint Letter at 1, see infra, note 30; Comments of Youngstown Radio Reading Service at 2 (asserting that "[i]t is estimated that 75 watts of power is all that is required to completely operate the SCA programming. On an average figure of 11¢ per kilowatt hour this totals to an annual electrical charge of approximately $75.00").

[23] Joint Commenters at 6; Reply Comments of ARRS at 6.

[24] Reply Comments of ARRS at 6.

[25] Reply Comments of ARRS at 7.

[26] NPR, in their Comments (at 5) claims that spectrum analyzers costing $6,000 to $15,000 and specially trained personnel are needed to control subcarrier channel interference with the main channel. However, ARRS, in its Reply Comments (at 7), disputed this claim. They assert that: [s]ubcarrier frequencies do not, in fact, *cause* interference with main channel signals. A station maintained in accordance with good engineering practices will not experience interference to either the main or subcarrier signals. Thus, costs related to monitoring or repairing interference would be incurred in any event, and are not the fault of the SCA user.

[27] Reply Comment of ARRS at 9.

[28] ARRS and other reading services would have the FCC prohibit stations from charging for any overhead costs not occasioned *exclusively* by the reading service's use of their subcarrier.

[29] Joint Commenters at 6.

[30] WCRS filed a complaint against WKSU–FM at Kent State University concerning these charges. This complaint, which was filed on April 10, 1985, remained pending, awaiting the resolution of the cost issues in this proceeding, until September 6, 1988, when the Commission received a letter from WCRS stating its intention to withdraw its complaint due to the resolution of differences between itself and WKSU–FM. In that letter, WCRS also withdrew its comments of June 16, 1967, and it's council's reply dated July 8, 1985.

[31] Included were percentages of the salaries of the Director of Engineering (5% or $1,276.00), the Operations Coordinator (3% or $662.00), the Business Manager (1% or $197.00), the Secretary (.5% or $86.00), and the Board Operator (33⅓% or $8,552.00).

[32] Comments of Written Communications Reading Service (WCRS) at 4–19.

[33] Reply Comments of WKSU–Kent State at 4.

[34] *See* Comments of the West Virginia Radio Reading Service at 7.

[35] Reply Comments of WVEBA at 3–4.

[36] WVEBA charges WVRRS the same price that it charges other non-profit groups for the use of its facilities. These charges are based on fixed charges that it established for use of its microwave system.

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19. In addition to questioning the specific types of overhead charges being passed on to them, several of the reading services challenged the legitimacy of charging for these overhead costs on an hourly basis. They contend that hourly charges were developed on the basis of fixed yearly costs for electricity or dedicated telephone lines. These costs are generally computed on the assumption of continuous twenty-four hour a day service or availability. Those reading services that operated for a limited number of hours during the day stated that, when they wanted to increase their hours of operation, they were required to pay a predetermined hourly rate for each additional hour. Consequently, they assert that they are being charged twice for service costs which do not vary with the number of hours that the reading service is operating.

20. *Suggestions for Clarifying Recoverable Costs.* The commenters were unanimous in requesting that the Commission provide some form of guidance to the parties concerning legitimately allowable charges under § 73.593. The commenters made a variety of suggestions aimed at clarifying legitimately recoverable charges. The Corporation for Public Broadcasting (CPB) and the majority of reading services urged the Commission to delineate recoverable cost categories. They believe that such illustrative lists will provide a simple reference point for rejecting or accepting certain types of charges. Additionally, some of the reading services recommended that the Commission develop a list of costs that can not be charged to the radio reading services. A number of reading services suggested that the Commission require itemization of incremental costs in order to document the exact nature of the additional costs that are attributed to reading service operations. Other commenters suggested that stations bill reading services separately for transmission related charges, ancillary services and repairs. Many reading services suggested abolishing hourly charging as a method for calculating appropriate charges in order to preclude stations from passing on fixed yearly operating costs more than once. The reading services offered these suggestions to encourage precision in ascertaining the actual costs that are directly attributable to reading services' operations.

21. The stations argue that such precision, particularly with regard to overhead costs, is impossible. Furthermore, the stations stress that by insisting on such precision, especially in calculating a portion of overhead costs, the reading services are really trying to avoid paying their fair share of the basic operating costs. The stations urge the Commission to defer to their discretion and their good faith estimates of costs that are allowable within the Commission's not-for-profit standard. They assert that they are in the best position to make the determination of the proper charges to the lessees of their subcarriers. Furthermore, they contend that we should intervene only where there is clear evidence of abuse of our standards.

22. Several stations argue that the Commission should also defer to their discretion as to how they charge—i.e., whether their charges are based on hourly, monthly or flat rates. In contrast, other stations, as well as the NAB and CPB, advocate pricing or accounting guidelines to address the issue of the method used to compute charges.[37] They believe that such guidelines will provide adequate parameters within which they can make their pricing determinations, yet still provide sufficient flexibility to negotiate contracts which would be appropriate in different circumstances. These same parties oppose imposing a universally applicable formula for calculating costs because they believe that such a solution would be too rigid to encompass the myriad of unique arrangements between stations and the reading services.

III. Discussion

23. We are persuaded from the record that there is confusion regarding allowable and nonallowable charges for providing radio reading services under our not-for-profit standard. We are issuing this *Policy Statement* to provide clarification of allowable costs under the not-for-profit standard inherent in § 73.593. In the following discussion, first, we will define incremental costs. Second, we will address the difficult issue of allocating general overhead costs between reading services and public stations. Third, we will provide examples of nonallowable costs under § 73.593.[38]

24. *Incremental Costs.* If a station decides to charge a radio reading service for use of its subcarrier capacity, the station may recover the actual incremental costs of providing that service. By "incremental costs" (in the context of this proceeding), we mean those additional out-of-pocket costs that are caused by the operation of the reading service. Clear examples of such costs are the capital cost of the equipment needed for and used in the provision of the subcarrier signal to the radio reading service and any modification to a microwave system or a station's transmitter necessitated in order to so deliver the subcarrier signal. Other examples include the additional cost of the power necessary to operate the subcarrier and associated equipment, and any specific repairs related to subcarrier equipment or operations. Of course, if the station uses a single subcarrier during certain hours to provide radio reading services and during other hours to provide some other, profit-making service, then the radio reading service should be charged a fraction of the total subcarrier equipment and electricity cost and other related costs. The costs ancillary services or products that the station may choose to provide to the reading services may also be treated as incremental costs and are also recoverable.[39]

25. A similar incremental cost standard was embodied in the previous version of the rule. In using that standard in the original rule, we contemplated that a public station should be compensated for any out-of-pocket expenses incurred in allowing

WVEBA argues that WVRRS is not obliged to use its microwave system but can use telephone company lines to deliver the reading service's subcarrier signal.

[37] Precise guidelines were suggested in the following areas: the actual cost bases for pricing, the frequency with which such bases should be recalculated, allowable methods for allocating costs of jointly and concurrently operated facilities and allowable methods for calculating cost overhead rates. *See* Comments of CPB at 7–8.

[38] A CPB survey conducted in connection with this proceeding demonstrates that many stations offer their subcarriers to independent groups at no charge. Of the 295 public radio stations that responded to CPB's survey, 83 reported that they use one or more subcarrier channels for reading services. Of these 83 stations, 32 operate their own reading services, and 21 offer their facilities to independent groups at no charge. CPB Comments at 4–5. Although we are providing cost guidelines in this *Policy Statement*, we wish to emphasize that a public station is not required to charge a reading service for the use of its subcarrier or any ancillary services it provides.

[39] Ancillary services are not services that must be provided by the station as a consequence of providing the subcarrier. Rather, ancillary services are additional services that the station and the radio reading service agree will be provided, even though the radio reading service could use the subcarrier without using these added services. Given the non-essential nature of these ancillary services, FCC guidelines in this area are inappropriate and whatever steps the parties decide to take to provide such services is purely within their discretion.

one of the permitted uses on its subcarrier.[40] In other words, the station should be no better or worse off than it was before leasing the subcarrier. When we carved out a priority for reading services in § 73.593, we intended that reading services continue to operate under this same not-for-profit standard.[41]

26. *Overhead Costs.* We recognize that the question of apportioning general overhead costs provides the most troublesome area for the parties to resolve. It should be clear from our definition of incremental costs that any costs which are directly attributable to the reading service are recoverable.[42] We do not wish to disallow reimbursement for such costs, since that might create the incentive for public radio stations to decline to provide reading services altogether, if to do so would cause them to incur losses. Refusal to offer reading services would force them to refrain from offering their subcarriers to paying subscribers as well. Overhead costs, such as salaries, rent and maintenance that are incurred by the station in the absence of the radio reading service and that are not increased when the station provides a subcarrier to the radio reading service, would not be allowed. As previously noted, some reading services concede that partial reimbursement for fixed overhead or salary costs should be allowed. Moreover, most stations prefer a definition which would allow a proportional charge for such costs only to the extent that the reading service "draws on or shares existing personnel, services or facilities of the station." Paragraph 13, *supra*. With these views in mind, we will permit stations to recover only those fixed overhead costs which are attributable to the provision of a reading service and can be so justified by the radio station.[43] To more closely determine such attributable costs, we suggest that both parties attempt to foresee the nature of those fixed overhead costs that might appropriately be charged to radio reading services and that they explore the possibility of including itemized charges or an explicit provision for these costs in their contracts. Another option would be to negotiate a completely separate billing.

27. *Nonallowable Costs.* Several of the reading services and ARRS urged us to designate certain costs as nonallowable. For example, WCRS suggests that fees for check processing, rental of space for the subcarrier equipment, general salaries, legal fees and transmission links like those between the station and transmitter charged by Kent State be included in this category. We consider all but the last item to be general overhead costs and therefore the parties should be guided by our previous discussion of this area. We note further that it would be improper for the station to charge any sort of fees such as check processing or similar fees to the radio reading service unless such fees are routinely charged to the station by the bank which processes those checks or unless those fees can be justified as related to the incremental cost of processing payments made by the radio reading service.

28. With regard to the costs for the transmission links between the station and the transmitter, we believe that such costs generally cannot be passed on to the reading service unless there is evidence that the reading service creates an incremental cost burden on such links. Technically, a subcarrier is an inherent part of the FM bandwidth used by the public radio station. Once the reading service has paid for the capital equipment necessary to activate the subcarrier—including additional channels for microwave systems if necessary—the actual transmission of the subcarrier signal, in most cases, would not cost the station any more than it pays to transmit its own signal. However, to the extent that the existence of the subcarrier decreases the quality of the station's signal or increases the possibility of interference to the transmission links, then any costs which the station incurs to correct those problems are properly chargeable to the radio reading service.

29. Another type of cost that is generally not recoverable is lost revenues from an actual or potential alternative lessee. Under normal circumstances, a broadcasting station, whether commercial or noncommercial, can view the opportunity cost of using a subcarrier for any particular purpose as the revenue it has given up by not using the subcarrier for its most profitable alternative use. This principle is not applicable here, however, where the public radio stations are restricted by our rules in the use of their subcarrier capacity. In the *Report and Order* adopting the current version of § 73.593, we determined that any station that wishes to lease its subcarrier capacity must first accommodate interested radio reading services itself or ensure the availability of other subcarrier capacity.[44] Thus, under our rule, there is no allowable alternative usage for the subcarrier capacity if it is needed to provide a reading service to its community. Given this policy, it is not appropriate for the station to charge the radio reading service the value of the subcarrier in a profitable alternative usage. If the public station is leasing another subcarrier for remunerative purposes, it will not be permitted to charge the reading service the difference between its remunerative alternative and the reading service's incremental costs. Both the Communications Act and our rules require these stations to fulfill their public telecommunications responsibilities before profiting from the use of their facilities.

30. We have provided the general guidelines discussed above as a framework within which the parties can negotiate private contracts to govern their particular arrangements for services. Such contracts give both parties the flexibility to account for variations in equipment, facilities, services and products involved in providing reading services. We urge the parties to enter into clear contracts outlining their respective cost obligations within the guidelines provided here. These contracts should provide the opportunity to the parties to specify the types of costs that will be recovered by stations from reading services and the method by which these costs are to be estimated.

31. We believe that providing general guidelines as to allowable and nonallowable costs is preferable to establishing cost computation formulas or more rigid cost categories as requested by numerous commenters. First, it is unlikely that the Commission could develop formulas or precise cost categories that would contemplate the wide variety of equipment, facilities, products and services involved in providing reading services. Thus, any fixed formulas or cost categories developed by the Commission would likely be incomplete or overbroad. Second, stations and reading services are in the best position to determine the incremental costs of the reading services in each particular situation. Imposition

[40] In former § 73.593, several noncommercial educational uses were permitted, including programs for the aged, ethnic minorities, and professional groups. *See* 47 CFR 73.593 (1981).

[41] 47 CFR 73.593.

[42] This *Policy Statement* supercedes the Bureau letter of December 3, 1984.

[43] This might include, *e.g.*, a station engineer who verifies the reliability of the technical installations, including the subcarrier's operation. Under these circumstances, a portion of the engineer's salary may be reasonably allocated to reading service subcarrier usage. Similarly, rent, administration, management and other appropriate costs attributable to reading service can be recovered if justified and segregable from other fixed overhead costs.

[44] *See* n. 14, *supra*.

of rigid formulas or cost categories would remove this needed discretion and force the parties to comply with rules that may be arbitrary or inapplicable to their arrangements.

32. We also believe that general guidelines discussed above are more appropriate than the specific accounting or pricing guidelines recommended by some commenters for a number of reasons. To account for the variability in a station's equipment and facilities, as well as variability in their accounting methods, we would have to devise a range of accounting guidelines from which the stations could choose. For example, with regard to the capital cost of the subcarrier equipment, we would have to devise accounting guidelines that take into account the alternative methods of depreciating capital and amortizing loans. We believe that the resources that would be required to develop said guidelines would be unwarranted. First, it is not clear that the scope of the problem requires such an expenditure of resources. The CPB study [45] suggests that most stations and radio reading services are not disputing allowable costs. For those that are, we believe that the general guidance offered in the *Policy Statement* will provide the parties with a sufficient basis on which to resolve any disagreements. Finally, we are reluctant to promulgate detailed accounting regulations because we believe it is an unnecessary intrusion into the parties' discretion.

33. Authority for this action is contained in sections 4(i), 303, 307(b) of the Communications Act of 1934 as amended. In addition, the proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980, and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

34. Accordingly, it is ordered, that this proceeding is terminated.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

APPENDIX 1

Comments

Alaska Information Radio Reading and Education Services
Association of Radio Reading Services
Bible Broadcasting Network, Inc.
Brown Broadcasting Service, Inc.
Corporation for Public Broadcasting
Joint Comments (Arizona Board of Regents, Board of Visitors of James Madison University, Kent State University, Ohio State University, WSKG Telecommunications Council)
KJZZ/Sun Sounds Station
National Public Radio
Ohio Radio Reading Service
West Virginia Educational Broadcasting Authority
Written Communications Radio Service
West Virginia Radio Reading Service (West Virginia Library Commission)
Youngstown Radio Reading Service

Reply Comments

Association of Radio Reading Services
Corporation for Public Broadcasting
WKSU-Kent State University
National Association of Broadcasters
National Public Radio
Summit County Society for the Blind
West Virginia Educational Broadcasting Authority
West Virginia Radio Reading Service (West Virginia Library Commission) [filed two replies]

Supplemental Comments

Corporation for Public Broadcasting
Written Communications Radio Service

[FR Doc. 88-26984 Filed 11-21-88; 8:45 am]
BILLING CODE 6712-01-M

[45] *See* n. 38 *supra.*

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1004, 1041, and 1042

[Ex Parte No. 55 (Sub-No. 67)]

Interpretations and Routing Regulations [1]

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rules.

SUMMARY: The Commission adopts final rules consolidating its interpretations and routing regulations, now found at 49 CFR Parts 1004, 1041, and 1042, in a central location at 49 CFR Part 1004, as described below. The new rules also streamline and update these regulations, and remove obsolete matter. No substantive changes are intended. Grouping related provisions in one place should aid the general public in finding and using the material. The proposed rule was published in the **Federal Register** on August 5, 1988 at 53 FR 29498.

EFFECTIVE DATE: December 22, 1988.

FOR FURTHER INFORMATION CONTACT: Richard L. Gagnon, (202) 275-7711 or Richard B. Felder, (202) 275-7691. (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.)

[1] Previously titled "Non-Rail Interpretations and Routing Regulations."

Environmental and Energy Considerations

We conclude that the proposed action will not significantly affect either the quality of the human environment or conservation of energy resources.

Regulatory Flexibility Analysis

The Commission certifies that the final rules will not have a significant economic impact on a substantial number of small entities. Our restructuring entails no substantive change is existing regulations, and the rules being removed are either obsolete or not used. Additionally, by consolidating the remaining regulations in one CFR part, we are facilitating their use by all persons.

Index

List of Subjects in 49 CFR Parts 1004, 1041, and 1042

Administrative practice and procedure, Motor carriers, Freight forwarders.

Decided November 14, 1988.

By the Commission, Chairman Gardison, Vice Chairman Andre, Commissioners Simmons, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

Title 49 of the Code of Federal Regulations Parts 1004, 1041, and 1042 are amended as follows:

1. Part 1004 is revised to read as follows:

PART 1004—INTERPRETATIONS AND ROUTING REGULATIONS

Subpart A—Interpretation of Operating Rights

Sec.
1004.1 Return transportation.
1004.2 Authority to serve a particular area—construction.
1004.3 Incidental for-hire transportation by private carrier.

Subpart B—Miscellaneous Interpreations

1004.10 Gifts, donations, and hospitality by carriers.

Subpart C—Routing Regulations

1004.20 Regular-route motor passenger service.
1004.21 Traversal authority.
1004.22 Tacking.

Sec.

Authority: 49 U.S.C. 10321 and 5 U.S.C. 553. Subpart C also issued under 49 U.S.C. 10922(h)(1)(A).

Subpart A—Interpretation of Operating Rights

§ 1004.1 Return transportation.

A motor carrier may transport containers and other shipping devices inbound if they were used in its outbound transportation of the base commodity.

§ 1004.2 Authority to serve a particular area—construction.

(a) *Service at municipality.* A motor carrier of property, motor passenger carrier of express, and household goods freight forwarder authorized to serve a municipality may serve all points within that municipality's commercial zone not beyond the territorial limits, if any, fixed in such authority.

(b) *Service at unincorporated community.* A motor carrier of property, motor passenger carrier of express, and household goods freight forwarder, authorized to serve an unincorporated community having a post office of the same name, may serve all points in the United States not beyond the territorial limits, if any, fixed in such authority, as follows: (1) All points within 3 miles of the post office in such unincorporated community if it has a population of less than 2,500; within 4 miles if it has a population of 2,500 but less than 25,000; and within 6 miles if it has a population of 25,000 or more; (2) at all points in any municipality any part of which is within the limits described in paragraph (b)(1) of this section; and (3) at all points in any municipality wholly surrounded, or so surrounded except for a water boundary, by any municipality included under the terms of paragraph (b)(2) of this section.

§ 1004.3 Incidental for-hire transportation by private carrier.

A private carrier engaged in incidental for-hire transportation shall conduct such operations independently of its private operations and shall maintain separate records for each.

Subpart B—Miscellaneous Interpretations

§ 1004.10 Gifts, donations, and hospitality by carriers.

It is unlawful for any common carrier engaged in interstate or foreign commerce to offer, make, or cause any undue or unreasonable preference or advantage to any person. Gifts of services or anything of substantial value to particular shippers or their representatives are considered violations of the law. Expenditures for such gifts may not support requests to increase carrier rates. The Commission shall take appropriate enforcement action to redress such unlawful expenditures.

Subpart C—Routing Regulations

§ 1004.20 Regular-route motor passenger service.

A regular-route motor passenger common carrier may serve: (a) All points on, and all municipalities wholly within and all unincorporated areas within 1 airline mile of, its authorized route; and (b) all military posts, airports, schools, and similar establishments that may be entered within 1 airline mile of its authorized route, but operations within any part of such establishment more than 1 airline mile from such authorized route may not be over a public road.

§ 1004.21 Traversal authority.

(a) *Scope.* An irregular-route motor carrier may operate between authorized service points over any reasonably direct or logical route unless expressly prohibited.

(b) *Requirements.* Before commencing operations, the carrier must, regarding each State traversed: (1) Notify the State regulatory body in writing, attaching a copy of its operating rights; (2) designate a process agent; and (3) comply with 49 CFR 1043.8.

§ 1004.22 Tacking.

Unless expressly prohibited, a motor common carrier of property holding separate authorities which have common service points may join, or "tack," those authorities at the common point, or "gateway," for the purpose of performing through service as follows: (a) Regular-route authorities may be tacked with one another; (b) regular-route authority may be tacked with irregular-route authority; (c) irregular-route authorities may be tacked with one another if the authorities were granted pursuant to applications filed on or before November 23, 1973, and the distance between the points at which service is provided, when measured through the gateway point, is 300 miles or less; and (d) irregular-route authorities may be tacked with one another if the authorities involved contain a specific provision granting the right to tack.

§ 1004.23 Elimination of routing restrictions—regular-route carriers.

(a) *Regular-route authorities—construction.* All certificates that, either singly or in combination, authorize the transportation by a motor common carrier of property over (1) a single regular route or (2) over two or more regular routes that can lawfully be tacked at a common service point, shall be construed as authorizing transportation between authorized service points over any available route.

(b) *Service at authorized points.* A common carrier departing from its authorized service routes under paragraph (a) of this section shall continue to serve points authorized to be served on or in connection with its authorized service routes.

(c) *Intermediate point service.* A common carrier conducting operations under paragraph (a) of this section may serve points on, and within 1 airline mile of, an alternative route it elects to use if all the following conditions are met: (1) The carrier is authorized to serve all intermediate points (without regard to nominal restrictions) on the underlying service route; (2) the alternative route involves the use of a superhighway (*i.e.*, a limited access highway with split-level crossings); (3) the alternative superhighway route, including highways connecting the superhighway portion of the route with the carrier's authorized service route, (i) extends in the same general direction as the carrier's authorized service route and (ii) is wholly within 25 airline miles of the carrier's authorized service route; and (4) service is provided in the same manner as, and subject to any restrictions that apply to, service over the authorized service route.

§ 1004.24 Elimination of gateways—regular- and irregular-route carriers.

A motor common carrier of property holding separate grants of authority (including regular-route authority), one or more of which authorizes transportation over irregular routes, where the authorities have a common service point at which they can lawfully be tacked to perform through service, may perform such through service over any available route.

§ 1004.25 Redesignated highways.

Where a highway over which a regular-route motor common carrier of property is authorized to operate is assigned a new designation, such as a new number, letter, or name, the carrier shall advise the Commission by letter, and shall provide information concerning the new and the old

designation, the points between which the highway is redesignated, and each place where the highway is referred to in the carrier's authority. The new designation of the highway will be shown in the carrier's certificate when the Commission has occasion to reissue it.

§ 1004.26 Misrouting, adjustment of claims.

Carriers should adjust claims for damages resulting from misrouting. Where a carrier admits responsibility for billing, forwarding, or diverting a shipment over a higher rated route than that directed by the shipper or otherwise available, the misrouting carrier should refund the difference to the shipper (or reimburse the delivering carrier, as the case may be). Where the misrouting carrier alleges justification for using the higher rated route, the Commission may, at its discretion and upon appropriate petition, determine or express an advisory opinion on the lawfulness of such routing. This interpretation must not be used to evade or defeat tariff rates or to meet the rate of a competing carrier or route, nor to relieve a shipper from responsibility for routing instructions. Damages caused by misrouting are not overcharges. Therefore, adjustments of claims for misrouting against rail and water carriers are governed by 49 U.S.C. 11706 (c)(1) and (d).

PART 1041—[REMOVED]

2. Part 1041 is removed.

PART 1042—[REMOVED]

3. Part 1042 is removed.

[FR Doc. 88-26961 Filed 11-21-88; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 53, No. 225
Tuesday, November 22, 1988

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 88-ASW-39]

Proposed Establishment of Transition Area; George West, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a transition area located at George West, TX. The development of a new VOR/DME-A standard instrument approach procedure (SIAP) to the Live oak County Airport, utilizing the Three Rivers Very High Frequency Omnidirectional Radio Range/Tactical Air Navigation (VORTAC), has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the new VOR/DME-A to the Live Oak County Airport. Coincident with this action is the changing of the status of the airport from visual flight rules (VFR) to instrument flight rules (IFR).

DATE: Comments must be received on or before December 29, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, docket No. 88-ASW-39, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530; telephone: (817) 624-5561.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 88-ASW-39." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received.

All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by establishing a transition area at George West, TX. The development of a new VOR/DME-A SIAP to the Live Oak County Airport, utilizing the Three Rivers VORTAC, has necessitated this proposal. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the new VOR/DME-A SIAP. Coincident with this action is the changing of the status of the Live Oak County Airport from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 4, 1988.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority deletated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E. O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

George West, TX [New]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Live Oak County Airport (latitude 28° 22' 0" N., longitude 98° 07' 10" W.), and within 2 miles each side of the 168°

radial of the Three Rivers VORTAC (latitude 28° 30' 18" N., longitude 98° 09' 03" W.), extending from the 6.5-mile radius area to 9 miles northwest of the Live Oak County Airport.

Issued in Forth Worth, TX, on November 8, 1988.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 88-26957 Filed 11-21-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 88-ASW-40]

Proposed Revision of Transition Area; Laredo, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise that transition area located at Laredo, TX. The development of a new VOR/DME RWY 17 standard instrument approach procedure (SIAP) to the Rancho Blanca Airport, utilizing the Laredo Very High Frequency Omnidirectional Radio Range/Tactical Air Navigation (VORTAC), has made this proposed revision necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing this new VOR/DME RWY 17 SIAP to the Rancho Blanca Airport. Coincident with this action is the changing of the status of the Rancho Balanca Airport from visual flight rules (VFR) to instrument flight rules (IFR).

DATE: Comments must be received on or before December 29, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 88-ASW-40, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530; telephone: (817) 624-5561.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 88-ASW-40." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing data for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing data for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also requst a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by revising the transition area located at Laredo, TX. The development of a new VOR/DME RWY 17 SIAP to the Rancho Blanca Airport, utilizing the Laredo VORTAC, has necessitated this proposed revision. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the new SIAP. Coincident with this revision is the changing of the status of the Rancho Blanca Airport from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 4, 1988.

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

List of Subjects in 14 CFR Part 71

Aviation safety, transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAY, AREA LOW ROUTES CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Laredo, TX [Amended]

By inserting after the next to last sentence of the legal description: "and within an 8.0-mile radius of the Rancho Blanca Airport (latitude 27°18'29" N., longitude 99°28'51" W.). That airspace within Mexico is excluded."

Issued in Fort Worth, TX, on November 8, 1988.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 88-26958 Filed 11-21-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 5

[Notice No. 676; Ref: Notice Nos. 658, 668]

Label Disclosure for Brandy and Whiskey Treated With Wood

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

ACTION: Extension of comment period.

SUMMARY: This notice extends the comment period for Notice No. 658, a notice of proposed rulemaking, published in the **Federal Register** on May 24, 1988 (53 FR 18574). ATF has received two requests to extend the comment period in order to provide sufficient time for all interested parties to respond to the complex issues addressed in the notice.

DATE: Written comments must be received on or before January 6, 1989.

ADDRESS: Send written comments to: Chief, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385 ATTN: Notice No. 658.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On May 24, 1988, ATF published Notice No. 658 in the **Federal Register** (53 FR 18574) proposing to amend the regulations in 27 CFR Part 5 concerning the wording, and placement, of the disclosure statement for brandy and whiskey treated with wood.

The Bureau also solicited comments on a petition it received, filed jointly by the Federation des Exportateurs de Vins et Spirituex (FEVS) and the National Association of Beverage Importers, Inc. (NABI), concerning the usage and label disclosure for brandy treated with an infusion of oak chips, i.e., the Boise method. This petition was supported by several U.S. brandy producers.

The comment period for Notice No. 658, initially scheduled to close on August 22, 1988, was extended until November 22, 1988 (Notice No. 668, August 16, 1988; 53 FR 30848).

Subsequent to the publication of Notice No. 668, ATF received two requests to extend the comment period an additional 90 days, from November 22, 1988 to February 22, 1989. In the first request, submitted by the petitioners, it was noted that further coordination was necessary between the foreign (French) producers and the U.S. importers in order to fully complete the necessary analysis of all the complex issues raised in Notice No. 658. The petitioners also stated that additional time is needed to coordinate their joint position with the French Government and the Commission of the European Communities.

Similar concerns were expressed in a letter the Bureau received from the French Embassy, on behalf of the French Government.

ATF finds the reasons mentioned above to be valid. However, the Bureau is extending the comment period until January 6, 1989, rather than February 22, as requested by the petitioners. The Bureau believes that a comment period totaling approximately 225 days is a sufficient amount of time for all interested parties to respond.

Drafting Information

The author of this document is Coordinator James P. Ficaretta, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, and Packaging and containers.

Authority and Issuance

This notice is issued under the authority in 27 U.S.C. 205.

November 16, 1988.

W.T. Drake,

Acting Director.

[FR Doc. 88–26911 Filed 11–21–88; 8:45 am]

BILLING CODE 4810–31–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Indiana Permanent Regulatory Program; Public Comment Period and Opportunity for Public Hearing on Amendments

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

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing the receipt of proposed amendments to the Indiana permanent regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments are intended to simplify the Indiana Surface Mining Rules which address diversions.

This notice sets forth the times and locations that the Indiana program and proposed amendments to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on December 22, 1988. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m. on December 19, 1988; requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on December 7, 1988.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. Richard D. Rieke, Director, Indianapolis Field Office, at the address listed below. Copies of the Indiana program, the proposed amendments, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendments by contacting OSMRE's Indianapolis Field Office.

Office of Surface Mining Reclamation and Enforcement, Indianapolis Field Office, 575 N. Pennsylvania Street, Room 301, Indianapolis, Indiana 46204, Telephone: (317) 269–2609 (266–6166 after Nov. 18, 1988)

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street NW., Room 5131, Washington, DC 20240, Telephone: (202) 343–5492

Indiana Department of Natural Resources, Division of Reclamation, 309 West Washington Street, Indianapolis, Indiana 46204, Telephone: (317) 232–1555.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Rieke, Director, Indianapolis Field Office, (317) 269–2609. (266–6166 after Nov. 18, 1988).

SUPPLEMENTARY INFORMATION:

I. Background

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Information regarding general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the

conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32107). Subsequent actions taken with regard to the Indiana program and program amendments can be found in 30 CFR 914.10, 914.15, and 914.16.

II. Discussion of Amendments

The proposed amendments are the result of a State initiated revision of its rules by the State of Indiana. The amendment is intended to simplify the diversion rules by departing from construction standards and incorporating performance standards. The amendments are summarized below: Amendments to 310 Indiana Administrative Code (IAC) 12–5–18 address: Hydrologic balance; diversion; general requirements. Previous language oriented toward design and construction criteria is deleted. New language addresses general performance requirements.

Amendments to 310 IAC 12–5–19 address: Hydrologic balance; diversions of perennial streams, intermittent streams, miscellaneous flows; supplemental requirements. Again, previous language oriented toward design and construction criteria is deleted. New language addresses supplemental performance requirements.

Amendments to 310 IAC 12–5–19 address: Underground mining; hydrologic balance; diversions; general requirements. Again, previous language oriented toward design and construction criteria is deleted. New language addresses supplemental performance requirements.

Amendments to 310 IAC 12–5–85 address: Underground mining; diversions of perennial streams, intermittent streams with a watershed greater than one square mile, miscellaneous flows; stream channel diversions; supplemental requirements. Again, previous language oriented toward design and construction criteria is deleted. New language addresses supplemental performance requirements.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSMRE is now seeking comment on whether the amendments proposed by Indiana satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Indiana program.

Written Comments

Written comments should be specific, pertain only to the issue proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Indianapolis Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by 4:00 p.m. on December 7, 1988. If two or more people do not request an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSMRE representatives to discuss the proposed amendments may request a meeting at the OSMRE office listed under **"ADDRESSES"** by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **"ADDRESSES."** A written summary of each meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 914

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

Date: November 4, 1988.

Carl C. Close,

Assistant Director, Eastern Field Operations.

[FR Doc. 88–26971 Filed 11–21–88; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 935

Ohio Permanent Regulatory Program; Public Comment Period and Opportunity for Public Hearing on Amendments; Revision of Ohio Program Administrative Rules

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

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing the receipt of proposed amendments to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments concern five program administrative rules and are intended to revise the State program to be consistent with the corresponding Federal regulations.

This notice sets forth the times and locations that the Ohio program and proposed amendments to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that well be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on December 22, 1988. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m. on December 19, 1988. Requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on December 7, 1988.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Ms. Nina Rose Hatfield, Director, Columbus Field Office, at the address listed below. Copies of the Ohio program, the proposed amendments, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting OSMRE's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 2242 South Hamilton Road, Room 202, Columbus, Ohio 43232, Telephone: (614) 866–0578.

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, NW., Room 5131, Washington, DC 20240, Telephone: (202) 343–5492.

Ohio Department of Natural Resources, Division of Reclamation, Fountain Square, Building B-3, Columbus, Ohio 43224, Telephone: (614) 265-6675.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982 **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Discussion of the Proposed Amendments

By letter dated October 20, 1988 (Administrative Record No. OH-1110), the Ohio Department of Natural Resources, Division of Reclamation (Ohio) submitted proposed amendments to the Ohio program at Ohio Administrative Code (OAC) sections 1501:13-3-07(B)(8); 13-4-01(B); 13-7-01(A)(6)(c)(ii); 13-7-05(A)(3), (A)(5)(b)(i), (A)(6), (A)(7)(i), and (ii), and (B)(2)(e); and 13-9-07(K)(1)(b). The proposed changes were initiated by Ohio and are briefly summarized below:

(1) OAC section 1501:13-3-07 paragraph (B)(8): This paragraph is being rewritten to incorporate language identical with 30 CFR 764.15(a)(7). This language allows the determination by Ohio not to process a petition for the designation of lands unsuitable for coal mining operations if the petition concerns lands for which a complete permit application has been filed and the first newspaper notice has been published.

(2) OAC section 1501:13-4-01 paragraph (B): Punctuation is being added to this paragraph pursuant to OSMRE's approval of Ohio Program Amendment No. 31 no May 27, 1988 (53 FR 19283). In that approval, the Director of OSMRE found that the existing punctuation could be misinterpreted as limiting the applicability of the Bald Eagle Protection Act to Federal and Indian lands rather than all lands.

(3) OAC section 1501:13-7-01 paragraph (A)(6)(c)(ii): This paragraph is being rewritten to reflect Ohio's current practice of billing operators for bond on incremental areas that have not been affected but which will be affected according to the annual map.

(4) OAC section 1501:13-7-05 paragraph (A)(3): The words "mining operation" are being added in the phrase "in the locality of the coal mining operation."

(5) OAC section 1501:13-7-05 paragraphs (A)(3), (A)(6), and (a)(7)(i) and (ii): These paragraphs are being rewritten to substitute the phrase "bond release conference" for "informal conference."

(6) OAC section 1501:13-7-05 paragraph (A)(5)(b)(i): The words "approved mining and reclamation" are being added to the phrase "of the approved mining and reclamation plan."

(7) OAC section 1501:13-7-05 paragraph (B)(2)(e): This paragraph concerning Phase II bond release is being added for consistency with OAC section 1501:13-9-04 (G)(2)(e) which requires the retention of temporary sedimentation ponds for at least two years after final seeding.

(8) OAC section 1501:13-9-07 paragraph (K)(1)(b): This paragraph is being rewritten to adopt a six-hour precipitation event as the design standard for diversions around valley and head-of-hollow fills. This proposed standard is identical to that of the comparable Federal regulation at 30 CFR 816.72(a)(2).

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSMRE is now seeking comment on whether the amendments proposed by Ohio satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Ohio program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the ecommenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Columbus Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to coimment at the public hearing should contact the person listed under **"FOR MORE INFORMATION CONTACT"** by 4:00 p.m. on December 7, 1988. If no one requests an opportunity to comment at a pulbic hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meetings

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSMRE representatives to discuss the proposed amendments may request a meeting at the Columbus Field Office by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."** All such meetings shall be open to the public and, if possible, notices of the meetings will be posted at the locations listed under **"ADDRESSES."** A written summary of each public meeting will be made a part of Administrative Record.

List of Subjects in 30 CFR Part 935

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

Dated: November 4, 1988.

Carl C. Close,

Assistant Director, Eastern Field Operations.

[FR Doc. 88-26972 Filed 11-4-88; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Restricted Area; Key West Harbor at the U.S. Naval Air Station

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Corps of Engineers is proposing to establish two new restricted areas and amend the existing boundaries of several existing restricted areas in the waters contiguous to the Key West Naval Air Station located on Key West, Fleming Key and Boca Chica Key in Monroe County, Florida. The request includes the reestablishment of certain areas contiguous to the westerly shoreline of Key West, the

establishment of a new restricted area on Boca Chica Key north from U.S. Highway No. 1 and expanding the existing restricted area on Boca Chica Key. The restricted areas are required for the safety and security of Naval facilities and personnel.

DATE: Written comments must be submitted on or before December 22, 1988.

ADDRESS: HQUSACE, CECW-OR, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. Lonnie Shepardson at (904) 791-1677 or Mr. Ralph T. Eppard at (202) 272-1783.

SUPPLEMENTARY INFORMATION: The Commanding Officer, Naval Air Station (NAS), Key West, Florida, has requested the Corps of Engineers amend the regulations in 33 CFR 334.610 to reestablish two restricted areas which were previously deleted; establish a new restricted area on Boca Chica Key, north from Highway No. 1 and expand the existing restricted area on Boca Chica Key. The proposed changes to each of the restricted area are briefly described as follows.

Area 1. An existing restricted area located on the south shoreline of Truman Annex. No changes proposed.

Area 2. West shoreline and harbor of Truman Annex. This proposed rule change would reestablish an area that was deleted in 1980. This area is needed to protect the Navy harbor at the Harry S. Truman Annex of the NAS. The area was previously deleted because the harbor portion of Truman Annex had been reported as surplus and was being processed for disposal by the Government. The area, minus a small portion at the north end, was subsequently withdrawn from surplus and has been reactivated for use by Navy combatant ships.

Area 3. Trumbo Point Annex and Coast Guard Areas. This proposal would also reestablish an area that was declared surplus and deleted. Pier D-3 was declared surplus but is now actively used by the Navy.

Area 4. Fleming Key—No changes proposed.

Area 5. Southwest shore of NAS, Boca Chica Key. The restricted area would be expanded to include the NAS fuel pier and adjacent turning basin and the Navy Marina.

Area 6. Southeastern shoreline of NAS, Boca Chica Key. This is a new restricted area extending 150 yards out from the shoreline which would prevent access to the area located behind the rifle and pistol firing ranges.

Economic Assessment and Certification

This proposed rule is submitted with respect to a military function of the Defense Department and the provisions of E.O. 12291 do not apply. I hereby certify that if adopted, this regulation will have no significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Restricted areas.

In consideration of the above, the Corps of Engineers is proposing to amend 33 CFR Part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3).

2. Section 334.610 is revised to read as follows:

§ 334.610 Key West Harbor, at U.S. Naval Base, Key West, Fla.; naval restricted area.

(a) *The areas.* (1) All waters within 100 yards of the south shoreline of the Harry S. Truman Annex, beginning at a point on the shore at Latitude 24°32'45.3"N, Longitude 81°47'51"W; thence to a point 100 yards due south of the south end of Whitehead Street at Latitude 24°32'42.3"N, Longitude 81°47'51"W; thence extending westerly, paralleling the southerly shoreline of the Harry S. Truman Annex, to Latitude 24°32'37.6"N, Longitude 81°48'32"W, thence northerly to the shore at Latitude 24°32'41"N, Longitude 81°48'31"W (Area #1).

(2) All waters within 100 yards of the westerly shoreline of the Harry S. Truman Annex and all waters within a portion of the Truman Annex Harbor, as defined by a line beginning on the shore at Latitude 24°33'00"N, Longitude 81°48'41.7"W; thence to a point 100 yards due west at Latitude 24°33'00"N, Longitude 81°48'45"W; thence northerly, paralleling the westerly shoreline of the Harry S. Truman Annex, including a portion of the Harry S. Truman Annex Harbor entrance, to Latitude 24°33'23"N, Longitude 81°48'37"W; thence southeasterly to the shore (sea wall) at Latitude 24°33'19.3"N, Longitude 81°48'28.7"W (Area #2).

(3) All waters within 100 yards of the Coast Guard Station and the westerly end of Trumbo Point Annex beginning at the shore at Latitude 24°33'47.6"N, Longitude 81°47'55.6"W; thence westerly to Latitude 24°33'48"N, Longitude 81°48'00.9"W; thence due south to Latitude 24°33'45.8"N, Longitude 81°48'00.9"W, thence westerly to Latitude 24°33'47"N, Longitude 81°48'12"W; thence northerly to Latitude 24°34'06.2"N, Longitude 81°48'10"W; thence easterly to a point joining the existing restricted area around Fleming key at Latitude 24°34'03.3"N, Longitude 81°47'55"W (Area #3).

(4) Beginning at the last point designated in area 3 at Latitude 24°34'03.3"N, Longitude 81°47'55"W; proceed northwesterly, maintaining a distance of 100 yards from the shoreline of Fleming Key, except for a clearance of approximately 400 yards across the mouth of Fleming Cove near the southwesterly end of Fleming Key, continue around Fleming Key to a point easterly of the southeast corner of Fleming Key at Latitude 24°34'00.8"N, Longitude 81°47'37.5"W; thence easterly to Latitude 24°33'57.6"N, Longitude 81°47'20"W; thence southerly to a point on the shore at Latitude 24°33'54.7"N, Longitude 81°47'20.9"W (Area #4).

(5) All waters contiguous to the southwesterly shoreline of Boca Chica Key beginning at a point on the southwest shoreline at Latitude 24°33'24"N, Longitude 81°42'30"W; proceed due south 100 yards to Latitude 24°33'20.4"N, Longitude 81°42'30"W; thence, maintaining a distance of 100 yards from the shoreline, proceed westerly and northerly to Latitude 24°34'03"N, Longitude 81°42'47"W; thence due north to a point at the easterly end of U.S. Highway 1 (Boca Chica Channel) bridge at Latitude 24°34'39"N, Longitude 81°42'47"W (Area #5).

(6) All waters within 150 yards of the shoreline along a portion of the easterly shore of the Naval Air Station on Boca Chica Key between a point on the shoreline at Latitude 24°35'14"N, Longitude 81°41'44"W; proceed in a northerly direction, maintaining 150 yards off shore, to Latitude 24°35'45.1"N, Longitude 81°41'55.2"W; thence to a point on the shore at Latitude 24°35'42"N, Longitude 81°42'00"W (Area #6).

(b) *The regulations.* (1) Entering or crossing in any of the restricted areas

described in paragraph (a) of this section is prohibited except as follows: privately owned vessels, properly registered and bearing identification in accordance with Federal and/or State laws and rgulations, and at night showing lights required by Federal laws and Coast Guard regulations or, if no constant lights are required, then a bright white light showing all around the horizon, may transit the following portions of the restricted areas:

(i) The channel, approximately 75 yards in width, extending from the northwest corner of Pier D–3 of Trumbo Point Annex, eastward beneath the Fleming Key bridge and along the north shore of Trumbo Point Annex.

(ii) A channel 150 feet in width which extends easterly from the main ship channel into Key West Bight, the northerly edge of which channel passes 25 feet south of the Trumbo Point Annex piers on the north side of the Bight. While the legitimate access of privately owned vessels to facilities of Key West Bight is unimpeded, it is prohibited to moor, anchor, or fish within 50 feet of any U.S. Government-owned pier of craft.

(iii) The dredged portion of Boca Chica channel from its seaward end to a point due south of the east end of the Boca Chica bridge.

(iv) All of the portion of restricted area number 2 that lies between the Truman Annex Mole and the Key West Harbor Range Channel. The transit zone extends to the northeasterly corner of the Truman Annex Mole, thence to the northeasterly corner of the restricted area at Latitude 24°33'19.3"N, Longitude 81°48'28.7"W.

(2) Stopping or landing by other than government-owned vessels and certain specifically authorized private craft in any of the restricted areas described in paragraph (a) of this section is prohibited.

(3) Vessels using the restricted channel areas described in paragraph (b(1)(i), (ii), (iii), and (iv) of this section shall proceed at speeds commensurate with minimum wake.

(c) The regulations in this section shall be enforced by the Commanding Officer, Naval Air Station, Key West, Florida, and such agencies as he/she may designate.

Dated: November 10, 1988.

Patrick J. Kelly,

Brigadier General, USA, Director of Civil Works.

[FR Doc. 88–26902 Filed 11–21–88; 8:45 am]

BILLING CODE 3710–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 721 and 799

[OPTS–42075B and OPTS–50568; FRL–3480–2]

Pentabromoethylbenzene; Withdrawal of Proposed Test Rule; Proposed Significant New Use of Chemical Substance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of proposed rule and proposed rule.

SUMMARY: This document withdraws a proposed rulemaking to require testing of pentabromoethylbenzene (PEB, CAS Number 85–22–3) for chemical fate and environmental effects under section 4 of the Toxic Substances Control Act (TSCA). Data received by EPA since proposal of the test rule indicate that there is currently no ongoing or intended manufacture or processing of the chemical substance. Additionally, EPA is herein proposing a significant new use rule (SNUR) under section 5(a)(2) of TSCA which would require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of PEB for any use. EPA believes that PEB may be hazardous to human health and the environment, and that any use of PEB and activities associated with such use may result in significant human and environmental exposure. The required notice would provide EPA with the information needed to evaluate the intended use and associated activities, and an opportunity to protect against potentially adverse exposure to PEB before it can occur.

DATE: Written comments regarding the proposed SNUR should be submitted to EPA by December 22, 1988.

ADDRESS: Since some comments may contain confidential business information (CBI), all comments should be sent in triplicate to: TSCA Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, Rm. L–100, 401 M St. SW., Washington, DC 20460.

Comments regarding the proposed SNUR should include the docket control number OPTS–50568. Nonconfidential comments on this proposed rule will be placed in the rulemaking record and will be available for public inspection. Unit XI of this preamble contains additional information on submitting comments containing CBI.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Acting Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB–44, 401 M St. SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: The proposed SNUR for PEB would require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of PEB for any use. The required notice would provide EPA with the information needed to evaluate an intended use and associated activities, and an opportunity to protect against potentially adverse exposure to PEB before it can occur.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

I. Background of Proposed Test Rule Withdrawal

Section 4(a) of TSCA authorizes EPA to promulgate rules which require manufacturers and processors to test chemical substances and mixtures (chemicals) they manufacture or process. Data developed through these test programs are used by EPA in assessing the risks that the chemicals may present to human health and the environment.

Section 4(e) of TSCA established the Interagency Testing Committee (ITC) to recommend chemicals for priority testing consideration by EPA under section 4(a) of TSCA. The ITC designated PEB for priority consideration in its 15th Report, which was published in the **Federal Register** of November 29, 1984 (49 FR 46931). the ITC based its recommendation for health effects testing on the following factors: (1) Releases from production and use were expected to result in human exposure; and (2) there was insufficient information on the chronic effects of PEB, and toxic effects were observed in other substances having a polyhalogenated aromatic moiety. Teratogenicity testing was recommended because of lack of information.

The ITC also recommended PEB for ecological effects testing. The ITC's rationale was based on the following: (1) The purported and potential uses of PEB were evidence of its probable wide distribution; (2) PEB is structurally similar to halogenated substances that have appreciable toxicity; (3) PEB is expected to partition into soils, sediments, and biota after release; and (4) data on a structurally related substance, pentabromomethylbenzene, indicate that it is taken up by aquatic organisms and its residence time in the organisms may be relatively long. The ITC regarded this as presumptive evidence that PEB may have the potential to produce chronic effects.

EPA's response to this designation was published in the **Federal Register** of November 13, 1985 (50 FR 46785) as a proposed test rule on PEB under proposed § 799.3205. EPA proposed, pursuant to TSCA section 4(a)(1)(A) findings, that chemical fate and environmental effects testing be performed on PEB by manufacturers and processors of the substance. For a full discussion of test rule development under TSCA, and the rationale on which EPA based the proposed chemical fate and environmental effects testing, refer to the proposed test rule.

II. Decision Not To Require Testing

EPA has decided not to promulgate a rule to require testing of PEB because data available to EPA indicate that there is currently no ongoing or intended manufacture or processing of PEB. Therefore, there exist no entities that would be subject to the test rule should it be promulgated. However, to ensure that resumption of PEB production is monitored, under the authority of section 5(a)(2) of TSCA, EPA is proposing a SNUR for PEB, as described below.

III. Authority for Proposed SNUR

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use.

Persons subject to this SNUR would comply with the same notice requirements and EPA regulatory procedures as submitters of premanufacture notices (PMNs) under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5 (b) and (d)(1), the exemptions authorized by section 5(h) (1), (2), (3), and (5), and the regulations at 40 CFR Part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received a SNUR notice. If EPA does not take action, section 5(g) of TSCA requires EPA to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR Part 707.

IV. Applicability of General Provisions to SNURS

In the **Federal Register** of September 5, 1984 (49 FR 35011), EPA promulgated general regulatory provisions applicable to SNURs (40 CFR Part 721, Subpart A). The general provisions are discussed in detail in that **Federal Register** notice, and interested persons should refer to that document for further information. On July 27, 1988, EPA published final amendments to the general provisions (53 FR 28354) which would apply to this proposed SNUR, except as provided in proposed § 721.1515(b)(1). The entire text of Subpart A was published in that document; interested parties should refer to it for further information.

V. Summary of this Proposed Rule

The chemical substance which is the subject of this proposed SNUR is PEB. EPA is proposing to designate any use of PEB as a significant new use. Thus, this proposed rule would require persons who intend to manufacture, import, or process PEB for any use to notify EPA at least 90 days before such manufacture, import, or processing.

VI. Background Information on PEB

A. Production and Use Data

PEB (listed as benzene, pentabromoethyl on the TSCA Chemical Substance Inventory) has been used in the past as an additive-type flame retardant and was suggested for use in thermoset polyester resins for circuit boards, textiles, adhesives, wire and cable coatings, polyurethanes, and thermoplastic resins.

EPA reviewed the TSCA Chemical Substance Inventory Data Base and other information sources to identify current manufacturers, importers, and processors of PEB. The review indicates that all production and importation of PEB in the U.S. has been discontinued as of August 1986. It is therefore unlikely that any PEB has been processed or used since 1987.

B. Human Health Effects

A 28-day feeding study submitted to EPA pursuant to TSCA section 8(d) by a former manufacturer of PEB indicates that absorption of PEB occurs when exposure is through the oral route. In this study, PEB was administered to male and female Charles River CD rats at 100 and 1,000 parts per million in the diet. At the end of the study, the bromine content of the liver and fat was elevated in a dose-related manner (Ref. 1). Very few other data on the absorption, distribution, metabolism, and elimination of PEB were located in the available literature. However, because toxic effects (e.g., carcinogenicity) are observed in other substances having a polyhalogenated aromatic moiety, and there are no available data on the chronic toxicity of PEB, EPA is concerned that PEB may cause adverse effects in humans.

C. Environmental Effects

EPA is not aware of any information on the environmental persistence of PEB in the available literature. The structure of PEB suggests, however, by analogy to other halogenated aromatic substances, that PEB may be extremely persistent, with the aromatic part of the molecule highly resistant to biodegradation and chemical attack.

No data were found in the available literature on bioconcentration of PEB in aquatic organisms. However, estimates indicate that PEB may bioconcentrate to a significant degree (Ref. 2).

A structurally related substance, pentabromomethylbenzene, in a study with juvenile Atlantic Salmon, exhibited a fairly low uptake from water (96 hours) and from food (42 days) (Ref. 3). Depuration half-lives were 32 and 83 days for uptake from water and food, respectively. It should be noted that 96 hours is a fairly short time for evaluating chemical uptake from water, and that an extended period of testing might have resulted in much higher accumulation. The relatively long depuration half-lives also create some concern for potential chronic effects. No data were located from the available literature on the acute and chronic effects of PEB on fish, aquatic invertebrates, or plants.

Based on the foregoing data which indicate a potential for persistence and bioconcentration, the lack of data on potential chronic environmental effects, and PEB's structural similarity to substances of known toxicological

effect, EPA is concerned that PEB may cause adverse effects to the environment.

D. Past and Current Exposure Data

EPA has little data on actual numbers of persons who have been exposed to PEB or at what levels. Current known exposures are limited to those resulting from any residues of previously manufactured or imported PEB in the environment.

VII. Objectives and Rationale for the Rule

To determine what would constitute a significant new use of PEB, EPA considered relevant information on the toxicity of the substance, likely exposures and releases associated with possible uses, and the four factors listed in section 5(a)(2) of TSCA. Based on these considerations, EPA wishes to achieve the following objectives with regard to the significant new use that is designated in this proposed rule:

1. EPA wants to ensure that it would receive notice of any company's intent to manufacture, import, or process PEB for any use before that activity begins.

2. EPA wants to ensure that it would have an opportunity to review and evaluate data submitted in a significant new use notice before the notice submitter begins manufacturing, importing, or processing PEB for any use.

3. EPA wants to ensure that it would be able to regulate prospective manufacturers, importers, or processors of PEB before any manufacturing, importing, or processing of PEB occurs, provided that the degree of potential health and environmental risk is sufficient to warrant such regulation.

PEB is structurally related to known and suspected carcinogenic substances. Data indicate that absorption occurs when PEB is administered orally. Additionally, evidence exists that PEB persists in the environment and may bioconcentrate. Currently, PEB is not subject to any Federal regulation that would notify the Federal Government of activities that might result in adverse exposures or releases, or provide a regulatory mechanism that could protect human health from potentially adverse exposures or protect the environment from potentially adverse releases before they occur.

EPA believes that the resumption of any use of PEB, and its related manufacture, import, or processing, has a high potential to increase the magnitude and duration of exposure to PEB as well as increasing the probability of environmental release. Given the potential toxicity of PEB, the reasonably anticipated situations that could result in exposure or release, and the lack of sufficient regulatory controls, individuals and/or the environment could be exposed to PEB at levels which may result in adverse effects.

Because EPA is concerned about potential exposure during the entire life cycle of PEB, EPA is proposing to modify § 721.5(a)(2) to require any prospective manufacturer, importer, or processor of PEB who intends to distribute the substance in commerce to submit a significant new use notice.

VIII. Alternatives

Before proposing this SNUR, EPA considered the following alternative regulatory actions for PEB.

1. Promulgate a TSCA section 4(a)(1)(A) test rule to require any future manufacturers and processors of PEB to perform chemical fate and environmental effects testing. The data generated from such testing could supply EPA with the information relevant to a determination as to whether the manufacture, processing, or disposal presents an unreasonable risk of injury to human health or the environment. However, the promulgation of a test rule of this type may present a significant and potentially unwarranted economic barrier to the resumption of the chemical's production or importation. Alternatively, EPA believes that a SNUR notice would provide EPA with an opportunity to evaluate the intended use and associated activities before they occur, including the extent of potential environmental and human exposure for that use scenario. Thereafter, if environmental and health concerns persist, and data are still unavailable for a thorough risk assessment, EPA could regulate the proposed activities under TSCA section 5(e).

2. Promulgate a TSCA section 8(a) reporting rule for this substance. Under such a rule, EPA could require any person to report information to EPA when they intend to manufacture, import, or process PEB for any use. However, for this particular substance, the use of section 8(a) rather than SNUR authority would have several drawbacks. First, EPA would not receive sufficient advance notification of the intended activity, nor would it be able to take immediate follow-up regulatory action under section 5(e) or 5(f) to prohibit or limit the activity. In addition, EPA may not receive important information from small businesses, because such firms are exempt from section 8(a) reporting requirements. In view of the level of health and environmental concern for PEB, EPA believes that a section 8(a) rule for PEB would not meet EPA's regulatory objectives.

IX. Applicability of Proposed Rule to Uses Occurring Before Promulgation of Final Rule

EPA believes that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the proposal date of the SNUR rather than as of the promulgation of the final rule. If uses begun during the proposal period of a SNUR were considered ongoing as of the date of promulgation, it would be difficult for EPA to establish SNUR notice requirements, because any person could defeat the SNUR by initiating the proposed significant new use before the rule became final; this interpretation of section 5 would make it extremely difficult for EPA to establish SNUR notice requirements.

Persons who begin commercial manufacture, importation, or processing of PEB for a significant new use designated in this proposed rule between proposal and promulgation of the SNUR may comply with this proposed SNUR before it is promulgated. If a person were to meet the conditions of advance compliance as codified at § 721.45(h) (53 FR 28354, July 17, 1988), the person will be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, importation, or processing of the substance between proposal and promulgation of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA recognizes that this interpretation of TSCA may disrupt the commercial activities of persons who begin manufacturing, importing, or processing PEB for a significant new use during the proposal period of this SNUR. However, this proposed rule constitutes notice of that potential disruption, and persons who commence the proposed significant new use prior to promulgation of the SNUR do so at their own risk.

X. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of PEB. EPA's complete economic analysis is available in the

public record for this proposed rule (OPTS–50568).

XI. Comments Containing Confidential Business Information

Any person who submits comments claimed as confidential business information must mark the comments as "confidential," "trade secret," or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any party submitting confidential comments prepare and submit a public version of the comments that EPA can place in the public file.

XII. Rulemaking Records

EPA has established a record for the TSCA section 4 proposed test rule (document control number OPTS–42075). Interested persons should refer to the proposed test rule for a listing of the record (50 FR 46785, November 13, 1985). Additionally, the record contains the following:

1. Letter from Ethyl Corporation, dated May 30, 1986, informing EPA of their concerns regarding the economic impact of the proposed tests on their production of PEB.

2. Letter from Ethyl Corporation, dated August 18, 1986, informing EPA of their decision to cease production of PEB.

EPA has established a record for the SNUR rulemaking (Document control number OPTS–50568). This record contains basic information considered by EPA in developing the proposed SNUR. EPA will supplement the record with additional information as it is received. The record now includes the following:

1. This proposed rule.

2. The economic analysis of this proposed rule.

3. The three documents listed under **References** (Unit XIII of this preamble).

4. Letter from Ethyl Corporation, dated August 18, 1986, informing EPA of their decision to cease production of PEB.

5. ITC report on PEB.

EPA will accept additional materials for inclusion in the SNUR record at any time between this proposal and designation of the complete record. EPA will identify the complete rulemaking record by the date of promulgation.

Public versions of these records containing nonconfidential materials are available for reviewing and copying from 8 a.m. to 4 p.m., Monday through Friday, except legal holdiays in the TSCA Public Docket Office, located at Rm. NE–G004, 401 M St., SW., Washington, DC

XIII. References

1. TSCA section 8(d) submission 878214933.

2. Veith, G.D., DeFoe, D.L., and Bergstedt, B.J. "Measuring and Estimating the Bioconcentration Factor of Chemicals in Fish." *Journal of the Fishery Research Board of Canada.* 38:1040–1048. 1979.

3. Zitko, V. and Carson, W.G. "Uptake and Excretion of Chlorinated Diphenyl Ethers and Brominated Toluenes by Fish." *Chemosphere.* 6:293–301. 1977.

XIV. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed SNUR would not be a "major" rule because it would not have an effect on the economy of $100 million or more, and it would not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this rule, EPA estimates that the reporting cost for submitting a significant new use notice would be approximately $1,400 to $8,000. EPA believes that, because of the nature of the rule and the substance involved, there would be few significant new use notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact would be limited because such factors are unlikely to discourage an innovation that has high potential value.

This proposed rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this proposed rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, EPA expects to receive few SNUR notices for the substance. Therefore, EPA believes that the number of small businesses affected by this proposed rule would not be substantial, even if all of the SNUR notice submitters were small firms.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in the proposed rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2070–0038 to this proposed rule.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information requirements contained in this proposal.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: November 1, 1988.

Susan F. Vogt,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR Part 721 be amended as follows:

PART 721—[AMENDED]

1. The authority citation for Part 721 would continue to read as follows:

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

2. By adding new § 721.1515 to read as follows:

§ 721.1515 Pentabromoethylbenzene.

(a) *Chemical substance and significant new use subject to reporting.* (1) The chemical substance pentabromoethylbenzene (CAS Number 85–22–3) is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) The significant new use is: Any use.

(b) *Special requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph:

(1) *Persons who must report.* Section 721.5 applies to this section except for § 721.5(a)(2). A person who intends to manufacture, import, or process for

commercial purposes the substance identified in paragraph (a)(1) of this section and intends to distribute the substance in commerce must submit a significant new use notice.

(2) [Reserved]

(Approved by the Office of Management and Budget under OMB control number 2070–0038)

[FR Doc. 88–26941 Filed 11–21–88; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 221

Permanent Relocation Assistance

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: This regulation establishes policy implementing FEMA's responsibility under Executive Order 12580 to provide perment relocation assistance to residents, businesses, and community facilities as part of a hazardous materials reponse action taken under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, *as amended*, 42 U.S.C. 9601 *et seq.* This regulation will be used in conjunction with the Uniform Relocation Assistance and Real Property Acquisiton Act of 1970, as amended, and its implementing regulations, 49 CFR Part 24 (Uniform Regulations). When used with the Uniform Regulations, this regulation will provide for consistent implementation of permanent relocation programs, whether they are administered by FEMA, by another Federal Agency, or by a non-Federal entity.

DATE: Comments must be received on or before January 23, 1989.

ADDRESSES: Comments should be submitted to: Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 840, 500 "C" Street SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Charles D. Robinson, Superfund and Relocation Assistance Branch, Federal Emergency Management Agency, Room 710, 500 "C" Street SW., Washington, DC 20472, (202) 646–3805.

SUPPLEMENTARY INFORMATION: Paragraph 2(c)(1) of Executive order 12580, January 23, 1987, "Superfund Implementation", delegated to the Director of FEMA the responsibility for providing permanent relocation assistance to residents, businesses, and community facilities under CERCLA, *as amended* ("the Act"), in appropriate situations.

To date, permanent relocation assistance has been provided by FEMA at three hazardous materials sites pursutant to the Act: Globe, Arizona; Minker-Stout, Missouri; and Times Beach, Missouri. The State of Arzonia, through a cooperative agreement with FEMA, conducted the permanent relocation at Globe, Arizona. FEMA, through a contractor, conducted the permanent relocations at Minker-Stout and Times Beach, Missouri.

To provide permanent relocation assistance, FEMA works closely with the Environmental Protection Agency (EPA) at headquarters, as well as at regional levels. This working relationship is required because EPA determines when permanent relocations are required and, in consultation with FEMA, determines the funding level necesary to accomplish such relocations. To insure that the roles and responsibilities of both agencies are clearly defined for permanent and temporary relocation programs under CERCLA, an EPA/FEMA Memorandum of Understanding (MOU) was developed. The MOU was signed in April 1985. It outlines the temporary and permanent relocation assistance under CERCLA. Attachments to the MOU describe EPA/FEMA coordination for temporary and permanent relocations.

In permanent relocations, there are five major coordination points between EPA and FEMA. These points are: (1) Preliminary planning; (2) pre site-specific determination; (3) determination of need for relocation; (4) property acquisition; and (5) relocation assistance. Under preliminary planning, EPA regional offices notify FEMA Headquarters as soon as a site has been identified as having the potential for permanent relocation. When notified, FEMA has the responsibility of developing preliminary relocation plans and of providing technical assistance to EPA. Under pre site-specific determination, EPA provides FEMA with a list of properties that may have to be acquired or a legal description of the boundaries of the area where permanent relocations may be required; an indication of the need to purchase contaminated personal property or the need to have such property cleaned; a request for a cost estimate for the potential permanent relocation, or other technical assistance; and all necessary environmental clearances for relocation actions. FEMA develops cost estimates for potential permanent relocations, participates in the implementation of EPA's community relations plan, as required by section 117 of the Act, and informs States of the potential for a permanent relocation project and of the Act's requirements that States must meet before permanent relocation can be implemented using Federal resources.

FEMA must determine the State's willingness to administer the permanent relocation; to pay its portion of the total cost of the project, as required by section 104(c)(3)(C) of the Act; to accept title to acquired property pursuant to section 104(j)(2) of the Act; and to implement condemnation procedures pursuant to section 104(j) of the Act. The requirements imposed on States concerning the availability of hazardous waste disposal facilities are addressed only by States and EPA.

In the third step of this sequence, EPA provides FEMA with a determination of the need for relocation assistance, including an assessment which details the condition of the site. EPA and FEMA execute an Interagency Agreement (IAG) that authorizes funding for permanent relocation assistance and identifies the property to be acquired. Once the IAG is executed, FEMA and the State in which the hazardous material is located must negotiate and execute a cooperative agreement prior to the start of the permanent relocation project. After the FEMA/State Cooperative Agreement is signed, property owners and residents are contacted and property acquisition and relocation assistance is conducted pursuant to the cooperative agreement and the Uniform Relocation Assistance and Real Property Acquisition Act of 1970.

The fourth and fifth steps in the sequence of events are implemented either by the State or FEMA. If in the cooperative agreement between FEMA and the State, the State agrees to implement the program the State would perform these last two steps. FEMA would in either case coordinate the implementation of these last steps with EPA.

If a State implements the relocation program, it can either carry out the program with State personnel or enter into an agreement with a local government to implement the program. If FEMA conducts the program, a contractor is hired as FEMA's agent.

Temporary relocation assistance may be provided in a permanent relocation project to those residents living in property to be acquired, and to other residents whose presence at or near the site might cause a public health and safety concern. Temporary relocation assistance will be provided in accordance with FEMA regulations published at 44 CFR Part 220.

Environmental Considerations

FEMA has determined, based upon an Environmental Assessment, that this rule will not have a significant impact upon the quality of the human environment. The Environmental Assessment and a finding of no significant impact are included in the formal docket file and are available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

Regulatory Flexibility Act

The Agency has determined that this rule is not a major rule under Executive Order 12291 and I certify that the rule will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. Hence, no regulatory impact analysis has been prepared.

Information Collection Requirements

The information collection requirements in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Submit comments on these planning requirements, including public reporting burden, to the Office of Information and Regulatory Affairs, OMB, 726 Jackson Place, NW., Washington, DC 20503 marked "Attention Desk Officer for FEMA." Public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing each collection requirement. The proposed rule will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 44 CFR Part 221

Real property acquisition, Relocation assistance, Reporting, Recordkeeping, Transportation.

It is proposed to amend Chapter I, Subchapter D, Title 44 of the Code of Federal Regulations by adding Part 221 to read as follows:

PART 221—PERMANENT RELOCATION ASSISTANCE

Subpart A—General

Authority: 42 U.S.C. 9601 *et seq.*; E.O. 12580, 3 CFR, 1987 Comp., p. 193; 49 CFR Part 24.

Subpart A—General

§ 221.1 Purpose.

This part prescribes the policies to be followed by the Federal Emergency Management Agency (FEMA), other Federal Agencies, any State, or other entity when providing permanent relocation assistance under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), *as amended*, 42 U.S.C. 9601 *et seq.* also known as Superfund. This regulation is to be used in concert with the regulations which implement the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended. Those Regulations are located at 49 CFR Part 24, (the Uniform Regulations).

§ 221.2 Definitions.

For the purpose of this part:

(a) *CERCLA or Superfund is the* Comprehensive Environmental Response, Compensation and Liability Act of 1980, *as amended.*

(b) *Cooperative Agreement* is an agreement between FEMA and a State that outlines the roles and responsibilities of the parties in implementing a CERCLA permanent relocation project.

(c) *Determination* is the decision EPA makes that permanent relocation of residents, businesses, and community facilities is required under CERCLA.

(d) *Disaster Assistance* means assistance provided as a result of major disaster declaration or emergency declaration under the Disaster Relief Act of 1974, Pub. L. 93–288.

(e) *Fair Market Value* is the price which a property will bring in a competitive and open market, the buyer and seller each acting prudently and knowledgeably. In permanent relocation programs under CERCLA, the fair market value is the value a willing buyer would have paid and a willing seller would have sold a property for in the absence of hazardous material contamination.

(f) *Interagency Agreement* is the agreement between the EPA and FEMA that identifies those property owners eligible for permanent relocation assistance, and provides funding to FEMA to cover the cost of the relocation.

(g) *Lead Federal Agency* is the Federal agency that has primary responsibility for coordinating a CERCLA response action.

(h) *Memorandum of Understanding (MOU)* is the FEMA/EPA document that outlines the Agencies responsibilities in implementing permanent and temporary relocation assistance under CERCLA.

(i) *On Scene Coordinator (OSC)* is the Federal official predesignated by the Lead Federal Agency to coordinate and direct Federal response.

(j) *Permanent Relocation Assistance* is the acquisition of real and/or personal property and the provision of assistance to residents, businesses and community facilities in finding, acquiring and/or renting replacement housing under CERCLA.

(k) *Temporary Relocation Assistance* is that assistance provided under FEMA Temporary Relocation Assistance Regulations, 44 CFR Part 220, to those persons temporarily displaced as a result of CERCLA actions.

(l) *Uniform Regulation* means the Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs Regulation, 49 CFR Part 24.

§ 221.3 Program intent.

The intent of the FEMA Permanent Relocation Assistance Program is to acquire real and personal property, at a fair and equitable price, and to provide relocation assistance to eligible residents, businesses, and community facilities which are displaced for public health and safety reasons in connection with a Superfund hazardous substance response action and/or to allow the EPA or its agents to conduct clean-up activities. The program is not necessarily intended to totally compensate affected parties for all expenses and losses associated with contamination of the site.

§ 221.4 Eligibility criteria.

Permanent Relocation Assistance is provided to those residents, businesses, and community facilities determined by

EPA to need permanent relocation in connection with a CERCLA action.

§ 221.5 Duplication of benefits.

Otherwise eligibility permanent relocation benefits shall not be provided to a relocatee if such benefits would duplicate assistance which has been or will be provided by any other governmental source. Duplication of benefits between permanent relocation and temporary relocation assistance under CERCLA, or between permanent relocation assistance and disaster assistance provided by government or private sources, is also prohibited.

§ 221.6 FEMA administration.

(a) *The Associate Director (AD)* for State and Local Programs and Support (SLPS) is responsible for the permanent relocation assistance program. The AD executes Cooperative Agreements with States for implementation of the permanent relocation programs.

(b) *The Assistant Associate Director (AAD)* for Disaster Assistance Programs (DAP) is responsible for managing the permanent relocation assistance program and site-specific operations including:

(1) Participating with EPA in preliminary site-specific planning, review of relocation options, and in determining relocation cost projections;

(2) Negotiating interagency agreements with EPA which define the scope and funding level of permanent reolcation projects;

(3) Negotiating cooperative agreements with States and other parties to address the roles and responsibilities of FEMA and other parties involved in permanent relocation programs; and

(4) Providing permanent relocation assistance.

(c) *FEMA Regional Directors* are responsible for the following:

(1) Referring all inquiries concerning permanent relocation actions to the Assistant Director, DAP; and

(2) Providing staff support to the Assistant Associate Director, DAP.

§ 221.7 State commitments.

Permanent relocation assistance can be implemented only after the State enters into a cooperative agreement with FEMA which documents its agreements to the following:

(a) To take title to all real property in accordance with section 104(j)(2) of CERCLA, as amended;

(b) To condemn property when necessary to obtain title, unless the State is able to demonstrate that State law does not authorize such condemnations;

(c) To pay the percentage of the cost of the permanent relocation program required by section 104(c)(3) of CERCLA, as amended;

(d) To restrict the use of purchased property to those purposes determined to be acceptable by State and federal health officials and to distribute proceeds of any subsequent sale on the same cost-share basis indicated in paragraph (c) of this section;

(e) To coordinate all permanent relocation activities with FEMA.

§ 221.8 State administration.

States may elect to administer permanent relocation activities in lieu of FEMA administration. When a State agrees to administer all or part of the relocation activity, the State must submit a permanent relocation plan to the Assistant Associate Director, Disaster Assistance Programs, State and Local Programs and Support for FEMA approval and implement the plan in accordance with these regulations and the Uniform Regulation. The plan shall include the items listed below:

(a) Identification of the State and/or local agencies assigned relocation responsibilities;

(b) A narrative defining the scope of the relocation project to include an organization and staffing plan;

(c) Budget and estimated outlay schedule;

(d) Time frames within which tasks will be accomplished; and

(e) Procedures to be used in providing assistance.

Subpart B—Real and Personal Property Acquisition

§ 221.9 Real property acquisition.

(a) Real property will be acquired when EPA determines acquisition is necessary under CERCLA.

(b) Real property will be acquired pursuant to 49 CFR Part 24.

(c) Only real property specifically identified by EPA or the lead Federal agency by individual address or site boundaries will be acquiured.

(d) The property owner must grant the government permission to conduct CERCLA related activities on his or her property before relocation assistance may be provided to the owner.

(e) Only real property located within the site boundary at the time of the formal announcement (as defined in 49 CFR Part 24, Subpart A, § 24.2(k)(2) by EPA of the need for a permanent relocation, and which remains within the site boundaries at the time of closing, will be acquired.

§ 221.10 Personal property acquisition.

Personal property acquisition will be accomplished as prescribed in 44 CFR Part 220.13.

Subpart C—Relocation Assistance

§ 221.11 Relocation assistance.

Relocation assistance will be provided to all displaced persons pursuant to 49 Part 24 Subpart C. Additional requirements and considerations are:

(a) Those eligible for permanent relocation assistance may be required to vacate their property immediately to a temporary location because of the danger continued occupancy may pose to the health and safety of the occupants or the public.

(b) Pursuant to the requirements of Executive Order 11988 and 44 CFR Part 9, persons displaced by a CERCLA action will not be relocated to areas in a floodplain unless there are not practicable alternative housing sites.

(c) Persons displaced by a CERCLA action and who permanently relocate to an area of special hazard (as defined in the Flood Disaster Protection Act of 1973, Pub. L. 93–234) will not be eligible for federal financial assistance for acquisition or construction purposes (pursuant to section 102(a) of the Act) if they do not purchase flood insurance.

(d) Persons displaced are not eligible for assistance to relocate to special flood hazard areas of communities which do not participate in the Flood Insurance Program.

Subpart D—Payments for Moving and Related Expenses

§ 221.12 Moving and related expenses.

Payments for moving and related expenses will be provided as prescribed in 49 CFR Part 24, Subpart D.

Subpart E—Replacement Housing Payments

§ 221.13 Replacement housing payments.

Payments for replacement housing will be provided as prescribed in 49 CFR Part 24, Subpart E.

Subpart F—Mobile Homes

§ 221.14 Mobile homes.

Assistance for mobile home owners and occupants will be provided as prescribed in 49 CFR Part 24, Subpart F.

Date: November 8, 1988.

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 88–27020 Filed 11–21–88; 8:45 am]

BILLING CODE 6718–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Parts 1304, 1305, and 1308

Head Start Program

AGENCY: Office of Human Development Services (OHDS), HHS.

ACTION: Extension of comment period for NPRM pertaining to services to children with handicaps enrolled in the Head Start program.

SUMMARY: This notice amends the Notice of Proposed Rulemaking published in the **Federal Register** on October 19, 1988, by extending the period for submission of comments to January 19, 1989.

FOR FURTHER INFORMATION CONTACT: Jane DeWeerd, (202) 755–7944.

SUPPLEMENTARY INFORMATION: On October 19, 1988, the Head Start Bureau published a Notice of Proposed Rulemaking in the **Federal Register** (53 FR 41088) proposing performance standards for services for children with handicaps enrolled in the Head Start program.

Because of an unavoidable delay in sending copies of the NPRM to grantees and interested persons we are extending the due date for submission of comments to January 19, 1989. This will allow more time for them to comment.

(Catalog of Federal Domestic Assistance Program Number 13.600, Project Head Start)

Dated: November 15, 1988.

Dodie Truman Borup,

Commissioner, Administration for Children, Youth and Families.

Approved: November 16, 1988.

Sydney Olson,

Assistant Secretary for Human Development Services.

[FR Doc. 88–27007 Filed 11–21–88; 8:45 am]

BILLING CODE 4130–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88–511; FCC 88–327]

Broadcast services; Nighttime Protection for AM Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to modify the required procedures for calulating root-sum-square (RSS) skywave interference levels at the groundwave service contours of Class II and Class III AM broadcast stations and the skywave service contours of Class I clear channel stations. Specifically, a reduction in the exclusion reference from 50% to 25%, and inclusion of adjacent channel signals in RSS calculations are proposed. These modifications will improve the accuracy of nighttime interference calculations, and will further limit incremental increases in the overall interference level in the AM broadcast band while still allowing the introduction of new service and changes in existing service where needed. The Commission is initiating this rulemaking proceeding as part of its review of AM technical assignment criteria looking toward improvement of the AM broadcast service.

DATES: Comments must be submitted on or before December 27, 1988 and reply comments on or before January 11, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steven Selwyn, Policy and Rules Division, Mass Media Bureau, (202) 254–3394.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making* in MM Docket No. 88–511, adopted October 13, 1988, and released November 4, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

1. In August 1987, the Commission released a *Notice of Inquiry* (*Inquiry*) (52 FR 31975, published August 24, 1987), which solicited comment on a number of technical issues related to general levels of interference in the AM broadcast service. Among these is the issue of whether the current method of calculating skywave interference to the nighttime groundwave service of Class II and Class III AM stations is adequate, given the number of stations now authorized to operate at night. Alternate methods for modifying the current procedure were discussed, along with the possible need for including the effects of adjacent channel skywave signals in such calculations. Subsequent consideration of this matter has led to a tentative conclusion that a similar calculation procedure may be useful in determining interference to the skywave service of Class I stations. A substantial number of comments supporting further consideration of improved methods for calculating nighttime interference were filed in response to the *Inquiry*.

2. The current method of calculating nighttime interference has two major limitations. First, calculating a station's root-sum-square (RSS) interference level using the current method results in a lower value than is appropriate because contributions of weaker stations are excluded. Thus, its use results in the gradual erosion of nighttime service as new nighttime operations are brought on the air, or as existing stations modify their facilities to increase signal strength in various directions. Second, the use of an exclusion reference (currently 50%) allows new small stations to go on the air, but can prevent modifications to larger existing stations even though the resulting interference increase may be less in the latter case.

3. The *Inquiry* set forth two alternative produres that could be used instead of the current method. One is to eliminate the exclusion altogether and instead to set a fixed limit as to how much the RSS interference level at protected station service contours could be increased by the new or modified station. This would have the advantage of consistent application to all stations, but could invite abuse of our application processes. The second alternative is to reduce the current exclusion reference, which is 50%, to a lower value such as 25%. This would improve the accuracy of the calculation, but would not correct the consistency problem. Nevertheless, the second alternative received more support from commenters. This alternative was seen by the commenters as capable of providing a modest reduction in overall interference levels without eliminating all flexibility in facility design or modification.

4. The Commission's primary objective in proposing a change in the procedures for RSS interference level calculations is to limit the incremental increase of interference that may be caused to existing stations by new stations or changes in the facilities of existing stations. However, the imposition of rigid interference constraints restricting substantially the introduction of new AM service in areas lacking it or changes to existing facilities would be undesirable. Additionally, concerns were raised by some commenters that replacing the current

method with a one that would allow a station to increase interference by a fixed incremental amount could be subject to abuse. Such a method would need to include a procedure to preclude the filing of successive applications by a station licensee, where each application raised the level of interference to other stations by the maximum amount permitted. This might be difficult to enforce in actual practice, however, because of the administrative complexity of examining subsequently filed applications for consistency with the requirement.

5. Thus, the Commission tentatively concludes that a modification of the current RSS calculation procedure prescribed in 47 CFR 73.182(1) to change the 50 percent exclusion to a 25 percent exclusion would provide the best balance between limitations on new interference and flexibility in facility design. The 25 percent exclusion would be applied in a manner similar to the current 50 percent exclusion; that is, interfering signals would be listed in descending order of magnitude, and each signal that is less that 25 percent of the RSS of the preceding contributors would be disregarded. Although an exclusion level of 25 percent is proposed, the Commission solicits comment as to whether some other value would be better.

6. The Commission also solicits comment on whether the approximate method of determining the nighttime service of Class IV stations, as set forth in the Note following 47 CFR 73.182(a)(4) should be eliminated. The Commission questions whether it would be appropriate to retain such an approximate approach to interference computation in view of the refinements proposed herein. The Commission's Rules (47 CFR 73.182(m)) provide that objectionable interference from a co-channel station exists if the interfering field strength at the normally protected contour for the protected station from another station exceeds the value prescribed in 47 CFR 73.182(s), or the RSS divided by 20, whichever is greater. The Commission also solicits comment on whether it is desirable to retain this provision.

7. Another area of concern is adjacent channel skywave interference. 47 CFR 73.182(n) limits the amount of interference at the normally protected contour of a station from the *groundwave* signal of an adjacent channel interfering station. However, there is no corresponding limit on interference caused by adjacent channel *skywave* signals. Comments filed in response to the *Inquiry* indicated that adjacent channel skywave signals cause significant interference.

8. The majority of commenters expressed strong convictions that the current levels of interference in the AM broadcasting service border on being intolerable. Such interference, commenters argued, has perpetuated as a steady decline in the AM audience. Thus, the commenters strongly urge that the Commission revise 47 CFR 73.182, so that it more completely and accurately addresses actual interference levels.

9. Therefore, the Commission proposes to amend 47 CFR 73.182(n) to include skywave signals on first adjacent channels as well as co-channel skywave signals in the calculation of the RSS interference level. Adjacent channel skywave signals would be weighted with the appropriate first adjacent channel protection ratio in the calculation procedure. It is further proposed that the proposed 25 percent exclusion be applied to the weighted first adjacent channel skywave signals in the same manner as for co-channel interfering signals. The Commission does not believe, however, that it is necessary to consider the effect of skywave signals on second or third adjacent channels.

10. The Commission is also considering a change in the method of calculating interference to the skywave service of Class I stations. Currently, protection to the 0.5 mV/m 50 percent skywave signal of Class I stations is calculated by treating each interfering signal individually, without considering the effects of other interfering signals. The effect of multiple interfering signals was originally believed to be mitigated by the relatively limited number and geographic distribution of co-channel Class II stations on any particular clear channel frequency. However, inasmuch as an important objective of this proceeding is the consistent application of improved interference prediction criteria to current and future broadcast facilities, the Commission believes the proposed RSS computational method should be extended to cases where multiple interfering signals may affect the skywave service of Class I stations.

11. In order to limit the effect of such cumulative interference, the Commission is proposing that protection to a Class I station be determined by calculating the RSS at the 0.5 mV/m skywave or groundwave contour, whichever extends farther along each pertinent radial. Proposed new nighttime operations or modifications to existing facilities would be required to protect either the calculated RSS at any point on the protected contour or 0.5 mV/m, whichever is greater. There is presently no provision in the Commission's Rules to limit interference to the skywave service areas of Class I stations from adjacent channel skywave interference. Here also, the Commission is concerned that an increase in the number of nighttime operations on channels adjacent to clear channels could result in additional interference to Class I stations. Therefore, it is proposed to include skywave signals on first adjacent channel frequencies in the RSS calculations performed at the protected contour.

12. A final matter to be determined in regard to the calculation of the RSS interference level at the nighttime protected contour of Class I stations is the point at which interfering skywave signals are to be excluded in the RSS calculation. Becasue the Commission is proposing use of the 25 percent exclusion method for Class II and Class III protection, for purposes of consistency, Class I stations should be treated similarly. Nevertheless, there may be circumstances which warrant consideration of some other value. Therefore, while the Commission is proposing use of the 25 percent exclusion method when calculating the RSS for Class I stations, it recognizes that the tradeoff between the quality and quantity of service may suggest some other value as being more appropriate. Thus, interested parties are encouraged to give careful consideration to this issue.

13. There are also two related issues raised in this proceeding. First, there is the question of treatment of foreign stations. The Commission believes that the signals of Canadian and Mexican stations should be treated in the same manner as domestic stations in terms of their contribution to the calculation of co-channel and adjacent channel interference as proposed herein, to the extent such action would not conflict with applicable international agreements. Thus, until any change in the international agreements are effected, foreign facility proposals would continue to evaluated pursuant to the 50 percent exclusion method and would not be questioned on the basis of their adjacent channel skywave interference potential. Moreover, protection to foreign assignments would continue to be afforded in accordance with applicable international agreements.

14. A second area of concern is the relationship between the calculation procedures considered herein and other assignment criteria that may be considered in future rule making

proceedings. Although the Commission is proceeding with this rule making at this time, there may be practical reasons for considering a delay in implementing new calculation procedures, if adopted, until consideration of other possible changes to interrelated technical assignment criteria is concluded. Rather than implementing various changes to the technical assignment criteria in a "piece meal" fashion, there may be merit in considering implementing simultaneously all the interrelated changes that may ultimately be adopted. This approach could minimize administrative burdens for the Commission, as well as uncertainties within the broadcast industry.

15. It is not the Commission's intention to require any modifications of existing facilities or applications pending at the time any changes proposed are implemented as a result of the rule changes proposed herein.

Ex Parte Information

16. This is a non-restricted notice and comment rule making proceeding. *See* § 1.1200 *et seq.* of the Commission's Rules, 47 CFR 1.1200 *et seq.*, for rules governing permissible *ex parte* contacts.

Regulatory Flexibility Act Initial Analysis

17. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities because, the changes proposed relate only to interference calculations for AM broadcast station assignments.

Paperwork Reduction Act Statement

18. Public reporting burden for this collection of information is estimated to vary from 71 hours, 45 minutes per response to 302 hours, 30 minutes per response, with an average of 100 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 the burden, to the Federal Communications Commission, Office of the Managing Director, Washington, DC 20554, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

Comment Information

19. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before December 11, 1988 and reply comments on or before January 11, 1989. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Donna R. Searcy,

Secretary.

[FR Doc. 88-26982 Filed 11-21-88; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 53, No. 225
Tuesday, November 22, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Special Committee on Financial Services; Public Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Special Committee on Financial Services of the Administrative Conference of the United States. The Committee has scheduled this meeting to develop proposed recommendations dealing with Bank Failures Risk Monitoring, and the Market for Corporate Control, based upon a report by Professors' Jonathan R. Macey of Cornell University Law School and Geoffrey Miller of the University of Chicago Law School. Copies of the Committee's report and draft recommendation may be obtained from the contact person named in this notice.

DATE: Thursday, December 8, 1988, at 9:00 a.m.

LOCATION: Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037.

PUBLIC PARTICIPATION: Committee meetings are open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statements at the meetings. Any member of the public may file a written statement with the committee before, during or after the meeting. Minutes of the meeting will be available on request.

FOR FURTHER INFORMATION CONTACT: Brain C. Murphy, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037. Telephone: (202) 254–7020.

Jeffrey S. Lubbers
Research Director.
November 16, 1988.
[FR Doc. 88–27019 Filed 11–21–88; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Feed Grain Donations for the Cheyenne River Indian Reservation in South Dakota

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Cheyenne River Sioux Reservation in South Dakota has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Cheyenne River Sioux Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation (CCC) for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the tribe to be acute distress areas and authorize the donation of feed grain owned by the CCC to livestock owners who are determined by the Bureau of Indian Affairs, United States Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the CCC may commence upon November 1, 1988, and shall be made available through May 15, 1989, or such other date as may be stated in a notice issued by the USDA.

Signed at Washington, DC on November 17, 1988.

Milton Hertz,
Administrator, Agricultural Stabilization and Conservation Service.
[FR Doc. 88–27013 Filed 11–21–88; 8:45 am]
BILLING CODE 3410–05–M

Feed Grain Donations for the Crow Creek Indian Reservation in South Dakota

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Crow Creek Sioux Reservation in South Dakota has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Crow Creek Sioux Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation (CCC) for livestock feed for such needy members of the Tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the Tribe to be acute distress areas and authorize the donation of feed grain owned by the CCC to livestock owners who are determined by the Bureau of Indian Affairs, United States Department of the Interior, to be needy members of the Tribe utilizing such lands. These donations by the CCC may commence upon November 1, 1988, and shall be made available through May 15, 1989, or such other date as may be stated in a notice issued by the USDA.

Signed at Washington, DC on November 17, 1988.

Milton Hertz,
Administrator, Agricultural Stabilization and Conservation Service.
[FR Doc. 88–27012 Filed 11–21–88; 8:45 am]
BILLING CODE 3410–05–M

Soil Conservation Service

Sulphur Fork Creek Watershed, TN; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102 (2) (C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Sulphur Fork Creek Watershed, Cheatham, Montgomery, Robertson, and Sumner Counties, Tennessee.

FOR FURTHER INFORMATION CONTACT: Jerry S. Lee, State Conservationist, Soil Conservation Service, 675 Estes Kefauver FB–USCH, Nashville, TN 37203, telephone 615/736–5471.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Jerry S. Lee, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for accelerated land treatment or erosion control and water quality maintenance. The planned works of improvement include conservation tillage systems, field stripcropping, grassed waterways and outlets, pasture and hayland planting, and critical area treatment. Federal financial assistance will be provided to accelerate financial and technical assistance for land treatment.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Jerry S. Lee.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Jerry S. Lee,

State Conservationist.

Date: November 10, 1988.

[FR Doc. 88–26969 Filed 11–21–88; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Export Administration

[Docket Nos. 8102–01, 8102–02]

Actions Affecting Export Privileges; Athol Mayo Harrison Individually a/d/ b/a Microelectronics Research Institute

Summary

Pursuant to the October 17, 1988 recommended Decision and Order of the Administrative Law Judge (ALJ), which Decision and Order is attached hereto and affirmed by me, Athol Mayo Harrison of Al Sunset Hill, Horak Avenue, Camps Bay 8001, South Africa and P.O. Box 7232, Cape Town 8012, South Africa, is denied for a period of twenty (20) years from November 23, 1983, all privileges of participating in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations (15 CFR Parts 768–799).

Order

On October 17, 1988 the ALJ entered his recommended Decision and Order in the captioned matter. That Decision and Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final action. The basis of the ALJ's recommended Decision and Order is an agreement of the parties, which the ALJ approved. I hereby affirm that approval and the recommended Decision and Order of the ALJ. The ALJ is correct in his construction of the agreement as applying in its operative Language only to Respondent Harrison in his individual capacity. Although Harrison admits certain facts relating to Repondent Microelectronics Research Institute, his agreement with respect to denial of export privilege is limited to himself. Thus, the matter remains open with respect to Microelectronics Research Institute. If appropriate, a default order may be issued against the Institute in due time.

This constitutes final Agency action as to Athol Mayo Harrison (Docket Number 8102–01) in this matter.

Dated: November 16, 1988.

Paul Freedenberg,

Under Secretary for Export Administration.

Appearance for Dr. Harrison: Dr. Athol Mayo Harrison (pro se), Al Sunset Hill, Horak Avenue, Camps Bay 8001, South Africa, and P.O. Box 7232, Cape Town 8012, South Africa

Appearance for Agency: Anthony K. Hicks, Esq., Attorney-Advisor, Office of the Chief Counsel for Export Administration, U.S. Department of Commerce, Room H–3329, 14th & Constitution Avenue NW., Washington, DC 20230.

Decision

This proceeding against Respondent Dr. Athol Mayo Harrison, individually and doing business as Microelectronics Research Institute ("MRI"), began with the issuance on February 2, 1988 of a Charging Letter by the Office of Export Enforcement ("Agency"), Bureau of Export Administration, U.S. Department of Commerce, This Letter was issued under the authority of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401–2420) (1982 and Supp. III 1985)) ("Act") and under the authority of the Export Administration Regulations (codified at 15 CFR Parts 368–399 (1988)) ("Regulations").[1]

The Charging Letter alleged that, during the period August 1982 through March 1983, Respondent Harrison, as co-owner and managing director of Respondent MRI, ordered a U.S.-origin computer and related peripherals from a U.S. company, and paid for this equipment after its delivery to MRI. Respondent Harrison made this purchase, the Charging Letter stated, at the direction of another co-owner of MRI, who was a party denied all U.S. export privileges. Such action by Respondent Harrison was taken, according to the Charging Letter, without the notification to and approval of the U.S. Department of Commerce that was required by § 387.12 of the Regulations for his participation in a transaction subject to the Regulations that benefited a person denied U.S. export privileges. The Charging Letter claimed that Respondent Harrison thus violated § 387.12 of the Regulations. The Charging Letter added that this computer equipment was controlled under the Act for national security reasons.

Prior to issuance of the Charging Letter, the U.S. export privileges of

[1] The Regulations, formerly codified at 15 CFR Parts 368–399, are redesignated as 15 CFR Parts 768–799, effective October 1, 1988 (53 FR 37751, September 28, 1988).

Respondent Harrison and Respondent MRI had been temporarily denied by an Order issued November 23, 1983 (48 FR 54259 (1983) ("Temporary Denial Order"). The Temporary Denial Order was modified three times: December 21, 1983 (48 FR 57347 (1983)); January 31, 1984 (49 FR 4810 (1984)); and October 30, 1984 (49 FR 44229 (1984)). None of these modifications affected the denial of U.S. export privileges to which Respondents have been subjected.

To settle the proceeding initiated by the Charging Letter, Respondent Harrison and the Agency have entered into a Consent Agreement under § 388.17 of the Regulations. In the Consent Agreement, Respondent Harrison "admits that the facts as stated in the Charging Letter are true" (Consent Agreement 2). Further in the Consent Agreement, the Agency and Respondent Harrison agree on the imposition against him of a denial of U.S. export privileges for 20 years starting from November 23, 1983, the date that the Temorary Denial Order began denying him such privileges (Consent Agreement 3–4).

The undersigned approves the terms of the Consent Agreement. These terms are implemented by the Order set forth below. Dating Respondent Harrison's 20-year denial period from the November 1983 point at which he became subject to the Temporary Denial Order gives him the benefit of the five years that his U.S. export privileges have already been denied. The results it that the Order set forth below assesses Respondent Harrison with a 15-year denial period prospectively, which is an appropriate sanction for the violation to which he has admitted.

Agency Counsel submitted a proposed order that, in addition to implementing the terms of the Consent Agreement, also would vacate the Temporary Denial Order, as modified (paragraph E of such proposed order). This proposal is declined. The Temporary Denial Order, as modified, was issued against Respondent MRI as well as against Respondent Harrison; and the record lacks sufficient grounds to vacate the Temporary Denial Order as to Respondent MRI.

Respondent Harrison claimed, in his May 16, 1988 Answer to the Charging Letter (paragraph 5), the Respondent MRI ceased to exist in 1984. The Consent Agreement recited (at 2) that Respondent Harrison so claims; and, in signing the Consent Agreement, Respondent Harrison crossed out the phrase typed in after his name that read "individually and doing business as Microelectronics Research Institute." No evidence was submitted, however, to support Respondent Harrison's claim that Respondent MRI no longer exists. Nor did the Agency make any statement about this claim, either confirming or contesting it.

According to the Consent Agreement (at 2), in 1982–83 Respondent MRI was co-owned by a party who had been denied all U.S. export privileges, and was used by such party and by Respondent Harrison as a vehicle to violate the Regulations. In the face of that record, before the temporary denial of U.S. export privileges to Respondent MRI is vacated, more is required than Respondent Harrison's claim, without support by evidence or the Agency.

Consequently, pursuant to the authority delegated to the undersigned by Part 388 of the Regulations, it is ordered as follows.

Order

I. For a period of 20 years from November 23, 1983, Respondent Athol Mayo Harrison, Al Sunset Hill, Horak Avenue, Camps Bay 8001, South Africa, and P.O. Box 7232, Cape Town 8012, South Africa, and all seccessors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

II. Participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation:

(i) As a party or as a representative of a party to a validated export license application;

(ii) In preparing or filing any export license application or reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data.

Such denial of export privileges shall extend to matters which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which Respondent Harrison is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

IV. All outstanding individual validated export licenses in which Respondent Harrison appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent Harrison's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure and specific authorization from the Office of Export Licensing, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with Respondent Harrison or any related person, or whereby Respondent Harrison or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for Respondent Harrison or any related person denied export privileges, or

(b) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any

commodity or technical data exported or to be exported from the United States.

VI. This Order as affirmed or modified shall become effective upon entry of the Secretary's final action in this proceeding pursuant to the Act (50 U.S.C. App. 2412(c)(1)). That disposition will constitute the sole basis for any entry regarding Respondent Harrison in the Table of Denial Orders, until modified (15 CFR Part 388, Supp. No. 1 (1988)).

Thomas W. Hoya,

Administrative Law Judge.

Date: October 17, 1988.

To be considered in the 30 day statutory review process which is mandated by section 13(c) of the Act, submissions must be received in the Office of the Under Secretary for Export Administration, U.S. Department of Commerce, 14th & Constitution Ave. NW., Room 3898B, Washington, DC, 20230, within 12 days. Replies to the other party's submission are to be made within the following 8 days. 15 CFR 388.23(b), 50 FR 53134 (1985).

[FR Doc. 88-26938 Filed 11-21-88; 8:45am]

BILLING CODE 3510-DT-M

International Trade Administration

Exporters' Textile Advisory Committee; Open Meeting

A meeting of the Exporters' Textile Advisory Committee will be held December 9, 1988 at 10:00 a.m. in Room 3407 of the U.S. Department of Commerce, Main Commerce Building, 14th and Constitution Avenue NW., Washington, DC. The Committee provides advice about ways to promote increased exports of U.S. textiles and apparel.

Agenda

Review of export data; report on conditions in the export market; European Community Internal Market Program; export expansion activities; and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes, contact William Dawson (202/377-4324).

Date: November 16, 1988.

Ronald I. Levin,

Acting Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 88-26912 Filed 11-21-88; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Costa Rica

November 17, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: November 25, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Article 3 of the Arrangement Regarding International Trade in Textiles.

FOR FURTHER INFORMATION CONTACT: Naomi, Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION: Inasmuch as consultations held November 2-4, 1988 between the Governments of the United States and Costa Rica have not resulted in a mutually satisfactory limit for Categories 342/642, the United States Government has decided to control imports in these categories for the period May 27, 1988 through May 26, 1989.

The United States remains committed to finding a solution concerning Categories 342/642. Should such a solution be reached in further consultations with the Government of Costa Rica, further notice will be published in the **Federal Register.**

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 Schedule 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 52 FR 47745, published on November 7, 1988). Also see 53 FR 23304, published on June 21, 1988.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 17, 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; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 25, 1988, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 342/642, produced or manufactured in Costa Rica and exported during the twelve-month period which began on May 27, 1988 and extends through May 26, 1989, in excess of 106,934 dozen.

Textile products in Categories 342/642 which have been exported to the United States prior to May 26, 1988 shall not be subject to this directive.

Textile products in Categories 342/642 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

You are directed to charge 43,552 dozen for Category 342 and 14,497 dozen for Category 642 to the limit established in this directive for Categories 342/642. These charges are for goods imported during the period May 27, 1988 through August 31, 1988.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-26998 Filed 11-21-88; 8:45 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: Signature and Tally Record; DD Form 1907; OMB Control Number 0702–0027.

Type of Request: Extension.

Average Burden Hours/Minutes per Response: 2 minutes.

Frequency of Response: On Occasion.

Number of Respondents: 48,000.

Annual Burden Hours: 1,600.

Annual Responses: 48,000.

Needs and Uses: Signature and Tally Record is an integral part of the Defense Transportation System to provide continuous accountability and custody of classified and sensitive material when using commercial carriers. Form records the shipment transfer from one carrier to another from pickup point to delivery to the consignee.

Affected Public: Businesses or other for-profit; Small businesses or organizations.

Frequency: On Occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Dr. Timothy Sprehe

Written commetns and recommendations on the proposed information collection should be sent to Dr. Timothy Sprehe at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison

A copy of the information collection proposal may be obtained from, Ms. Rascoe-Harrison WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone (202) 746–0933.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 17, 1988.

[FR Doc. 88–27005 Filed 11–21–88; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

November 17, 1988.

The USAF Scientific Advisory Board Ad Hoc Committee on Integrated Avionics will meet on 7–8 December 1988 from 8:00 AM to 5:00 PM at the Aeronautical Systems Division, Wright-Patterson AFB, Ohio 45433.

The purpose of this meeting is to review the progress that has been made in Air Force integrated avionics programs since the summer study that was conducted in July 1988. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 88–27011 Filed 11–21–88; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

November 9, 1988.

The USAF Scientific Advisory Board Ad Hoc Committee on Aircraft Infrastructure—Subsystem and Component Reliability Improvement Research and Development Needs will meet on December 15–16, 1988, from 8:00 a.m. to 5:00 p.m., at the Anser Corporation, Washington DC.

The purpose of this meeting is to prepare a briefing on the study's findings and recommendations to the Assistant Secretary of the Air Force for Acquisition. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 88–26975 Filed 11–21–88; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

November 10, 1988.

The USAF Scientific Advisory Board Ad Hoc Committee on Science and Technology (S&T) Roadmaps Review will meet on 16 Dec 88 from 8:00 a.m. to 5:00 p.m. at the Pentagon, Washington, DC 20330–5430.

The purpose of this meeting is to review the roadmaps for the programs in the Air Force S&T base. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 88–26976 Filed 11–21–88; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10a(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: 14–15 December 1988.

Time: 0900–1700 hours, 14 December 1988; 0900–1200 hours, 15 December 1988.

Place: Crystal City, Alexandria, VA.

Agenda: The Army Science Board Ad Hoc Subgroup on Close Combat Training Strategy for the 1990's will meet to review the final outline and complete the draft report. These meetings will be 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. 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. 88–27031 Filed 11–21–88; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research Advisory Committee Panel on Countermine Capabilities for Amphibious Operations will meet on December 6–7, 1988. The meeting will be held at the Mine Warfare Command, Charleston, SC. The meeting will commence at 8:30 a.m. and terminate at 4:30 p.m. on December 6; and commence at 8:30 a.m. and terminate at 2:00 p.m. on December 7, 1988. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide briefings for the panel members

related to an assessment of the mine/countermine threat and current capabilities and limitations, and an evaluation of the technological approaches to detection, neutralization, marking and reporting problems. The agenda will include discussions on Navy special warfare and mine warfare programs. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander L.W. Snyder, U.S. Navy, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217-5000, Telephone Number: (202) 696-4870.

Date: November 17, 1988.

Sandra M. Kay,

Alternate Federal Register Liaison Officer.

[FR Doc. 88-26974 Filed 11-21-88; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Grants; Advanced Coal Research; Pittsburgh Energy Technology Center

AGENCY: Department of Energy.

ACTION: Notice of restricted eligibility for the Program Solicitation No. DE-PS22-89PC89998 for Support of advanced coal research at U.S. colleges and Universities.

SUMMARY: The DOE announces that pursant to 10 CFR 600.7(b) (1) it intends to conduct a competitive Program Solicitation to award, on a restricted eligibility basis, grants to U.S. colleges, universities, and university-affiliated research institutions in suport of advanced coal research. The grants will be awarded to a limited number of proposals selected on the basis of scientific merit, subject to the availability of funds.

Text

Since the inception of the University Coal Researchy Program in FY-80 (by Congressional direction), it has been DOE's intent to maintain and upgrade educational, training, and research capabilities of our universities and colleges in the fields of science and technology related to coal. The involvement of professors and students to generate fresh research ideas and ensure a future supply of coal scientists and engineers is a key purpose of this program. To assure continued achievement of these goals, U.S. colleges, universities, and university-affiliated research institutions may submit applications in response to this annual solicitation, provided the following criteria are met: (1) The Principal Investigator listed on the application is a teaching professor at the submitting university, (2) at least one student registered at the university is to receive compensation for work performed in the conduct of research proposed in the application, and (3) proposals from the university-affiliated research institutions are submitted through the college of university with which they are affiliated. As long as these conditions are met, other participatns, Co-Principal. Investigators, or research staff who do not hold teaching or student positions may be included as part of the research team.

All applications must relate to coal research in one of the following seven technical categories:

(1) *Coal Science:* Fundamental research on the structure, characteristics, and reactivity of coal and coal-dervied materials; nature of the oxgen-, nitrogen-, and sulfur-bonding in coal; geochemical and geophysical properties of coal; techniques and instrumentation applicable to the analysis of coal, coal mineral matter, and coal-derived materials.

(2) Coal Surface Science: Research on surface properties of coal and mineral matter pertinent to weathering, preparation (i.e., cleaning, surface enhanced beneficiation dewatering, and pelletizing), conversion, utilization, and the reheology of coal-oil/coal-water slurries.

(3) *Reaction Chemistry:* Fundamental research directed toward an understanding of organic and inorganic chemistry of coal with respect to catalyzed and uncatalyzed conversion and utilization; chemical coal cleaning; biochemical coal gasification, lequefaction, and desulfurization; novel reactions for depolymerizing coal; chemcial reactions in supercritical fluids; and fuel cell chemistry.

(4) *Advanced Process Concepts:* Research on concepts of improved coal conversion and utilization processes through novel chemistry, engineering, reactors, or components.

(5) *Engineering Fundamentals and Thermodynamics:* Research on the effect of temperature and/or pressure on transport phenomena with thermodynamic and transport properties pertinent to coal conversion and utilization; and supercritical phase behavior.

(6) *Environmental Science:* Research on the formation, control, and elimination of pollutants arising from coal conversion and utilization reactions.

(7) **High Temperature Phenomena** Investigation of the physical and chemical phenomena at high temperatures associated with combustion and gasification of coal and with electromagnetic generation of power; vaporization of alkalis and ash fusion in goal conversion and utilization processes; and high temperature separation techniques.

Awards

DOE anticipates awarding grants for each project subject to the availability of funds. Approximately $5.4 million is available for the program solicitation, which should provide support for about 30 proposals. Solicitation shall be available on or about 11/28/88.

FOR FUTURE INFORMATION CONTACT: U.S. Department of Energy Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921-165, Pittsburgh, PA 15236, *Attn:* Dona G. Sheehan.

Sun W. Chun,

Director.

[FR Doc. 88-26951 Filed 11-21-88; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award; Intent to Award Grant; Ministry of Energy and Infrastructure of Israel

AGENCY: Department of Energy.

ACTION: Announcement of noncompetitive financial assistance (grant) award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.7(b)(2), it intends to make a noncompetitive financial assistance (grant) award to the Ministry of Energy and Infrastructure of Israel for research to be conducted at the Israel Institute of Technology.

Scope: This grant to the Ministry of Energy and Infrastructure of Israel (MOEI) is to conduct a twenty-four (24) month research effort entitled: "Combustion of Pulverized Coal in Counter-Current Flow" at the Israel Institute of Technology (IIT).

The scope of this research project involves an experimental and theoretical investigation of heterogeneous combustion of pulverized

coal in a new counter-current combustor operating in coordination with an experimental furnance developed by IIT. The objectives of the research are to develop experimental data for the study of heterogeneous combustion in practical systems; to develop a mathematical model to allow the user to optimize the design and the operating conditions of a counter-current combustor; and to develop two (2) prototypes of the combustor for different fuel consumption and different kinds of coal.

Authority for this noncompetitive award is 10 CFR 600.7(b)(2)(E) implementing an Annex XII to the Memorandum of Understanding (MOU) between the United States and Isreal, which was executed on September 29, 1988.

The term of this grant shall be from approximately November 30, 1988, through November 29, 1990, with an estimated value of $90,000.00.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–165, Pittsburgh, PA 15236, *Attn:* Keith R. Miles.

Issued on November 4, 1988

Sun W. Chun,

Director, Pittsburgh Energy Technology Center.

[FR Doc. 88–26945 Filed 11–21–88; 8:45 am]

BILLING CODE 6450–01–M

Advisory Committee on Nuclear Facility Safety; 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 advisory committee meeting:

Name: Advisory Committee on Nuclear Facility Safety.

Date and time: Tuesday, December 13, 1988 9:30 a.m. to 12:00 noon.

Place: U.S. Department of Energy, Forrestal Building, Room 8E 089, 1000 Independence Avenue, SW., Washington, DC 20585.

Contact: Wallace R. Kornack, Executive Director, ACNFS, S–2, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: 202/586–1770.

Purpose of the Committee: The Committee was established to provide the Secretary of Energy with advice and recommendations concerning the safety of the Department's production and utilization facilities, as defined in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014).

Tentative Agenda: December 13, 1988.

9:30–11:30: Review Committee Documents and Consider their Adoption

11:30–Noon: Public Comment.

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 Wallace Kornack at the address or telephone number listed above. Requests must be received 5 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.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, 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 16, 1988.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 88–26946 Filed 11–21–88; 8:45 am]

BILLING CODE 6450–01–M

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement; EURATOM; Republic of Indonesia

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Indonesia concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves the transfer of fuel elements containing 33,000 grams of uranium enriched to 19.95 percent in the isotope uranium-235 from the Federal Republic of Germany to the Government of Indonesia, for the fabrication of fuel elements for the JANUS–30 MPR Reactor. Retransfer document RTD/IE(EU)–5 has been assigned to this transfer.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 16, 1988.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 88–26947 Filed 11–21–88; 8:45 am]

BILLING CODE 6450–01–M

Proposed Subsequent Arrangement; EURATOM; Republic of Indonesia

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Indonesia concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves the transfer of 3,500 grams of uranium enriched to 19.95 percent in the isotope uranium-235 from the Federal Republic of Germany to the Government of Indonesia, for the fabrication of fuel elements for the JANUS–30 MPR reactor. Retransfer document RTD/IE(EU)–6 has been assigned to this transfer.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy

Date: November 16, 1988.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 88-26948 Filed 11-21-88; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement; EURATOM; University of Munich

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangment" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves the sale of 100 milligrams of uranium oxide enriched to 99.9% in the isotope U-235. This material will be used by the University of Munich for isotope dilution analyses during a course on the geochronology of rock samples.

Contract Number S-EU-945 has been assigned to this transaction.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: November 16, 1988.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 88-26949 Filed 11-21-88; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval for the return of 30 kilograms of irradiated fuel of U.S. origin from the JMTR and JRR reactors in Japan for reprocessing and storage at Department of Energy facilities. The return of highly enriched uranium (HEU) is consistent will U.S. nonproliferation policy in that it serves to reduce the amount of HEU abroad.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: November 16, 1988.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 88-26953 Filed 11-17-88; 3:20 pm]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 88-54-NG]

Brymore Gas Marketing, Inc.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy gives notice that it has issued an order granting Brymore Gas Marketing, Inc. (BGMI), blanket authorization to import natural gas from Canada. The order issued in ERA Docket No. 88-54-NG authorizes BGMI to import up to 200 Bcf of Canadian natural gas over a two-year term beginning on the date of first delivery.

A copy of this order is available in the Natural Gas Division Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on November 14, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88-26950 Filed 11-21-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ES89-5-000, et al.]

Consumer Power Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

November 10, 1988.

Take notice that the following filings have been made with the Commission:

1. Consumer Power Company

[Docket No. ES89-5-000]

Take notice that on November 4, 1988, Consumer Power Company filed an application pursuant to section 204 of the Federal Power Act seeking authority to issue and sell, and guarantee up to $800,000,000 in secured and/or unsecured short-term debt including but not limited to, notes, drafts, debentures and commercial paper. The issuance, sale or guarantee of the secured and/or unsecured short-term debt would be from time to time, during the period January 2, 1989 through December 31, 1989, with maturities of 364 days or less.

Comment date: December 2, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Morgantown Energy Associates

[Docket No. QF89-25-000]

On October 26, 1988, Morgantown Energy Associates (Applicant) of 256 Russell Avenue, Post Office Drawer 40, New Martinsville, West Virginia 26155 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed topping-cycle cogeneration facility will be located adjacent to the West Virginia University Campus in Morgantown, West Virginia. The facility will consist of two circulating fluidized bed boilers and a steam turbine generator. Thermal energy recovered from the facility will be used for heating, cooling, sterilization , and cooking at the West Virginia University Campus. The net electric power production capacity of the facility will be 58 MW. The primary source of energy will be bituminous waste coal. The installation of the facility is scheduled to commence on June 1, 1989.

Applicant is a West Virginia general partnership consisting of three general partners: MidAtlantic Energy Co. (MidAtlantic), Hickory Power Corporation (HPC), a wholly-owned subsidiary of Bechtal Development

Company (BDC), and Dominion Cogen WV, Inc. (DCW), which is a wholly-owned subsidiary of Dominion Energy, Inc. (DEI). MidAtlantic, and HPC are not electric utility, electric utility holding companies or any combination thereof, however, DEI is a wholly-owned subsidiary of Dominion Resources, Inc. Which is an electric utility holding Company. Each partners equity investment, share in partnership profits, losses, cash distribution and tax benefits will be in the following proportion. DEI (50%), MidAtlantic (35%) and BDC (15%).

Comment date: Thirty days from publication in the **Federal Register**, in accordance with the Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88–26918 Filed 11–21–88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF89-40-000]

Rosemount Cogeneration Joint Venture; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

November 17, 1988.

On November 7, 1988, Rosemount Cogeneration Joint Venture (Applicant), c/o Oxbow Power Corporation, 333 Elm Street, Dedham, Massachusets 02026, submitted for filing an application for certifiction of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Rosemount, Minnesota. The facility will consist of one cumbustion turbine generator, one supplementary fired heat recovery steam generator, one extraction/condensing steam turbine generator and associated equipment. Extraction steam will be used in the production of carbon dioxide. The maximum net electric power production capacity of the facility will be 58.9 NW. Construction of the facility is expected to begin on or about July 1, 1989.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Engergy Regulatory Commission, 825 North Capitol Street, NW., Washington DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88–26919 Filed 11–21–88; 8:45 am]

BILLING CODE 6717-01-M

Federal Energy Regulatory Commission

[Project No. 10453-000 Colorado]

Hydroelectric Development, Inc.; Availability of Environmental Assessment

November 16, 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 minor license for the Granby Hydroelectric Project and has prepared an environmental assessment (EA) for the proposed project. In the EA, the Commission's staff analyzes the potential environmental impacts of the proposed project and concludes 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. 88–26920 Filed 11–21–88; 8:45 am]

BILLING CODE 6717-01-M

Hydroelectric Application Filed With the Commission

November 17, 1988.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. *Type of Application:* Amendment of License.

b. *Project No:* 2600–013.

c. *Date Filed:* September 27, 1988.

d. *Applicant:* Bangor-Pacific Hydro Associates.

e. *Name of Project:* West Enfield.

f. *Location:* Penobscot County, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Fred Ayer, Bangor-Pacific Hydro Associates, P.O. Box 932, Bangor, ME 04401.

i. *FERC Contact:* Mr. John P. Warner, (202) 376–9045.

j. *Comment Date:* December 15, 1988.

k. *Description of Project:* Bangor-Pacific Hydro Associates (licensee) proposes to amend the license for the West Enfield Project (FERC No. 2600), to modify the required mitigation for project impacts to fish resources.

The licensee proposes the following:

(A) Articles 43 and 44 be deleted.

(B) Four new Articles be added to the license generally as follows:

(1) Licensee shall, within one year from the date of this order, submit a plan to convert the existing smolt release ponds at the West Enfield Project to smolt rearing ponds. The ponds shall have a capacity for rearing no less than 50,000 salmon fry and shall be designed in consultation with U.S. Fish and Wildlife Service (FWS), Maine Atlantic Sea Run Salmon Commission (ASRSC), Penobscot Indian Nation (PIN), and Maine Department Marine Resources (DMR). At such time as the restoration goal for Atlantic salmon has been reached (8,000 adult salmon), Licensee shall commence maintaining and operating the ponds for the purpose of rearing and releasing such fry and juvenile salmon as shall be provided from time-to-time by the state and federal fishery agencies.

(2) The Licensee shall arrange for and stock each year no less than 50,000 salmon fry at such places in the

Penobscot River system as are mutually agreed upon from time-to-time by the fishery agencies and the PIN.

(3) The License shall, within six months from the date of this order, cause the owners and/or Licensee of the Howland Dam (FERC No. 2721) on the Piscataquis River, and the Orono (FERC No. 2710), Stillwater (FERC No. 2712), and Milford (FERC No. 2534) dams in the Penobscot River system to file for Commission approval, plans to modify operations at those dams for the purpose of facilitating the downstream passage of salmon and alewives. Those plans shall be prepared in consultation with ASRSC, USFWS, Maine Department of Environmental Protection, PIN, and DMR.

(4) Licensee shall within six months of the date of this order acquire the Columbia Falls Dam on the Pleasant River and transfer title to the State of Maine.

1. *Purpose of Project:* The amendment would provide for alternative mitigation for the impacts of the West Enfield Project on anadromous fish required by the license.

m. This notice also consists of the following standard paragraphs: B, C, and D2.

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, 385.211, 385.214. 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," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATIONS," "PROTEST" or "MOTION TO INTERVENE," as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and the number of copies required 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: The Director, Office of Hydropower Licensing, Division of Project Review, Federal Energy Regulatory Commission, Room 204RB, at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the applicant specified in the particular application.

D2. Agency Comments—The Commission invites federal, state, and local agencies to file comments on the described application. (Agencies may obtain a copy of the application directly from the applicant.) If an agency does not file comments within the time specified for filing comments, the Commission will presume that the agency has none. One copy of an agency's comments must also be sent to the applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26921 Filed 11-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-147-000, et al.]

Northwest Pipeline Corp. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the commission:

1. Northwest Pipeline Corporation

[Docket No. CP89-147-000]

November 10, 1988.

Take notice that on November 8, 1988, Northwest Pipeline corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in docket No. CP89-147-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act, for authorization to provide a transportation service for Mallon Oil Company (Mallon), a producer of natural gas, under Northwest's blanket certificate issued in Docket No. CP86-578-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Nortwest states that pursuant to an agreement dated August 1, 1988, as amended August 1, 1988, October 14, 1988, and October 21, 1988, it proposes to transport up to 20 billion Btu of natural gas per day for Mallon. Northwest proposes to transport the gas from the Bayless Purchase Meter #1 in Rio Arriba County, New Mexico to the Ignacio Plant delivery point located in La Plata County, Colorado and to the existing interconnects with el Paso Natural Gas Company at La Jara in Rio Arriba County, New Mexico and at Ignacio in La Plata County, Colorado.

Northwest also states that no construction of new facilities would be required to provide this service. Northwest further states that the maximum day, average day, and annual transportation volumes would be approximately 20 billion Btu, 2.5 billion, and 900 billion Btu, respectively. Northwest indicates that it would charge the rates and abide by the terms and conditions provided in its Rate Schedule IT-1.

Northwest advises that service under § 284.223(a) of the Commission's Regulations commenced on September 1, 1988, as reported in Docket No. ST89-531-000.

Comment date: December 27, 1988, in accordance with Standard Paragraph G at the end of this notice.

2. Panhandle Eastern Pipe Line

[Docket No. CP89-99-000]

November 14, 1988.

Take notice that on October 28, 1988, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas, 77251-1642, filed in Docket No. CP89-99-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Citizens Gas Supply Corporation (Citizens or Shipper), under the blanket certificate issued in Docket No. CP86-585-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Panhandle indicates that it proposes to transport up to 100,000 dt. per day, on an interruptible basis, on behalf of Citizens pursuant to a Transportation Agreement dated August 26, 1988 between Panhandle and Citizens (Transportation Agreement). The Transporation Agreement provides for Panhandle to receive gas from various existing points of receipt on its system in Texas, Oklahoma, Kansas, Colorado, Wyoming, and Illinois. Panhandle also indicates it will then transport and redeliver subject gas, less fuel used and unaccounted for line loss to Michigan Consolidated Gas Company (MichCon) in Wayne County, Michigan.

Panhandle estimates that the daily and annual quantities would be 100,000 dt. and 36,500,00 dt, respectively. Panhandle further indicates it commenced this service September 1, 1988, as reported in Docket No. ST88-5671.

Comment date: December 29, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Tennessee Gas Pipeline Company

[Docket No. CP89–132–000]

November 14, 1988.

Take notice that on November 4, 1988, Tennessee Gas Pipeline Company, (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89–132–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to revise points of delivery to Columbia Gas Transmission Company (Columbia) under Tennessee's Rate Schedule T–20 and to provide for the delivery of certain natural gas supplies to an existing point of interconnection with Columbia Gulf Transmission Company (Columbia Gulf) near Egan, Louisiana, under the blanket certificate issued in Docket No. CP82–413–000 on September 1, 1982, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

Tennessee proposes to delete the existing points of delivery to Columbia in Tennessee's Northern Rate Zone and to provide for deliveries of Columbia's share of the Stratton-Agua Dulce production to an existing point of interconnection with Columbia Gulf near Eagan, Louisiana. Tennessee states that under authorization granted in Docket No. G–962 and pursuant to its Rate Schedule T–20 included in its FERC Gas Tariff, Volume No. 2, Tennessee provides a firm transportation service for Columbia from the Stratton-Agua Dulce Field, Nueces County, Texas, to existing points of delivery to Columbia in Tennessee's Northern Rate Zone (Sales Zone 4). Tennessee further states that no additional facilities would be required to effect the proposed change. Tennessee advises that the proposed rearrangement of service was previously applied for in Docket No. CP84–441–003, except the effective date requested herein is February 1, 1989.

Comment date: December 29, 1988, in accordance with Standard Paragraph G at the end of this notice.

4. Natural Gas Pipeline Company of America

[Docket No. CP89–131–000]

November 14, 1988.

Take notice that on November 4, 1988, Natural Gas Pipeline Company of America (Natural) 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89–131–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Continental Natural Gas, Inc. (Continental), under its blanket authorization issued in Docket No. CP86–582–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commisson and open to public inspection.

Natural would perform the proposed interruptible transportation service for Continental, a marketer of natural gas, pursuant to an interruptible transportation service agreement dated June 15, 1988 (#IGP–1220). The term of the transportation agreement is from the date of the contract and shall continue for a primary term ending June 30, 1992, and shall continue month to month thereafter unless cancelled by five days' prior notice by either party. Natual proposes to transport on a peak day up to 50,000 MMBtu per day; on an average day up to 15,000 MMBtu; and on an annual basis 5,475,000 MMBtu of natural gas for Coontinental. Natural further states that consistent with its Rate Schedule ITS, Continental may request and Natural may agree to accept additional quantities as overrun gas. Natural proposes to receive the subject gas at the Transok/Bryan receipt point in Bryan County, Oklahoma for redelivery to the HPL/Lamar delivery point in Lamar County, Texas. The gas will be consumed by various interstate and intrastate pipelines and local distribution companies and industrial end users in Texas and Oklahoma. Natural avers that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. Natural commenced such self-implementing service on September 4, 1988, as reported in Docket No. ST89–548–000.

Comment date: December 29, 1988, in accordance with Standard Paragraph G at the end of this notice.

5. Tennessee Gas Pipeline Company

[Docket No. CP89–130–000]

November 15, 1988.

Take notice that on November 4, 1988, Tennessee Gas Pipeline Company (Applicant), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89–130–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide a transportation service for CNG Trading Company, a marketer, under Applicant's blanket 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 on file with the Commission and open to public inspection.

Applicant proposes, pursuant to a transportation agreement dated September 29, 1988, as amended September 30, 1988, to transport natural gas for CNG Trading Company from points of receipt located in offshore Louisiana and the States of Louisiana, Texas, and Alabama. It is stated that points of delivery are located in Pennsylvania, New York, and West Virginia for the ultimate point of delivery in the State of Pennsylvania. The applicant further states that the maximum daily and average daily quantities are 150,000 dekatherms (dt) and the annual quantity would be 54,570,000 dt. Tennessee states that service under § 284.223(a) commenced October 6, 1988, as reported in Docket No. ST89–404 filed October 28, 1988.

Comment date: December 29, 1988, in accordance with Standard Paragraph G at the end of this notice.

6. Tennessee Gas Pipeline Company

[Docket No. CP89–94–000]

November 15, 1988.

Take notice that on October 28, 1988, Tennessee Gas Pipeline Company, (Applicant), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89–94–000 a request pursuant to §§ 157.205 and 284–223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide a transportation service for Texaco Gas Marketing, Inc. (Texaco), a producer, under Applicant's blanket 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 on file with the Commission and open to public inspection.

Applicant proposes, pursuant to a transportation agreement dated September 26, 1988, to transport natural gas for Texaco from a point of receipt located in offshore Louisiana and redelivered to an interconnect with The Southern Connecticut Gas Company located in Milford, New Haven County, Connecticut. Applicant states that both the maximum daily and average daily quantities are 100,000 dekatherms (dt) and the annual quantity would be 36,500,000 dt. Applicant states further that service under § 284.223(a)

commenced October 1, 1988, as reported in Docket No. ST89–255 filed October 20, 1988.

Comment date: December 29, 1988, in accordance with Standard Paragraph G at the end of this notice.

7. Natural Gas Pipeline Company of America

[Docket No. CP89–127–000]

November 15, 1988.

Take notice that on November 3, 1988, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP89–127–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Texaco Producing Inc. (Texaco), a producer of natural gas, under Natural's blanket certificate issued in Docket No. CP86–582–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural proposes to transport, on an interruptible basis, up to 100,000 MMBtu/day plus overrun volumes for Texaco. Natural states that the receipt and delivery points are located in Louisiana. Natural states further that construction of facilities would not be required to provide the proposed service.

Natural states that the estimated daily and annual quantities would be 50,000 MMBtu and 18,250,000 MMBtu respectively, and that service under § 284.223(a) commenced September 4, 1988, as reported in Docket No. ST89–516.

Comment date: December 29, 1988, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraph

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. 88–26923 Filed 11–21–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP89–153–000, et al.]

Williams Natural Gas Company, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Williams Natural Gas Company

[Docket No. CP89–153–000]

November 15, 1988.

Take notice that on November 9, 1988, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89–153–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under its blanket certificate issued in Docket No. CP86–631–000 pursuant to section 7 of the Natural Gas Act for Central Soya Company Inc. (Central), all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams proposes to transport natural gas for Central, an end user, on an interruptible basis, pursuant to a transportation agreement dated August 11, 1988. Williams explains that service commenced September 1, 1988, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88–5884–000. Williams further explains that the peak day quantity would be 7,000 MMBtu, the average daily quantity would be 3,000 MMBtu, and that the annual quantity would be 2,555,000 MMBtu. Williams explains that it would receive natural gas for Central's account at points located in Oklahoma and would redeliver the gas for Central's account at points in Kansas, Missouri, and Oklahoma.

Comment date: December 30, 1988, in accordance with Standard Paragraph G at the end of this notice.

2. Williams Natural Gas Company

[Docket No. CP89–155–000]

November 15, 1988.

Take notice that on November 9, 1988, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89–155–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under its blanket certificate issued in Docket No. CP86–631–000 pursuant to section 7 of the Natural Gas Act for Transtate Gas Service Company (Transtate), all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams proposes to transport natural gas for Transtate, a marketer, on an interruptible basis, pursuant to a transportation agreement dated August 25, 1988. William explains that service commenced September 1, 1988, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST88–5883–000. Williams further explains that the peak day quantity would be 57,000 MMBtu, the average daily quantity would be 50,000 MMBtu, and that the annual quantity would be 20,805,000 MMBtu. Williams explains that it would receive natural gas for Transtate's account at points located in Oklahoma, Kansas, and Texas and would redeliver the gas for Transtate's account at points in Kansas, Texas, and Oklahoma.

Comment date: December 30, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Tennessee Gas Pipeline Company

[Docket No. CP89–143–000]

November 15, 1988.

Take notice that on November 8, 1988, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89–143–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act, for authorization to provide transportation on behalf of Diamond Shamrock Offshore Partners Limited Partnership (Diamond Shamrock), under Tennessee's blanket certificate issued in Docket No. CP87–115–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee requests authorization to transport, on an interruptible basis, up to a maximum of 10,500 dekatherm (dt) of natural gas per day for Diamond Shamrock, a producer, from receipt points located in offshore Louisiana to an interconnection with Texas Gas Transmission Corporation located in Egan D, Acadia Parish, Louisiana. Tennessee anticipates transporting an annual volume of 3,832,500 dt.

Tennessee states that the transportation of natural gas for Diamond Shamrock commenced October 1, 1988, as reported in Docket

No. ST89–455–000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Tennessee in Docket No. CP87–115–000.

Comment date: December 30, 1988, in accordance with Standard Paragraph G at the end of this notice.

4. Transcontinental Gas Pipe Line Corporation

[Docket No. CP89–119–000]

November 15, 1988.

Take notice that on November 1, 1988, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP89–119–000 a request pursuant to § 157.205 of the Commission's Regulations to provide transportation service on behalf of Kerr-McGee Corporation (Keer-McGee), under Transco's blanket certificate issued in Docket No. CP88–328–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco requests authorization to transport, on an interruptible basis, up to a maximum of 53,985 dekatherms (dt) of natural gas per day for Kerr-McGee, a producer. It is stated that Transco will receive the gas in Ship Shoal Block 28, Offshore Louisiana, or under its flexible receipt authority, receive the gas at various receipt points in offshore Louisiana and offshore Texas, and then redeliver the gas in Clinton County, Pennsylvania. Transco anticipates transporting 365,000 dt annually.

Transco states that the transportation of natural gas for Kerr-McGee commenced September 2, 1988, as reported in Docket No. ST89–0080, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Transco in Docket No. CP88–328–000.

Comment date: December 30, 1988, in accordance with Standard Paragraph G at the end of this notice.

5. Texas Eastern Transmission Corporation

[Docket No. CP87–4–006]

November 15, 1988.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on November 10, 1988 tendered for filing as part or its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheets:

Substitute Original Sheet No. 359A
Substitute Original Sheet No. 693A

Texas Eastern states it is filing these tariff sheets in compliance with the request of FERC Staff, to clarify that Texas Eastern will not receive for transportation a quantity of natural gas in excess of the Maximum Daily Transportation Quantity, plus Applicable Shrinkage, on a daily basis for customers under Rate Schedule FTS–4, as authorized in the Commission's July 27, 1988 order in Docket No. CP87–4–000. The above listed tariff sheets replace Original Sheet Nos. 359A and 693A which were filed on November 4, 1988 by Texas Eastern in Docket No. CP87–4 as a part of proposed Rate Schedule FTS–4 which represents a firm transportation service provided by Texas Eastern consisting of receipt, transportation, and delivery of gas for The Brooklyn Union Gas Company, Elizabethtown Gas Company, Long Island Lighting Company, New Jersey Natural Gas Company and Public Electric and Gas Company.

The proposed effective date of the tariff sheets listed above is November 1, 1988, the date originally requested by Texas Eastern in its November 4, 1988 filing.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Comment date: November 23, 1988, in accordance with the first subparagraph of Standard Paragraph E at the end of this notice.

6. Southcoast Transmission Corporation

[Docket No. CP89–60–000]

November 16, 1988.

Take notice that on October 21, 1988, [1] Southcoast Transmission Corporation, (Applicant), 333 South Grand Avenue, Suite 3535, Los Angeles, California 90071, filed in Docket No. CP89–60–000 an application pursuant to section 7(c) of the Natural Gas Act and subpart E of The FERC's Regulations for an optional certificate of public convenience and necessity authorizing the construction and operation of a natural gas pipeline system to transport supplies of natural gas from western Canada, areas in the Rocky Mountain areas and a few Southwestern states, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to construct a pipeline system with a capacity of 1,500,000 Mcf/d, extending from the supply terminal at Carway, Alberta, in Western Canada approximately thirteen hundred miles to the delivery terminal near Bakersfield, Kern County California.

Applicant further proposes to provide Rocky Mountain area producers of natural gas, with access to California markets. Applicant stated that it will interconnect the proposed system with the existing pipeline system operated by Questar Pipeline Company (Questar) of Salt Lake City, Utah. It is alleged that Questar will provide capacity in its system for delivering 400,000 Mcf/d from the Rocky Mountain States of Wyoming, Colorado, and Utah, to two terminals located near Salt Lake City at Hyram and Payson Gates.

It is further stated that Applicant's terminal at Topock, Arizona will interconnect with existing pipeline systems operated by Enron Corporation and El Paso Natural Gas Company to transport natural gas from the southwestern states of new Mexico, Texas, and Oklahoma.

Applicant states that in order to transport supplies from Topock to Daggett in Southern California, and the Bakersfield terminals it will construct and operate a 143 mile supply lateral.

Applicant alleges that the total cost of proposed construction will be $1,274,000,000 and the construction be completed by July, 1991. Applicant states funding of the Southcoast Pipeline System will be from private sources which will be revealed to the Commission at the appropriate time.

Comment date: December 7, 1988, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

Texas Eastern Transmission Corporation

[Docket No. CP87–4–005]

November 16, 1988.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on November 4, 1988 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheets:

Second Revised Sheet No. 1
Third Substitute Eight Revised Sheet No. 50
Original Sheet No. 359A
Substitute Original Sheet No. 359B
Substitute Original Sheet No. 359C
Original Sheet Nos. 359D through 359G
Substitute Original Sheet No. 359H
Original Sheet No. 359I
Second Revised Sheet No. 404
Second Revised Sheet No. 443
Second Revised Sheet No. 474
Original Sheet No. 489A
Second Revised Sheet No. 600

[1] The application was tendered for filing on October 14, 1988; however, the fee required by § 381.207 of the Commission's Rules (18 CFR 381.207) was not paid until October 21, 1988. Section 381.103 of the Commission's Rules provide that the filing date is the date on which the fee is paid.

Original Sheet Nos. 693A through 693E

Texas Eastern states that by order issued July 27, 1988, in Docket Nos. CP87–4–000, CP87–4–001, and CP87–4–002, the Commission issued Texas Eastern a Certificate of Public Convenience and Necessity authorizing Texas Eastern to construct and operate certain pipeline loops and compressor facilities and *inter alia*, to provide a firm transportation service consisting of receipt, transportation, and delivery of gas for The Brooklyn Union Gas Company, Elizabethtown Gas Company, Long Island Lighting Company, New Jersey Natural Gas Company and Public Service Electric and Gas Company, collectively referred to as "Customers".

Texas Eastern states that on September 29, 1988, it filed with the Commission, in Docket No. CP87–4–004, *et al.*, tariff sheets in purported compliance with Part 154 of the Commission's Regulations that set forth the terms and conditions of said firm transportation service to be provided under Rate Schedule FTS–4 to the Customers. On October 28, 1988, a Staff Letter Order was issued in Docket No. CP87–4–004, *et al.*, rejecting Texas Eastern's September 29, 1988 filing on the grounds that the tariff sheets exceeded the scope of what was approved by the Commission's July 27, 1988 order in Docket No. CP87–4–000.

Specifically, the Staff Letter Order objected to the inclusion of a daily overrun charge as well as a tariff provision apparently construed by Staff as providing for the construction of new measuring equipment without certificate authorization.

Texas Eastern states that in compliance with Part 154 of the Commission's Regulations and the October 28, 1988 Staff Letter Order, the above listed tariff sheets are being refiled to set forth the terms and conditions of said firm transportation service to be provided under Rate Schedule FTS–4. Sheet Nos. 359A through 359I land 693A through 693E set forth Rate Schedule FTS–4 and the Form of Service Agreement. With the exception of changes made to satisfy concerns expressed in the October 28, 1988 Staff Letter Order, the tariff provision being filed today are identical to the original tariff provisions filed on September 29, 1988. In compliance with the October 28, 1988 Letter Order, Sheet Nos. 50, 359B and 359C reflect the deletion of the daily overrun charge. Sheet No. 359H (Section 10 of Rate Schedule FTS–4) has been revised to clarify that Texas Eastern must have certificate authorization before installing and operating new measuring equipment. Currently, gas quantities delivered under this Rate Schedule will be measured under existing certificated measuring equipment. Material required by § 154.62(b) of the Commission's Regulations is included in Attachment A.

The proposed effective date of the above listed tariff sheets in November 1, 1988 the date originally requested in Texas Eastern's September 29, 1988 filing in Docket No. CP87–4–004.

Copies of this filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Comment date: November 23, 1988, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

8. Chevron U.S.A. Inc.

[Docket No. CP89–102–000]

November 16, 1988.

Take notice that on October 31, 1988, Chevron U.S.A. Inc. (Chevron), 1301 McKinney Street, Houston, Texas 77010, filed in Docket No. CP89–102–000 pursuant to § 385.207 of the Commission's Rules of Practice and Procedure a petition for a declaratory order finding that certain of its natural gas facilities located in the federal domain of offshore Louisiana, which are used to deliver natural gas for sale to Texas Eastern Transmission Corporation (Texas Eastern), are gathering facilities under section 1(b) of the Natural Gas Act and are, therefore, exempt from Commission Jurisdiction, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Chevron states that it sells gas to Texas Eastern under a 1964 warranty gas purchase contract between Texas Eastern and Gulf Oil Corporation (which merged with to Chevron). Chevron further states that the facilities which are the subject of the petition, referred to as Chevron's Western Offshore Gathering Lines, are pipelines constructed by Gulf Oil Corporation (Gulf) which are directly connected to facilities owned by Texas Eastern.

Chevron states that the pipelines which are the subject of this petition consist of segments of pipeline of various diameters ranging from 8-inch to 16-inch and various lengths ranging from 2 miles to 60 miles, and are operated in Eugene Island Block 330 and 333 fields, West Cameron Block 198 field, West Cameron Block 333 field, West Cameron Block 409 field, East Cameron Block 338 field, and Vermilion Block 261 field, as more fully described in the petition. Chevron asserts that each pipeline gathers gas produced from discrete producing areas for delivery to Texas Eastern at points of interconnection with Texas Eastern's facilities. Chevron further states the gas is separated from oil and water in separation facilities on platforms in the field. It is explained that the size and configuration of the Western Offshore Gathering Lines was made necessary by the distance of the fields from the facilities of Texas Eastern and the substantial total volume of 4.4 Tcf of gas which Gulf is obligated to gather from numerous offshore fields for delivery to Texas Eastern. Chevron states that the pipelines which gather a portion of the gas sold to Texas Eastern under the warranty contract are necessary and essential for Chevron to sustain its delivery obligation to Texas Eastern.

Chevron states that an uncertainty regarding the jurisdictional status of the Western's Offshore Gathering Lines exists under the Commission's issuance of Order No. 491, Interpretation of Section 5 of the Outer Continental Shelf Lands Act (OCSLA), Docket No. RM88–14–000, issued and effective April 1, 1988, 43 FERC ¶ 61,006 (April 1, 1988) and the accompanying Notice of Proposed Rulemaking (NOPR), Docket No. RM88–15–000, FERC Statutes and Regulations (CCH) ¶ 32,459 (April 1, 1988). Chevron further states an uncertainty regarding the jurisdictional status of petitioner's Western Offshore Gathering Lines exists under recent Commission declaratory orders issued on proposed offshore pipeline systems in *Shell Gas Pipeline Co.*, 41 FERC ¶ 61,032 (Oct. 19, 1987) *Conoco, Inc., et al.*, 44 FERC ¶ 61,040 (May 3, 1988) *Placid Oil Co.*, 43 FERC ¶ 61,310 (May 3, 1988) *rehearing denied*, 44 FERC ¶ 61,029 (July 8, 1988), and *Oklahoma Gas Pipeline Co.*, 43 FERC ¶ 61, 086 (April 20, 1988).

Chevron requests that the commission issue an order declaring the pipeline facilities described in the petition as the Western Offshore Gathering Lines are not interstate natural gas pipelines subject to the Natural Gas Act as defined in Order No. 491 and the accompanying NOPR. Chevron asserts that the primary and only function of the facilities is gathering, notwithstanding the size and geographical configuration of the facilities. Chevron states that declaring the pipeline facilities to be interstate natural gas pipelines subject to the Natural Gas Act (NGA) would disturb Chevron's operation of the pipelines as an independent producer to gather its production for sale to Texas Eastern require it convert the pipelines to pipelines offering to transport under Part 284 of the Commission's

regulations, require it to obtain a blanket certificate to transport gas for any shippers requesting service, and require it to allocate capacity to all shippers requesting service on a prorata basis even if the capacity is needed to meet its contractual and certificate obligation to Texas Eastern. In the event the Commission does not disclaim jurisdiction in entirety over the pipeline facilities, Chevron requests that the Commission delineate which facilities the Commission determines to constitute jurisdictional interstate pipelines subject to the NGA.

Comment date: December 7, 1988, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

9. Williams Natural Gas Company

[Docket No. CP89-158-000]

November 15, 1988.

Take notice that on November 9, 1988, Williams Natual Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-158-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under its blanket certificate issued in Docket No. CP86-631-000 pursuant to section 7 of the Natural Gas Act for American Central Gas Companies, Inc. (American), all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams proposes to transport natural gas for American, a marketer, on an interruptible basis, pursuant to a transportation agreement dated August 31, 1988. Williams explains that service commenced September 4, 1988, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-37-000. Williams further explains that the peak day quantity would be 1,500 MMBtu, the average daily quantity would be 1,500 MMBtu, and that the annual quantity would be 547,500 MMBtu. Williams explains that it would receive natural gas for American's account at points located in Oklahoma, Kansas, Missouri, Wyoming, Colorado and Texas and would redeliver the gas for American's account at points in Kansas and Missouri.

Comment date: December 30, 1988, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, 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. 88-26924 Filed 11-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-3810-000 et al.]

Sun Exploration and Production Co. et al.; Applications for Certificates, Abandonment of Service, and Amendment of Certificates [1]

November 17, 1988.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce, to abandon service or to amend certificates as described herein, all as more fully described in the respective applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 1, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Description
G-3810-000, G-5991-000, F C, Nov. 2, 1988.	Sun Exploration and Production Company, P.O. Box 2880, Dallas, TX 75221-2880.	El Paso Natural Gas Company, South Fullerton Plant, Andrews County, Texas.	(1)
G-5333-000, D, Oct. 12, 1988	Texaco Producing Inc., P.O. Box 52332, Houston, TX 77052.	Texas Eastern Transmission Corporation, Baber Lease, SA and MG RR Survey 10, A-679, Lavaca County, Texas.	(2)
G-6652-002, D, Oct. 24, 1988	Sun Exploration and Production Company	Tennessee Gas Pipeline Company, Heyser Field, Victoria County, Texas.	(3)
G-8447-000, D, Nov. 7, 1988	Tenneco Oil Company, P.O. Box 2511, Houston, TX 77252-2511.	Colorado Interstate Gas Company, Eva and Keyes Fields, Cimarron and Texas Counties, Oklahoma.	(4)
G-18117-001, D, Oct. 19, 1988	Tenneco Oil Company	ANR Pipeline Company, Mocane-Laverne Field, Harper and Beaver Counties, Oklahoma.	(5)
CI64-1055, D, Oct. 31, 1988	do	Arkla Energy Resources, a division of Arkla, Inc., North Scottsville Field, Harrison County, Texas.	(6)
CI64-1381-000, D, Oct. 31, 1988	do	Arkla Energy Resources, a division of Arkla, Inc., Sooner Trend Field, Kingfisher County, Oklahoma.	(7)
CI65-54-000, D, Oct. 27, 1988	do	Arkla Energy Resources, a division of Arkla, Inc., Milton, *et al.*, Fields Le Flore, *et al.*, Counties, Oklahoma.	(8)
CI66-292-001, D, Sept. 19, 1988	Anadarko Petroleum Corporation, P.O. Box 1330, Houston, TX 77251-1330.	Panhandle Eastern Pipe Line Company, Morton County, Kansas.	(9)
CI68-1022-004, C, Oct. 28, 1988	Tenneco Oil Company	Tennessee Gas Pipeline Company, Offshore Texas and Louisiana.	(10)
CI82-180-001, F C, Oct. 24, 1988	Sun Exploration and Production Company	Transcontinental Gas Pipe Line Corporation, M.A. Beckman Unit, White Kitchen Field, LaSalle County, Texas.	(11)
CI82-306-002, E, Nov. 2, 1988	Diamond Shamrock Offshore Partners, Limited Partnership, 717 N. Harwood Street, Room 3156, Dallas, TX 75201.	Trunkline Gas Company, Block A-542, High Island Area, South Addition, Offshore Texas.	(12)
CI85-643-001, C, Oct. 31, 1988	Exxon Corporation, P.O. Box 2180, Houston, TX 77252-2180.	Texas Eastern Transmission Corporation, South Pass Blocks 93 and 94, Offshore Louisiana.	(13)
CI89-23-000, B, Oct. 21, 1988	C.H. Todd, Inc., 300 W. Douglas, Suite 600, Wichita, KS 67202-2988.	K N Energy, Inc., Camrick G A Field, Beaver County, Oklahoma.	(14)
CI89-24-000, (G-6631), D, Oct. 24, 1988.	Sun Exploration and Production Company	Tennessee Gas Pipeline Company, Wendt Gas Unit, North Government Wells Field, Duval County, Texas.	(15)
CI89-28-000 (CI68-871), D, Oct. 25, 1988.	Tenneco Oil Company	El Paso Natural Gas Company, Worsham-Bayer Field, Reeves County, TX.	(16)
CI89-29-000, E, Oct. 27, 1988	Amoco Production Company, 1670 Broadway, Room 1754, Denver, CO 80202.	Williams Natural Gas Company, Hugoton Field, Finney County, Kansas.	(17)
CI89-30-000, E, Oct. 27, 1988	Sun Exploration and Production Company	Natural Gas Pipeline Company of America, Indian Basin Field, Eddy County, New Mexico.	(18)
CI89-31-000 (CI64-986), B, Oct. 27, 1988.	Tenneco Oil Company	Northern Natural Gas Company, Division of Enron Corp., Eumont Field, Lea County, New Mexico.	(19)
CI89-32-000 (CI70-1018), D, Oct. 27, 1988.	do	Ringwood Gathering Company, Ringwood Field, Major County, Oklahoma.	(20)
CI89-33-000 (G-10606), D, Oct. 27, 1988.	do	Natural Gas Pipeline Company of America, Mocane-Laverne Field, Beaver County, Oklahoma.	(21)
CI89-34-000 (CI84-398), E, Oct. 28, 1988.	do	Tennessee Gas Pipeline Company, Vermilion Block, 250, Offshore Louisiana.	(22)
CI89-35-000, F, Oct. 31, 1988	Mesa Operating Limited Partnership, P.O. Box 2009, Amarillo, TX 79189.	ANR Pipeline Company, Ship Shoal Block 115, Offshore Louisiana.	(23)
CI89-36-000, A, Oct. 31, 1988	OXY USA Inc., P.O. Box 300, Tulsa, OK 74102	Panhandle Eastern Pipe Line Company, Hugoton Field, Morton County, Kansas.	(24)
CI89-37-000, A, Nov. 1, 1988	OXY USA Inc.	Colorado Interstate Gas Company, Greenwood Field, Morton County, Kansas.	(25)
CI89-39-000 (CI64-1034), D, Oct. 31, 1988.	Tenneco Oil Company and Clara B. Alvord	United Gas Pipe Line Company, Waskom Field, Harrison County, Texas.	(26)
CI89-41-000 (CI64-1034), D, Nov. 1, 1988.	Tenneco Oil Company	do	(26)
CI89-42-000 (CI77-339), D, Nov. 1, 1988.	do	El Paso Natural Gas Company, Leonard Queen S. Field, Lea County, New Mexico.	(27)
CI89-43-000 (CI74-190), D, Nov. 1, 1988.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, TX 75221.	Transwestern Pipeline Company, Atoka Field, Eddy County, New Mexico.	(28)
CI89-44-000 (CI85-278), D, Nov. 2, 1988.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	ANR Pipeline Company, West Cameron Block 560/ OCS-G 3283, Offshore Louisiana.	(29)
CI89-46-000 (CI67-189), D, Nov. 2, 1988.	Tenneco Oil Company	El Paso Natural Gas Company, Justin Field, Lea County, New Mexico.	(30)
CI89-49-000 (CI60-55), B, Nov. 2, 1988.	do	El Paso Natural Gas Company, Jalmat Field, Lea County, New Mexico.	(31)
CI89-51-000 (CI64-426), B, Oct. 26, 1988.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	El Paso Natural Gas Company, Lancaster Hills Field, Crockett County, Texas.	(32)
CI89-52-000 (CI79-389), D, Nov. 3, 1988.	Tenneco Oil Company	ANR Pipeline Company, Mocane-Laverne Field, Beaver County, Oklahoma.	(33)
CI89-54-000 (CI63-1435), B, Nov. 7, 1988.	do	Arkla Energy Resources, a division of Arkla, Inc., Carter North Field, Beckham County, Oklahoma.	(34)

[1] Effective August 1, 1988, Applicant acquired an additional 0.995000% interest in the South Fullerton Plant from Tenneco Oil Company. Applicant proposes to add this interest to its FERC Gas Rate Schedule Nos. 311 and 631 and related certificates.
[2] By assignment executed April 6, 1988, Applicant assigned its interest in certain acreage to Sohio Petroleum Company effective December 1, 1987.
[3] By assignment executed September 13, 1988, Applicant assigned its interest in certain acreage to Sue-Ann Oil & Gas Company, effective October 1, 1988.
[4] Effective December 1, 1987, Applicant assigned its interest in certain acreage to Maple Properties Corporation.

[5] By assignments executed January 9, 1987, Applicant assigned its interest in certain acreage to Foran Oil Company, effective December 1, 1986. By assignments executed January 15 and 21, 1987, Applicant assigned its interest in certain acreage to Mesa Operating Limited Partnership, effective December 1, 1986. By assignment executed January 21, 1987, Applicant assigned its interest in certain acreage to Mesa Operating Limited Partnership and Sohio Petroleum Company, effective December 1, 1986. By assignment executed January 13, 1987, Applicant assigned its interest in certain acreage to Cabot Petroleum Corporation, effective December 1, 1986.

[6] By assignment executed November 1, 1966, Applicant assigned certain interests in Roger P. Baker and Carl Baker, Jr. d/b/a Gas Engine & Compressor Service, effective October 1, 1966. Effective March 1, 1986, Applicant assigned certain interests to C. R. Bachtell.

[7] Effective February 1, 1984, Applicant assigned certain interests to Jack P. Speed.

[8] By assignment effective December 1, 1987, Applicant assigned its interest in the Carmen "A" Unit to Maple Properties Corporation.

[9] Applicant states that certain leases reverted to the lessor and the acreage was subsequently leased to J. M. Huber Corporation, Matagorda Island Exploration Corp., Roemer Oil Co. and Helmerick & Payne, Inc.

[10] Applicant entered into a new gas purchase and sales agreement dated July 22, 1988, which, among other things, adds interests.

[11] Effective March 1, 1988, Applicant acquired certain interests from Chilton Energy. Applicant proposes to add this interest to its FERC Gas Rate Schedule No. 748 and related certificate.

[12] Effective July 1, 1988, Applicant acquired certain interests from Sun Operating Limited Partnership.

[13] By agreement dated August 22, 1988, Applicant's contract dated July 24, 1985, was amended to add acreage.

[14] Applicant states that the well was plugged on September 10, 1973.

[15] By assignment executed July 8, 1988, Applicant assigned its interest in certain acreage to Fair Operating Inc., effective July 8, 1988.

[16] By assignment executed January 29, 1987, Applicant assigned its interest in the State Dudley Rudman Unit to Prudential-Bache Energy Income Production Partnership, *et al.*, effective December 1, 1987.

[17] Effective June 1, 1988, Applicant acquired certain interests from Huan, Inc.

[18] Effective May 1, 1988, Applicant acquired certain interests from Robert N. Enfield and Mona L. Enfield, Eugene E. Nearburg, L.R. French and Marcia Fuller French, and Ben A. Copass and Dorothy K. Copass. In addition, Applicant requests that certain interests covered under its certificate in Docket No. CI65-583 and related FERC Gas Rate Schedule No. 185 be covered under this proposed certificate and rate schedule.

[19] Applicant states that the Ellen Weir Gas Com #1 as plugged and abandoned on October 26, 1981, and the lease was surrendered to the landowner on December 10, 1981.

[20] Effective December 1, 1986, Applicant assigned certain interests to Star Production, Inc.

[21] Effective December 1, 1987, Applicant assigned the R. McFarland #1-33 property to Maple Properties Corporation.

[22] Effective December 31, 1987, Applicant acquired certain interests from Houston Oil & Minerals Corporation.

[23] Effective December 1, 1986, Applicant acquired certain interets from Mono Power Company.

[24] Effective January 14, February 28 and February 27, 1987, Applicant acquired new leases covering certain interests previously dedicated to Panhandle Eastern Pipe Line Company by APX Corporation. APX Corporation's leases covering these interests had reverted to the U.S. Government.

[25] Applicant is filing for authorization to continue a sale previously covered by Anadarko Production Company, the operator, under its certificate in Docket No. CI63-1368 and related FERC Gas Rate Schedule No. 71.

[26] By assignment dated July 2, 1986, Tenneco assigned its interest in certain leases to Winchester Oil Company, effective July 1, 1986.

[27] By assignment dated January 29, 1987, Applicant assigned its interest in certain acreage to Prudential-Bache Energy Income Production Partnership IIIP-12, *et al.*, effective December 1, 1987.

[28] By assignment executed February 27, 1987, Applicant assigned its interest in certain leases to Hondo Oil & Gas Company, effective January 1, 1987.

[29] By assignment dated October 1, 1987, Applicant assigned its interest in OCS-G-3283 to Chevron U.S.A. Inc., effective October 1, 1987.

[30] By assignment dated May 15, 1986, Applicant assigned its interest in certain acreage to Doug Grimes, effective May 1, 1986.

[31] By assignments executed July 13, 1981, December 22, 1981, and February 14, 1983, Applicant assigned its interests in certain acreage to John Yuronka. The respective assignments cover depths from the surface to 3,892', 3,898' and 3,462'. The original lessors retained rights below 4,000'. The intervals between the depths assigned and 4,000' are non-producing. Applicant states there is no further exploration potential for these non-producing intervals and it has no further intention of drilling on this acreage.

[32] Applicant states that the lease(s) were released or have expired.

[33] By assignments dated October 29, 1986, Applicant assigned its interests in certain leases to Spess Oil Company, effective November 1, 1986.

[34] Certain wells have been plugged and abandoned. By assignment executed November 10, 1969, Applicant assigned its interest in certain other acreage to Occidental Petroleum Corporation, effective September 1, 1969.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 88-26922 Filed 11-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD8900904T]

Designation of Tight Formation, Nacogdoches County, TX, Texas-9 Addition 7; Tight Formation Determination

November 16, 1988.

Take notice that on October 24, 1988, the Railroad Commission of Texas (Texas) submitted to this Commission its determination that an additional area of the Travis Peak Formation, known as the Appleby, N. (Travis Peak) Field located in Nacogdoches County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The application includes the Railroad Commission's order issued October 3, 1988, finding that the formation meets the requirements of this Commission's regulations set forth in 18 CFR Part 271.

Any person desiring to be heard or to protest Texas' determination should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214 (1988)). All such comments should be filed within 20 days after publication of this notice in the **Federal Register.** 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.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26925 Filed 11-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9610-005; Washington]

Puget Sound Power & Light Co.; Surrender of Preliminary Permit

November 16, 1988.

Take notice that Puget Sound Power & Light Company, permittee for the Tye River Project No. 9610, has requested that its preliminary permit be terminated. The preliminary permit was issued February 5, 1988, and would have expired January 31, 1991. The project would have been located on the Tye River, in King County, Washington within the Mt. Baker-Snoqualmie National Forest.

The permittee filed the request on October 17, 1988, and the preliminary permit for Project No. 9610 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the business day following that day. New applications involving this project site to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26926 Filed 11-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL89-5-000]

American Municipal Power-Ohio, Inc. v. Toledo Edison Co.; Filing

November 16, 1988.

Take notice that on October 26, 1988, American Municipal Power-Ohio, Inc., (AMP-Ohio) tendered for filing pursuant to Rule 206 of the Commission's Rules of Practice and Procedure a two-count,

formal Complaint against Toledo Edison Company (TECO). In count I, AMP-Ohio requests that the Commission require that TECO comply with Commission policy and the terms of settlement agreements approved in Docket Nos. ER80–571 and ER81–518 by ordering TECO to pay interest on monies which it has been required to refund by the terms of these agreements. In count II, AMP-Ohio seek additional refunds from TECO for the period June, 1983 through February, 1984, and pursuant to the Municipal Resale Service Reate Agreement filed and approved by the Commission in Docket No. ER84–165.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 16, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. TECO has been served a copy of the complaint by AMP-Ohio. TECO's answer shall be due on or before December 16, 1988.

Lois D. Cashell,

Secretary

[FR Doc. 88–26927 Filed 11–21–88: 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL89–6–000]

Cities of Anaheim, Azusa, Banning, Colton, and Riverside, CA v. Southern California Edison Co.; Filing

November 16, 1988.

Take notice that on November 2, 1988, Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California (Cities) tendered for filing, pursuant to section 205, 206, 306 and 309 of the Federal Power Act, 16 U.S.C. 824d, 824e, 825e and 825h and Rule 206 of this Commission's Rules of Practice and Procedure, 18 CFR 385.206, a Complaint and request for Expedited Hearing against Southern California Edison Company (Edison). By this action, Cities seek modification of the terms of the presently effective partial requirements rate schedule which is on file with this Commission as Edison's Rate Schedule FERC No. 15 24.3.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 16, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Edison has been served a copy of the complaint by Cities. Edison's answer shall be due on or before December 16, 1988.

Lois D. Cashell,

Secretary.

[FR Doc. 88–26928 Filed 11–21–88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89–22–000]

ANR Pipeline Co.; Petition

November 17, 1988.

Take notice that on November 14, 1988, ANR Pipeline Company ("ANR"), 500 Renaissance Center, Detroit, Michigan 48243 ("Applicant"), filed in Docket No. RP89–22–00 a "Petition For Waiver of Tariff Provisions" pursuant to Rule 207 of the Federal Energy Regulatory Commission's ("Commission") Regulations.

ANR seeks waiver of section 1.(a) of Rate Schedule SGS–1, which Rate Schedule is part of ANR's F.E.R.C. Gas Tariff, Original Volume No. 1. As set forth more fully in the Petition, grant of the Petition will allow ANR to waive the full requirements provision of its SGS–1 Rate Schedule when ANR undertakes transportation service for its sales customers served under the GSG–1 Rate Schedule.

Copies of this filing have been served on all of ANR's sales customers and interested State Commissions.

Any person desirng to be heard or to protest aid filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with Rules 214 and 211 of the Commission's Rules and Practice and Procedure. All such motions or protests should be filed on or before November 25, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will 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. 88–26929 Filed 11–21–88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89–24–000]

Colorado Interstate Gas Co.; Petition for Tariff Waiver

November 17, 1988.

Take Notice that on November 14, 1988, Colorado Interstate Gas Company ("CIG"), 2 North Nevada Avenue, Colorado Springs, Colorado 80903, filed in Docket No. RP89–24–000 a Petition for Waiver of Tariff Provisions pursuant to Rule 207 of the Federal Energy Regulatory Commission's ("Commission") Regulations.

CIG seeks waiver of Section 15.3 of the General Terms and Conditions of CIG's FERC Gas Tariff, Volume No. 1–A, and certain X–Rate Schedules of CIG's FERC Gas Taiff, Original Volume No. 2. As set forth more fully in the Petition, grant of the petition will allow CIG to waive the requirement that filings to change the Gas Research Institute ("GRI") Adjustment Charge be made at least 45 days prior to the proposed effective date. CIG states this waiver is necessary due to the timing of the Commission's action in Docket No. RP88–182–000 where the Commission has stated that it intends to establish the level of GRI funding on or before November 30, 1988.

Copies of this filing have been served on all of the holders of CIG's FERC Gas Tariff, Volume No. 1–A, affected Original Volume No. 2 customers, and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 25, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26930 Filed 11-21-88; 8:45 am]

BILLING CODE 6717-01-M

Exxon Corp. and Hunt Petroleum Corp.; Petition for Declaratory Order

November 15, 1988.

Take notice that on October 21, 1988, Exxon Corporation and Hunt Petroleum Corporation (Petitioners) filed a petition requesting the Commission to issue a declaratory order stating that it has no jurisdiction over a natural gas facility located in Alabama state waters in and adjacent to Mobile Bay. Petitioners contend that the facility is a gathering and production facility under section 1(b) of the Natural Gas Act (NGA) and is, therefore, exempt from jurisdiction and the certificate requirements of the NGA.

Petitioners state that the subject of this petition, the Exxon/Hunt Mobile Bay facility, will receive sour gas produced from Alabama state tracts and Outer Continental Shelf (OCS) leases owned by petitioners and will deliver the gas to an onshore processing and treating plant which is also owned by petitioners. The facility will also deliver sour produced water from the production platforms to the plant and will return fuel gas and fresh water from the plant to the platforms. The facility includes four separate lines which petitioners contend perform both production and gathering operations that are closely integrated with the operations of the production platforms and the onshore processing and treating plant. Petitioners, therefore, contend that under the primary function test set forth in *Farmland Industries, Inc.*, 23 FERC ¶ 61,063 (1983), the Exxon/Hunt Mobil Bay facility performs a gathering function which qualifies the facility for an exemption under section 1(b) of the NGA.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 214 or 211 of the Commission's rules of practice and procedure. All motions to intervene or protest should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, within 15 days after publication of this notice in the the **Federal Register**. All protests will be considered by the Commission, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of this petiton are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26931 Filed 11-21-88; 8:45am]

BILLING CODE 6717-01-M

Docket No. RP89-14-001]

Inter-City Minnesota Pipelines Ltd., Inc.; Tariff Filing

November 16, 1988.

Take notice that on November 7, 1988, Inter-City Minnesota Pipelines Ltd., Inc. ("Inter-City"), 245 Yorkland Boulevard, North York, Ontario, Canada MJ2 1R1, filed substitute tariff sheets in the above-captioned proceeding.

Inter-City states that the substitute sheets reflect changes in its PGA tariff language pursuant to Order Nos. 483 and 483-A, and Inter-City's compliance filing submitted in Docket No. RP88-225-000. The sheets reflect changes only in Inter-City's annual and quarterly PGA filing requirements.

Copies of the filing were served on Inter-City's jurisdictional customers and interested state commissions.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426, in accordance with Rules 208 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 25, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-26932 Filed 11-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-151-000]

Tennessee Gas Pipeline Co.; Request Under Blanket Authorization

November 17, 1988.

Take notice that on November 9, 1988, Tennessee Gas Pipeline Company, (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89-151-000 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 Superior Natural Gas Corporation (Superior), a marketer, acting on behalf of itself and Walter Oil & Gas Corporation, under the blanket 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 that is on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement dated September 20, 1988, it proposes to transport up to 50,000 dekatherms (dt) per day equivalent of natural gas on an interruptible basis for Superior from points of receipt listed in Exhibit "A" of the agreement to delivery points also listed in Exhibit "A". Such transportation service may involve interconnections between Tennessee and various transporters. Tennessee states that it would receive the gas at existing points on its system located offshore Texas and offshore Louisiana, and in the states of Texas, Louisiana, Mississippi and Alabama, and that it would transport and redeliver the gas in multiple states at various delivery points.

Tennessee advises that service under § 284.223(a) commenced Octoberr 1, 1988, as reported in Docket No. ST89-405 (filed October 28, 1988). Tennessee further advises that it would transport 50,000 dt on an average day and 18,250,000 dt annually.

Any person or the Commission's staff may, within 45 days after 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. 88-26933 Filed 11-21-88; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $184,267.15 obtained as a result of a Consent Order that the DOE entered into with Lone Star Oil and Chemical Company (Case No. KEF–0106), a reseller of crude oil located in Dallas, Texas. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed on or before December 22, 1988, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All comments should conspicuously display a reference to Case Number KEF–0106.

FOR FURTHER INFORMATION CONTACT: Thomas L. Weiker, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–2390.

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to an April 18, 1987 Consent Order between the DOE and Lone Star Oil and Chemical Company (Lone Star). The Consent Order resolves certain disputes between the firm and the DOE concerning Lone Star's possible violations of DOE regulations in its sales of crude oil. The settlement agreement covers the period June 1978 through January 1980.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account in the amount of $184,267.15, funded by Lone Star pursuant to the Consent Order. The determination proposes that the money be placed into a pool of crude oil moneys for distribution pursuant to the DOE's Modified Statement of Restitutionary Policy for crude oil claims.

Any member of the public may submit written comments regarding the proposed refund procedures. Such parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in this proceeding will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue SW., Washington, DC 20585.

Dated: November 16, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Lone Star Oil and Chemical Company.

Date of Filing: March 10, 1988.

Case Number: KEF–0106.

On March 10, 1988, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a Petition for the Implementation of Special Refund Procedures (Petition) with the Office of Hearings and Appeals (OHA). In the Petition, the ERA requests that the OHA formulate and implement procedures for distributing funds obtained through the settlement of enforcement proceedings involving the DOE and Lone Star Oil and Chemical Company. 10 CFR Part 205, Subpart V.[1] This Proposed Decision sets forth the OHA's tentative plan for distributing these funds to qualified refund applicants.

During the period June 1978 through January 1980, Lone Star was a "reseller" of crude oil as that term is defined in 10 CFR 212.31. Lone Star was therefore subject to the provisions of the Mandatory Petroleum Price Regulations. 10 CFR Part 212. The ERA conducted an extensive audit of Lone Star's operations and found in a Proposed Remedial Order (PRO) that the firm had violated applicable DOE pricing regulations in its sales of crude oil. The PRO was issued as a final Remedial Order (RO) by the OHA on August 26, 1986. *Lone Star Oil and Chemical Company/Michael A. McAlister,* 14 DOE ¶ 83,044 (1986). Lone Star filed an appeal of the RO on October 10, 1986. *appeal docketed* No. 86–35–000 (FERC October 10, 1986).

In order to settle the claims and disputes between Lone Star and the DOE that were raised in the RO, the two parties entered into a Consent Order on April 18, 1987 (the Consent Order).[2] In accordance with the terms of the Consent Order, Lone Star paid $184,267.15 to the DOE on February 8, 1988. The Consent Order does not make any provision for the distribution of the funds remitted by Lone Star. In its Petition, the ERA states that it has been unable to identify persons injured by the overcharges or the amount that any individual may be entitled to receive. In accordance with the provisions of 10 CFR Subpart V, the ERA therefore requests that the OHA establish appropriate procedures for the distribution of the funds remitted by Lone Star.

I. Proposed Refund Procedures

On July 28, 1986, as a result of the court-approved Settlement Agreement in *In Re: The Department of Energy Stripper Well Exemption Litigation,* M.D.L. No. 378, the DOE issued a Modified Statement of Restitutionary Policy (MSRP) providing that crude oil overcharge or settlement revenues will be divided among the States, the United States Treasury, and eligible purchasers of crude oil and refined products. 51 FR 27899 (August 4, 1986). Up to 20 percent of the crude oil violation or settlement amounts may be reserved to satisfy claims from injured parties that purchased refined petroleum products between August 19, 1973 and January 27, 1981 (the crude oil price control period). The MSRP also calls for the remaining funds, after deducting the reserve, to be disbursed for indirect restitution. The MSRP states that this disbursement should be made both to the federal government and to the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa and the Northern Marianna Islands (the States). Accordingly, once all valid claims are paid, any remaining funds will be divided equally between the federal government and the States. The federal government's share of the unclaimed funds will ultimately be deposited into the general fund of the Treasury of the United States.

The Lone Star funds are subject to the MSRP. Therefore, we propose to institute a claims process for the

[1] Lone Star Oil and Chemical Company was a sole proprietorship owned by Michael A. McAlister. Accordingly, Michael A. McAlister was personally liable for the violations alleged against Lone Star Oil and Chemical Company. Lone Star Oil and Chemical Company and Michael A. McAlister will be collectively referred to as Lone Star throughout the rest of this Proposed Decision and Order.

[2] Under the provisions of the Consent Order, Lone Star agreed to withdraw its RO appeal and waived its right to further administrative appeal or any judicial review of the RO. *See Consent Order,* ¶ 13.

$184,267.15 in funds involved in this proceeding. In the present case, we have decided to reserve the full 20 percent, or $36,853.43, of the alleged violation amount, plus a proportionate share of the accrued interest, for direct restitution to claimants that purchased refined petroleum products during the crude oil price control period. Refunds to eligible claimants that purchased refined petroluem products will be calculated on the basis of a volumetric refund amount derived by dividing the Lone Star refund pool of $184,267.15 by the total consumption of petroleum products in the United States during the crude oil price control period (2,020,997,335,000 gallons). *Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 at 88,867 (1986) (*Mountain Fuel*). This approach reflects the fact that crude oil overcharges were spread to every region by the Entitlements Program.[3] The volumetric amount for the crude oil pool established in this proceeding is therefore $0.000000091176 per gallon of refined products purchased ($184,267.15/2,020,997,335,000=$0.000000091176).

We propose that the remaining 80 percent of the funds, or $147,413.72, be disbursed equally to the federal government and to the States for indirect restitution. We propose to direct the DOE's Office of the Controller to separate and divide this amount, and to distribute $73,706.86 plus appropriate interest to the States' crude oil tracking account [4] and $73,706.86 plus appropriate interest to the federal government's crude oil tracking account.

II. Proposed Presumptions Concerning Injury

We propose that the process the OHA will use to evaluate claims based on crude oil violations will be modeled after the process the OHA has used to evaluate claims based on alleged refined product overcharges pursuant to 10 CFR Part 205, Subpart V. *Mountain Fuel*, 14 DOE at 88,869. As in non-crude oil cases, applicants generally are required to document their purchase volumes and to prove that they were injured by the alleged violations (*i.e.*, that they did not pass through the alleged overcharges to their customers). We propose to apply the standards for showing injury that the OHA has developed in analyzing non-crude oil claims. *See, e.g., Dorchester Gas Corp.*, 14 DOE ¶ 85,240 (1986). There standards include a finding that end-users and ultimate consumers whose businesses are unrelated to the petroleum industry were injured by a consent order firm's alleged overcharges. From our experience with Subpart V refund proceedings, we believe that potential claimants will fall into the following categories: (1) End-users, *i.e.*, consumers that used refined petroleum products; (2) regulated non-petroleum industry entities that used Lone Star products in their businesses, or cooperatives that purchased Lone Star products for their businesses; and (3) refiners, resellers or retailers that resold refined petroleum products.

We further propose to adopt certain presumptions that will permit claimants to participate in the refund process without incurring inordinate expense and will enable the OHA to consider refund applications in the most efficient manner possible. *American Pacific International*, 14 DOE ¶ 85,158 (1986). First, we propose to adopt a presumption that the alleged overcharges were dispersed equally in all sales of refined products made during the crude oil price control period and that refunds should therefore be made on a pro rata or volumetric per gallon basis. In the absence of better information, a volumetric refund assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

We also propose to adopt a number of injury presumptions that will simplify and streamline the refund process. We will discuss these presumptions and the showing that each type of applicant must make in Section II (A) below.

(A) *Specific Application Requirements for Each Category of Refund Applicants*—(1) *Refund Applications of End-Users.* We proposed to adopt a finding that end-users or ultimate consumers whose businesses are unrelated to the petroleum industry were injured by the alleged overcharges settled in the Consent Order. Unlike regulated firms in the petroleum industry, end-users generally were not subject to price controls during the consent order period. Moreover, they were not required to keep records that justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceedings. *Texas Oil and Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). Therefore, we propose that end-users of petroleum products need only establish that they were ultimate consumers of a specific volume of petroleum products to qualify for a refund of their full allocable share.

(2) *Refund Applications of Cooperatives and Regulated Firms.* We also propose that firms whose price for goods and services are regulated by a government agency or by the terms of a cooperative agreement will not be required to demonstrate injury as a result of alleged crude oil overcharges. Although such firms, *e.g.*, public utilities that used petroleum products as feedstocks and agricultural cooperatives, generally would have passed any overcharges through to their customers, they generally would pass through any refunds as well. Therefore, we will require such applicants to certify that they will pass any refund received through to their customers and to provide us with a detailed explanation of how they plan to accomplish this restitution. We will also require them to explain how they will notify the appropriate regulatory body or membership group of their receipt of the refund money. *See Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982). However, utility claimants whose claims are based on 5,000,000 gallons or less will *not* be required to certify that they will pass the refunds through to their customers. We further note that a cooperative's sales of petroleum products to non-members will be treated in the same manner as sales by other resellers. Cooperatives should therefore provide the DOE with a breakdown of their sales volumes to members and non-members.

(3) *Refund Applications of Resellers, Retailers and Refiners.* We propose to adopt a presumption that resellers, retailers and refiners were generally able to pass any crude oil overcharges through to their customers. In order to qualify for a refund, resellers, retailers and refiners must therefore show that they were unable to pass through the effects of crude oil overcharges to their own customers. It will be extremely difficult for resellers and retailers to make such a showing. The Entitlements program spread crude oil overcharges evenly throughout the industry. Because crude oil overcharges equally affected *all* resellers and retailers (*i.e.*, the reseller and retailer applicants and their

[3] The Department of Energy established the Entitlements Program to equalize access to the benefits of crude oil price controls among all domestic refiners and their downstream customers. To accomplish this goal, refiners were required to make transfer payments among themselves through the purchase and sale of entitlements to the lowest priced crude oil. This balancing mechanism had the effect of evenly dispersing overcharges resulting from crude oil miscertifications throughout the domestic refining industry. *See, e.g., Amber Refining, Inc.*, 13 DOE ¶ 85,217 (1985).

[4] The funds in the States' crude oil tracking account are distributed to the 56 States, territories and possessions of the United States whenever the total amount of the account equals 10 million dollars or as determined by the Director of the OHA.

competitors), regardless of supplier, we believe that resellers' and retailers' selling prices generally increased to the same degree. *See A. Tarricone, Inc.*, 15 DOE ¶ 85,495 to 88,896 (1987) (*Tarricone*). It would be unreasonable to presume, therefore, that any reseller or retailer applicants in Subpart V crude oil refund proceedings were adversely affected or competitively injured by crude oil overcharges. Instead, we require a detailed demonstration that a reseller or retailer was unable to pass through the effects of crude oil overcharges to its customers. For example, a gasoline station would need to show that the minute fraction of a cent per gallon crude oil overcharge was absorbed by it rather than passed through to its customers as a result to overall higher prices in the gasoline market in its area.

(B) *General Refund Application Requirements.* In addition to the specific requirements outlined above, all Applications for Refund must be in writing and must be signed by the applicant. The OHA has issued a number of Decisions and Orders explaining crude oil refund procedures. Two Decisions describing crude oil refund procedures in detail are *Ernest Allerkamp*, 17 DOE ¶ 85,079 (1988), and *Tarricone*, 15 DOE ¶ 85,495 (1987). Individuals who *have* already filed a crude oil refund application will *not* be required to submit another application in order to be considered for a share of the money paid to the DOE by Lone Star.

It is therefore ordered that the refund amount remitted to the Department of Energy by Lone Star Oil and Chemical Company pursuant to the Consent Order executed on April 18, 1987 will be distributed in accordance with the foregoing Decision.

[FR Doc. 88-26952 Filed 11-21-88; 8:45 am]
BILLING CODE 6450-01-M

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 10]

Agency Forms Submitted for OMB Review

AGENCY: Export-Import Bank of the United States.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, Eximbank has submitted a proposed collection of information to the Office of Management and Budget for review.

Purpose: The purpose of the proposed report is to fulfill a statutory mandate, the Omnibus Trade and Competitiveness Act of 1988, which requires Eximbank to provide a written report regarding tied and mixed credits to Congress.

Summary:

(1) *Type of Request:* new
(2) *Number of Forms Submitted:* one
(3) *Form Number:* EIB 89-1
(4) *Title of Information Collection:* Tied Aid Interview Topics
(5) *Frequency of Use:* once
(6) *Respondents:* private sector U.S. exporters
(7) *Estimated Total Number of Responses:* 25
(8) *Estimated Total Number of Hours Needed to Fill Out the Form:* 2

Additional Information and Comments: Copies of the proposed application may be obtained from Helene Wall, Agency Clearance Officer (202) 566-8111. Comments and questions should be directed to Francine Picoult, Office of Management and Budget, Information and Regulatory Affairs, Room 3208, New Executive Office Building, Washington, DC 20503, (202) 395-7340. All comments should be submitted within two weeks of this notice; if you intend to submit comments but are unable to meet this deadline, please advise Francine Picoult by telephone that comments will be submitted late.

Date: November 16, 1988.

Helene H. Wall,

Agency Clearance Officer.

[FR Doc. 88-27018 Filed 11-21-88; 8:45 am]
BILLING CODE 6690-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Revocations; Servicios Internacionales, Inc., et al.

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 2528
Name: Servicios Internacionales, Inc. dba Sico
Address: 2101 Austin, Ste. 210, Houston, TX 77002
Date Revoked: October 26, 1988
Reason: Failed to maintain a valid surety bond

License Number: 3111
Name: Seacon Express International, Inc.
Address: 1111 Watsoncenter Road, Ste. D & E, Carson, CA 90745
Date Revoked: October 28, 1988
Reason: Surrendered license voluntarily
License Number: 3053
Name: Rider Distributors, Inc.
Address: 1671 W. 38th Place, Unit 1408, Hialeah, FL 33012
Date Revoked: November 3, 1988
Reason: Failed to maintain a valid surety bond
License Number: 2415
Name: Gir World Forwarders, Inc.
Address: 45 John Street, New York, NY 10038
Date Revoked: November 3, 1988
Reason: Failed to maintain a valid surety bond
License Number: 2783
Name: Amex International Shipping, Inc.
Address: 1551 W. Redondo Beach Blvd., Ste. 200, Gardena, CA 90247
Date Revoked: November 5, 1988
Reason: Failed to maintain a valid surety bond

Robert G. Drew,

Director, Bureau of Domestic Regulation.

[FR Doc. 88-26904 Filed 11-21-88; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor-Management Cooperation Program; Application Solicitation

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final FY 1989 program guidelines/application solicitation for National Labor-Management Conference.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is publishing the final Fiscal Year 1989 Program Guidelines/Application Solicitation for the National Labor-Management Conference Program.

FOR FURTHER INFORMATION CONTACT: Peter L. Regner, 202/653-5320.

Labor-Management Cooperation Program—FY 1989 Application Solicitation for the National Labor-Management Conference

A. Introduction

The following is the final solicitation for the Fiscal Year 1989 cycle of the Labor-Management Cooperation Program as it pertains to the support of the Fifth National Labor-Management Conference scheduled for May 30–June

1, 1990. A separate solicitation has been issued for grants to support labor-management committees. The Program Description and other sections that follow as well as a separately published FMCS Financial and Administrative Grants Manual make up the basic guidelines, criteria, and program elements a potential applicant must know in order to develop an application for funding consideration. Directions for obtaining an application kit may be found in Section G.

B. Program Description

Objectives

The Labor-Management Cooperation Act of 1978 was designed to promote the use of joint labor-management committees to deal with issues of mutual concern between labor and management. Since fiscal year 1981, the Federal Mediation and Conciliation Service has awarded about 100 grants for the direct support of these joint committees. In an effort to promote this concept to a larger audience, FMCS has also awarded four grants to support four national conferences which highlight developments and experiences of such committees around the nation. A total of about 4,700 persons have attended these four conferences.

The Fifth National Labor-Management Conference will be supported by FMCS through a competitive cooperative agreement. All application budget requests should focus directly on supporting the conference in cooperation with FMCS.

Required Program Elements

1. *Problem Statement*—The application, which should have numbered pages, must discuss what problems or issues face today's business and labor leaders that can be addressed at the conference. This section basically discusses *why* such a conference is needed.

2. *Results or Benefits Expected*—The application must discuss *what* the conference is expected to accomplish.

3. *Approach*—This section specifies in detail *how* the applicant will assist FMCS in accomplishing the goals and objectives. At a minimum, the following elements must be included:

(a) What services will the applicant provide in the planning, design, and marketing of the conference.

(b) What services will the applicant provide in the administration of the conference.

(c) What services will the applicant provide in the evaluation of the conference.

(d) What kind of technical assistance will the applicant provide as a follow-up to the conference.

(e) What experience has the applicant had in supporting conferences and/or labor-management cooperation.

(f) What kind of computer-based registration system will be used and its capacities.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as *WHEN* each will be completed.

5. *Other Requirements*—Applicants are also responsible for the following:

(a) a detailed budget narrative based on applicable policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(b) A position description or resume of a proposed/actual person who will act as the Conference Administrator. The Conference Administrator must reside in the Washington, DC area;

(c) A copy of the proposed agreement or contract between the applicant and the Conference Administrator;

(d) An acknowledgement that the selection of the Conference Administrator is subject to prior approval by FMCS.

Selection Criteria

The following criteria will be used in scoring and selecting an applicant for award:

(1) The extent to which an applicant has identified an understanding of the issues and problems facing labor and management that can be addressed through the conference.

(2) The appropriateness of the expectations of what can be accomplished through the conference.

(3) The feasibility of the approach proposed in carrying out the conference. This includes an evaluation of how comprehensive the proposed support services are and the feasibility of the applicant in providing the services in a satisfactory manner.

(4) The feasibility and thoroughness of the implementation plan and major milestones.

(5) The cost effectiveness and fiscal soundness of the applicant's budget request.

C. Eligibility

Applicant eligibility is limited to national scope labor management committees/organizations or private non-profit organizations which can document that a major purpose or function of their organization has been the improvement of labor relations.

D. Allocations

FMCS has allocated $70,000 for this effort. This amount, plus any project income, must cover all conference expenses including speaker travel, postage, food and beverage, salary, audio-visual equipment rental, etc. Requests for blanket or fixed indirect (overhead) costs will be denied.

E. Length of Award and Match

The length of award will be 19 months beginning March 1, 1989 and ending September 30, 1990. No matching funds will be required for this cooperative agreement.

F. Application submission and Review

Applications must be postmarked no later than January 28, 1989. No applications or supplementary materials can be accepted after the deadline. It is the responsibility of the applicant to ensure that the application is correctly postmarked by the U.S. Postal Service or other carrier. An original application, plus one copy should be addressed to the Office of Labor-Management Grant Programs, FMCS, 2100 K Street, NW., Washington, DC 20427.

After the deadline has passed, all eligible conference applications will be reviewed, scored, and selected by the Director, Labor-Management Grant Programs who also serves as Conference Coordinator. Due to the special nature of this cooperative agreement, a Grant Review Board will not be used. All conference applicants will be notified of results prior to February 28, 1989. Applications submitted after the deadline date or that fail to adhere to eligibility or other major requirements may be administratively rejected by the Director, Labor-Management Grant Programs.

G. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. These kits, as well as additional information or clarification, can be obtained free of charge by contacing Peter L. Regner, Labor-Management Grant programs, FMCS, 2100 K Street, NW., Washington, DC 20427 or by calling (202) 653–5320.

Kay McMurray,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 88–26968 Filed 11–21–88; 8:45 am]

BILLING CODE 6732–01–M

Labor-Management Cooperation Program; Application Solicitation

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final FY 1989 Program Guidelines/Application Solicitation for Labor-Management Committees.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is publishing the final Fiscal Year 1989 Program Guidelines/Application Solicitation for the Labor-Management Cooperation Program. The program is supported by Federal funds authorized by the Labor-Management Cooperation Act of 1978, subject to annual appropriations.

FOR FURTHER INFORMATION CONTACT: Peter L. Regner, 202/653–5320.

Labor-Management Cooperation Program—Application Solicitation for Labor-Management Committees—FY 1989

A. Introduction

The following is the final solicitation for the Fiscal Year 1989 cycle of the Labor-Management Cooperation Program as it pertains to the support of labor-management committees. A separate solicitation will be issued for support of the Fifth National Labor-Management Conference. These guidelines represent the continuing efforts of the Federal Mediation and Conciliation Service to implement the provisions of the Labor-Management Cooperation Act of 1978 which was initially implemented in Fiscal Year 1981. The Act generally authorizes FMCS to provide assistance in the establishment and operation of plant, area, public sector, and industry-wide labor-management committees which:

(A) Have been organized jointly by employers and labor organizations representing employees in that plant, area, government agency, or industry; and

(B) Are established for the purpose of improving labor-management relationships, job security, and organizational effectiveness; enhancing economic development; or involving workers in decisions affecting their jobs, including improving communication with respect to subjects of mutual interest and concern.

The Program Description and other sections that follow, as well as a separately published FMCS Financial and Administrative Grants Manual, make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a plant, area-wide, industry, or public sector labor-management committee. Directions for obtaining an application kit may be found in Section I. A copy of the Labor-Management Cooperation Act of 1978 follows this solicitation and should be reviewed in conjunction with this solicitation.

B. Program Description

Objectives

The Labor-Management Cooperation Act of 1978 identifies the following seven general areas for which financial assistance would be appropriate:

(1) To improve communication between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance in the formation and operatoin of labor-management committees.

The primary objective of this program is to encourage and support the establishment and operation of joint labor-management committees to carry out specific objectives that meet the aforementioned general criteria. The term "labor" refers to employees represented by a labor organizations and covered by a formal collective bargaining agreement. These committees may be found at either the plant (worksite), area, industry, or public sector levels. A plant or worksite committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon city, county, continguous multicounty, or statewide jurisdictions. An industry committee generally consists of a collection of agencies or enterprises and related labor unions producing a common product or service in the private sector on a local, state, regional, or nationwide level. A public sector committee consists of government employees and managers in one or more units of a local or state government. Those employees must be covered by a formal collective bargaining agreement. Employees covered by a so-called "meet and confer" agreement are not eligible under this program. In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

In FY89, competition will be open to plant, area, private industry, and public sector committees. In-plant committee applications should offer an innovative or unique effort. All application budget requests should focus directly on supporting the committee. Applicants should avoid seeking funds for activities that are clearly available under other Federal programs (e.g., job training, mediation of contract disputes, etc.).

Required Program Elements

1. *Problem Statement*—The application, which should have numbered pages, must discuss in detail what specific problem(s) face the plant, area, government, or industry and its workforce that will be addressed by the committee. Applicants must document the problem(s) using as much relevant data as possible and discuss the full range of impacts these problem(s) could have or are having on the plant, government, area, or industry. An industrial or economic profile of the area and workforce might prove useful in explaining the problem(s). This section basically discusses *WHY* the effort is needed.

2. *Results or Benefits Expected*—By using specific goals and objectives, the application must discuss in detail *WHAT* the labor-management committee as a demonstration effort will accomplish during the life of the grant. While a goal of "improving communications between employers and employees" may suffice as one over-all goal of a project, the objectives must, whenever possible, be expressed in measurable terms. Applicants should focus on the impacts or changes that the committee's efforts will have. Existing committees should focus on *expansion* efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the foundation for future monitoring and evaluation efforts.

3. *Approach*—This section of the application specifies *HOW* the goals and objectives will be accomplished. At a minimum, the following elements must be included in all grant applications:

(a) A discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) A listing, by name and title, of all existing or proposed members of the labor-management committee. The application should also offer a rationale for the selection of the committee members (e.g., members represent 70% of the area or plant workforce).

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as resumes for staff already on board:

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees (i.e., in existence at least 12 months prior to the submission deadline), a discussion of past efforts and accomplishments and how they would integrate with the proposed expanded effort.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for *WHEN* they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant using October 1989 as the start date. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

5. *Evaluation*—Applicants must provide for either an external evaluation or an internal assessment of the project's success in meeting its goals and objectives.

An evaluation plan must be developed which will briefly discuss what basic questions or issues the assessment examine and what baseline data the committee staff already has or will gather for the assessment. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

6. *Letters of Commitment*—Applications must include current letters of commitment from *all* proposed or existing committee participants and chairpersons. These letters should indicate that the participant support the application and will attend scheduled committee meetings. A blanket letter signed by a committee chairperson or other official on behalf of all members is not acceptable.

7. *Other Requirements*—Applicants are also responsible for the following:

(a) The submission of data indicating approximately how many employees will be covered or represented through the labor-management committee;

(b) From existing committes, a copy of the existing staffing levels, a copy of the by-laws, a breakout of annual operating costs and identification of all sources and levels of current financial support;

(c) A detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective bargaining agreements; and

(e) An assurance that committee meetings will be held at least every other month and that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address.

(2) The degree to which appropirate and measurable goals and objectives have been developed to address the problems/needs of the area. For existing committees, the extent to which the committee will focus on expanded efforts.

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived likelihood of accomplishing the intended project results. For in-plant applicants, this section will address the degree of innovativeness or uniqueness of the proposed effort.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application.

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates.

(6) The cost effectiveness and fiscal soundness of the application's budget request, as well as the application's feasibility vs. its goals and approach.

(7) The overall feasibility of the proposed project in light of all of the information presented for consideration; and,

(8) The value to the goverment of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978. This includes such factors as innovativeness, site location, cost, and other qualities that impact upon an applicant's value in encouraging the labor-management committee concept.

C. Eligibility

Eligible grantees include State and local units of government, private, non-profit labor-management committtees (or a labor or management entity on behalf of a committee that will be created through the grant), and certain third party private non-profit entities on behalf of one or more committees to be created through the grant. Federal government agencies and their employees are not eligible.

Third party private, non-profit entities which can document that a major purpose or function of their organization has been the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under Part B must be followed. Applications from third-party entities must document particularly strong support and participation from all labor and management parties with whom the applicant will be working. Applicants from third-parties which do not directly support the operation of a new or expanded committee will not be deemed eligible.

Applicants who received funding under this program in the past for committee operations are generally not eligible to apply. The only exception applies to third-party grantees who seek funds on behalf of an entirely different committee.

D. Allocations

FMCS Has allocated $930,000 for this program. Specific funding levels will not be established for each type of committee. Instead, the review process will be conducted in such a manner that at least two awards will be made in each category (plant, industry, public sector, and area), providing that FMCS determines that at least two outstanding applications exist in each category. After these applications are selected for award, the remaining applications will

be awarded according to merit without regard to category.

FMCS reserves the right to retain up to 5 percent of the FY89 appropriation to contract for program support purposes other than administration.

E. Dollar Range and Length of Grants and Continuation Policy

Awards to continue and expand existing labor-management committees (i.e., in existence 12 months prior to the submission deadline) will be for a period of 12 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additional 12 months at double the initial cash match ratio.

The total project period can thus normally be no more than 24 months.

Initial awards to establish new labor-management committtees (i.e., not yet established or in existence less than 12 months prior to the submission deadline), will be for a period of 18 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additonal 18 months at doublt the initial cash match ratio. The total project period can thus normally be no more than 36 months.

The dollar range of awards is as follows:

—Up to $35,000 in FMCS funds per annum for existing in-plant applicants;
—Up to $50,000 over 18 months for new in-plant committee applicants;
—Up to $75,000 in FMCS funds per annum for exisitng area, industry and public sector committees applicants;
—Up to $100,000 per 18-month period for new area, industry, and public sector committee applicants.

Applicants are reminded that these figures represent maximum Federal funds only. If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and its required grantee match, applicants may supplement these funds through voluntary contributions from other sources.

F. Match Requirements and Cost Allowability

Applicants for new labor-management committees must provide at least 10 percent of the total allowable project costs. Applicants for existing committees must provide at least 25 percent of the total allowable project costs. All matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by grant-suported efforts are considered "project income," and may not be used for matching purposes.

It will be the policy of this program to reject all requests for indirect or overhead costs. In additon, grant funds must not be used to supplant private or local/state government funds currently spent for these purposes. Funding requests form existing committees should focus entirely on the costs associated with the expansion efforts. Also, under no circumstances may business or labor officials participating on a labor-management committee be compensated out of grant funds for *time* spent at committee meetings or *time* spent in training sessions. Applicants generally will not be allowed to claim all or a portion of *existing* staff time as an expense or match contribution.

For a more complete discussion of cost allowability, applicants are encouraged to consult the FY89 FMCS Financial and Administrative Grants Manual which will be included in the application kit.

G. Application Submission and Review Process

Applications should be signed by *both* a labor management representative and be postmarked no later than May 6, 1989. No applications or supplementary materials can be accepted after the deadline. It is the responsibility of the applicant to ensure that the application is correctly postmarked by the U.S. Postal Service or other carrier. An original application, containing numbered pages, *plus three copies* should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Grant Programs, 2100 K Street, NW., Washington, DC 20427.

After the deadline has passed, all eligible applications except for those for the National Conference, will be reviewed and scored initially by one or more FMCS Grant Review Boards. The Board(s) will decide which applications will be recommended for funding consideration. The Director, Labor-Management Grant Programs, will finalize the scoring and selection process for those applications recommended by the Board(s).

All FY89 grant applicants will be notified of results and all grant awards will be made before September 30, 1989. Applications submitted after the deadline date or that fail to adhere to eligibility or other major requirements will be administratively rejected by the Director, Labor-Management Grant Programs.

H. Application Development Training

In FY89, FMCS will offer a half-day training program to assist potential applicants with the development and writing of an FMCS grant application. This training session will be conducted in Washington, DC., on December 8, 1988. Individuals interested in attending the session should contact FMCS to reserve a space. See Section I for contact information.

I. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. These kits, as well as additional information or clarification, can be obtained free of charge by contacting Lee A. Buddendeck or Peter L. Regner, Federal Mediation and Conciliation Service, Labor-Management Grant Programs, 2100 K Street, NW., Washington, DC 20427; or by calling 202/653–5320.

Kay McMurray,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 88–26970 Filed 11–21–88; 8:45 am]

BILLING CODE 6732-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Statement of Organization, Functions, and Delegations of Authority; Health Care Financing Administration

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA) (**Federal Register**, Vol. 48, No. 198, pp. 46434–46448, dated Wedneday, October 12, 1983) is amended to reflect the establishment of the Prescription Drug Implementation Task Force in the Bureau of Program Operations in the Office of the Associate Administrator for Operations. This task force will: (1) Develop guidelines for and implement electronic point of sale processing for Medicare prescription drug claims (at participating pharmacies); (2) conduct surveys and studies to effectively determine prescription drug costs and other costs associated with operating

the program; (3) standardize formats for claims submission, receipts, and telephone prescriptions; and (4) develop audit and utilization review guidelines for drug processors.

The specific amendment to Part F. is described below:

• Section FP.20.A.5, Prescription Drug Implementation Task Force (FPA–2) is added to reflect the establishment of a focal coordinating point for the development of new operational requirements. The new section reads as follows:

5. Prescription Drug Implementation Task Force (FPA–2).

Oversees the operational implementation of the Medicare prescription drug benefit including home intravenous and immunosuppressive drug therapy. Develops Requests for Proposals in order to contract with entities to process prescription drug claims. Develops the standard format for claims submission. Develops the standard receipt for beneficiaries' use. Responsible for the implementation of electronic point of sale processing at participating pharmacies. Develops procedures for conducting enrollment of participating pharmacies. Develops guidelines for the provision of electronic point of sale technology to participating pharmacies. Develops utilization review guidelines for use by the drug claim processors. Develops audit guidelines for use of the drug claims procedures. Establishes an appeals procedure for drug claims. Conducts surveys of average wholesale costs of prescription drugs. Conducts studies of wholesale and retail prices of prescription drugs. Develops Physician Guide of 500 most prescribed drugs. Develops uniform notice on telephone prescriptions. Develops performance standards for drug processors. Coordinates activities between drug processors and State agencies concerning buy-in for Medicaid recipients of prescription drug costs. Coordinates with all other HCFA and HHS components involved in the presciption drug program. This is a temporary organization that is expected to be in operation until 1991 when its activities will be incorporated into other Bureau of Program Operations components.

Date: October 24, 1988.

Joseph R. Antos,

Acting Associate Administrator for Management and Support Services.

[FR Doc. 88–27006 Filed 11–21–88; 8:45 am]

BILLING CODE 4120–01–M

Office of the Secretary

Office of the Inspector General; Delegation of Authority To Issue Subpoenas of Witnesses in Investigations Under Section 1128A of the Social Security Act

Notice is hereby given that on November 3, 1983, the Inspector General redelegated to the Deputy Inspector General, the Assistant Inspector General for Investigations and his Deputies, and the Regional Inspectors General for Investigations, the authority delegated to him by the Secretary of the Department of Health and Human Services on April 26, 1988. That delegation authorizes the Inspector General to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation, for the purposes of any investigation under section 1128A of the social Security Act.

This authority cannot be redelegated.

Date: November 16, 1988.

S. Anthony McCann,

Assistant Secretary for Management and Budget.

[FR Doc. 88–27008 Filed 11–21–88; 8:45am]

BILLING CODE 4110–60–M

Centers for Disease Control

National Committee on Vital and Health Statistics Subcommittee on Health Care Statistics; Meeting

ACTION: Notice of meeting.

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Health Care Statistics established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, announces the following Subcommittee meeting (working session).

Name: National Committee on Vital and Health Statistics Subcommittee on Health Care Statistics

Time and Date: 8:00 a.m.–2:00 p.m.–December 15, 1988

Place: 5th Floor Conference Room, Health Policy Institute, Boston University, 53 Bay State Road, Boston, Massachusetts 02215.

Status: Open

Purpose: Working session of the Subcommittee to review National Center for Health Statistics (NCHS) plans for implementing changes in its surveys of health care providers, with particular focus on the relationship of minimum data sets to proposed survey plans.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and roster of Committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2–12, Center Building, 3700 East West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7050.

Dated: November 16, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 88–26914 Filed 11–21–88; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 84N–0334]

Vinyl Chloride and Other Chlorinated Polymers; Intent To Prepare an Environmental Impact Statement

AGENCY: Food and Drug Administration.

ACTION: Notice of intent.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it intends to prepare an environmental impact statement (EIS) on the effects of the proposed amendments to its food additive regulations to provide for the safe use of vinyl chloride polymers in contact with food. The EIS will also consider the potential environmental impact of four food additive petitions involving chlorinated polymers. The EIS will be prepared in accordance with 40 CFR Part 1500, the council on Environmental Quality's (CEQ's) regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA), and 21 CFR Part 25, FDA's NEPA policies and procedures.

DATE: Comments by January 23, 1989.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Buzz Hoffmann, Center for Food Safety and Applied Nutrition (HFF–304), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0277.

SUPPLEMENTARY INFORMATION:

I. Background

On February 3, 1986, FDA published a proposal to amend its food additive regulations to provide for the safe use of vinyl chloride polymers in contact with

food (51 FR 4177). The term "vinyl chloride polymers" includes both vinyl chloride homopolymer (polyvinyl chloride or PVC) and copolymers of vinyl chloride with other chemicals. The agency proposed to take four actions: (1) To provide for the safe use of certain vinyl chloride polymers by establishing limits on the amount of residual vinyl chloride monomer that they may contain, (2) to codify all known prior sanctions for vinyl chloride polymers, (3) to provide for the use of certain unregulated vinyl chloride polymers in manufacturing vinyl chloride bottles, and (4) to remove vinyl chloride/vinylidene chloride copolymers from the list of materials that may be used as coatings on fresh citrus fruits.

In its notice of proposed rulemaking, FDA announced its conclusions that the proposed action would not have a significant impact on the human environment, and that an EIS was not required. The agency made its environmental assessment (EA) and finding of no significant impact (FONSI) available for public inspection in the Dockets Management Branch (address above).

At that time, FDA requested the submission of any data bearing on the issues and conclusions in the EA and FONSI. The agency specifically requested information on: (1) The environmental fate and effects of di(2-ethylhexyl) phthalate (DEHP), di(2-ethylhexyl) adipate (DEHA), and epoxidized soybean oil (ESO), three plasticizers used in conjunction with vinyl chloride polymers; and (2) whether vinyl chloride polymers contribute to the emission of polychlorinated dibenzo-*p*-dioxins (dioxins) and polychlorinataed dibenzofurans (furans) from municipal solid waste (MSW) incinerators. FDA said it would reexamine its conclusions if new information became available suggesting that the proposed action will have a significant environmental impact.

In response to this request for information, FDA received six submissions during the formal comment period that related to environmental issues, five from industry trade associations, and one from the U.S. Environmental Protection Agency (EPA). The industry supported the FONSI and provided environmental data on DEHP and DEHA. The industry submissions also concluded that (1) incineration of vinyl chloride polymers does not contribute to the formation of dioxins and furans, and (2) vinyl chloride polymers do not contribute significantly to acid gas emissions as compared to other sources.

EPA identified no strong reasons for FDA not to proceed with the proposed action but expressed concerns about the two potential environmental problems identified by FDA. EPA said that there was uncertainty about (1) the environmental fate and effects of DEHP, DEHA, and ESO, and (2) the extent to which vinyl chloride polymers contribute to the emission of dioxins and furans from MSW incinerators.

EPA also expressed concern that FDA's EA did not thoroughly support the FONSI and said that FDA should (1) present more clearly the potential effects of the proposed rule on the levels of use and disposal of plasticizers and plastics, (2) expand the discussion mitigation measures, and (3) clarify FDA's decision not to delay action on the proposed rule pending further studies to eliminate the uncertainties on the role of vinyl chloride polymers in emissions of dioxins and furans from MSW incinerators.

Because of EPA's comments, FDA decided to evaluate further its decision not to prepare an EIS and sought additional information. FDA contacted scientists to obtain information about the role of vinyl chloride polymers in the emission of dioxins and furans from MSW incinerators. The agency also contacted State and local government officials to learn what concerns they might have about FDA's action. Subsequently, FDA received about 1,400 comments and inquiries about the environmental impact of the proposed rule after the comment period had closed.

The comments from environmental organizations, State and local government officials, and citizens expressed concern about FDA's proposed action and requested that FDA prepare an EIS. These comments identified four major environmental issues involving the effects of postconsumer disposal of vinyl chloride polymer food-packaging material: Incineration of MSW, recycling of MSW, the solid waste management crisis, and adjuvants used with vinyl chloride polymers. The comments submitted by industry claimed that FDA's proposed action would not have significant environmental effects, and that an EIS was not necessary. These comments also provided information on the issues identified above.

Using the new information, FDA prepared an evaluation of the environmental issues in January 1988 as part of its internal deliberations on the proposed rule. The principal findings were:

(1) FDA's proposed action would result in an estimated increase of 180 million pounds in the annual use of vinyl chloride polymers for food-contact applications by 1991.

(2) FDA's proposed action would have little, if any, effect on emissions of dioxins and furans from incinerators operating under good combustion conditions and with state-of-the-art flue gas controls.

(3) FDA's proposed action would result in increased emissions of hydrogen chloride (HCl) from MSW incinerators, which would increase the cost of emission controls, would increase the amount of scrubber waste, and may affect the ability of incinerator operators to comply with existing or anticipated emissions standards.

(4) FDA's proposed action would not affect stratospheric ozone levels or significantly contribute to the overall acid precipitation problem.

(5) Increased use of vinyl chloride polymer food-packaging materials would have adverse effects on curbside recycling programs to the extent that these materials will compete with food-packaging materials that are being recycled. The impact of FDA's proposed action may become greater over time as the number of curbside recycling programs increases, unless markets are established for recycled vinyl chloride polymers.

(6) Vinyl chloride polymers may have adverse effects on attempts to recycle mixed plastics because HCl is released at temperatures reached in reprocessing plastics.

(7) FDA's proposed action would seem likely to exacerbate the attempts by some State and local authorities to deal with the growing solid waste management crisis. The impact would increase over time as the fractions of MSW that are incinerated and recycled continue to increase.

(8) The increased level of use of vinyl chloride polymers resulting from FDA's proposed rule represents only a 2 percent increase in the total vinyl chloride polymer resin market. However, the impact of FDA's proposed action on the solid waste management crisis is greater than suggested by its effect on the total market. This paradox results from the fact that most vinyl chloride polymer is used for products such as building and construction materials, which are often disposed of by methods other than by incineration and which are not targeted for postconsumer recycling.

(9) FDA's proposed action would result in no more than a small increase in the amounts of the plasticizers DEHP, DEHA, and ESO entering the environment because plasticizers are not used in rigid vinyl chloride polymer

food-packaging materials, the products most affected by the proposed action.

FDA's January 1988 evaluation also identified several matters on which available information is inadequate to support findings about the nature and extent of potential environmental impacts. The major uncertainties include:

(1) The role and importance of vinyl chloride polymers in the formation and emission of dioxins and furans from MSW incinerators under the variety of incineration conditions that exist, particularly from improperly designed or operated incinerators or under transient conditions.

(2) The extent to which increased HCl emissions will increase operating and maintenance costs of MSW incinerators.

(3) The effects of increased HCl emissions on exposed organisms.

(4) The effects of HCl on the mobilization of heavy metals in MSW to fly ash or fumes in incinerators.

(5) The effects on incineration of increased amounts of vinyl chloride polymer bottles containing organotin stabilizers.

On February 2, 1988, FDA requested EPA's assistance in the environmental review of FDA's proposed rule on vinyl chloride polymers and specifically requested EPA's review of FDA's written evaluation of the issues. EPA responded, in a letter dated May 23, 1988, that FDA's analysis and preliminary conclusions fairly and accurately addressed the environmental issues associated with the proposed rule. EPA said that the issues that need to be addressed include: (1) The effect of vinyl chloride polymer incineration on municipal incineration plant compliance with State emission requirements for HCl, (2) complications created in recycling programs as a result of the presence of vinyl chloride polymers, (3) the possibility that increasing use of vinyl chloride polymers will exacerbate the existing solid waste crises associated with dminishing landfill capacity, (4) the effect of vinyl chloride polymer incineration on emission of dioxins and furans from MSW incinerators, and (5) the impact of plasticizers and other adjuvants used in rigid and semirigid vinyl chloride polymer containers. EPA said that several of the significant criteria in the CEQ's regulations (40 CFR 1508.27) are met by the proposed action and recommended that FDA perform a comprehensive EIS. FDA's evaluation and EPA's response are available from the Dockets Management Branch (address above).

II. FDA's Determination on Need for an EIS

In light of FDA's own analysis and EPA's findings and recommendation, FDA has determined that the proposed action may have significant environmental effects, and that an EIS must be prepared in accordance with 21 CFR 25.42.

The proposed rule of February 3, 1986, described FDA's evaluation of the human health risk presented by vinyl chloride monomer from the use of vinyl chloride polymers. The agency concluded that there is a reasonable certainty of no harm from the exposure to vinyl chloride monomer that may result from the use of vinyl chloride polymers in food packaging complying with the vinyl chloride monomer limitations set forth in the proposed rule. The proposed rule included limits on vinyl chloride monomer ranging from 5 to 50 parts per billion by weight of the vinyl chloride copolymer components, depending upon the particular application. These limits were proposed following a quantitative risk assessment by the agency that was based upon consideration of the potential exposure to vinyl chloride monomer and the potency of the monomer as determined by animal bioassays.

The comments on the proposed rule have not provided any basis for FDA to alter its tentative conclusion about the human health risk. Consequently, the agency has no concern about the safety of food that comes in contact with articles that comply with the monomer limits stated in the proposed rule. Therefore, pending development of an EIS and review of the environmental effects of the proposed rule, the agency advises that it will not take action against current uses of vinyl chloride polymers that are in compliance with these limits.

III. Food Additive Petitions Involving Halogenated Polymers

The CEQ regulations require consideration of the cumulative effects of an agency action and other past, present, and reasonably foreseeable future actions (40 CFR 1508.7). In its letter of May 23, 1988, EPA recommended that FDA consider the cumulative effect of vinyl chloride polymers and similar plastic products used in food-packaging materials. Consequently, FDA considered whether five food additive petitions that are before, or have recently been before, the agency and that involve halogenated polymers should be included as part of the environmental review of the proposed rule on vinyl chloride polymers.

FDA has decided not to delay action on two petitions submitted by The Dow Chemical Co. on the use of vinylidene chloride/methyl acrylate copolymers (FAP 6B3938, to increase the temperature for use of the copolymer from 121 °C to 135 °C, and FAP 6B3953, for use of the copolymer in food-packaging systems to be sterilized with hydrogen peroxide). (See 51 FR 29612; August 19, 1986, and 51 FR 35287; October 2, 1986). Elsewhere in this issue of the Federal Register, FDA is publishing final rules that grant these petitions. Because vinylidene chloride copolymer contains chlorine, FDA believes that the presence of this copolymer in the MSW stream may raise the same types of issues as vinyl chloride polymers. However, FDA has concluded that approval of these two petitions would result in a very small increase in the amount of chlorine entering the MSW stream and thus would not have a significant impact on the human environment. Nonetheless, the agency also decided to consider the environmental effects of the use of these copolymers in the EIS that will be prepared for the proposed rule on vinyl chloride polymers. The agency's findings of no significant impact and the petitioner's EA's may be seen at the Dockets Management Branch (address above).

Any new petitions that would result in a substantial increase in the use of vinylidene chloride polymers will be of concern. Such an increase could result from either a single petition or from a number of petitions that individually would produce only a small increase in the use of vinylidene chloride polymers. Under the CEQ regulations, individually minor actions taking place over a period of time can collectively be significant (40 CFR 1508.7).

FDA has under review three food additive petitions that involve halogenated polymers for use in contact with foods, two of which will be considered in the EIS. One petition, FAP 7B3994 (52 FR 21122; June 4, 1987), submitted by The Dow Chemical Co., requests approval of certain vinylidene chloride/vinyl chloride copolymers for use in food-packaging systems to be sterilized with hydrogen peroxide. The second petition, FAP 7B3985 (52 FR 12969; April 20, 1987), submitted by the Union Carbide Corp., is for use of vinyl chloride-acetate hydroxyl-modified copolymer, reacted with styrene-maleic anhydride copolymer, as a coating of articles intended for use in contact with food.

These two petitions would collectively increase the use and disposal of vinyl chloride polymer food-packaging material. Therefore, the issues that need to be addressed for these petitions are essentially the same as the issues that are to be addressed in the EIS for FDA's proposed rule. Considered together, these petitions would produce a substantial net increase in the amount of chlorine entering the MSW stream over and above the increase predicted as a result of FDA's proposed rule. Most of this increase would be contributed by the vinylidene chloride component of the copolymer in FAP 7B3994. FDA will delay action on FAP 7B3994 pending completion of the EIS process. However, FDA does not intend to delay action on FAP 7B3985 on environmental grounds. FAP 7B3985 concerns a copolymer that is expected to replace currently-used solvent-borne chlorinated polymers that have a higher chlorine content. Consequently, this action would result in a small net decrease in the chlorine entering the MSW stream.

FDA has decided not to consider in the EIS the environmental impact of FAP 7B4040 (52 FR 42728; November 6, 1987), submitted by Ausimont USA, Inc., for use of an ethylene/chlorotrifluoroethylene copolymer in repeat-use applications in contact with food. FAP 7B4040 concerns a copolymer that will be used in food-processing plants as piping to carry various foods, including hot water. In contrast to disposable food-packaging materials, this type of product is likely to be disposed of by methods other than incineration, such as special landfills. Consequently, any environmental impact associated with incineration of this halogenated polymer would be averted.

IV. Alternatives

Alternatives that will be considered in the EIS include: (1) Taking no action (i.e., withdrawing the proposed rule and denying the petitions), (2) deferring action until still more experimental work is done to determine the role of vinyl chloride polymers in MSW incinerator emissions of dioxins and furans under representative conditions and to address other uncertainties, (3) making final FDA's September 3, 1975, proposed rule to prohibit some uses of vinyl chloride polymers (40 FR 40529), and (4) making final FDA's 1986 proposed rule, except requiring that vinyl chloride polymer food containers be labeled to facilitate the separation of vinyl chloride food packaging from other wastes that are to be incinerated and recycled. Other reasonable alternatives that are submitted by interested parties will also be considered.

V. Scoping Process And Request For Comment

The purpose of the scoping process is to determine the scope of issues to be addressed in an EIS and to identify the significant issues related to a proposed action (40 CFR 1501.7). FDA has tentatively decided not to hold a scoping meeting for the EIS. The issues that will be addressed in the EIS have been adequately identified in (1) the previously prepared EA and FONSI, (2) the comments the agency has received, (3) FDA's recent written evaluation of the issues, and (4) this notice of intent. However, to ensure that the full range of environmental issues related to the proposed actions is addressed, and that all significant issues are identified, FDA is requesting additional comments, suggestions, and information from all interested parties.

FDA is particularly interested in information that (1) would support or refute FDA's current understanding of the impact of these proposals or that would eliminate the existing uncertainties, (2) suggests alternative actions that the agency might consider, particularly ones that would mitigate some or all of the potential environmental impacts, and (3) would provide a basis on which to establish the costs and benefits of requiring a label to facilitate source separation of vinyl chloride polymer food containers. To be of most use to the agency, information and comments should be fully supported and referenced.

Written comments and information concerning the proposed actions and the EIS should be submitted to the Dockets Management Branch (address above) by January 23, 1989.

Dated: November 14, 1988.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-26989 Filed 11-21-88; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Cancer Institute; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Center Support Review Committee, National Cancer Institute, National Institutes of Health, December 1-2, 1988, Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

This meeting will be open to the public on December 1 from 8:30 a.m. to 9:30 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 1 from approximately 9:30 a.m. to 6 p.m. and on December 2 from 8:30 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidertial trade secrets or commerical property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, National Institutes of Health, Building 31, Room 10A06, Bethesda, Maryland 20892 (301/496-5708) will provide a summary of the meeting and a roster of committee members, upon request.

Dr. John Abrell, Executive Secretary, Cancer Center Support Review Committee, National Cancer Institute, National Institutes of Health, Westwood Building, Room 834, Bethesda, Maryland 20892 (301/496-9767) will funish substantive program information.

This notice is being published less than 15 days prior to meeting because of the difficulty of coordinating the attendance of members due to unforeseen conflicting schedules.

Dated: Nov 15, 1988.

Betty J. Beveridge,

Commitee Management Officer, NIH.

[FR Doc. 88-26943 Filed 11-21-88; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases, December 12-13, 1988, 11th floor solarium, Building 10, National Institutes of Health, Bethesda, Maryland, which was published in the **Federal Register** on November 10, 1988 (53 FR 45592).

The meeting was cancelled due to complications of other commitments of several members of the Board and will be rescheduled at a later date.

Dated: November 16, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-26944 Filed 11-21-88; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-050-09-4143-08]

Clark County Management Framework Plan, Las Vegas District, NV

November 14, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Proposed Plan Amendment and Final Environmental Assessment to the Clark County Management Framework Plan, Las Vegas District, Nevada.

SUMMARY: The Proposed Plan Amendment and Final Environmental Assessment to the Clark County Management Framework Plan for Sand and Gravel Leasing in the Las Vegas Valley Sub-Unit is available to the public. The amendment recommends that one existing sand and gravel lease be renewed, one existing sand and gravel lease be partially renewed, and that three lease applications be rejected. The leases are located in the southeastern portion of the Las Vegas Valley near Henderson, Nevada.

The Draft Plan Amendment and Environmental Assessment was made available to the public for review and comment on September 28, 1987. Comments received on the Draft Plan Amendment and Environmental Assessment were considered in preparing the Proposed Plan Amendment and Final Environmental Assessment. The Proposed Plan Amendment may be protested by all parties who participated in the process or who have an interest which is or may be adversely affected by adoption of the amendment.

DATE: Protests on the Proposed Plan Amendment and Final Environmental Assessment must be postmarked on or before December 23, 1988.

ADDRESSES: Protests or comments on the Proposed Plan Amendment and Final Environmental Assessment should be sent to: Director, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: Individuals wishing to protest should provide the following information to the Director.

a. The name, mailing address, telephone number, and interest of the person filing the protest;

b. A statement of the issue or issues being protested;

c. A statement of the part or parts of the amendment being protested;

d. A copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the record; and

e. A concise statement explaining why the Nevada State Director's decision is believed to be wrong.

Copies of the Proposed Plan Amendment and Final Environmental Assessment have been mailed to individuals and organizations who participated in the planning amendment process. A limited number of additional copies are available upon request from the Las Vegas District Office. Individuals wishing to obtain copies of the document should contact Stan Wilkerson, Public Affairs Specialist, Las Vegas District, 4765 Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126, (702) 646-8800.

Copies of the Draft Plan Amendment and Environmental Assessment and Proposed Plan Amendment and Final Environmental Assessment are available for review at the Las Vegas District Office and the Nevada State Office, Bureau of Land Management, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, (702) 784-5448.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 88-27027 Filed 11-21-88; 8:45 am]

BILLING CODE 4310-Hc-M

[AZ-020-9-4212-13; A-23578]

Realty Action; Exchange of Public Lands; La Paz County, AZ

All or part of the following described sections containing federal lands are being considered for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 5 N., R. 15W.,
Secs. 3, 8, 9, 10, 14, 15, 16, 17, 18, 20, 22, 23, 24, 25, 26, 27, 28, 31, 34, 36.
T. 6 N., R. 15 W.,
Secs. 21, 27, 28, 33, 34.
T. 4 N., R. 16 W.,
Sec. 24.

Comprising 11,504.90 acres, more or less.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice will segregate the affected public lands from appropriation under the public land laws, including the mining laws, subject to valid existing rights, but not the mineral leasing laws or from exchange pursuant to the Federal Land Policy and Management Act of 1976.

Segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Henri R. Bisson,

District Manager.

Date: November 14, 1988.

[FR Doc. 88-27030 Filed 11-21-88; 8:45 am]

BILLING CODE 4310-32-M

[AZ-020-09-4212-13; AZ A 23590]

Realty Action; Exchange of Public Land; Maricopa County, AZ

The following described public land has been determined to be suitable for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

T. 5 N., R. 3 E.,
Sec. 1, SE¼ NE¼.

Containing 40 acres.

In exchange, BLM will acquire lands of equal value from within the following legally described private land offered by Julian Berry:

Gila and Salt River Meridian, Cochise County, Arizona

T. 12 S., R. 31 E.,
Sec. 2, NW¼SE¼, S½SE¼;
Sec. 11, N½NE¼;
Sec. 12, E½NE¼, SW¼NW¼, E½SW¼, N½SE¼;
Sec. 13, W½NE¼, E½NW¼, E½SW¼, W½SE¼.
T. 12 S., R. 32 E.,
Sec. 7, W½NW¼, N½SW¼, SE¼;
Sec. 18, NE¼NE¼, S½NE¼, S½NW¼, NW¼NW¼, W½SW¼.

Containing 1,400 acres, more or less.

In the exchange, BLM will acquire an important archaeological site, wildlife resource values and resolve access issues.

The public land will be transferred subject to a reservation to the United States for rights-of-way for ditches and canals under the Act of August 30, 1890; 26 Stat. 391; U.S.C. 945.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this notice will segregate the public lands, as described in this notice, from appropriation under the public land laws and the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the Federal Register of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

Notice of Realty Action A 23296 and the classification for state selection and mineral leasing only are hereby terminated as they affect the previously described public land.

Detailed information concerning this exchange can be obtained from the Phoenix District Office, telephone (602) 863-4464. For a period of forty-five (45) days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be evaluated by the State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Paul J. Buff,

Acting District Manager.

Date: November 10, 1988.

[FR Doc. 88-27028 Filed 11-21-88; 8:45 am]

BILLING CODE 4310-32-M

[AZ-020-09-4212-13; AZ A 23589]

Realty Action; Exchange of Public Land; Arizona

The following described public land has been determined to be suitable for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian

Mohave County

T. 17 N., R. 12 W.,
Sec. 26, SE¼NW¼.

Pinal County

T. 3 S., R. 7 E.,
Sec. 4, E½SW¼SE¼;
Sec. 5, SE¼SW¼;
Sec. 8, NE¼NW¼, S½NW¼, W½SW¼;
Sec. 14, SW¼SW¼;
Sec. 17, NW¼NW¼;
Sec. 18, SE¼SE¼;
Sec. 20, S½SW¼;
Sec. 22, E½;
Sec. 23, N½, SW¼, NW¼SE¼;
Sec. 24, W½NW¼, SE¼NW¼;
Sec. 27, W½NW¼;
Sec. 33, N½NE¼, NW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 34, NE¼, N½NW¼, SE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 35, all;
Sec. 36, lots 7 to 12, incl., SW¼.

Containing 3,240.37 acres, more or less.

In exchange, BLM will acquire lands of equal value from within the following legally described private land offered by Julian Berry:

Gila and Salt River Meridian, Arizona

Yavapai County

T. 16 N., R. 10 W.,
Sec. 3, lots 1 and 2, S½NE¼, SE¼ (surface only);
Sec. 10, NE¼ (surface only);
Sec. 11, NW¼ (surface only).

Mohave County

T. 16 N., R. 10 W.,
Sec. 31, lots 1 to 4, incl., E½, E½W½.
T. 16 N., R. 11 W.,
Sec. 4, lots 3 and 4, S½NW¼, SW¼;
Sec. 5, lots 1 to 4, incl., S½N½, S½;
Sec. 7, lots 1 to 4, incl., E½, E½W½;
Sec. 15, all;
Sec. 17, S½SW¼;
Sec. 19, lots 1 to 4, incl., E½, E½W½;
Sec. 21, S½NE¼;
Sec. 22, NW¼NE¼, S½NE¼, W½, SE¼;
Sec. 23, all;
Sec. 26, all;
Sec. 27, all;
Sec. 33, all;
Sec. 34, all;
Sec. 35, all.
T. 16 N., R. 12 W.,
Sec. 1, lots 1 to 4, incl., S½N½, S½;
Sec. 3, lots 1 to 4, incl., S½N½, S½;
Sec. 5, portion SE of Bohner Canyon;
Sec. 7, portion SE of Bohner Canyon;
Sec. 9, all;
Sec. 11, all;
Sec. 13, all;
Sec. 15, all;
Sec. 17, all;
Sec. 27, S½;
Sec. 29, NE¼NE¼;
Sec. 33, NW¼;
Sec. 35, all.
T. 16½ N., R. 10 W.,
Sec. 19, lots 1 and 2, SE¼SW¼, SE¼; lots 3 to 6, incl., NE¼SW¼ (surface only).
T. 16½ N., R. 11 W.,
Sec. 19, lots 1 to 4, incl., N½SE¼;
Sec. 20, lots 1 to 4, incl., S½;
Sec. 21, lots 1 to 4, incl., S½;
Sec. 28, all;
Sec. 29, all;
Sec. 31, lots 1 to 4, incl., E½, E½W½;
Sec. 33, N½NW¼.
T. 16½ N., R. 12 W.,
Sec. 21, lots 1 to 4, S½;
Sec. 23, lots 1 to 4, S½;
Sec. 25, S½;
Sec. 27, all;
Sec. 33, all;
Sec. 35, all.
T. 17 N., R. 10 W.,
Sec. 32, W½, SE¼.
T. 17 N., R. 11 W.,
Sec. 13, portion;
Sec. 14, portion (surface only);
Sec. 15, all;
Sec. 17, all;
Sec. 19, lots 1 to 3, incl., E½, E½NW¼, NE¼SW¼;
Sec. 21, all;
Sec. 29, all;
Sec. 31, lots 1 to 4, E½, E½W½;
Sec. 33, all.
T. 17 N., R. 12 W.,
Sec. 13, all;
Sec. 23, all;
Sec. 25, all;
Sec. 35, all.

Containing 30,000 acres, more or less.

The values to be acquired by BLM include consolidation of rangelands, acquisition of wildlife habitat and riparian areas and improved access.

The public land will be transferred subject to the following terms and conditions:

A reservation to the United States for rights-of-way for ditches and canals under the Act of August 30, 1980; 26 Stat. 391; U.S.C. 945.

Trail right-of-way A 19382 and mineral material sale A 10206.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice will segregate the public lands, as described in this Notice, from appropriation under the public land laws and the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the *Federal Register* of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

Notices of Realty Action A 22592, A 20633 and A 22563 are hereby terminated as they affect the previously described public land.

Detailed information concerning this exchange can be obtained from the Phoenix District Office, telephone (602) 863-4464. For a period of forty-five (45) days from the date of publication of this Notice in the Federal Register, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be evaluated by the State Director who may sustain, vacate or modify this realty action. In the absence

of any objections, this realty action will become the final determination of the Department of the Interior.

Paul J. Buff,

Acting District Manager.

Date: November 10, 1988.

[FR Doc. 88-27029 Filed 11-21-88; 8:45 am]

BILLING CODE 4310-32-M

[ES-940-09-4520-13; ES-039796, Group 180]

Filing of Plat of Dependent Resurvey and Subdivision of Section; Florida

1. The plat, in one sheet, of the dependent resurvey of a portion of the south and west boundaries, and a portion of the subdivisional lines, and the survey of the subdivision of sections 31 and 33, and the metes-and-bounds survey of certain parcels in section 32, Township 11 South, Range 25 East, Tallahassee, Florida, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on December 27, 1988.

2. The survey was made at the request of the U.S. Forest Service.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., December 27, 1988.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral Survey and Support Services.

[FR Doc. 88-26973 Filed 11-21-88; 8:45 am]

BILLING CODE 4310-GJ-M

Fish and Wildlife Service

Comprehensive Conservation Plan, Environmental Impact Statement, and Wilderness Review for the Arctic National Wildlife Refuge, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of record of decision.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has issued a Record of Decision (Decision) on the Comprehensive Conservation Plan, Environmental Impact Statement, and Wilderness Review (Plan) for the Arctic National Wildlife Refuge (Refuge), Alaska, pursuant to sections 304(g)(1), 605, 1008, and 1317 of the Alaska National Interest Lands Conservation Act of 1980 (Alaska Lands Act); section 3(d) of the Wilderness Act of 1964; and section 102(2)(C) of the National Enviromental Policy Act of 1969.

DATE: This Decision on the Plan will be implemented immediately with specific management plans undergoing development and regulations proposed for promulgation.

FOR FURTHER INFORMATION CONTACT: William Knauer, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786-3399.

Copies of the Decision will be sent to all persons and organizations on the 9Arctic Refuge mailing list. Others wishing to receive a copy of the Decision may obtain one by contacting Mr. Knauer.

SUPPLEMENTARY INFORMATION: The Service has selected Alternative A for implementation. As described in the Plan, Alternative A is the alternative preferred by the Service. The Service is not recommending any additional refuge lands for addition to the National Wilderness Preservation System.

Alternative A provides a high degree of resource protection and a good opportunity for achieving the purposes set forth in the Alaska Lands Act, including conservation of fish and wildlife populations and habitats.

Date: November 10, 1988.

Walter O. Stieglitz,

Regional Director.

[FR Doc. 88-27026 Filed 11-21-88; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations; Alabama et al.

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 11, 1988. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by December 7, 1988.

Carol D. Schull,

Chief of Registration, National Register.

ALABAMA

Baldwin County

Allen House (Creole and Gulf Coast Cottages in Baldwin County TR), Off CR 10 on N bank of Bon Secour River, Bon Secour, 88002-809

Captain Adams House (Creole and Gulf Coast Cottages in Baldwin County TR), 907 Captain O'Neal Dr., Daphne, 88002810

Hamner House (Creole and Gulf Coast Cottages in Baldwin County TR), Oak Rd. off CR 6, Bon Secour, 88002811

McMillan House (Creole and Gulf Coast Cottages in Baldwin County TR), 1404 Captain O'Neal Ave., Daphne, 88002812

Nelson House (Creole and Gulf Coast Cottages in Baldwin County TR), Hwy. 59, North, Latham, 88002814

Nicholson House (Creole and Gulf Coast Cottages in Baldwin County TR), CR 6, Oyster Bay, 88002813

Orrell House (Creole and Gulf Coast Cottages in Baldwin County TR), CR 6, Bon Secour, 88002815

Street House (Creole and Gulf Coast Cottages in Baldwin County TR), Wood Acres Rd. off CR 3, Point Clear, 88002816

Texas, The (Creole and Gulf Coast Cottages in Baldwin County TR), 306 Dryer Ave., Daphne, 88002817

Walker House (Creole and Gulf Coast Cottages in Baldwin County TR), 905 Captain O'Neal Dr., Daphne, 88002818

Colbert County

Rock Creek Archeological District (ACt44,ACt45), Address Restricted, Maud vicinity, 88002826

ARKANSAS

Independence County

Wheel Store, The, River and Broad Sts., Batesville, 88002822

Izard County

Calico Rock Historic District (Boundary Increase), W side of Rodman St. at Missouri-Pacific Railroad tracks, Calico Rock, 88002827

Little River County

Cowling, Judge Jefferson Thomas, House, 611 Willow St., Ashdown, 88002823

Pulaski County

Rose, U.M., School (Thompson, Charles L., Design Collection TR), Izard and W. 13th St., Little Rock, 88002820

Washington County

Frisco Depot, 550 W. Dickson St., Fayetteville, 88002819

Waters-Pierce Oil Company Building (Thompson, Charles L., Design Collection TR), West St., Fayetteville, 88002821

FLORIDA

Duval County

San Jose Estates Gatehouse (San Jose Estates TR), 1873 Christopher Point Rd., North, Jacksonville, 88002808

Marion County

Dunnellon Boomtown Historic, District, Roughly bounded by McKinney Ave., Illinois St., Pennsylvania Ave., and Cedar St., Dunnellon, 88002807

Orange Springs Methodist Episcopal Church and Cemetery (8MR1505), SR 315 and Church St., Orange Springs, 88002805

KANSAS

Sedgwick County

Riverside Cottage, 901 Spaulding Ave., Wichita, 88002824

Mississippi

Tishomingo County

Bear Creek Mound and Village Site (22Ts500), Address Restricted, Tishomingo vicinity, 88002825

TEXAS

Angelina County

Abercrombie—Cavanaugh House (Angelina County MRA), 304 Paul, Lufkin, 88002794

Angelina River Bridge (Angelina County MRA), US 59 over Angelina River, Lufkin, 88002801

Banks—Ogg House (Angelina County MRA), 602 Groesbeck St., East, Lufkin, 88002771

Behannon—Kenley House (Angelina County MRA), 317 Shephard, Lufkin, 88002798

Binion—Casper House (Angelina County MRA), 404 mantooth, Lufkin, 88002785

Bowers—Felts House (Angelina County MRA), 1213 Lotus Ln., Lufkin, 88002780

Boynton—Kent House (Angelina County MRA), 107 Kerr St., West, Lufkin, 88002779

Brookshire, Houston—Yeates House (Angelina County MRA), 304 Howe St., East, Lufkin, 88002776

Byus—Kirkland House (Angelina County MRA), 411 Mantooth, Lufkin, 88002786

Clark—Whitton House (Angelina County MRA), 1865 Old Mill Rd., Lufkin, 88002792

Corstone Sales Company (Angelina County MRA), 109—111 Shepherd St., East, Lufkin, 88002797

Dunham Hill (Angelina County MRA), US 69, Huntington, 88002803

Everitt—Cox House (Angelina County MRA), 418 Moore, Lufkin, 88002789

Fenley Commercial Building (Angelina County MRA), 112 Lufkin Ave., East, Lufkin, 88002781

Gibbs—Flournoy House (Angelina County MRA), TX 844, Manning vicinity, 88002804

Henderson, S.W.—Bridges House (Angelina County MRA), 202 henderson, Lufkin, 88002775

Humason—Pinkerton House (Angelina County MRA), 602 Grove, Lufkin, 88002773

Keltys Worker Housing (Angelina County MRA), 109 Maas, Lufkin, 88002784

Kennedy, A.C.—Runnells House (Angelina County MRA), 603 Groesbeck St., East, Lufkin, 88002772

Kennedy, R.A.—J.M. Lowrey House (Angelina County MRA), 519 Groesbeck St., East, Lufkin, 88002770

Kurth, J.H., House(Angelina County MRA), 1860 Old Mill Rd., Lufkin, 88002791

Kurth—Glover House (Angelina County MRA), 1847 Old Mill Rd., Lufkin, 88002790

Lawrence, G.E., House (Angelina County MRA), 2005 Chestnut St., South, Lufkin, 88002766

Lufkin Land—Long Bell—Buck House (Angelina County MRA), 1218 Lufkin St., Lufkin, 88002783

Marsh—Smith House (Angelina County MRA), 503 Raguet St., North, Lufkin, 88002796

McClendon—Abney Hardware Company (Angelina County MRA), 119 Lufkin Ave., East, Lufkin, 88002782

McGilbert House (Angelina County MRA), 1902 Old Mill Rd., Lufkin, 88002793

Newsom—Moss House (Angelina County MRA), 420 Mantooth, Lufkin, 88002787

Old Federal Building—Federal Courthouse (Angelina County MRA), 104 Third St., North, Lufkin, 88002799

Parker—Bradshaw House (Angelina County MRA), 213 Raguet St., North, Lufkin, 88002795

Percy, Dr. Edward—Abney House (Angelina County MRA), 466 Jefferson, Lufkin, 88002778

Perry, A.F. and Myrtle—Pitmann House (Angelina County MRA), 402 Bynum St., South, Lufkin, 88002765

Perry, C.W. Archie—Hallmark House (Angelina County MRA), 302 S. Bynum, Lufkin, 88002764

Pines Theatre (Angelina County MRA), 113 First St., South, Lufkin, 88002767

Rastus—Read House (Angelina County MRA), 1509 First St., South, Lufkin, 88002768

Russell—Arnold House (Angelina County MRA), 121 Menefee St., West, Lufkin, 88002788

Standley House (Angelina County MRA), 1607 tulane, Lufkin, 88002800

Temple, Henry G., House (Angelina County MRA), 501 Hines Rd., Diboll, 88002802

Trout, Walter C.—White House (Angelina County MRA), 444 Jefferson, Lufkin, 88002777

Walker, Howard, House (Angelina County MRA), 503 Harmony Hill Rd., Lufkin, 88002774

[FR Doc. 88-26991 Filed 11-21-88; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Amendment No. 5]

Section 5a Application No. 35 [1]; Oil Field Haulers Association, INc.; Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision and request for comment.

SUMMARY: Oil Field Haulers Association, Inc. (OFHA) has filed, pursuant to section 14(e) of the Motor Carrier Act of 1980 (MCA), an application for approval of its ratemaking agreement under 49 U.S.C. 10706(b). Since modifications are required before the agreement receives final approval, and because new and complex questions are involved in determining whether the agreement is consistent with the MCA, the Commission solicits public comment on its interpretation and application of specific rate bureau provisions. Copies of OHFA's proposed amended agreement are available for public inspection and copying at the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, and from OFHA's representative: Scott Pospisil, Oil Field Haulers Association, Inc., Austin, TX 78767.

DATES: Comments from interested parties are due December 22, 1988. Replies are due 15 days thereafter.

ADDRESS: An original and 10 copies, if possible, of comments referring to Section 5a Application No. 35 should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard R. Hartley, (202) 275–7786 or Richard B. Felder, (202) 275–7691. (TDD for hearing impaired (202) 275–1721.)

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Dynamic Concept, 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.) Oil Field Haulers Association, Inc. (OFHA) has filed an application for approval of its proposed amended collective ratemaking agreement as required by section 14(e) of the Motor Carrier Act of 1980, Pub. L. 96–296 (1980) (MCA). Since filing its application, OFHA has been obligated to observe the requirements of the MCA and the standards in *Motor Carrier Rate Bureau—Imp. Pub. L. 96–296*, 364 I.C.C. 464 (1980) and 364 I.C.C. 921 (1981) (*Rate Bureau*). We have provisionally approved OFHA's agreement as consistent with 49 U.S.C. 10706(b) and *Rate Bureau, supra*, subject to certain conditions and modifications in the following subject areas:

[1] Section 5 was recodified as section 10706.

Identification and description of member carriers; right of independent action; open meetings; quorum standard; final disposition of cases; general standards for member carrier voting and discussion of collectively established rates; single-line rates; general rate increases and decreases; changes in tariff structure; and zone of rate freedom and released rates. We have also offered comments and imposed requirements concerning the agreement generally. OFHA has been directed to file a revised agreement conforming to the imposed conditions within 120 days of service of the decision.

In light of the complexity of interpretation involved in determining whether the agreement is consistent with the MCA and the *Rate Bureau* case, *supra*, we request applicant and other interested parties to comment on our interpretation of the controlling authority and administrative criteria, and their application to OFHA's agreement.

A copy of any comments filed with the Commission must also be served OFHA, which will have 15 days from the expiration of the comment period to reply. These comments will be considered in conjunction with our review of the modifications that OFHA must submit to the Commission as a condition to final approval of its agreement.

This action will not significantly affect either the quality of the human environment or energy conservation.

Authority: 49 U.S.C. 10321 and 10706 and 5 U.S.C. 553.

Decided: November 14, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Simmons, Lamboley and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 88-26963 Filed 11-21-88; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-213 (Sub-No. 2X)]

Canadian Pacific, Ltd.; Abandonment Exemption Between Canadian Border and Houlton in Aroostook County, ME

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its 3.03-mile line of railroad (the United States portion of its Houlton Subdivision), between milepost 4.97 in Aroostook County, ME and milepost 8.0 in Houlton, ME.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) overhead traffic on the line has been rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an order of financial assistance has been received, this exemption will be effective December 21, 1988 (unless stayed pending reconsideration). Formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2) [1] must be filed by December 1, 1988. Petitions to stay regarding matters that do not involve environmental issues [2] and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by December 12, 1988 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicants' representatives: Charles H. White, Jr., John T. Sullivan, 1730 Pennsylvania Avenue NW., Suite 400, Washington, DC 20006.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by November 26, 1988. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling Carl Bausch, Chief, SEE at (202) 275-7316.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: November 16, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88-26987 Filed 11-21-88; 8:45 am]

BILLING CODE 7035-01-M

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

[2] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 4 I.C.C. 2d 400 (1988).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 87-69]

Eric A. Baum, M.D.; Revocation of Registration

On September 17, 1987, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause of Eric A. Baum, M.D., Respondent, of Sarasota, Florida, proposing to revoke DEA Certificate of Registratin BB0337508, and to deny any pending applications for renewal of his registration. The statutory bases for issuance of the Order to Show Cause were that Respondent was recently convicted of a felony offense relating to controlled substances and that his continued registration is inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f) and 824(a)(4).

Respondent, through counsel, requested a hearing on the issues raised in the Order to Show Cause and the matter was placed on the docket of Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held on March 1 and 2, 1988, in Tampa, Florida.

On August 26, 1988, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision recommending that the Administrator revoke Respondent's DEA Certificate of Registration and deny any pending applications for renewal. Neither the Government nor Respondent's counsel filed exceptions to the Administrative Law Judge's opinion and recommended ruling.

After careful consideration of the entire record in this matter, the Administrator adopts the Administrative Law Judge's findings of

fact and concurs with her recommended ruling.

The Administrative Law Judge found that Respondent is a psychiatrist who maintains a medical license and a current DEA Certificate of Registration in the State of Florida. In the summer of 1985, Respondent and his current wife, Teresa Leigh Baum, and two of his children from a previous marriage, moved from Akron, Ohio to Sarasota, Florida.

Prior to Respondent's move to Florida in 1985, the Akron Police Department received a complaint from Respondent's former wife, Susan Artz, alleging that he was obtaining controlled substances for his personal abuse by issuing fraudulent prescriptions in the names of their children, Pamela Lynn Baum, Mark Baum and Eric Baum, Jr. Susan Artz claimed that her children had no medical problems or conditions which would have required treatment with controlled substances. Following her complaint, an Akron Police Department detective located 23 controlled substance prescriptions written by Respondent for Cylert, Ritalin and Fiorinal in the names of "Pam Evans," "E.A. Baum," "Terri Baum," "Mark Baum," "Pam Baum," "Susan Baum," and "Vicki Herbruck." Shortly thereafter, the Akron Police Department learned that Respondent had moved to Sarasota, Florida. They discontinued their investigation, but later forwarded the information to the Sarasota Police Department.

In 1986, the Sarasota Police Department was alerted to the possibility of a drug problem involving one of Respondent's children. While that concern turned out to be unfounded, it focused attention on Respondent. Detective Frank Mercurio of the Sarasota Police Department (who became a Special Agent with the Florida Department of Law Enforcement prior to the administrative hearing) contacted local pharmacies near Respondent's residence and the Akron Police Department. At St. Armand's Pharmacy, Detective Mercurio found some controlled substance prescriptions issued by Respondent to persons with the surname "Baum" and others with the surname "Leigh," the maiden name of Respondent's current wife. According to the pharmacist, all prescriptions were picked up either by Respondent or his wife.

On February 19, 1986, the pharmacist at St. Armand's Pharmacy telephoned Detective Mercurio and advised him that Teresa Baum was at the pharmacy and had presented two controlled substance prescriptions for filling which were issued by Respondent, one in the name of "Teresa Baum," the other in the name of "Pam Leigh." Accordingly, Detective Mercurio went to the pharmacy and arrested Mrs. Baum on charges of obtaining controlled substances by fraud. At that time, Mrs. Baum informed Detective Mercurio that Respondent had issued the prescriptions for her and her stepdaughter, Pam Baum, and that medical records for both of them could be found at their residence. She also advised him that she believed "Leigh" was her stepdaughter's middle name. When Detective Mercurio informed her that he knew her stepdaughter's middle name was "Lynn," Mrs. Baum invoked her right to counsel and remained silent. Respondent was arrested the following day on the same charges.

On the evening of February 19, 1986, Detective Mercurio and other officers from the Sarasota Police Department executed a search warrant at Respondent's residence. A thorough search of the residence revealed no medical records, but several controlled substance prescription bottles were found in Respondent's bedroom. All the prescription bottles bore Respondent's name as the prescribing physician. The labels listed the following persons as patients, "Susan Baum," "Terri Baum," "Teresa Baum," "Vicki Herbruck," "Rick Baum," and "Pamela Evans." Many of the bottles matched the prescriptions located earlier by the Akron Police Department. The residence did not contain a medical office.

Pamela Baum was present during the search of Respondent's residence and was interviewed by Detective Mercurio. She informed him that she had never gone by any name other than "Pamela Lynn Baum." Detective Mercurio later interviewed Mark Baum who informed him that his sister never went by any nicknames. In a telephone conversation with Detective Mercurio, Mrs. Artz informed him that Pamela Baum never used any names other than "Pamela" or "Pam Baum."

During the hearing, Respondent presented affidavits allegedly from Pamela Baum and Eric Baum, Jr., stating, in part, that she used the nickname "Pam Leigh." Respondent also testified that his daughter used the nickname "Pam Leigh" for various reasons, including "her fondness for Sara Lee pound cake," a former boyfriend was named K.C. Leigh, and "Leigh" was her stepmother's maiden name. Respondent claimed that he wrote the controlled substance prescriptions for her in the name of "Pam Leigh" because "it kept the two of the[m] [Pamela Baum and her stepmother] friendlier." The Administrative Law Judge found neither the affidavits nor Respondent's testimony credible evidence in support of his reason for issuing controlled substance prescriptions in the name "Pam Leigh."

In February 1986, Detective Mercurio also questioned Pamela and Mark Baum as to whether either of them were diagnosed as being hyperactive and hyperkinetic, or whether they were ever prescribed controlled substances including Ritalin, Cylert and Fiorinal for any legitimate medical reason. Pamela Baum informed Detective Mercurio that she did not have any medical, physical or psychological problems, and that she was not taking Ritalin or any other prescription drugs. She also stated that the last time her father prescribed anything for her was approximately six months earlier when she had bronchitis. Mark Baum informed Detective Mercurio that Respondent and his stepmother abused controlled substances, that neither he nor his sister suffered from any medical or psychological conditions requiring drug therapy, and that neither he nor his sister received controlled substances from Respondent. In addition, Detective Mercurio questioned Mrs. Artz about her children's medical conditions. She told him that none of ther children had any medical problems requiring drug therapy, and that none of them were hyperactive. Detective Mercurio also questioned Vicki Herbruck, a registered nurse who dated Respondent from 1978 to 1982. She informed him that none of Respondent's children showed any signs of being hyperactive, and that she had never seen any indication that any of the children had any type of medical or psychological problem which would require regular medication.

In his defense, Respondent presented affidavits from Pamela Baum and Eric Baum, Jr., claiming that Pamela Baum suffered from hyperactivity and required regular treatment with Ritalin and/or Cylert. In light of the nature of the affidavits and Detective Mercurio's testimony to the contrary, the Administrative Law Judge did not give substantial weight to the affidavits. Respondent testified that both children were born with hyperkinesis and that the proper treatment was to alternatively prescribe Ritalin and Cylert. He also stated that he treated Pamela Baum with Fiorinal for "cluster headaches." Respondent testified that he prepared handwritten progress notes since August 1985 to document his medical treatment of his daughter. The Administrative Law Judge found that his progress notes did not match the actual prescriptions he issued in the name of

"Pam Leigh." Respondent's prescribing far exceeded the doses mentioned in the progress notes. In addition, the information contained in Respondent's progress notes for prescribing Cylert and Ritalin to Pamela Baum did not comport with accepted medical practice. He prescribed quantities of both drugs which far exceeded those recommended by the *Physician's Desk Reference*. A psychiatric expert who reviewed Respondent's progress notes for Pamela Baum found that it was inappropriate to prescribe controlled substances to one's family and that it was also inappropriate to prescribe Cylert and Ritalin together for treatment of hyperkinetic problems. A medical record for Pamela Baum allegedly based upon an examination conducted by a Dr. Rosser in Akron, Ohio also indicated that Pamela Baum was a normal, healthy adolescent female. There is no indication that she suffered from hyperactivity or hyperkinesis. Respondent testified that his daughter hid her hyperactivity from Dr. Rosser. He also admitted that Dr. Rosser had not written the report, but rather, that he wrote the report based upon Dr. Rosser's notes. The Administrative Law Judge did not believe Respondent's testimony regarding Dr. Rosser's report. She concluded that the omission from the report of Pamela Baum's alleged hyperkinesis is further evidence that she did not suffer from the condition. Overall, the Administrative Law Judge concluded that there was substantial evidence to find that Pamela Baum did not suffer from hyperkinesis or hyperactivity, and that there was no medical reason for her to receive the Ritalin or Cylert prescribed in her name. Even had she suffered from hyperactivity, the quantities of drugs prescribed for her by Respondent were excessively large and unjustified.

With respect to Respondent's alleged treatment of his wife, Teresa Baum, the Administrative Law Judge found Respondent's explanations dubious. Respondent's progress notes for his wife's treatment do not match his actual prescribing practices. He prescribed considerably larger quantities of controlled substances than are indicated in his notes. He prescribed quantities which far exceeded the doses suggested by the *Physician's Desk Reference*. Judge Bittner also found that Respondent prescribed various controlled substances in his wife's name during the time she was pregnant with their child, even though the drugs he prescribed were contraindicated for pregnant women. As with the evidence concerning Pamela Baum, the Administrative Law Judge found that even had Teresa Baum suffered from the conditions alleged by Respondent, he prescribed excessively large and unjustified quantities of controlled substances to treat those conditions.

The Administrative Law Judge also found Respondent's explanation of why empty controlled substance prescription bottles bearing other persons' names were found in his residence to be incredible. Respondent claimed that he found the bottles in his son Mark's bedroom, and that Mark told him that he found the bottles at his mother's home and brought them back to Florida. Mark Baum did not testify in the DEA hearing. The Administrative Law Judge did not give any weight to Respondent's testimony on this issue.

Detective Mercurio testified that he spoke with Vicki Herbruck and Susan Artz concerning the Respondent's prescribing practices and the prescriptions and prescription bottles found issued in their names. Vicki Herbruck informed him that between 1978 and 1982 she observed Respondent write prescriptions in the names of his children and his ex-wife. She also stated that she would have the prescriptions filled at a pharmacy and give the drugs to Respondent for his personal consumption. She informed Detective Mercurio that she had no contact with Respondent after 1982 and was unaware of any prescriptions Respondent may have written in her name after that time. Among the prescriptions found in local pharmacies in Akron, Ohio were four prescriptions written by Respondent in Ms. Herbruck's name from November 1983 to November 1984, some of which matched the prescription bottles found in Respondent's residence. Mrs. Artz also informed Detective Mercurio that she had not received any controlled substances from Respondent since their divorce in 1978. Yet, prescription bottles bearing her name and issued after 1978 were found in Respondent's residence. The evidence supports a finding that the bottles found in Respondent's residence were from prescriptions he issued for his personal consumption.

On April 15, 1987, in the Circuit Court for the Twelfth Judicial Circuit, in and for Sarasota County, Respondent entered a "best interest" plea to one count of obtaining drugs by fraud, a felony offense in violation of F.S. 893.13(3)(a)(1). The court withheld adjudication under Section 948.01 of the Florida Code and Respondent was placed on probation for one year and was ordered to be evaluated by a drug counseling agency.

Respondent submitted reports by case manager from T.A.S.C., a drug counseling agency, which stated that he did not consider Respondent and Mrs. Baum to have drug abuse problems. The case manager's conclusions were only based upon one interview with Respondent and his wife. There is no indication that the case manager sought any independent information prior to making his evaluations. Thus, the Administrative Law Judge properly accorded only insignificant weitht to the reports.

Relying on cases similar to Respondent's, the Administrative Law Judge concluded that despite the court's action to withhold adjudication, Respondent was "convicted" of a felony offense within the meaning of the Controlled Substances Act. 21 U.S.C. 824(a)(2). See *United States* v. *Cook*, 10 M.J. 138 (U.S. Ct. Mil. App. 1981); and *Stephen Granet Rosen, D.D.S.*, Docket No. 84–44, 50 FR 46844 (1985). The Administrative Law Judge also found that Respondent's "best interest" plea is equivalent to a plea of *nolo contendere*, and that the Administrator may rely on such a plea as the basis for revoking a registration. See *Sokoloff* v. *Saxbe*, 501 F.2d 571 (2d Cir. 1974). Thus, the record sufficiently supports a finding that Respondent was convicted of a felony offense relating to controlled substances, and that the conviction constitutes a sufficient ground to support the revocation of his DEA Certificate of Registration.

The Administrative Law Judge also found that Respondent's continued registration was contrary to the public interest. As discussed in 21 U.S.C. 823(f), the following factors are to be considered by the Administrator in evaluating the public interest:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's [or registrant's] experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's [or registrant's] conviction record under Federal or State laws relating to controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

The record establishes by a preponderance of the evidence that Respondent's continued registration is inconsistent with the public interest. The evidence in this record relates primarily to factors 2, 3, and 4 listed above. On numerous occasions, Respondent issued

prescriptions for controlled substances in the names of fictitious individuals. He also issued prescriptions in the names of his children and others. There is no indication that these prescriptions were issued for any legitimate medical purpose. Even if these prescriptions had been issued for a legitimate medical reason, the quantities of controlled substances he prescribed were excessive. Respondent's unlawful activities resulted in his conviction for a felony offense relating to controlled substances. His actions clearly violated both state and Federal laws. Respondent provided no credible evidence to support his continued registration. The Administrative Law Judge was correct in concluding that "the most charitable comment to be made about these practices is that they show a total lack of regard for the obligations accompanying DEA registration."

The Administrator finds no need to comment further except to conclude, in full agreement with the Administrative Law Judge's recommendation, that Respondent's registration must be revoked, and that any pending applications for renewal of his registration must be denied.

Accordingly, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 1301.54, the Administrator of the Drug Enforcement Administration orders that DEA Certificate of Registration BB0337508, previously issued to Eric A. Baum, M.D., be, and it hereby is, revoked. The Administrator further orders that any pending applications for renewal of said registration, be, and they hereby are, denied.

This order is effective December 22, 1988.

John C. Lawn,

Administrator.

Dated: November 15, 1988.

[FR Doc. 88-26905 Filed 11-21-88; 8:45 am]

BILLING CODE 4410-09-M

William L. McPhail, M.D.; Denial of Application

On September 2, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to William L. McPhail, M.D., of 16603 Plymouth, Detroit, Michigan, proposing to deny his application, executed on May 12, 1988, for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that Dr. McPhail's registration would be inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f) and 824(a)(4).

A registered mail receipt indicates that the Order to Show Cause was received by Dr. McPhail on September 9, 1988. More than thirty days have passed since the Order to Show Cause was received by Dr. McPhail and the Drug Enforcement Administration has received no response thereto. Therefore, the Administrator concludes that Dr. McPhail has waived his opportunity for a hearing on the issues raised by the Order to Show Cause and, pursuant to 21 CFR 1301.54(d) and 1301.54(e), enters this final order based on the investigative file.

The Administrator finds that Dr. McPhail is a physician licensed to practice medicine in the State of Michigan. Sometime in 1985 McPhail entered into an agreement with a Michael Kemp, who operated various medical clinics in the Detroit area. These clinics were visited by Medicaid and Blue Cross patients who sought prescriptions for controlled substances. In exchange for receiving these prescriptions, the patients were required to give blood, submit to x-rays, or submit to other medically unnecessary tests and procedures. Medicaid and Blue Cross then paid all claims for these tests to Mr. Kemp. Under Dr. McPhail's agreement with Mr. Kemp, Dr. McPhail received a weekly salary in return for his permitting Mr. Kemp to present claims under Dr. McPhail's Medicaid provider identification number. Additionally, because a licensed physician was required to sign prescriptions for controlled substances, Dr. McPhail also pre-signed numerous blank prescriptions. These prescriptions would later be filled out by unlicensed employees at Mr. Kemp's clinics who held themselves out to be doctors.

Dr. McPhail never saw or treated patients at any of Mr. Kemp's clinics, he merely passed the pre-signed prescriptions on to individuals who were neither qualified nor licensed to treat patients. Lines of patients could be observed outside Mr. Kemp's clinics, each patient waiting to get controlled substance prescriptions. The clinics provided no ligitimate medical service to patients. On the contrary, the clinics were established to supply controlled substances to patients at the highest possible profit to the clinic's owner, Mr. Kemp. Patients could easily receive controlled substance prescriptions every two weeks, regardless of their "medical" complaint. Many patients were personally dependent on the drugs they received. Dr. McPhail instructed one of the unlicensed individuals to prescribe Tylenol with codeine #3 on the first visit and Tylenol with codeine #4 on subsequent visits regardless of the patient's medical complaint. By pre-signing prescriptions, Dr. McPhail facilitated the clinic's practice of supplying controlled substance prescriptions to patients for no legitimate justification.

Title 21, Code of Federal Regulations, § 1306.05(a) requires prescriptions for controlled substances to be signed and dated on the date issued. Dr. McPhail pre-signed prescriptions on a regular basis for the unlicensed individuals to fill out. Dr. McPhail had no way of knowing what drugs were, in fact, prescribed to these individuals since he never saw the completed prescription forms. The Administrator finds Dr. McPhail's pre-signing of prescriptions inappropriate both because it is a violation of Federal regulations and also because Dr. McPhail was abdicating his responsibility as a prescriber of controlled substances.

As a result of this elaborate scheme, Dr. McPhail and several others employed at Mr. Kemp's clinics were charged in the Circuit Court for the 36th Judicial District, State of Michigan, with conspiracy to defraud Medicaid, Medicaid fraud, and unlawful delivery of controlled substances. Dr. McPhail was specifically charged with conspiracy to defraud Medicaid and Blue Cross, and conspiracy to unlawfully deliver controlled substances. The charges remain pending.

Finally, the Administrator finds that Dr. McPhail's previous DEA Certificate of Registration expired in February 1985. During the time that unlicensed clinic personnel were using Dr. McPhail's pre-signed prescriptions and DEA registration, Dr. McPhail was not currently registered with DEA. Even after Dr. McPhail left the clinic, he continued to prescribe, or cause controlled substances to be dispensed until as recently as March 21, 1988. Records supplied to the DEA by a Detroit pharmacy reveal that from January 5, 1988 through March 21, 1988, a majority of prescriptions filled by the pharmacy were called in by Dr. McPhail. These prescriptions were for various controlled substances, including Vicodin (Schedule III), diazepam (Schedule IV), acetaminophen with codeine (Schedule III) and various other codeine products. At the time Dr. McPhail issued these prescriptions, he was not registered with DEA and thereby not authorized to write any prescriptions for controlled substances.

In view of all the foregoing facts regarding Dr. McPhail's experience with controlled substances, his pre-signing controlled substance prescriptions with knowledge that they would be used to dispense controlled substances, his involvement in a conspiracy to defraud Medicaid, and his writing of controlled substance prescriptions without a DEA registration, the Administrator concludes that the issuance of a registration to Dr. McPhail would be inconsistent with the public interest. Dr. McPhail's controlled substance handling activities fall far outside the bounds of legitimate practice. Registrants must dispense controlled substances, and the prescriptions which cause such drugs to be dispensed, in a careful and prudent manner to prevent their misuse. Dr. McPhail caused the diversion of substantial quantities of controlled substances through prescriptions which contained his name and expired DEA number. Activities such as those in which Dr. McPhail was involved cannot be tolerated. Dr. McPhail's past experience in handling and prescribing controlled substances leads the Administrator to conclude that Dr. McPhail's registration would be inconsistent with the public interest.

Having concluded that Dr. McPhail's registration would be inconsistent with the public interest, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b), orders that the application for registration executed by William L. McPhail, M.D., on May 12, 1988, be and it hereby is, denied. Any other outstanding applications for registration submitted by Dr. McPhail are also denied.

This order is effective December 22, 1988.

Dated: November 16, 1988.

John C. Lawn,

Administrator.

[FR Doc. 88-26906 Filed 11-21-88; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Senior Executive Service; Appointment of Members to the Performance Review Board

Title 5 U.S.C. 4314(c)(4) provides that Notice of the appointment of individuals to serve as memers of the Performance Review Board of the Senior Executive Service shall be published in the **Federal Register.**

The following executives are hereby reappointed to new 3-year terms, effective November 18, 1988

Dennis E. Whitfield
Roland G. Droitsch

FOR FURTHER INFORMATION CONTACT: Mr. Larry K. Goodwin, Director of Personnel Management, Room C5526, Department of Labor, Frances Perkins Building, Washington, DC 20210.

Signed at Washington, DC, this 9th day of November 1988.

Ann McLaughlin,

Secretary of Labor.

[FR Doc. 88-27023 Filed 11-21-88; 8:45 am]

BILLING CODE 4510-23-M

Bureau of Labor Statistics

Labor Research Advisory Council Committees; Meetings and Agenda

The regular Fall meetings of committees of the Labor Research Advisory Council will be held on December 6, 7, and 8 in the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of representatives of labor organizations. The schedule and agenda of the meetings are as follows:

Tuesday, December 6, Room S-2217

9:30 a.m.—Committee on Prices and Living Conditions

1. International Price Program
   a. Monthly pricing
   b. Revision
2. Consumer Price Index
3. Consumer Expenditure Survey
4. Other business

1:30 p.m.—Committee on Wages and Industrial Relations

1. Review of work in progress
2. Proposal for Change in the Area Wage Program
3. New Directions in Collective Bargaining Statistics
4. Developments in Cost Level Data from the Employment Cost Index
5. Other business

Wednesday, December 7, Room S-2217

9:30 a.m.—Committees on Productivity, Technology and Growth and Foreign Labor and Trade

1. Revisions in the BLS Projections
2. Occupational Tenure Data in the CPS
3. Work in the Public Sector Productivity Measurement
4. Update of the International Comparison of Productivity ard Costs

1:30 p.m.—Committee on Employment and Unemployment Statistics

1. Status of FY 1989 Budget
2. Unemployment Insurance Supplement to Current Population Survey
3. Permanent Mass Layoff and Plant Closing: Status Report and Update
4. Business Establishment List (BEL) Project
5. Measurement of Labor Shortages
6. Current Population Survey redesign plans
7. New Local Area Unemployment Statistics (LAUS) Methodology: Implementation and next steps
8. SIC Revision: 1992-1997
9. Occupational mobility
10. Impact of Occupational Employment Statistics (OES) Sample Reduction
11. Other business

Thurday, December 8, Room S-2217

1:30 p.m.—Committee on Occupational Safety and Health Statistics

1. Annual Survey, results for 1987
2. SDS status, budget and state participation
3. Keystone Report
4. Statistical System Revision
   a. Data system
   b. Recordkeeping Concepts and timetable for new guidelines
5. Results of Revision Feasibility Tests (FY 1988)
6. FY 1989 Revision Pilot Tests
7. Fatality Reporting Project
8. Recordkeeping Assessment Projects
9. Industry Fact Sheet Project
10. Inhalation Project

The meetings are open. It is suggested that persons planning to attend as observers contact Henry Lowenstern, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 523-1327.

Signed at Washington, DC, this 16th day of November 1988.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 88-27025 Filed 11-21-88; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

[TA-W-20,999]

Falcon Refinery, Ingleside, TX; Terminaiton 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 which was filed on behalf of workers at Falcon Refinery, Ingleside, 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 Falcon Refinery, Ingleside, Texas 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 8th day of November 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 88-27021 Filed 11-21-88; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,109]

Inexco Oil Co., Houston, TX; 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 Inexco Oil Company, Houston, Texas.

The retroactive provision 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.

A negative determination applicable to the petitioning group of workers was issued on September 29, 1987 (TA-W-19,764). No new information is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 8th day of November 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 88-27022 Filed 11-21-88; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-88-211-C]

BethEnergy Mines, Inc.; Petition for Modification of Application of Mandatory Safety Standard

BethEnergy Mines, Inc., P.O. Box 143, Eighty Four, Pennsylvania 15330 has filed a petition to modify the application of 30 CFR 77.216-5 (water sediment or slurry impoundments and impounding structures; abandonment) to its Ellsworth No. 51 Mine (I.D. No. 36-00959), (Impoundment No. 1211 PA 20023-011 A) located in Washington County, Pennsylvania. 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 prior to abandonment of any water, sediment, or slurry impoundment and impounding structure, the person owning, operating, or controlling such an impoundment and impounding structure submit to and obtain approval of the District Manager a plan for abandonment based on current, prudent engineering practices which contain provisions to preclude the probability of future impoundment of water, sediment, or slurry, provide for major slope stability, and include a schedule for the plan's implementation.

2. As an alternate method, petitioner proposes to abandon a fine coal refuse impoundment and create a small pond of about 14 acres of surface area within a portion of the area formerly occupied by the impoundment as follows:

(a) The fine coal refuse impoundment would be abandoned by backfilling and recontouring, creating a small pond of approximately 14 acres of surface area;

(b) The heap type coarse coal refuse bank would be recontoured and the excavated materials would be used to backfill the adjacent impoundment, thus creating the small pound;

(c) An outlet channel from the area of the small pond that has sufficient capacity to safely pass the runoff from a probable maximum precipitation event would be constructed;

(d) Erosion protection in the outlet channel to accommodate discharge (flow) from a one hundred year storm event would be provided in accordance with MSHA guidelines for auxiliary coal mining facilities;

(e) The proposed outlet channel would have a trapezoidal cross section with a 15-foot wide base and IV:2H (27°) side slopes;

(f) Lower portions of the outlet channel would be provided with erosion protection where design flow velocities are in excess of 7 feet per second; and

(g) Mine drainage and treated water pipelines that formerly conveyed water to and from the impoundment would be removed.

3. 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 22, 1988. Copies of the petition are available for inspection at that address.

Date: November 15, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-27024 Filed 11-21-88; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also

authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATE: Requests for copies must be received in writing on or before January 6, 1989. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESS: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of the Army (N1–AU–89–1). Records of the U.S. Army Claims Service relating to routine Army property damage claims.

2. Department of the Army (N1–AU–89–2). Routine records of the U.S. Army Claims Service relating to medical expense claims.

3. Department of the Army (N1–AU–89–3). Routine records of the U.S. Army Claims Service relating to claim investigation reports.

4. Department of Health and Human Services, Public Health Service, Alcohol, Drug Abuse, and Mental Health Administation (N1–90–89–1). "Payback" files for awards made under the training provisions of the National Research Service Act and the Public Health Service Act.

5. Department of Housing and Urban Development (N1–207–89–1). Records relating to the IDEAS employee awards case files.

6. Department of Justice, Bureau of Prisons (N1–129–89–1). Negatives of inmate identification photographs, McNeil Island Penitentiary.

7. Panama Canal Commission, Administrative Services Division (N1–185–88–3). Incomplete and illegible survey notes, unidentified photos, unprocessed press clippings, transit statistics published in summary form in the annual report, files for routine administrative and facilitative activities, and duplicate copies of reports, memos, and studies schedules for permanent retention.

8. Railroad Retirment Board (N1–184–89–1). Comprehensive Schedule, Part 2 of 3. Records relating to facilitative matters are temporary. Records relating to overall policies and procedures are permanent.

9. Department of State (N1–59–88–27). Supply and Procurement Management Records.

10. United States Information Agency, Office of the Director (N1–306–8–18). Routine and facilitative records of the German-American Contacts Staff. Policy material is scheduled for transfer to the National Archives.

Dated: November 10, 1988.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 88–26967 Filed 11–21–88; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Education Advisory Panel; Amended Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Arts in Education Advisory Panel (State Arts in Education Section) to the National Council on the Arts which was to have been held on December 7–8, 1988, from 8:00 a.m.–8:00 p.m. and December 9, 1988, from 8:00 a.m.–5:00 p.m. in Room MO9 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 has been changed.

The portion of the meeting which was to be open to the public on December 9, 1988, from 2:00–5:00 p.m. for a policy and guidelines discussion has been changed. The open portion of this meeting will be held on December 9, 1988, from 1:00–4:00 p.m.

The remaining sessions of this meeting on December 7–8, 1988 from 8:00 a.m.–8:00 p.m., and December 9, 1988, from 8:30 a.m.–1:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

November 17, 1988.

[FR Doc. 88–27016 Filed 11–21–88; 8:45 am]

BILLING CODE 7537–01–M

Media Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Advisory Panel (American Film Institute Section) to the National Council on the Arts will be held on December 1, 1988, from 9:00 a.m.–5:30 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

November 17, 1988.

[FR Doc. 88–27015 Filed 11–21–88; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Materials Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

Expedited Clearance Request: NSF is requesting an expedited clearance from OMB for a two week turn-around after receipt at OMB (See following telephone questionnaire).

Agency Clearance Officer: Herman G. Fleming, (202) 357–9520.

OMB Desk Officer: Written comments to: Office of Information and Regulatory Affairs, ATTN: Jim Houser, Desk Officer, OMB, 722 Jackson Place, Room 3208, NEOB, Washington, DC 20503.

Title: Survey of Foreign Students in the Sciences.

Affected Public: Non-profit institutions.

Responses/Burden Hours: 120 respondents; 30 minutes each.

Abstract: This survey is to obtain information and perspectives on foreign students in graduate education in four U.S. scientific fields. The information will be used by the National Science Board in its deliberations regarding the impact of foreign students on graduate education in the United States.

Dated: November 16, 1988.

Herman G. Fleming,

NSF Clearance Officer.

Draft

Chairperson:
Department:
Institution:

Semi-Structured Telephone Interviews of Sample of U.S. University Department Chairpersons in Chemistry, Computer Science, Mathematics, Physics

This interview is to obtain information and perspectives on foreign students in graduate education in four U.S. scientific fields. Your participation in this interview is totally voluntary. The information you provide will be given maximum protection from disclosure, subject to applicable laws including the Freedom of Information Act, 5 USC 552. Individuals will not be identified with their answers.

The information will be used to assist the National Science Foundation, and in particular the National Science Board's Committee of Foreign Involvement in U.S. Universities in its deliberations regarding the impact of foreign students on the quality and content of graduate education in the United States.

This survey is expected to take approximately 30 minutes. If you have comments concerning response time, you may send comment to: Herman G. Fleming, Reports Clearance Officer, Division of Pesonnel and Management, National Science Foundation, Washington, DC 20550.

Or to: Office of Management and Budget, Paperwork Reduction Project (3145–xxxx), Washington, DC 20503.

Draft

Foreign Students in the Sciences

Semi-Structured Interview Guide

Departmental Demographics

- Number of students and percent foreign.
- Countries of origin of foreign students.

Assess to Graduate Education

- Adequacy of numbers and quality of U.S. versus foreign applicants.
- Expectations for the future regarding adequacy and quality of U.S. versus foreign applicants.
- Policies limiting numbers or percent of foreign students.
- Requirements regarding English competency.

Process and Content of Education/Research

- Changes made to accommodate foreign students.

Curriculum Content.
Instructional approach.
Faculty-student interactions.

- Effect of foreign students on research activities.

On ability to obtain funding.
On faculty research interests or overall nature of research pursued.
On restrictions on research.

Teaching Assistants (TAs)

- Number and percent foreign.
- Differences in nature of assignments to foreign versus U.S. TAs.
- Special programs to train foreign TAs.
- Restrictions on TA awards to foreign students.
- Sources of support for foreign TAs.

Research Assistants (RAs)

- Number and percent foreign.
- Differences nature of assignments to foreign versus U.S. RAs.
- Special programs to train foreign RAs.
- Restrictions on RA awards to foreign students.
- Sources of support for foreign RAs.

Academic Performance of Foreign versus U.S. Students.

- Length of time to complete degree.
- Likelihood of successful completion.
- Differences in post-graduation plans and employability.

[FR Doc. 88–26942 Filed 11–21–88; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Memorandum of Understanding (MOU) Between the NRC and the Illinois Department of Nuclear Safety

AGENCY: Nuclear Regulatory Commission.

ACTION: Publication of Draft Subagreement No. 2 between NRC and the Illinois Department of Nuclear Safety for public comment.

SUMMARY: Section 274i. of the Atomic Energy Act of 1954, as amended, allows the Nuclear Regulatory Commission (Commission or NRC) to enter into an agreement with a State "to perform inspections or other functions on a cooperative basis as the Commission deems appropriate." This section 274i. agreement, typically in the form of a Memorandum of Understanding (MOU), differs from an agreement between NRC a and State under the "Agreement State" program; the latter is accomplished only by entering into an agreement under section 274b. of the Atomic Energy Act. A State can enter into a section 274i. MOU whether or not it has a section 274b. agreement.

In April of 1984, NRC and the State of Illinois signed an "umbrella" MOU, providing principles of cooperation

between the State and NRC in areas of concern to both.

In June of 1984, NRC and the State of Illinois signed Subagreement No. 1 which provided the basis for mutually agreeable procedures whereby the State may perform inspection functions for and on behalf of the Commission at certain reactor and materials licensee's facilities which generate low-level radioactive waste.

Draft Subagreement No. 2 under this MOU provides the basis for mutually agreeable procedures whereby the Illinois Department of Nuclear Safety (IDNS) may perform inspection, audit, and similar functions for nuclear power plants together with and for and on behalf of the Commission under a program created pursuant to the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) and accepted by NRC and IDNS. The Commission is in the process of finalizing the Policy Statement on NRC cooperation with States and the Subagreement may require revisions, in order to conform to the final Policy Statement.

DATE: Submit comments by December 22 1988. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESEE: Mail written comments to: Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Deliver comments to 7920 Norfolk Avenue, Bethesda, Maryland between 7:45 a.m. and 4:15 p.m. weekdays except Federal holidays. Copies of comments received may be examined at the NRC Public Document Rom at 2120 L Street, NW., Washington, DC lower level.

FOR FURTHER INFORMATION CONTACT: Roland Lickus, Chief, State and Government Affairs, U.S. Nuclear Regulatory Commission, Region III, 799 Roosevelt Road, Building #4, Glen Ellyn, Illinois, 60137, (312) 790–5666.

SUPPLEMENTARY INFORMATION: NRC regulation (10 CFR 50.55a) requires the application of the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers (ASME) Code to certain pressure vessels, piping, pumps and valves of nuclear power reactors. As discussed more fully in the text of the Subagreement which follows, a State role is contemplated in the ASME system as it pertains to certain nuclear power plant components. This Subagreement is intended to formalize and define the manner in which the NRC and the Illinois Department of Nuclear Safety (IDNS) will cooperate in the planning and conducting of ASME Code related inspections at nuclear power plants in Illinois to ensure compliance with NRC regulations. The objective of the Subagreement is to provide a framework for IDNS to assist NRC in performing safety inspections under 10 CFR § 50.55a. The NRC will take appropriate enforcement actions for joint inspections conducted under this Subagreement. Key features of the Subagreement include provisions for (1) ensuring IDNS's activities supplement but do not duplicate the NRC's activities; (2) joint team inspections of ASME related matters led by NRC; (3) documentation by IDNS of its inspection efforts for inclusion into the final NRC inspection report; (4) availability of NRC training for IDNS inspectors; and (5) timely exchange of information between NRC and IDNS.

Dated at Rockville, Maryland, this 15th day of November 1988.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

Subagreement 2 Between the Nuclear Regulatory Commission and the Illinois Department of Nuclear Safety

I. Authority

The Nuclear Regulatory Commission (NRC) and the Illinois Department of Safety (IDNS) entered into this Subagreement under the authority of the Memorandum of Understanding (MOU) of April 1984, between Illinois and NRC (49 FR 20586; 5/15/1984) and under section 274i of the Atomic Energy Act of 1954, as amended.

II. Background

A. NRC and ASME Code

1. The Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, require the Nuclear Regulatory Commission (NRC) (previously the Atomic Energy Commission (AEC)) to license and regulate, among other activities, the manufacture, construction, and operation of utilization facilities (nuclear power plants) in order to assure the common defense and security and to protect the health and safety of the public. Under these statutes, the NRC has the ultimate responsibility to regulate nuclear power plant safety.

2. In June 1971, AEC promulgated regulations which established minimum quality standards for the design, fabrication, erection, construction, testing, and inspection of boiling and pressurized water-cooled nuclear power plants by requiring conformance with appropriate editions and addenda of specified published industry codes and standards. These regulations, 10 CFR 50.55a (and the now revoked § 115.43a), have provided specific guidance to manufacturers and users of structures, systems and components of nuclear power plants for meeting Criterion 1 of the NRC's "General Design Criteria for Nuclear Power Plants" in Appendix A of 10 CFR Part 50 (See 36 FR 11423; 6/12/71). That criterion requires that structures, systems and components of nuclear power plants important to safety be designed, fabricated, erected, and tested to quality standards that reflect the importance of the safety functions to be performed. In particular, these regulations have required pressure vessels, piping, pumps, and valves that were part of a reactor's coolant pressure boundary to be constructed (e.g., designed, fabricated, inspected, and tested) in accordance with ASME Code Editions and Addenda.

3. The AEC stated in the preamble of the regulations, among other things, that:

i. It accepted the ASME inspection process;

ii. Licensees, vendors and others could use the ASME inspection and survey systems in partial fulfillment of its requirements to the extent that they were shown by the description of the quality assurance program required by § 50.34(a)(7) to satisfy the applicable requirements of Appendix B of 10 CFR Part 50;

iii. Section 50.55a(b)(2) (now § 50.55a(a)(3)) provides a basis for the authorization of alternatives to the requirements of the specified ASME Code sections and other standards if it can be shown that an acceptable level of safety will be provided; and

iv. It is considered that a significant improvement in the level of quality in construction of structures, systems and components important to safety would be afforded by compliance with the requirements of more recent versions of an ASME Code than those specified in the amendments and it encouraged such compliance whenever practicable, regardless of the date of purchase of equipment or the provisions of the amendments.

4. Presently, to promote the safe operation of nuclear components, NRC requires use of Section III, Division 1, of the ASME Code for construction of Class 1, 2, and 3 components, and Section XI, Division 1, of the ASME Code for inservice inspections of these components.

5. In March of 1981, NRC, ASME, and the National Board of Boiler and Pressure Vessel Inspectors (NB) entered into an "Exchange of Correspondence" that set forth "Principles" for "The Accreditation and Inspection of Nuclear Supplier Quality Assurance Programs." These Principles define the NRC's, the ASME's, and the NB's responsibilities and actions with respect to the ASME/NB accreditation program and third party inspection of Certificate Holders providing products and services to nuclear facilities in accordance with ASME Code, Section III (Divisions 1 and 2). The key objective of the Exchange of Correspondence was to provide NRC licensees and license applicants with a non-duplicative, efficient and effective procedure for implementing the ASME/NB nuclear accreditation program and the monitoring of supplier quality assurance (QA) activities to ensure compliance with NRC, ASME, and NB programmatic QA requirements.

6. On March 31, 1986, the NRC's Office of Inspection and Enforcement distributed Information Notice No. 86-21 informing NRC licensees, construction permit holders and vendors of NRC's recognition of ASME's Accreditation Program for holders of N, NPT, NA, and NV stamps and Certificates of Authorization.

7. NRC's endorsement of the system established under ASME has followed a detailed assessment of the ASME's infrastructure from which, among other things, NRC has determined that it provides an effective inspection program that NRC can accept to carry out its mission.

B. Illinois, IDNS, and the ASME Code

1. The ASME Code provides rules for the construction of heating boilers, power boilers, pressure vessels and nuclear power plant components. Also, the ASME Code provides recommended rules for the care and operation of heating boilers, recommended guidelines for the care of power boilers, and rules for the inservice inspection of nuclear power plant components. The ASME has an Accreditation System that is used to ensure the quality of construction of ASME Code components. The ASME Accreditation System is based on a program of authorized inspection, which requires an Authorized Inspector (AI) (an Authorized Nuclear Inspector (ANI) in the case of the nuclear sections of the ASME Code), designated or approved by an Authorized Inspection Agency (AIA) to inspect independently the activities of a Certificate Holder during construction under the ASME Code. In addition, Section XI of the ASME Code has an inservice inspection system, also based on a program of authorized inspection, which requires that an Authorized Nuclear Inservice Inspector (ANII) from an AIA independently inspect the performance of the owner's In-Service Inspection (ISI) program.

2. In accordance with the provisions of Section 2 of the Illinois Boiler and Pressure Vessel Safety Act (Ill. Rev. Stat. 1985, ch. 111 1/2, par. 3202) the Illinois Board of Boiler and Pressure Vessel Rules adopted the ASME Boiler and Pressure Vessel Code.

3. In pertinent part, Section 2a of the Illinois Boiler and Pressure Vessel Safety Act (Ill. Rev. Stat. 1985, ch. 111 1/2, par. 3202a) provides that IDNS shall have sole State jurisdiction with respect to ASME Code compliance over all boilers and pressure vessels contained within or upon or in connection with any nuclear facility within the State of Illinois and that IDNS shall have the same authority and shall have and exercise the same powers in relation to such boilers and pressure vessels as the Board or the State Fire Marshal has and exercises in relation to other boilers and pressure vessels within the State of Illinois.

4. Illinois also enters into this Subagreement to faciliate implementing its responsibilities with respect to ASME code compliance under the Illinois Boiler and Pressure Vessel Safety Act.

III. Scope

A. This Subagreement defines the way in which the NRC and IDNS will cooperate in the planning and conducting of inspections of nuclear power plants to ensure compliance with NRC's regulations and the Exchange of Correspondence on ASME Section III and Section XI components. This Subagreement does not apply to investigations or inquiries conducted by the NRC. Except as provided in VII.B.13., this Subagreement does not apply to IDNS's inspections of, and enforcement actions regarding boilers, pressure vessels and appurtenances not covered in a Final Safety Analysis Report (FSAR)/Updated Safety Analysis Report (USAR).

B. For the purpose of this MOU, "Inspection" is defined as an audit, observation, examination, review, and related functions to verify whether an item, component, or activity conforms to specified requirements of the ASME Code Sections III and XI. The scope of these inspections shall be limited to those systems described in the FSAR/USAR.

C. Nothing in this Subagreement is intended to restrict or expand the statutory authority of NRC, Illinois, or IDNS, or to affect or vary the terms of any agreement in effect under the authority of Section 274b of the Atomic Energy Act of 1954, as amended; nor is anything in this Subagreement intended to restrict or expand the authority of Illinois and IDNS on ASME Code matters not within the scope of this Subagreement.

IV. Purpose and Intent

A. Although NRC has the ultimate responsibility to regulate nuclear power plant safety under the Atomic Energy Act and Energy Reorganization Act, noted above, NRC recognizes the interest of Illinois in the overall safety and health of its citizens. For this reason, NRC and IDNS agree to cooperate in implementation of NRC's safety programs related to nuclear power plants. Further, NRC recognizes that, to the extent that IDNS supports NRC's safety mission, additional resources are applied to overall nuclear safety. Thus, NRC recognizes IDNS's desire to participate in NRC's inspections of nuclear power plants.

B. The objective of this Subagreement is to provide a framework for IDNS to assist NRC in performing safety inspections under 10 CFR 50.55a. IDNS intends to verify owner's compliance with sections III and XI of the ASME Code for all safety-related systems, applicable nonsafety-related systems, components, and supports of these systems and components, as described in the FSAR/USAR of nuclear power plants. It is intended that these verifications will apply to section III construction activities and to section XI inservice inspection activities after section III requirements have been met. The NRC will take appropriate enforcement actions for joint inspections conducted under this Subagreement.

C. Within this framework, NRC and IDNS intend that IDNS's role in ASME Code activities not only help maintain safety, enhance joint understanding, reduce duplication of effort, and provide a unified position on matters of joint concern, but also that it be well-defined, appropriately controlled and agreed to in advance by NRC and IDNS to minimize potential jurisdictional and technical disputes.

D. IDNS inspection may accompany NRC personnel inspecting nuclear power plant components manufactured outside Illinois but intended to be used within it.

V. NRC's General Responsibilities

NRC is responsible for conducting safety inspections of nuclear power plants to assure that the plants are designed, constructed, tested, and

operated in accordance with pertinent NRC regulatory requirements. These inspections are conducted in accordance with the NRC Inspection Manual using personnel appropriately qualified to perform the necessary task. The NRC will take appropriate enforcement actions for joint inspections conducted under this Subagreement.

VI. IDNS's General Responsibilities

A. Assist the NRC when requested in performing planned NRC safety inspections under 10 CFR 50.55a.

B. Cooperate with the NRC in such inspections to assure that these components meet the requirements of the ASME Code as adopted and endorsed by the NRC.

C. Conduct inspections at manufacturing facilities, materials suppliers, AIAs, architect/engineers and other ASME related activities not covered in this Subagreement to verify ASME Code compliance; IDNS will provide the results of these activities to NRC for information.

D. Inspect boilers and pressure vessels in nuclear facilities within the State of Illinois and issuing Inspection Certificates as required by Sections 10 and 11 of the Illinois Boiler Pressure Vessel Safety Act, provided that IDNS's activities under this paragraph shall not be inconsistent with Federal law and the rules, policies, and practices of the NRC.

VII. Implementation—NRC's and IDNS's Specific Responsibilities

IDNS and NRC agree to work in concert to assure that the following training, inspection and enforcement, and information exchange protocol are followed.

A. Training

1. IDNS's inspectors accompany NRC's inspectors will be qualified and certified by IDNS in accordance with the NRC Inspection Manual, or its equivalent. Based on IDNS inspector performance, NRC reserves the right to revoke IDNS inspector certification under this Subagreement and it shall provide the reasons for the action in writing to IDNS.

2. NRC will use its best efforts to make space available in its inspector training courses, seminars, and special orientation programs to accommodate the training needs of IDNS inspectors.

3. IDNS will pay the travel and per diem expenses of its inspectors attending training courses. Where NRC establishes special training classes, IDNS agrees to reimburse NRC for its costs of training IDNS inspectors.

4. IDNS personnel who inspect vessels and appurtenances not covered in an FSAR/USAR shall meet the qualification requirements under Illinois State law and are not required to be qualified and certified in accordance with the NRC Inspection Manual or its equivalent.

B. Inspections and Enforcement

1. IDNS's activities are not intended to duplicate NRC's regulatory activities.

2. IDNS's inspectors are responsible for meeting all requirements of an NRC licensee related to personal safety and access at the plant site.

3. Before IDNS's inspectors are qualified and certified under this Subagreement, they may participate with NRC inspectors as observers at safety inspections or work under the guidance and direction of NRC's inspectors.

4. To facilitate cooperation and efficient use of resources, NRC and IDNS inspectors will conduct joint team safety inspections under this Subagreement. An NRC inspector will lead the team and be in charge of the inspection.

5. For these joint team safety inspections, NRC and IDNS will work together to develop inspection plans. For reactive inspections in which a quick response is necessary, time may not permit the joint development of an inspection plan or IDNS's participation in such an inspection. NRC will involve IDNS to the maximum extent possible consistent with protection of the public health and safety.

6. IDNS will use NRC to channel any IDNS information request to a licensee which is made to support the planning and implementation of the joint team safety inspections.

7. NRC and IDNS will perform safety inspections in accordance with the inspection plans using applicable procedures in the NRC Inspection Manual.

8. Should IDNS develop inspection findings or otherwise identify problems about ASME Code compliance, it will identify these promptly to the NRC inspection team leader.

9. IDNS may attend and participate in the NRC's inspection entrance and exit meetings with licensees of nuclear power plants in Illinois or with vendors fabricating systems or components for use in Illinois on matters within the scope of this Subagreement.

10. Within 15 working days after completing its portion of a safety inspection, IDNS will document to NRC its inspection's scope, details and results in a report written in the format described in the NRC Inspection Manual. The NRC team leader will use the information in preparation of the NRC's final report.

11. If, based on its review of the IDNS report, NRC identifies potential violations of NRC regulatory requirements, NRC will take appropriate enforcement action as prescribed in Appendix C of 10 CFR Part 2. If NRC proposes escalated enforcement action, based on IDNS findings, it will give IDNS reasonable notice of the time and place of the enforcement conference, and IDNS may attend that conference. At NRC request, IDNS will assist NRC during any enforcement conferences or hearings at which NRC takes enforcement action as a result of a violation identified by an IDNS inspector.

12. IDNS will be given reasonable notification of and the opportunity to participate in NRC inspections of a licensee's corrective action(s) resulting from a joint team safety inspection.

13. IDNS will give reasonable notification to NRC of its inspections of boilers, pressure vessels, and appurtenances not covered in an FSAR/USAR.

14. IDNS will inform NRC if it is unable to participate in an NRC inspection activity.

C. Information Exchange

1. IDNS and NRC agree to the greatest extent possible and in good faith to make available to each other information within the intent and scope of this Subagreement. Specifically, NRC recognizes the value of IDNS's data acquisition system and IDNS agrees to make available to NRC data in this system related to activities under this Subagreement.

2. IDNS and NRC agree to meet periodically at mutually agreeable times and places to exchange information on matters of common concern pertinent to this Subagreement.

3. IDNS and NRC agree to consider each other's identified information needs and concerns, as well as those of the licensee, when developing inspection plans.

4. NRC agrees to make available to IDNS inspection-related documentation for inspections conducted under this Subagreement.

5. IDNS will not publicly disclose inspection findings prior to the release of the NRC inspection report.

6. To preclude the premature public

release of sensitive information, IDNS and NRC shall protect sensitive information to the extent permitted by the Federal Freedom of Information Act, the Illinois Freedom of Information Act and other applicable authority. IDNS and NRC shall consult with each other before releasing sensitive or proprietary information related to findings under this Subagreement.

VIII. Contacts

A. The principal contacts for this Subagreement will be the Director, Division of Reactor Safety, NRC, Region III, and the Manager, Office of Nuclear Facility Safety, IDNS. These individuals may designate appropriate staff representatives for the purpose of administering this Subagreement.

B. Identification of these contacts is not intended to restrict communication between NRC and IDNS staff members on technical and other day-to-day activities.

IX. Resolution of Conflicts

If disagreements arise about ASME Code related issues, NRC or IDNS may consult ASME or the National Board, as necessary. ASME is the final authority on such issues concerning ASME Code compliance regarding ASME Code stamped components. Should conflicts or disagreements occur between NRC and IDNS, NRC and IDNS will jointly work together to resolve these differences. The NRC's General Counsel is the final authority to interpret the Commission's regulations.

X. Effective Date

This Subagreement will take effect after it has been executed by both parties.

XI. Duration, Termination, and Modification

This Subagreement may be amended or modified upon written agreement by both parties and may be terminated upon 30 days written notice by either party.

XII. Separability

If any provision of this Subagreement, or the application of any provision to any person or circumstance is held invalid, the remainder of this Subagreement and the application of such provisions to other persons or circumstances shall not be affected.

For the Nuclear Regulatory Commission.

Executive Director for Operations
Date: _____

FOR THE ILLINOIS DEPARTMENT OF NUCLEAR SAFETY,

Director
Date: _____

[FR Doc. 88-26994 Filed 11-21-88; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-424]

Georgia Power Co. et al., Vogtle Electric Generating Plant, Unit 1; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia (the licensee) to withdraw its May 19, 1988, application of the Vogtle Electric Generating Plant, Unit 1, located in Burke County, Georgia. The proposed amendment would have revised Technical Specification (TS) 3.2.2, "Heat Flux Hot Channel Factor-FQ(Z)" from 2.30 to 2.25 at 100% power, and from 4.60 to 4.50 at 50% power or less. The bases to TS 3.2.1 would also have been revised to reflect the change. The Commission issued a Notice of Consideration of Issuance of the Amendment in the Federal Register on June 19, 1988 (53 FR 24511). By letter dated August 30, 1988, the licensee withdrew its application for the proposed amendment because a reanalysis showed that a change to FQ(Z) is not needed to compensate for increased containment spray flow.

For further details with respect to this action, see (1) the application for amendment dated May 19, 1988, (2) the licensee's letter dated August 30, 1988, withdrawing the application for amendment, and (3) our letters dated November 2, 1988, and Nov. 15, 1988. All of the above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Dated at Rockville, Maryland, this 15th day of November 1988.

For the Nuclear Regulatory Commission.

Jon B. Hopkins,

Project Manager, Project Directorate II-3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-26993 Filed 11-21-88; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-498]

Houston Lighting and Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-76, issued to Houston Lighting and Power Company (the licensee), for operation of the South Texas Project, Unit 1, located in Matagorda County, Texas.

The proposed amendment would revise the Unit 1 Technical Specifications (TS) to the Combined Technical Specifications for Units 1 and 2, add placing the positive displacement pump in a lock-out condition during cold overpressurization, add a reactor coolant pump seal isolation charging header pressure interlock and modify the administrative section of the Technical Specifications. Each of these are addressed separately below.

Before issuance of the proposed license amendment, the Commission will have more findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The South Texas Project Electric Generating Station (STPEGS) Unit 1 operating license includes the Technical Specifications for the operation of Unit 1. At the time Unit 2 receives an operating license, Houston Lighting and Power Company (HL&P) will receive Technical Specifications that are applicable for both units, i.e., Combined Technical Specifications. To implement the Combined Technical Specifications on Unit 1, the Unit 1 license requires administrative changes.

The Commission has provided guidance for the application of criteria for no significant hazards consideration determination by providing examples of

amendments that are considered not likely to involve significant hazards considerations (51 FR 7751). These examples includes example (i), a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error or a change in nomenclature.

The changes associated with the section of the proposed amendment for the Combined Technical Specifications are administrative in nature and, therefore, are within the scope of the example. Since this section of the amendment involves changes that are encompassed by an example for which no significant hazards consideration exists, the staff has made a proposed determination that this section of the amendment involves no significant hazards consideration.

The section of the proposed amendment regarding the positive displacement pump (PDP) adds to the Technical Specifications the placement of the positive displacement pump in a lock-out condition before reaching a cold overpressure mitigation system activation condition. The proposed change would implement the lock-out as a surveillance in the overpressure protection system.

The Houston Lighting & Power Company reviewed the proposed change and determined, and the staff agrees that:

(1) This section of the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. No hardware changes or methods of operation are altered as a result of the amendment. The actual PDP lock-out provisions are already addressed in plant operating procedures. This change elevates the PDP lock-out to the same status as the other affected pumps (i.e., charging and high head safety injection).

(2) This section of the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. This change formalizes, in the Technical Specifications, operational requirements already implemented by the plant. In addition, no hardware changes are involved with this change.

(3) This section of the proposed amendment does not involve a significant reduction in the margin of safety. No changes to the plant from a hardware or operational standpoint are made as a result of this change. The proposed technical specification requirement (the locking-out of the PDP) is already included in plant operating procedures. Since the proposed specifications add additional surveillance requirements to verify that the PDP is locked-out, all margins of safety are maintained.

The section of the proposed amendment regarding the reactor coolant pump seal isolation proposes to incorporate the reactor coolant pump seal isolation charging header pressure interlock into the Technical Specifications by specifically addressing operability and surveillance requirements for the charging header pressure interlock circuit. The interlock circuit provides a trip signal if the charging header pressure is low. The proposed change incorporates the surveillance requirements in the appropriate tables.

The Houston Lighting and Power Company reviewed the proposed change and determined, and the staff agrees that:

(1) This section of the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. No hardware changes are required as a result of this change.

The proposed amendment will provide the containment isolation function associated with this interlock with the same technical specification status as other containment isolation functions.

(2) This section of the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. No hardware changes are made which would create any new failure or accident sequences. Conditions could exist wherein the plant was in the proposed action statement and a spurious or actual Phase "A" isolation could occur. The STPEGS Emergency Operating Procedures (EOP's) address this scenario adequately in that continued operation of the reactor coolant pumps is not allowed if seal injection flow is lost and Component Cooling water flow is not available to the RCP thermal barrier. The EOP's also provide guidance to the operators to attempt to restore seal injection as soon as possible.

(3) This section of the proposed amendment does not involve a significant reduction in the margin of safety. The proposed changes include the Seal Injection Isolation Valve Interlock function in the Technical Specifications to clarify plant response to a failure of this circuit. There is no change in the margin of safety. The proposed action statement maintains plant conditions which satisfy safety analysis assumptions and allows for an orderly response to an inoperable circuit.

The Houston Lighting and Power Company proposed four changes to the administrative section of the Technical Specifications. The first change involves the composition of the Plant Operations Review Committee. The change requires that if the Technical Services Manager does not meet the qualifications of a Radiation Protection Manager, the committee will be augmented by a member who meets the qualifications. The second change further defines the quorum requirements for the Nuclear Safety Review Board by indicating that a majority of the board members must be present for a quorum to exist. The third change specifies the minimum approval authority for plant procedures. For procedures other than station administrative procedures, the Plant Manager, Plant Superintendent or other responsible department head will approve procedures prior to implementation. The fourth change specifies that procedures will be reviewed periodically.

The Commission has provided guidance for the application of criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards considerations (51 FR 7751), these examples include example (i), A purely administrative change to technical specifications: a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nonmenclature.

The changes associated with this section of the amendment are administrative in nature and, therefore are within the scope of the example. Since the application for this section of the amendment involves changes that are encompassed by an example for which no significant hazards consideration exists, the staff has made a proposed determination that this section of the amendment involves no significant hazards consideration.

The staff has reviewed the proposed amendment and the licensee's no significant hazards consideration determination. Based on the review of the proposed areas of change and the above discussions, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final

determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice.

By December 22, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene must be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene must set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which the petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and state comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Wetern Union operator should be given Datagram Identification Number 3737 and the following message addressed to Jose A. Calvo: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel-Rockville, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jack R. Newman, Esq., Newman and Holtzinger, P.C., 1615 L Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the request should be granted based upon a balancing of the factors specified in 10 CFR 2.714 (a)(1)(i) through (v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the Wharton Junior College Library, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488 and Austin Public Library, 810 Guadalupe Street, Austin, Texas 78701.

Dated at Rockville, Maryland, this 16th day of November 1988.

For the Nuclear Regulatory Commission.

Jose A. Calvo,

Director, Project Directorate-IV Division of Reactor Projects-III, IV, V and Special Projects Office of Nuclear Reactor Regulation.

[FR Doc. 88-26995 Filed 11-21-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-461]

Illinois Power Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity For Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-62 issued to the licensees, Illinois Power Company [1] (IP), Soyland Power

[1] Illinois Power Company is authorized to act as agent for Soyland Power Cooperative, Inc. and Western Illinois Power Cooperative, Inc. and has

Continued

Cooperative, Inc. (Soyland) and Western Illinois Power Cooperative, Inc. (WIPCO), for operation of Clinton Power Station, Unit 1 (CPS) located in DeWitt County, Illinois.

This amendment includes proposed changes to the Operating License to the CPS Technical Specifications in order to support the first refueling of theCPS reactor with new fuel types and to support subsequent reactor operation (Cycle 2) in the Maximum Extended Operating domain (MEOD) and with reduced feedwater temperatures. This proposed amendment also requests a revision to Technical Specification Table 3.3.7.4–2, Remote Shutdown System Controls, to include additional control switches for valves 1E12–FO68B and 1E12–F014B and circuit breaker 252–AT1AA1. This change provides for controls to enhance the operation of the subject components to comply with the NRC staff's guidance for implementing 10 CFR Part 50, Appendix A, Criterion 19 (GDC 19) as referenced in paragraph 7.4.3.1 of the Clinton Power Station Safety Evaluation Report (SSER No. 6). Additionally, a change to Technical Specification 4.4.1.2 is requested. This change will clarify the jet pump surveillance requirements of this specification and incorporate the guidance provided in General Electric Service Information Letter No. 330.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By December 22, 1988, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to aprticipate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act ot be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petition wishes to intervene. Any person who has filed a petition for leave to itnervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission,Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–800–325–6000 (in Missouri 1–800–342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Daniel R. Muller: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** Notice. A copy of the petition should also be sent to the Office of the General Counsel,U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Sheldon Zabel, Equire, Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, suipplemental petition and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer of the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i) through (v) and 2.714(d).

If a request for heareing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated September 6, 1988, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, Maryland, this 15th day of November 1988.

For The Nuclear Regulatory Commission.

Byron Siegel,

Acting Director, Project Directorate III–2, Division of Reactor Projects–III, IV, V and Special Projects.

[FR Doc. 88–26996 Filed 11–21–88; 8:45 am]

BILLING CODE 7590–01–M

exclusive responsibility and control over the physical construction, operation and maintenance of the facility.

[Docket No. 50-461]

Illinois Power Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-62 issued to the licensees, Illinois Power Company [1] (IP), Soyland Power Cooperative, Inc. (Soyland) and Western Illinois Power Cooperative, Inc. (WIPCO), for operation of Clinton Power Station, Unit 1 (CPS) located in De Witt County, Illinois.

This amendment includes a proposed change to the Operating License to reflect an adjustment to the ownership interests in CPS which would occur if Soyland merges with WIPCO and WIPCO ceases to exist as a separate entity. Soyland and WIPCO are minority owners of CPS with a combined ownership share of less than 15%. Along with IP, WIPCO and Soyland are currently licensees for CPS; as a result, the merger of WIPCO and Soyland will not result in the transfer of the license to any entity not currently a licensee for CPS. Soyland will assume full responsibility for all CPS obligations currently being discharged by WIPCO. The proposed license amendment will not change the share of ownership that IP has in CPS, will not change IP's commitments related to capital and operating and maintenance costs, and will not affect IP's role as project manager.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By December 22, 1988, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-800-325-6000 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Daniel R. Muller: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Sheldon Zabel, Esquire, Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petition and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i) through (v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated November 2, 1988, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, Maryland, this 15th day of November 1988.

[1] Illinois Power Company is authorized to act as agent for Soyland Power Cooperative, Inc. and Western Illinois Power Cooperative, Inc. and has exclusive responsibility and control over the physical construction, operation and maintenance of the facility.

For the Nuclear Regulatory Commission.

Byron Siegel,

Acting Director, Project Directorate III–2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88–26997 Filed 11–21–88; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Information Technology Advisory Committee; Meeting

AGENCY: Office of Management and Budget.

ACTION: Notice; Information Technology Advisory Committee; Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Information Technology Advisory Committee will be held.

DATE AND TIME: December 1, 1988, from 1:00 p.m.–3:00 p.m.

ADDRESS: Room 2010 of the New Executive Office Building, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Judith Poorbaugh, Office of Information and Regulatory Affairs, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503. 202/395-7231.

SUPPLEMENTARY INFORMATION: OMB's Information Technology Advisory Committee (ITAC) was established to provide a forum for the exchange of ideas between senior executives in the information technology industry and senior OMB policy officials. The topic to be discussed at the second meeting is the role of systems integrators in Federal information system development. The meeting will be open to the public up to the seating capacity of the room (approximately 75 persons including committee members). Places will be allocated on a first call, first served basis. All persons who wish to attend the meeting must call 395–7231 by November 29 for clearance into the building.

AGENDA

1:00—Opening remarks and general discussion: What is the anticipated impact of the growing role of the systems integration industry on the Federal government?

Jay Plager,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 88–27057 Filed 11–21–88; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenenth A. Fogash, Deputy Executive Director.

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Consumer Affairs, 450 Fifth Street, NW., Washington, DC 20549.

Extension

Rule 17f–2(a); File No. 270–34

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval of Rule 17f–2(a) which requires securities industry personnel to be fingerprinted. 9800 Respondents incur an estimated average burden of one-half hour to comply with the rule.

The estimated average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even representative summary or study of the cost of SEC rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, 450 Fifth Street, NW., Washington, DC 20549–6004, and Gary Waxman, Clearance Officer, Office of Management and Budget, Paperwork Reduction Project (3235–00934), Room 3228 New Executive Office Building, Washington, DC 20543.

Jonathan G. Katz,

Secretary.

November 16, 1988.

[FR Doc. 88–26966 Filed 11–21–88; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–16637; 812–7102]

Security Mortgage Acceptance Corp.–1; Application

November 16, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption from all provisions of the Investment Company Act of 1940 ("1940 Act").

Applicant: Security Mortgage Acceptance Corporation—1 (the "Applicant"), on behalf of itself and on behalf of other corporations formed or to be formed, originally sponsored and wholly-owned by Alfred Lerner and organized for the same limited purpose as Security Mortgage Acceptance Corporation—1 (the Applicant and such other corporations are referred to individually as an "Issuer" and collectively as the "Issuers").

Relevant 1940 Act Section: Exemption requested under section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicant seeks an order amending a previous order (the "Existing Order") issued to Applicant (Investment Company Release No. 15220, July 23, 1986) so as to exempt the Issuers from all provisions of the 1940 Act in connection with the proposed sale by such Issuers or Residual Interests (as defined below) to (i) institutional investors or (ii) sophisticated non-institutional investors. The exemptive relief requested by the application would also permit the Issuers to elect to REMIC status.

Filing Date: The application was filed on August 22, 1988, and amended on October 24 and November 9, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on the application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on December 8, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavitr or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Security Mortgage Acceptance Corporation—1, 1385 Eaton Center, 1111 Superior Avenue, Cleveland, Ohio 44114.

FOR FURTHER INFORMATION CONTACT: H. R. Hallock, Jr., Special Counsel, at (202) 272–3030, Office of Investment Company Regulation, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from eitehr the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Each Issuer has been formed, or will be formed, for the purpose of issuing bonds ("Bonds"), collateralized by mortgages that are first liens on one to four family residences ("Mortgages") and/or mortgage-backed securities evidencing an undivided interest in pools of mortgages that are first liens on one to four family residences ("Private Mortgage Certificates"), mortgage pass-through certificates fully guaranteed as to principal and interest by the Government National Mortgage Association ("GNMA Certificates"), mortgage participation certificates issued and guaranteed by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates") and guaranteed mortgage pass-through certificates issued and guaranteed by the Federal National Mortgage Association ("FNMA Certificates") (GNMA Certificates, FHLMC Certificates and FNMA Certificates severally referred to as the "Certificates" and collectively with Private Mortgage Certificates and Mortgages as the "Mortgage Collateral"). All capitalized terms used herein, and not otherwise defined, shall have the meanings ascribed to such terms in the prior application which resulted in the issuance of the Existing Order.

2. Applicant now proposes, subject to the conditions contained in the Existing Order, as amended herein, and subject to certain additional terms and conditions as described below, to sell some or all of the cash flow remaining after all required payments on the Bonds have been made and expenses have been paid (the "Residual Interests"). Such Residual Interests may either take the form of the sale of stock in the applicable Issuer or a sale of beneficial interests in such cash flow.

3. The sale of Residual Interests will not alter the payment of cash flows under any Indenture, including the amounts to be deposited in the collection account or any reserve fund created pursuant to an Indenture to support payments of principal and interest on a Series of Bonds. The identity of the holders of the Residual Interest in an Issuer or the legal form of the Residual Interests will not alter in any respect the payments required to be made to the holders of any of the Bonds of any Series.

4. The interests in the holders of the Bonds will not be compromised or impaired by the ability of the Applicant to sell Residual Interests in any Series, and there will not be a conflict of interest between the holders of the Bonds and Residual Interest holders for several reasons: (a) The collateral which secures each Series of Bonds issued, or to be issued, by the Applicant pursuant to an Indenture is not speculative in nature because such collateral consists, or will consist, solely of the Certificates, which Certificates are guaranteed as to timely payment of interest and timely or ultimate payment of principal by each respective agency; (b) the Bonds of each Series have been, or will be, rated in one of the two highest rating categories by a nationally recognized statistical rating agency, which by definition means that the capacity of each Series of Bonds to repay principal and interest on such Bonds is extremely strong; (c) the Indenture under which each Series of Bonds has been, or will be, issued subjects the collateral pledged to secure the bonds of such Series, all income distributions thereon, and all proceeds from a conversion, voluntary or involuntary, of any such collateral to a first priority perfected security interest in the name of the Trustee on behalf of the holders of the Bonds; and (d) the Residual Interest holders will be entitled to receive current distributions representing the residual payments on the collateral from each Series of Bonds in accordance with the terms of the related Indenture.

5. The value of the entire Residual Interests will be much less than the value of the Bonds to the Bondholders. Applicant has not deposited, and does not intend to deposit, in respect of any Series of Bonds, Mortgage Collateral with a collateral value that exceeds 110% of the aggregate principal amount of the related Bonds.

6. Pursuant to the terms of any Indenture, only an Issuer has, or will have, the limited right to substitute Mortgage Collateral. It will not be possible for the Residual Interest holders to alter the Mortgage Collateral initially deposited, and in no event will the Issuers' right to substitute Mortgage Collateral result in a diminution in the value or quality of the Mortgage Collateral. Therefore, although substituted Mortgage Collateral may have a different prepayment experience than the replaced Mortgage Collateral, the interests of the Bondholders will not be impaired because: (a) The prepayment experience of any collateral will be determined by market conditions beyond the control of the Residual Interest holders, which market conditions are likely to affect all Mortgage Collateral of similar payment terms and maturities in a similar fashion; and (b) the interests of the Residual Interest holders will not be different from those of the Bondholders with respect to such prepayment experience.

7. See the application for additional representations concerning the Residual Interests.

Applicant's Legal Conclusions

The requested order is necessary and appropriate in the public interest because: (a) The Issuers should not be deemed to be entities to which the provisons of the 1940 Act were intended to be applied; (b) the Issuers may be unable to proceed with their proposed activities if the uncertainties concerning the applicablility of the 1940 Act are not removed; (c) the Issuers' activities are intended to serve a recognized and critical public need; (d) granting the requested order will be consistent with the protection of investors because they will be protected during the offering and sale of Bonds by the registration or exemption provisions of the Securities Act of 1933, as amended (the "Securities Act"), and thereafter by the Trustee representing their interest under the Indenture; and (e) the Residual Interests will be held entirely by the applicant or offered only to a limited number of sophisticated insitutional investors or "accredited" non-institutional investors through private placements.

Applicant's Conditions

A. Conditions Relating to REMIC Election

(1) The election by an Issuer to treat the arrangement by which any Series of Bonds is issued as a REMIC will have no effect on the level of expenses that would be incurred by any such Issuer. Whether or not such election is made, the Issuer that elects to have such Series of Bonds treated as a REMIC will provide for the timely payment of all anticipated fees and expenses to be incurred in connection with the administration of such Series in a manner satisfactory to the agency or agencies rating the Bonds. Such Issuer will provide for such payment by one or more of the methods described in the application.

(2) The Issuers will insure that the anticipated level of fees and expenses will be more than adequately provided for regardless of which or all of the methods (which methods may be used in combination) are selected by the Issuers to provide for the payment of such fees and expenses.

B. Conditions Relating to the Sale of Residual Interests

(1) Residual Interests will be sold pursuant to the application, as amended,

only where the related Bonds are collateralized by the Certificates.

(2) Residual Interests will be offered and sold only to (i) institutional investors or (ii) non-institutional investors which are "accredited investors" as defined in Rule 501(a) of the Securities Act. Institutional investors will have such knowledge and experience in financial and business matters as to be able to evaluate the risks of purchasing Residual Interests and understand the volatility of interest rate fluctuations as they affect the value of mortgages, mortgage-related securities and residual interests therein. Non-institutional accredited investors will be limited to not more than 15, be required to purchase at least $200,000 (measured by market value at the time of such purchase) of such Residual interests and will have a net worth at the time of purchase that exceeds $1,000,000 (exclusive of their primary residence). Non-institutional accredited investors will have such knowledge and experience in financial and business matters, specifically in the field of mortgage-related securities, as to be able to evaluate the risk of purchasing Residual Interests and will have direct, personal and significant experience in making investments in mortgage-related securities. Residual Interest holders will be limited to mortgage lenders, thrift institutions, commercial and investment banks, savings and loan associations, pension funds, employee benefits plans, insurance companies, or real estate investment trusts or other institutions or non-institutional investors as described above which customarily engage in the purchase of mortgages and other types of mortgage-related securities.

(3) Residual Interests will be sold only in transactions not involving any public offering within the meaning of section 4 (2) of the Securities Act.

(4) Transfers of Residual Interests will be prohibited in any case where, as a result of the proposed transfer, there would be more than 100 Residual Interest holders of any Series of Bonds at any time.

(5) Each purchaser of a Residual Interest will be required to represent that it is not purchasing for distribution and that it will hold such Residual Interest in its own name or for accounts as to which it exercises sole investment discretion.

(6) No Residual Interest holder may be affiliated with the Trustee, the custodian of the Mortgage Collateral, or the agency rating the Bonds of the relevant Series.

(7) No holder of a controlling interest in the Applicant (as the term "control" is defined in Rule 405 under the Securities Act) will be affiliated with either (a) any custodian which may hold the Mortgage Collateral on behalf of the Trustee or (b) any statistical rating agency rating the Bonds.

(8) If any shares of the common stock of an Issuer were to be sold and such sale were to result in the transfer of control of such Issuer (as the term "control" is defined in Rule 405 under the Securities Act), the relief afforded by any order granted on the application as amended would not apply to subsequent Bond offerings by such Issuer in which control had been transferred.

For the Commission, by the Division of investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-26964 Filed 11-21-88; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0297]

Nelson Capital Corp.; Surrender of License

Notice is hereby given that, pursuant to § 107.105 of the Small Business Administration (SMA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1988)), Nelson Capital Corp., 585 Steward Avenue, Suite 416, Garden City, L.I., New York 11530 incorporated under the laws of the State of New York has surrendered its license, No. 02/02-0297 issued by the SBA on June 12, 1973.

Nelson Capital Corporation has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of Nelson Capital Corporation is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: November 16, 1988.

[FR Doc. 26907 Filed 11-21-88; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-88-44]

Petition for Exemption; Summary of Petitions Received; Disposition of Petitions Issued; Rosenbaum Aviation Inc.; Collection

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions; correction, Dates.

SUMMARY: FAA is correcting errors in Dates Section. In FR Doc. 88-26297, published Tuesday November 15, 1988, on page 46010, please change the comment closing date from December 1, 1988, to read December 5, 1988.

FOR FURTHER INFORMATION CONTACT: Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

Michael D. Triplett,

Docket Section, Program Management Staff.

[FR Doc. 88-26935 Filed 11-21-88; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PR-88-14]

Petition for Rulemaking; Summary of Petitions Received; Disposition of Petitions Issued; Rosenbaum Aviation Inc.; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions; Correction, dates.

SUMMARY: FAA is correcting errors in Dates Section. In FR Doc. 88-26168, published Monday November 14, 1988, on page 45771, please change the comment closing date from November 30, 1988, to read January 13, 1989.

FOR FURTHER INFORMATION CONTACT: Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

Michael D. Triplett,

Docket Section, Program Management Staff.

[FR Doc. 88-26936 Filed 11-21-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: November 16, 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.

Internal Revenue Service

OMB Number: 1545–0235.
Form Number: 730.
Type of Review: Extension.
Title: Tax on Wagering.
Description: Form 730 is used to identify taxable wagers and collect the tax monthly. The information is used to determine if persons accepting wagers are correctly reporting the amount of wagers and paying the required tax.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 4,150.
Estimated Burden Hours Per Response/Recordkeeping: Recordkeeping—3 hours 26 minutes, learning about the law or the form—1 hour 4 minutes, preparing the form—2 hours 6 minutes, copying, assembling, and sending the form to IRS—16 minutes.
Frequency of Response: Monthly.
Estimated Total Recordkeeping/Reporting Burden: 339,000 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. 88–26908 Filed 11–21–88; 8:45 am]
BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 16, 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.

Alcohol, Tobacco and Fireams

OMB Number: 1512–0058.
Form Number: ATF F 698(5120.25).
Type of Review: Extension.
Title: Application by the Proprietor of Bonded Winery or Bonded Wine Cellar.
Description: ATF F 698(5120.25) is used to establish the qualifications of an applicant for a bonded wine cellar or winery. The applicant certifies the intention to produce and/or store a specified amount of wine and take certain precautions to protect it from unauthorized use.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 832.
Estimated Burden Hours Per Response: 1 hour.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 832 hours.
OMB Number: 1512–0310.
Form Number: ATF REC 5120/3.
Type of Review: Extension.
Title: Records Relating to Decolorizing Wine, Including the Use of Activated Carbon.
Description: ATF requires that wine that is treated on wine premises with activated carbon or similar decolorizing material to be identified and specific records to be maintained. ATF uses this information to validate the Federal excise tax due to the U.S. Government and to ensure the integrity of the product as wine for consumer protection.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 50.
Estimated Burden Hours Per Response: 1 hour.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 325 hours.
OMB Number: 1512–0333.
Form Number: ATF REC 5130/1.
Type of Review: Extension.
Title: Usual and Customary Business Records Maintained by Brewers.
Description: ATF audits brewer's records to verify production of beer and cereal beverages and to verify quantity of beer removed subject to tax or without payment of tax.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Recordkeepers: 147.
Estimated Burden Hours Per Recordkeeper: 1 hour.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 1 hour.
Clearance Officer: Robert Masarsky, (202) 566–7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.
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 Repots Management Officer.
[FR Doc. 88–26909 Filed 11–21–88; 8:45 am]
BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 16, 1988.

The Department of Treasury has made revisions and resubmitted 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 Office, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0191.
Form Number: 4952.
Type of Review: Resubmission.
Title: Investment Interest Expense Deduction.

Description: Form 4952 is used by taxpayers who paid or accrued interest on money borrowed to purchase or carry investment property. The form is used to compute the allowable deduction for interest on investment indebtedness and the information obtained is necessary to verify the amount actually deducted.

Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 800,000.

Estimated Burden Hours Per Response/Recordkeeping: Recordkeeping—1 hour 5 minutes, learning about the law or the form—22 minutes, preparing the form—1 hour 7 minutes, copying, assembling, and sending the form to IRS—20 minutes.

Frequency of Response: Annually.

Estimated Total Recordkeeping/Reporting Burden: 2,336,000 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. 88-26910 Filed 11-21-88; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

[Department Circular; Public Debt Series No. 30-88]

Treasury Bonds of 2018

Washington, November 15, 1988.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,000,000,000 of United States securities, designated Treasury Bonds of 2018 (CUSIP No. 912810 EB O), hereafter referred to as Bonds. The Bonds will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Bonds and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Bonds may also be issued to Government accounts and Federal Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Bonds may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Bonds will be dated November 15, 1988, and issued November 22, 1988. Payment for the Bonds will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accrued interest from November 15, 1988, to November 22, 1988. Interest on the Bonds is payable on a seminannual basis on May 15, 1989, and each subsequent 6 months on November 15 and May 15 through the date that the principal becomes payable. They will mature November 15, 2018, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Bonds are subject to all taxes imposed under the Internal Revenue Code of 1954. The Bonds are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Bonds will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Bonds will be issued only in book-entry form, and in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. A Bond may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in Section 6 of this circular. Subsections 2.1. through 2.4. of this section are descriptive of Bonds in their fully constituted form; the description of the separate Principal and Interest components is set forth in Section 6 of this circular.

2.6. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Bonds offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239-1500, prior to 12:00 noon, Eastern Standard time, Thursday, November 17, 1988. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, November 16, 1988, and received no later than Tuesday, November 22, 1988.

3.2. The par amount of Bonds bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivsions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign

central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Bonds applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successive higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 92.500. That stated rate of interest will be paid on all of the Bonds. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Bonds specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Bonds allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement must include accrued interst from November 15, 1988, to November 22, 1988. The amount of accrued interest will be determined after the auction, and investors will be notified of the amount. Settlement on Bonds allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Tuesday, November 22, 1988. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, November 18, 1988. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Bonds allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, November 22, 1988. When payment has been submitted with the tender and the purchase price of the Bonds allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Bonds allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Bonds allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Bond being purchased. In any such case, the tender form used to place the Bonds allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS Program (Separate Training of Registered Interest and Principal of Securities), a Bond may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in Attachment A to this circular.

6.2. Attachment A also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a Bond to be separated into the components described in Section 6.1., the par amount of the Bond must be in an amount which, based on the stated interest rate of the Bond, will produce a semi-annual interest payment of $1,000 or a multiple of $1,000. Attachment B to this circular provides the minimum par amounts required to separate a security at various interest rates, as well as the interest payments corresponding to those minimum par amounts. Par amounts greater than the minimum amount must be in multiples of that amount. The minimum par amount for this offering will be provided in the public announcement of the amount and yield range of accepted bids.

6.4. A Bond may be separated into its components at any time from the issue date until maturity. A request for separation must be made to the Federal Reserve Bank maintaining the account for the Bonds. Once a Bond has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

6.6. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the

appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.7. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPS components in the appropriate amounts will not be accepted.

6.8. The book-entry transfer of each Interest Component and Principal Component included in a reconstitution transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.9. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Bonds separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Bonds.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Bonds. Public announcement of such changes will be promptly provided.

7.3. The Bonds issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

7.4. Attachments A and B are incorporated as part of this circular.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

Attachment A

CUSIP Numbers and Designations for the Principal Component and Interest Components of Treasury Bonds of November 15, 2018, CUSIP No. 912810 EB 0

The Principal Component is designated (Interest Rate) Treasury Principal (TPRN) 2018 due November 15, 2018, CUSIP No. 912803 AP 8

INTEREST COMPONENTS

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
Treasury Interest (TINT) Due		Treasury Interest (TINT) due	
May 15, 1989	EN 6	May 15, 2004	FU 9
Nov. 15, 1989	EP 1	Nov. 15, 2004	FV 7
May 15, 1990	EQ 9	May 15, 2005	FW 5
Nov. 15, 1990	ER 7	Nov. 15, 2005	FX 3
May 15, 1991	ES 5	May 15, 2006	FY 1
Nov. 15, 1991	ET 3	Nov. 15, 2006	FZ 8
May 15, 1992	EU 0	May 15, 2007	GA 2
Nov. 15, 1992	EV 8	Nov. 15, 2007	GB 0
May 15, 1993	EW 6	May 15, 2008	GC 8
Nov. 15, 1993	EX 4	Nov. 15, 2008	GD 6
May 15, 1994	EY 2	May 15, 2009	GE 4
Nov. 15, 1994	EZ 9	Nov. 15, 2009	GF 1
May 15, 1995	FA 3	May 15, 2010	JU 5
Nov. 15, 1995	FB 1	Nov. 15, 2010	JV 3
May 15, 1996	FC 9	May 15, 2011	JW 1
Nov. 15, 1996	FD 7	Nov. 15, 2011	JX 9
May 15, 1997	FE 5	May 15, 2012	JY 7
Nov. 15, 1997	FF 2	Nov. 15, 2012	JZ 4
May 15, 1998	FG 0	May 15, 2013	KA 7
Nov. 15, 1998	FH 8	Nov. 15, 2013	KB 5
May 15, 1999	FJ 4	May 15, 2014	KC 3
Nov. 15, 1999	FK 1	Nov. 15, 2014	KD 1
May 15, 2000	FL 9	May 15, 2015	KE 9
Nov. 15, 2000	FM 7	Nov. 15, 2015	KF 6
May 15, 2001	FN 5	May 15, 2016	KH 2
Nov. 15, 2001	FP 0	Nov. 15, 2016	KK 5
May 15, 2002	FQ 8	May 15, 2017	KM 1
Nov. 15, 2002	FR 6	Nov. 15, 2017	KP 4
May 15, 2003	FS 4	May 15, 2018	KR 0
Nov. 15, 2003	FT 2	Nov. 15, 2018	KT 6

BILLING CODE 4810-40-M

ATTACHMENT B

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1000.

COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)
5.000	40000.00	1000.00	10.125	1600000.00	81000.00	15.250	800000.00	61000.00
5.125	1600000.00	41000.00	10.250	800000.00	41000.00	15.375	1600000.00	123000.00
5.250	800000.00	21000.00	10.375	1600000.00	83000.00	15.500	400000.00	31000.00
5.375	1600000.00	43000.00	10.500	400000.00	21000.00	15.625	64000.00	5000.00
5.500	400000.00	11000.00	10.625	320000.00	17000.00	15.750	800000.00	63000.00
5.625	320000.00	9000.00	10.750	800000.00	43000.00	15.875	1600000.00	127000.00
5.750	800000.00	23000.00	10.875	1600000.00	87000.00	16.000	25000.00	2000.00
5.875	1600000.00	47000.00	11.000	200000.00	11000.00	16.125	1600000.00	129000.00
6.000	100000.00	3000.00	11.125	1600000.00	89000.00	16.250	160000.00	13000.00
6.125	1600000.00	49000.00	11.250	160000.00	9000.00	16.375	1600000.00	131000.00
6.250	32000.00	1000.00	11.375	1600000.00	91000.00	16.500	400000.00	33000.00
6.375	1600000.00	51000.00	11.500	400000.00	23000.00	16.625	1600000.00	133000.00
6.500	400000.00	13000.00	11.625	1600000.00	93000.00	16.750	800000.00	67000.00
6.625	1600000.00	53000.00	11.750	800000.00	47000.00	16.875	320000.00	27000.00
6.750	800000.00	27000.00	11.875	320000.00	19000.00	17.000	200000.00	17000.00
6.875	320000.00	11000.00	12.000	50000.00	3000.00	17.125	1600000.00	137000.00
7.000	200000.00	7000.00	12.125	1600000.00	97000.00	17.250	800000.00	69000.00
7.125	1600000.00	57000.00	12.250	800000.00	49000.00	17.375	1600000.00	139000.00
7.250	800000.00	29000.00	12.375	1600000.00	99000.00	17.500	80000.00	7000.00
7.375	1600000.00	59000.00	12.500	16000.00	1000.00	17.625	1600000.00	141000.00
7.500	80000.00	3000.00	12.625	1600000.00	101000.00	17.750	800000.00	71000.00
7.625	1600000.00	61000.00	12.750	800000.00	51000.00	17.875	1600000.00	143000.00
7.750	800000.00	31000.00	12.875	1600000.00	103000.00	18.000	100000.00	9000.00
7.875	1600000.00	63000.00	13.000	200000.00	13000.00	18.125	320000.00	29000.00
8.000	25000.00	1000.00	13.125	320000.00	21000.00	18.250	800000.00	73000.00
8.125	320000.00	13000.00	13.250	800000.00	53000.00	18.375	1600000.00	147000.00
8.250	800000.00	33000.00	13.375	1600000.00	107000.00	18.500	400000.00	37000.00
8.375	1600000.00	67000.00	13.500	400000.00	27000.00	18.625	1600000.00	149000.00
8.500	400000.00	17000.00	13.625	1600000.00	109000.00	18.750	32000.00	3000.00
8.625	1600000.00	69000.00	13.750	160000.00	11000.00	18.875	1600000.00	151000.00
8.750	160000.00	7000.00	13.875	1600000.00	111000.00	19.000	200000.00	19000.00
8.875	1600000.00	71000.00	14.000	100000.00	7000.00	19.125	1600000.00	153000.00
9.000	200000.00	9000.00	14.125	1600000.00	113000.00	19.250	800000.00	77000.00
9.125	1600000.00	73000.00	14.250	800000.00	57000.00	19.375	320000.00	31000.00
9.250	800000.00	37000.00	14.375	320000.00	23000.00	19.500	400000.00	39000.00
9.375	64000.00	3000.00	14.500	400000.00	29000.00	19.625	1600000.00	157000.00
9.500	400000.00	19000.00	14.625	1600000.00	117000.00	19.750	800000.00	79000.00
9.625	1600000.00	77000.00	14.750	800000.00	59000.00	19.875	1600000.00	159000.00
9.750	800000.00	39000.00	14.875	1600000.00	119000.00	20.000	10000.00	1000.00
9.875	1600000.00	79000.00	15.000	40000.00	3000.00	20.125	1600000.00	161000.00
10.000	20000.00	1000.00	15.125	1600000.00	121000.00	20.250	800000.00	81000.00

[FR Doc. 88–27039 Filed 11–18–88; 10:30 am]
BILLING CODE 4810–40–C

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination; Painting in Renaissance Siena: 1420–1500

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Painting in Renaissance Siena: 1420–1500" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Metropolitan Museum of Art (Robert Lehman Wing) in New York, New York, beginning on or about December 20, 1988, to on or about March 19, 1989, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

R. Wallace Stuart,

Acting General Counsel.

Date: November 16, 1988.

[FR Doc. 88–26986 Filed 11–21–88; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Ms. Lorie J. Nierenberg of the Office of the General Counsel of USIA. The telephone number is 202–485–8827, and the address is Room 700, U.S. Information Agency, 301 4th Street SW., Washington, DC 20547.

Sunshine Act Meetings

Federal Register
Vol. 53, No. 225
Tuesday, November 22, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 53 FR 44142.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 11:00 a.m., November 25, 1988.

CHANGE IN THE MEETING: The closed Commission meeting scheduled to discuss Survillance Matters has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, Secretary of the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88-27122 Filed 11-18-88; 3:31 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 53 FR 44549.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., November 29, 1988.

CHANGE IN THE MEETING: The Commission meeting scheduled to discuss Program Objectives, second quarter, FY 89 has been cancelled and will be rescheduled for December.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, Secretary of the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88-27121 Filed 11-18-88; 3:31 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 53 FR 44549.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m., November 29, 1988.

CHANGE IN THE MEETING: The closed Commission meeting scheduled to discuss Enforcement Objectives has been cancelled and will be scheduled for December.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, Secretary of the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 88-27123 Filed 11-18-88; 3:31 pm]

BILLING CODE 6351-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Wednesday, November 16, 1988, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C. C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a memorandum regarding the elimination of separate savings bank call reports.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: November 17, 1988.

Federal Deposit Insurance Corporation.

M. Jane Williamson,

Assistant Executive Secretary.

[FR Doc. 88-27078 Filed 11-18-88; 1:15 am]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Wednesday, November 16, 1988, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C. C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the application of First Commercial Thrift and Loan Company, a proposed new industrial bank to be located at 655 Anton Boulevard, Costa Mesa, California, for Federal deposit insurance.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: November 17, 1988.

Federal Deposit Insurance Corporation.

M. Jane Williamson,

Assistant Executive Secretary.

[FR Doc. 88-27079 Filed 11-18-88; 1:15 pm]

BILLING CODE 6714-01-M

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: November 16, 1988; 53 FR 46183.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., November 16, 1988.

CHANGE IN THE MEETING: The following Docket Numbers have been added to the agenda of November 16, 1988:

Item No., Docket No., and Company

CAG-4—RP88-228-000, Tennesee Gas Pipeline Company.
CAG-95—CP88-180-000, CP88-181-000 and CP88-185-000, PennEast CDS.

Lois D. Cashell,

Secretary.

[FR Doc. 88-27056 Filed 11-18-88; 11:04 am]

BILLING CODE 6717-02-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of November 21, 28, December 5, and 12, 1988.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Week of November 21

Wednesday, November 23

10:00 a.m.
Briefing on Effectiveness of Diagnostic Evaluations (Public Meeting).

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Rule—10 CFR Part 62, "Criteria and Procedures for Granting Emergency Access to Non-Federal and Regional Low-Level Waste Disposal Facilities."

b. Order on Shoreham (Tentative) (*postponed* from November 17).

Week of November 28—Tentative

Thursday, December 1

10:00 a.m.
Meeting with State of Nevada on High Level Waste Program (Public Meeting).
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed).

Week of December 5—Tentative

Friday, December 9

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed).

2:00 p.m.
Meeting with Public Officials Having Responsibility for Emergency Planning for Pilgrim Nuclear Power Plant (Public Meeting).

Week of December 12—Tentative

Thursday, December 15

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed).

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 492–1661.

November 17, 1988.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 88–27099 Filed 11–18–88; 3:04 pm]

BILLING CODE 7590–01–M

Corrections

Federal Register
Vol. 53, No. 225
Tuesday, November 22, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1750

Acquisitions, Mergers, and Consolidations; Telephone Program

Correction

In proposed rule document 88-24186 beginning on page 40896 in the issue of Wednesday, October 19, 1988, make the following corrections:

1. On page 40896, in the third column, in the first complete paragraph, in the seventh line, "The" should read "They".

2. On page 40897, in the first column, in the table of sections, "1750.10 Specific provision" should read "1750.10 Specific provisions".

§ 1750.3 [Corrected]

3. On page 40898, in the first column, § 1750.3(r), in the fifth line, "major" should read "merger".

§ 1750.20 [Corrected]

4. On the same page, in the third column, § 1750.20(d) should read, "(d) REA will not consider making a loan for the acquisition of an existing borrower unless, in addition to all other requirements, such acquisition will improve the likelihood of repayment of an outstanding REA loan."

§ 1750.24 [Corrected]

5. On page 40899, in the first column, in § 1750.24(a), in the first line, insert "any" after "approve".

§ 1750.25 [Corrected]

6. On the same page, in the third column, in § 1750.25(c)(2), in the first line "From" should read "Form".

§ 1750.44 [Corrected]

7. On page 40901, in the first column, in § 1750.44(a), in the fourth line, insert a comma after "permits".

§ 1750.45 [Corrected]

8. On the same page, in the second column, in the first line, in § 1750.45(a)(2), insert a comma after "section".

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1751

Loan Processing Procedures; Telephone Program

Correction

In proposed rule document 88-23965 beginning on page 40734 in the issue of Tuesday, October 18, 1988, make the following corrections:

§ 1751.2 [Corrected]

1. On page 40736, in the first column, in § 1751.2(l), in the seventh line, after "apparatus", insert "and".

§ 1751.10 [Corrected]

2. On the same page, in the second column, in the second line, in § 1751.10(b), "in" should read "is".

§ 1751.30 [Corrected]

3. On page 40737, in the first column, in the heading for § 1751.30 "Feasibility"was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

[Docket No. 81128-8228]

Northeast Multispecies Fishery

Correction

In proposed rule document 88-25918 beginning on page 45301 in the issue of Wednesday, November 9, 1988, make the following corrections:

§ 651.20 [Corrected]

1. On page 45305, in the second column, in § 651.20(a)(2), in the table, under "Loran C bearings", in the fourth entry, "60-×-25175" should read "9960-×-25175". Also, in the sixth entry,"41°00′N" should read "41°10′N".

BILLING CODE 1505-01-D

federal register

Tuesday
November 22, 1988

Part II

Department of Health and Human Services

Public Health Service; Office of the Assistant Secretary for Health; Alcohol, Drug Abuse, and Mental Health Administration; National Institutes of Health; Centers for Disease Control; Agency for Toxic Substances and Disease Registry; Indian Health Service; Health Resources and Services Administration; and Food and Drug Administration

Privacy Act of 1974; Annual Publication of Systems of Records

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Office of the Assistant Secretary for Health

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Public Health Service, HHS.

ACTION: Publication of minor changes to systems of records notices.

SUMMARY: In accordance with Office of Management and Burdget Circular No. A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Office of the Assistant Secretary for Health (OASH) in the Public Health Service (PHS) is publishing minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION: OASH has completed the annual review of its systems of records and is publishing below (1) a table of contents which lists all active systems of records in OASH, and (2) those minor changes which affect the public's right of need to know, such as changes in the system location of records or the address of system managers.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

Date: October 17, 1988.

OFFICE OF THE ASSISTANT SECRETARY OF HEALTH

TABLE OF CONTENTS

09–37–0001

System Name:

Office of the Assistant Secretary for Health Correspondence Control System, HHS/OASH/OM.

Minor alterations have been made to this system notice. The following categories should be revised in their entirety:

* * * * *

System Location:

Public Health Service Executive Secretariat, Room 710H, Hubert H. Humphrey Building, 200 Independence Ave. SW., Wasingotn, DC 20201; Office of Population Affairs, OASH, 200 Independence Ave. SW., Washington, DC 20201; National Center for Health Services Research and Health Care Technology Assessment, Parklawn Building, Room 18–23, 5600 Fishers Lane, Rockville, MD 20857; and Federal Records Center, 4205 Suitland Road, Washington, DC 20409.

* * * * *

System Manger(s) and address:

Director, Public Health Service Executive Secretariat (address as above), Staff Assistant to the Deputy Assistant Secretary for Population Affairs (address as above); Director, National Center for Health Services Research and Health Care Technology Assessment (address as above). Policy coordination is provided by: Director, Office of Organization and Management Systems, Office of Management, Parklawn Building, Room 17–51, 5600 Fishers Lane, Rockville, Maryland 20857.

* * * * *

[FR Doc. 88–24492 Filed 11–21–88; 8:45 am]

BILLING CODE 4160–17–M

Alcohol, Drug Abuse, and Mental Health Administration

Privacy Act of 1974; Annual Publication of Revisions to PHS Privacy Act Systems Notices

AGENCY: Department of Health and Human Services (DHHS); Public Health Service (PHS); Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA).

ACTION: Privacy Act; annual publication of revisions to Privacy Act System Notices.

SUMMARY: ADAMHA is publishing this document to meet the requirement of Section 3.a.(8) of Appendix I to OMB Circular No. A–130, "Federal Responsibilities for Maintaining Records about Individuals," which requires that agencies review each system of records annually and publish any minor changes in the **Federal Register** (FR). ADAMHA has reviewed all of its active systems and is publishing all minor changes to its systems notices.

SUPPLEMENTARY INFORMATION: ADAMHA has completed the annual review of its systems of records and is publishing below those minor changes which affect the public's right or need to know, such as routine uses, title and address changes, system location, and system manager(s).

1. Changes:

The following minor changes have been made to systems of records as follows:

a. 09–30–0020

System name:

Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1978) Treated at the PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky, HHS/ADAMHA/NIDA.

Minor alterations have been made to this system notice. The following categories should be revised in their entirety:

System name:

Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1976) Treated at the PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky, HHS/ADAMHA/NIDA.

System location:

Addiction Research Center, National Institute on Drug Abuse, Francis Scott Key Medical Center, P.O. Box 5180, Baltimore, Maryland 21224.

Categories of individuals covered by the system:

Civilly committed narcotic addicts (1967–1976) and adult PHS beneficiaries (1935–1974) treated at either the PHS hospital in Fort Worth, Texas, or Lexington, Kentucky

Retention and disposal:

All administrative and medical records have been retired to a Federal Records Center. The records collected

under the Narcotic Addict Rehabilitation Act of 1966 will be destroyed when they are 25 years old, which will be in 2001 because the last patient was released from treatment in 1976. The PHS beneficiaries' records will be destroyed at the same time. The records will be shredded in 2003 upon written request from the system manager.

System manager(s) and address:

Librarian, Addiction Research Center, National Institute on Drug Abuse, Francis Scott Key Medical Center, P.O. Box 5180, Baltimore, Maryland 21224.

b. 09–30–0022

System name:

National Institute on Drug Abuse, Addiction Research Center, Federal Prisoner and Non-Prisoner Research Files, HHS/ADAMHA/NIDA.

Minor alterations have been made to this system notice. The following categories should be revised in their entirety:

System location:

NIDA Addiction Research Center, Francis Scott Key Medical Center, Building C, P.O. Box 5180, Baltimore, Maryland.

Categories of individuals covered by the system:

Volunteers, adult males (from 1968 to present), adult females (beginning in 1985), adolescents (ages 13–18, beginning in 1983) and children (neonate to 12 beginning in 1989).

Safeguards:

1. Authorized Areas: Only authorized ARC staff (Principal Investigator and his/her research team) are allowed access to these files. The contractor staff has access to the files during the recruitment/screening process.

2. Physical Safeguards: Files and file rooms are locked after business hours. Building has electronic controlled entry at all times with a 24-hour guard/television surveillance system. The computer terminals are in a further secured area.

3. Procedural Safeguards: All users of personal information in connection with the performance of their jobs protect information from unauthorized personnel. Access codes to the research records are available only to the Principal Investigator and his/her research team. Access to the records is strictly limited to those staff members trained in accordance with the Privacy Act. The contractor staff members are required to secure the information in accordance with the Privacy Act. ARC Project Officer and contracting officials will monitor contractor compliance.

System manager(s) and address:

Chief, Research Support Branch, NIDA, Addiction Research Center, Francis Scott Key Medical Center, Building C, P.O. Box 5150, Baltimore, Maryland 21224.

Notification procedures:

To determine if a record exists, write to the system manager at the above address. Provide a notarized signature as proof of identity. This can be waived if the request is made through official federal, state, or local channels. The request should include the patient's register number and/or the number of years of incarceration (for prisoner subjects), full name at time of participation in the research project, date(s) of research participation, and title of research project or name of drug being studied. An individual who requests notification of a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or legal guardian who requests notification of a child's or adolescent's record shall designate a family physician or other health professional (other than a family member) or a member of the Addiction Research Center staff to whom the record, if any, will be sent. The parent or legal guardian must verify in writing the relationship to the adolescent as well as his/her own identity.

C. 09–30–0036

System name:

Alcohol, Drug Abuse, and Mental Health Epidemiologic and Biometrics Research Data, HHS/ADAMHA/OA.

Minor alterations have been made to the categories of records in the system as follows:

Categories of records in the system:

The system contains data about the individual as relevant to a particular research study. Examples include, but are not limited to, items about the health/mental health and/or alcohol and/or drug consumption patterns of the individual; demographic data; social security numbers (voluntary); past and present life experiences; personality characteristics; social functioning; utilization of health/mental health alcohol and/or drug abuse services; family history; physiological measures; and characteristics and activities of health/mental health; alcohol abuse, and/or drug abuse care providers.

Retrievability:

During data collection stages and followup, if any, retrieval by personal identifier (e.g., name, social security number (in some studies), or medical record number) is necessary. During the data analysis stage, data are normally retrieved by the variables of interest (e.g., diagnosis, age, occupation).

d. 09–30–0039

System name:

Drug Abuse Treatment Outcome Prospective Study (TOPS), HHS/ADAMHA/NIDA.

Minor alterations have been made to the categories of records in the system as follows:

System name:

Drug Abuse Treatment Outcome Study (DATOS), HHS/ADAMHA/NIDA

System location:

For records collected between 1979 through 1986: National Institute on Drug Abuse, Division of Clinical Research, 5600 Fishers Lane, Rockville, Maryland 20857.

New Records will be located with an ADAMHA contractor, not yet determined. You may contact above address for name and location after October 1, 1988.

Categories of individuals covered by the system:

Voluntary adult clients of federally funded treatment programs, including Treatment Alternative Street Crime (TASC) Programs of the Department of Justice, who requested to be included in TOPS from 1979 through 1986. New data collected from voluntary adult clients of treatment programs beginning in 1989 and will continue through 1993.

Purpose:

The purpose of the system is to compile information on drug abusers who obtain treatment in Federally funded abuse treatment programs in order to derive information on the treatment environments and abusers behaviors and characteristics subsequent to treatment. Researchers and drug abuse services providers may use the aggregate data to address issues and generate hypotheses to understand better the interactions among the client and community.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To determine if a record exists, write to the system manager at the address above. An individual may learn if a record exists about himself/herself upon written request, with notarized signature. The request should include, if known, name of the researcher, location of the research site, approximate date of data collection, any alias used, and subject identification number.

An individual who requests notification of a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except: (A) In emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; (E) has secured a written statement attesting to the recipient's understanding of, and willingness to, abide by these provisions.

An ADAMHA contractor (to be determined) uses the records in this system to accomplish the research purpose for which the records are collected. In the event of followup studies or continuation studies, because the contract has been terminated for convenience by the Government, we may disclose records in this system to a subsequent ADAMHA contractor. We would require the new contractor to maintain Privacy Act safeguards with respect to such records.

System manager(s) and address:

Drug Abuse Treatment Outcome Study (DATOS), Deputy Chief, Treatment Research Branch, Division of Clinical Research, National Institute on Drug Abuse, Alcohol, Drug Abuse, and Mental Health Administration, Room 10A-30 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

e. 09-30-0041

System name:

Subject—Participants in Drug Abuse Research Studies Supporting New Drug Applications, HHS/ADAMHA/NIDA.

Minor alterations have been made to the system location as follows:

System location:

Dixon and Williams Pharmaceutical, 5775 Hyde Park Circle, Jacksonville, Florida 32210.

Addiction Research Center, National Institute on Drug Abuse, Francis Scott Key Medical Center, P.O. Box 5180, Baltimore, Maryland 21224.

f. 09-30-0043

System name:

Shipment Records of Drugs of Abuse to Authorized Researchers, HHS/ADAMHA/NIDA.

A minor alteration has been made to the system location:

System location:

Research Technology Branch, Division of Preclinical Research, National Institute on Drug Abuse, Room 10A-13, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

2. Readers who notice any errors or omissions in ADAMHA system notices are invited to bring them to my attention at the following addresses: Alcohol Drug Abuse, and Mental Health, Administration, 5600 Fishers Lane, Room 12-105, Rockville, Maryland 20857.

Date: October 24, 1988.

Betty J. Cook,

Deputy Executive Office, ADAMHA.

3. Table of Contents

The following is a list of system notices which ADAMHA currently maintains:

09-30-0004 Intramural Research Program Records of Research Performed on In- and Out-Patients with Various Types of Mental Illness, HHS/ADAMHA/NIMH
09-30-0020 Patient Records on PHS Beneficiaries (1935-1974) and Civilly Committed Drug Abusers (1967-1978), HHS/ADAMHA/NIDA
09-30-0022 National Institute on Drug Abuse, Addiction Research Center, Federal Prisoner and Non-Prisoner Patient Files, HHS/ADAMHA/NIDA
09-30-0023 Records of Contracts Awarded to Individuals, HHS/ADAMHA/OA
09-30-0027 Grants and Cooperative Agreements: Research, Research Training, Research Scientist Development, Education, Demonstration, Prevention, Fellowships, Clinical Training, Community Programs, HHS/ADAMHA/OA
09-30-0029 Records of Guest Workers, HHS/ADAMHA/OA
09-30-0030 Records of Visiting Fellows, HHS/ADAMHA/OA
09-30-0033 Correspondence Files, HHS/ADAMHA/OA
09-30-0035 Three Mile Island Mental Health Survey Respondents Record, HHS/ADAMHA/NIMH
09-30-0036 Alcohol, Drug Abuse, and Mental Health Epidemiological and Biometric Research Data HHS/ADAMHA/OA
09-30-0037 Psychotherapy of Opiate-Dependent Individuals, HHS/ADAMHA/NIDA
09-30-0038 Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse, HHS/ADAMHA/NIDA
09-30-0039 Drug Abuse Treatment Outcome Prospective Study (TOPS), HHS/ADAMHA/NIDA
09-30-0041 Subject-Participants in Drug Abuse Research Studies Supporting New Drug Applications, HHS/ADAMHA/NIDA
09-30-0043 Shipment Records of Drugs of Abuse of Authorized Researchers, HHS/ADAMHA/NIDA
09-30-0047 Patient Records on Chronic Mentally Ill Merchant Seamen Treatment at Nursing Homes in Lexington, Kentucky (1942 to the Present), HHS/ADAMHA/NIMH
09-30-0048 Intramural Research Program Records of In- and Out-Patients with Various Types of Alcohol Abuse and Dependence, Relatives of Patients with Alcoholism, and Healthy Volunteers, HHS/ADAMHA/NIAAA
09-30-0049 Consultant Records Maintained by ADAMHA Contractors, HHS/ADAMHA/OA
09-30-0050 Clinical Research: Patient Medical Records, HHS/ADAMHA/OA

[FR Doc. 88-24985 Filed 11-21-88; 8:45 am]
BILLING CODE 4160-20-M

National Institutes of Health

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Public Health Service, DHHS.

ACTION: Privacy Act; annual republication of notices of revised systems of records.

SUMMARY: The National Institutes of Health (NIH) has conducted a comprehensive review of all Privacy Act systems of records and is publishing the resulting revisions. None of the revisions meet the OMB criteria either for a new or altered system of records requiring an advance period for public comment. These changes are in compliance with OMB Circular A-130, Appendix 1. The notices republished below are complete and accurate as of August 31, 1988.

Included is a list of three systems of records that have been deleted since the 1987 publication and a complete list of

the systems of records that NIH currently maintain.

SUPPLEMENTARY INFORMATION: The following information summarizes the current status of all systems of records which NIH maintains:

A. System Name. The following systems have been updated to reflect a change in the name of the system:

09–25–0037, "Clinical Research: The Baltimore Longitudinal Study of Aging, HHS/NIH/NIA."

09–25–0038, "Clinical Research: Patient Data, HHS/NIH/NIDDK."

09–25–0112, "Extramural Awards: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD."

09–25–0130, "Clinical Research Studies in the Division of Cancer Cause and Prevention, HHS/NIH/NCI."

B. System Location. The following systems have been updated to reflect a change in the system locations. These changes do not affect the access by the individual to the individual's records.

09–25–0003, "Administration: Radionuclide Users File, HHS/NIH/ORS."

09–25–0010, "Research Resources: Registry of Individuals Potentially Exposed to Microbial Agents, HHS/NIH/NCI."

09–25–0011, "Clinical Research: Blood Donor Records, HHS/NIH/CC."

09–25–0012, "Clinical Research: Candidate Normal Volunteer Records, HHS/NIH/CC."

09–25–0014, "Clinical Research: Student Records, HHS/NIH/CC."

09–25–0037, "Clinical Research: The Baltimore Longitudinal Study of Aging, HHS/NIH/NIA."

09–25–0042, "Clinical Research: National Dental Research Patient Records, HHS/NIH/NIDR."

09–25–0044, "Clinical Research: Sensory Testing Research Program, HHS/NIH/NIDR."

09–25–0054, "Administration: Property Accounting, HHS/NIH/ORS."

09–25–0057, "Clinical Research: Burkitt's Lymphoma Registry, HHS/NIH/NCI."

09–25–0060, "Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI."

09–25–0069, "NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI."

09–25–0074, "Clinical Research: Division of Cancer Biology and Diagnosis Patient Trials, HHS/NIH/NCI."

09–25–0077, "Clinical Research: Biological Carcinogenesis Branch Human Specimen Program, HHS/NIH/NCI."

09–25–0099, "Clinical Research: Patient Medical Records, HHS/NIH/CC."

09–25–0112, "Extramural Awards: Research, Research Training, Fellowship and Constructions Applications and Related Awards, HHS/NIH/OD."

09–25–0115, "Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID."

09–25–0130, "Clinical Research Studies in the Division of Cancer Cause and Prevention, HHS/NIH/NCI."

09–25–0154, "Biomedical Research: Records of Subject in Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/NCI."

09–25–0156, "Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institutes of Health, HHS/NIH/OD."

C. Categories of Individuals Covered by the System. The following system has been updated to reflect an increase in the number of individuals covered by the system. This change does not constitute a major modification and no advance publication is required.

09–25–0156, "Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institutes of Health, HHS/NIH/OD."

D. Categories of Records. The following systems have been updated to reflect a change in the categories of records in the system. This change does not alter the character of purpose of the system.

09–25–0078, "Administration: Consultant File, HHS/NIH/NHLBI."

09–25–0142, "Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography and Biometry Studies in Aging, HHS/NIH/NIA."

09–25–0156, "Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institutes of Health, HHS/NIH/OD."

E. Storage. The following systems have been updated to reflect a change in the method of storing the records:

09–25–0010, "Research Resources: Registry of Individuals Potentially Exposed to Microbial Agents, HHS/NIH/NCI."

09–25–0044, "Clinical Research: Sensory Testing Research Program, HHS/NIH/NIDR."

09–69–0069, "NIH Clinical Center Admissions to the National Cancer Institute, HHS/NIH/NCI."

09–25–0115, "Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID."

F. Retrieval. The following systems have been updated to reflect a change in the method of retrieving the records.

09–25–0069, "NIH Clinical Center Admissions to the National Cancer Institute, HHS/NIH/NCI."

09–25–0078, "Administration: Consultant File, HHS/NIH/NHLBI"

09–25–0140, "International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC."

G. Safeguards. The following systems have been updated to reflect a change in the safeguards:

09–25–0037, "Clinical Research: The Baltimore Longitudinal Study of Aging, HHS/NIH/NIA."

09–25–0042, "Clinical Research: National Institute of Dental Research Patient Records, HHS/NIH/NIDR."

09–25–0044, "Clinical Research: Sensory Testing Research Program. HHS/NIH/NIDR."

H. System Manager(s) and Address(es). The following systems have been updated to reflect a change in the system manager or the address of the system manager. These changes do not affect the access by the individual to the individual's records.

09–25–0003, "Administration: Radionuclide Users File, HHS/NIH/ORS."

09–25–0008, "Administration: Radiation Workers Monitoring, HHS/NIH/ORS."

09–25–0010, "Research Resources: Registry of Individuals Potentially Exposed to Microbial Agents, HHS/NIH/NCI."

09–25–0011, "Clinical Research: Blood Donor Records, HHS/NIH/CC."

09–25–0012, "Clinical Research: Candidate/Normal Volunteer Records, HHS/NIH/CC."

09–25–0014, "Clinical Research: Student Records, HHS/NIH/CC."

09–25–0035, "International Activities: International Health Exchange Programs Participants, HHS/NIH/FIC."

09–25–0037, "Clinical Research: The Baltimore Longitudinal Study of Aging, HHS/NIH/NIA."

09–25–0042, "Clinical Research: National Institute of Dental Research Patient Records, HHS/NIH/NIDR."

09–25–0053, "Clinical Research: Vision Studies, HHS/NIH/NEI."

09–25–0054, "Administration: Property Accounting, HHS/NIH/ORS."

09–25–0057, "Clinical Research: Burkitt's Lymphoma Registry, HHS/NIH/NCI."

09–25–0060, "Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI."

09–25–0069, "NIH Clinical Center Admissions to the National Cancer Institute, HHS/NIH/NCI."

09–25–0074, "Clinical Research: Division of Cancer Biology and Diagnosis Patient Trials, HHS/NIH/NCI."

09–25–0077, "Clinical Research: Biological Carcinogenesis Branch Human Specimen, HHS/NIH/NCI."

09–25–0078, "Administration: Consultant File, HHS/NIH/NHLBI."

09–25–0087, "Administration: Employees and Consultants. HHS/NIH/NIAID."

09–25–0099, "Clinical Research: Patient Medical Records, HHS/NIH/CC."

09–25–0112, "Extramural Awards: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD."

09–25–0115, "Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID."

09–25–0130, "Clinical Research Studies in the Division of Cancer Cause and Prevention, HHS/NIH/NCI."

09–25–0140, "International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC."

09–25–0143, "Biomedical Research: Records of Subjects in Clinical Epidemiologic and Biometric Studies of the National Institutes of Allergy and Infectious Diseases, HHS/NIH/NIAID."

09–25–0148, "Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institutes of Neurological and Communicative Disorders and Stroke, HHS/NIH/NINCDS."

09–25–0154, "Biomedical Research: Records of Subjects in Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/NCI."

09–25–0156, "Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institutes of Health, HHS/NIH/OD."

I. Record Source Categories. The following system has been updated to reflect a change in the source of the information contained in the record.

09–25–0069, "NIH Clinical Center Admissions to the National Cancer Institute, HHS/NIH/NCI."

J. Notification Procedures. The following systems have been updated to reflect changes in the office and/or official to contact to determine whether or not the system contains a record about the individual.

09–25–0091, "Administration: General Files on Employees, Donors and Correspondence, HHS/NIH/NEI."

09–25–0156, "Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institutes of Health, HHS/NIH/OD."

K. The following systems have been changed for clarity and editing purposes.

09–25–0011, "Clinical Research: Blood Donor Records, HHS/NIH/CC."

09–25–0035, "International Activities: International Health Exchange Program Participants, HHS/NIH/FIC."

09–25–0112, "Extramural Awards: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD."

09–25–0124, "Administrative: Pharmacology Research Associates, HHS/NIH/NIGMS."

09–25–0126, "Clinical Research: National Heart, Lung and Blood Institute Epidemiological Studies, HHS/NIH/NHLBI."

09–25–0133, "Clinical Research: Kidney Transplant Histocompatibility Study (KTHS), HHS/NIH/NIAID."

L. The following systems have a name change due to the renaming of the organization from NIADDK to NIDDK as follows:

09–25–0038, "Clinical Research: Patient Data, HHS/NIH/NIDDK."

09–25–0039, "Clinical Research: Diabetes Mellitus Research Study of Southwestern American Indians, HHS/NIH/NIDDK."

09–25–0040, "Clinical Research: Southwestern American Indian Patient Data, HHS/NIH/NIDDK."

09–25–0041, "Research Resources: Scientists Requesting Hormone Distribution, HHS/NIH/NIDDK."

M. Deleted Systems of Records. The following systems of records which appeared in the 1986 annual publication are now being deleted:

09–25–0013, "Clinical Research: Preadmission Medical Records, HHS/NIH/CC."

09–25–0049, "Clinical Research: Serology-Epidemiology Parasite Research, HHS/NIH/NIAID."

09–25–0117, "International Activities: U.S.-Japan Program Panel Members, HHS/NIH/NIAID."

We are publishing only those systems which have been changed to reflect minor modifications. All system notices were last published in the **Federal Register**, Privacy Act Issuances, 1986 Compilation, Volume 1, pp. 484–546, November 24, 1986, Vol. 51, No. 226, pp. 42398–42449 and selectively updated on November 24, 1987, in Vol. 52, No. 226, pp. 45026–45028.

The following is a list of active systems of records maintained by NIH.

Table of Contents

09–25–0060, Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI, publ. **Federal Register**, Vol. 51, No. 226, p. 42433.

09–25–0067, Clinical Research: National Cancer Incidence Surveys, HHS/NIH/NCI, publ. **Federal Register**, 1986 Comp. Vol. 1, p. 511.

09–25–0069, NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI, publ. **Federal Register**, Vol. 51, No. 226, p. 42406.

09–25–0074, Clinical Research: Division of Cancer Biology and Diagnosis Patient Trials, HHS/NIH/NCI, publ. **Federal Register**, Vol. 51, No. 226, p. 42434.

09–25–0075, Administration: Institutions Submitting Assurances for Protection from Research Risks and Animal Welfare, HHS/NIH/OD, publ. **Federal Register**, Vol. 51, No. 226, p. 42407.

09–25–0077, Clinical Research: Biological Carcinogenesis Branch Human Specimen Program, HHS/NIH/NCI, publ. **Federal Register**, Vol. 51, No. 226, p. 42435.

09–25–0078, Administration: Consultant File, HHS/NIH/NHLBI, publ. **Federal Register**, 1986 Comp. Vol. 1, p. 515.

09–25–0087, Administration: Employees and Consultants, HHS/NIH/NIAID, publ. **Federal Register**, Vol. 51, No. 226, p. 42436.

09–25–0091, Administration: General Files on Employees, Donors and Correspondents, HHS/NIH/NEI, publ. **Federal Register**, Vol. 51, No. 226, p. 42415.

09–25–0093, Administration: Administration Authors, Reviewers and Members of the Journal of the National Cancer Institute, HHS/NIH/NCI, publ. **Federal Register**, 1986 Comp. Vol. 1, p. 517.

09–25–0096, Contracts: National Cancer Institute Contract Management System Principal Investigators, Project Officers and Contract Specialists, HHS/NIH/NCI, publ. **Federal Register**, Vol. 1, p. 518.

09–25–0099, Clinical Research: Patient Medical Records, HHS/NIH/CC, publ. **Federal Register**, Vol. 51, No. 226, p. 42408.

09–25–0100, Clinical Research: Neuropharmacology Studies, HHS/NIH/NINCDS, publ. **Federal Register**, 1986 Comp. Vol. 1, p. 519.

09–25–0102, Administration: Grants Associates Program Working Files, HHS/NIH/DRG, publ. **Federal Register**, 1986 Comp.Vol. 1, p. 520.

09–25–0105, Administration: Health Records of Employees, Visiting Scientists, Fellows, Contractors and Relatives of Inpatients, HHS/NIH/OD, publ. **Federal Register**, 1986 Comp. Vol. 1, p. 521.

09–25–0106, Administration: Executive Secretariat Correspondence Records, HHS/NIH/OD, publ. **Federal Register**, 1986 Comp. Vol. 1, p. 521.

09–25–0108, Personnel: Guest Researchers/Student Scientists/Scientists Emeriti, HHS/NIH/DPM, publ. **Federal Register**, Vol. 51, No. 226, p. 42409.

09–25–0112, Extramural Awards: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD, publ. **Federal Register**, Vol. 51, No. 226, p. 42410.

09–25–0115, Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID, publ. **Federal Register**, Vol. 51, No. 226, p. 42436.

09–25–0118, Contracts: Professional Services Contractors, HHS/NIH/NCI, publ. **Federal Register**, 1986 Comp. Vol. 1, p. 526.

09–25–0121, International Activities: Senior International Fellowships Program, HHS/NIH/FIC, publ. **Federal Register**, Vol. 51, No. 226, p. 42416.

09–25–0124, Administration: Pharmacology Research Associates, HHS/NIH/NIGMS, publ. **Federal Register**, Vol. 51, No. 226, p. 42412.

09–25–0126, Clinical Research: National Heart, Lung, and Blood Institute Epidemiological and Biometric Studies, HHS/NIH/NHLBI, publ. **Federal Register**, Vol. 51, No. 226, p. 42417.

09–25–0128, Clinical Research: Neural Prosthesis and Biomedical Engineering Studies, HHS/NIH/NINCDS, publ. **Federal Register**, 1986 Comp. Vol. 1, p. 529.

09–25–0129, Clinical Research: Clinical Research Studies Dealing with Hearing, Speech, Language and Chemosensory Disorders, HHS/NIH/NINCDS, publ. **Federal Register**, 1986 Comp. Vol. 1, p. 530.

09–25–0130, Clinical Research Studies in the Division of Cancer Cause and Prevention, HHS/NIH/NCI, publ. **Federal Register**, 1986 Comp. Vol. 1, p. 531.

09–25–0133, Clinical Research: Kidney Transplant Histocompatibility Study (KTHS), HHS/NIH/NIDDK, publ. **Federal Register**, Vol. 51, No. 226, p. 42438.

09–25–0134, Clinical Research: Epidemiology Studies, National Institute of Environmental Health Sciences, HHS/NIH/NIEHS, publ. **Federal Register**, Vol. 51, No. 226, p. 42418.

09–25–0140, International Activities: International Scientific Research in Intramural Laboratories at National Institutes of Health, HHS/NIH/FIC, publ. **Federal Register**, Vol. 51, No. 226, p. 42413.

09–25–0142, Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography and Biometry Studies on Aging, HHS/NIH/NIA, publ. **Federal Register**, 1986 Comp. Vol. 1, p. 535.

09–25–0143, Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/NIAID, publ. **Federal Register**, Vol. 51, No. 226, p. 42439.

09–25–0148, Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institute of Neurological and Communicative Disorders and Stroke, HHS/NIH/NINCDS, publ. **Federal Register**, Vol. 51, No. 226, p. 42440.

09–25–0151, Administration: Public Health Service ALERT Records Concerning Individuals Under Investigation for Possible Misconduct In Science or Subject to Sanctions for Such Misconduct, HHS/PHS/NIH, publ. **Federal Register**, Vol. 52, No. 102, p. 19929.

09–25–0152, Biomedical Research: Records of Subjects in National Institute of Dental Research Contracted Epidemiological and Biometric Studies, HHS/NIH/NIDR, publ. **Federal Register**, Vol. 51, No. 226, p. 42442.

09–25–0153, Biomedical Research: Records of Subjects in Biomedical and Behavioral Studies of Child Health and Human Development, HHS/NIH/NICHD, publ. **Federal Register**, Vol. 51, No. 226, p. 42444.

09–25–0154, Biomedical Research: Records of Subjects in Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/NCI, publ. **Federal Register**, Vol. 51, No. 226, p. 42420.

09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of NIH, HHS/NIH/OD, publ. **Federal Register**, Vol. 51, No. 226, p. 42447.

Date: November 3, 1988.

James B. Wyngaarden,

Director, National Institutes of Health.

09–25–0003

SYSTEM NAME:

Administration: Authorized Radionuclide Users File, HHS/NIH/ORS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 21, Room 106, 9000 Rockville Pike, Bethesda, MD 20892

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Research Investigators within NIH and outside holding NIH-NRC Board License for radioactive material.

CATEGORIES OF RECORDS IN THE SYSTEM:

Radioactive material users.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241.

PURPOSE OF THE SYSTEM:

To provide adequate administrative controls to assure compliance with NIH Radition Safety policy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Training and experience information transferred to place of new employment.

2. Personnel exposure data transferred to place of new employment.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the the request of that individual.

4. Disclosure may be made from this system of records by the Department of Health and Human Services (HHS) to the Department of Justice, or to a court

or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective represention of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file cabinet.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to staff Health Physicists, staff Physical Science Technicians, and adminstrative personnel of the branch.

2. Physical Safeguards: Records are generally stored in locked file cabinets or in cabinets that are in rooms that can be locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly limited to Radiation Safety Branch personnel staff. Records may be removed from files only at the request of authorized personnel. For computerized records, access is controlled by the use of security codes known only to authorized users.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH Records Control Schedule, items 1300–B–13 through 16. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER AND ADDRESS:

Chief, Data and Analytical Services Section, Radiation Safety Branch, ORS, Building 21, Room 106, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Write to the official under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Individual, previous employers and educational institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0008

SYSTEM NAME:

Administration: Radiation Workers Monitoring, HHS/NIH/ORS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 21, Room 134, 9000 Rockville Pike, Bethesda, MD 20892, and National Institutes of Health, Building 12, Computer Center, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NIH workers using radioactive materials or radiation producing equipment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Radiation exposure incident reports, film badge exposure reports, urine and whole body counting reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902.

PURPOSE OF THE SYSTEM:

(1) To assure legal compliance with requirement of Nuclear Regulatory Commission to maintain internal and external radiation exposure data and any radiation incident follow-up reports. (2) To monitor personnel exposures in order that they be maintained at the lowest levels reasonably achievable.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Radiation exposure history may be transferred to new employer or to Nuclear Regulatory Commission on their requests.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in card file and computer tapes.

RETRIEVABILITY:

Records are retrieved by name and group number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel,

physical and procedural safeguards such as the following:

1. Authorized users: Access to information stored is limited to the system manager and Radiation Branch (RSB) staff.

2. Physical safeguards: Information is filed in cabinets in Building 21 or in computer disc files or magnetic drum mass storage. Building 21 is locked during non-working hours. In addition there is a security fence with locked gate surrounding Building 21. File cabinets are in rooms with RSB employees who monitor access to the information therein.

3. Procedural safeguards: Access to computer files is limited only to personnel who know the initial set assigned by the Division of Computer Research and Technology (DCRT), file names, storage locations, and keywords protecting these files. Access to file cabinets is controlled by office personnel who personally recognize RSB staff members.

RETENTION AND DISPOSAL:

Years at NIH: indefinite.

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Chief, Data and Analytical Services Section, Radiation Safety Branch, DS, Building 21, Room 106, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting information to how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Previous employer and education institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0010

SYSTEM NAME:

Research Resources: Registry of Individuals Potentially Exposed to Microbial Agents, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Executive Plaza North, Room 540, 6130 Executive Blvd., Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals potentially exposed to biohazardous microbial agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Microbial agents registry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241.

PURPOSE OF THE SYSTEM:

(1) To serve as a base for health and safety for individuals and organizations involved in use of potentially hazardous agents. (2) To identify potential hazards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, on magnetic tape, and 3380 disks.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees authorized to use the records include professional staff in the Biological Carcinogenesis Branch who have been informed of the need for maintaining confidentiality of the records.

2. Physical Safeguards: Office records are kept in closed cabinets in offices which are locked during off-duty hours.

3. Procedural Safeguards: Access to the file is strictly controlled by the system manager and his designee, and records may be removed from files only at the request of the system manager or other authorized employee. Access to computerized records is controlled by the use of security codes known only to the authorized users.

The particular safeguards implemented at each site are developed in accordance with chapter 45-13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS.hf: 45-13, and part 6, "ADP Systems Security," of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER AND ADDRESS:

National Cancer Institute, Division of Cancer Etiology, Coordination, Research Resources, BCP, Executive Plaza North, Room 540, 6130 Executive Blvd., Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that

the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Information is obtained from individuals and/or organizations providing specimens.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0011

SYSTEM NAME:

Clincial Research: Blood Donor Records, HHS/NIH/CC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health Building 10A, Room 5D36, 9000 Rockville Pike, Bethesda, MD 20892.

Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Donors of blood and blood components to be used in the NIH Clinical Center for patient infusions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Past donations, blood types, phenotype. Laboratory results of hepatitis testing, serologic reactions on all blood samples, donations of blood or blood components.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

"Preparation of Biological Products" of the Public Health Service Act (42 U.S.C. 263).

PURPOSE OF THE SYSTEM:

(1) To provide a means for contacting blood donors for patient care and research. (2) To provide a medical history of all donors for the transfusion records of each blood unit.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors and their staff in order to accomplish the purposes for which the records are collected. The recipients are required to comply with the requirements of the Privacy Act with respect to such records.

2. Certain diseases infectious diseases may be reported to state government as required by law.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in a computer file, on donor cards, and on microfilm.

RETRIEVABILITY:

Records are retrieved by a unique control number assigned to each individual donor.

SAFEGUARDS:

Access is granted only to authorized employees in the Department of Transfusion Medicine including physicians, nurses, technologies, computer operators, and the departments's administrative officer.

1. Authorized Users: Access is granted only to authorized employees of the Department of Transfusion Medicine including physicians, nurses technologists, computer operators and the secretary to the Chief.

2. Physical Safeguards: Record facilities are locked when system personnel are not present.

3. Procedural Safeguards: Access to manual files is limited to authorized users. Access to computerized records is controlled by the use of security codes known only to the authorized users.

These practices are in compliance with the standards of chapter 45-13, of the HHS General Administration Manual, Supplementary chapter PHS hf: 45-13, and Part 6, "ADP System Security" of the HHS Information Resource Management Manual.

RETENTION AND DISPOSAL:

Donor cards are retained for 18 months and then microfilmed. Microfilm is retained indefinitely in accordance with the NIH Records Control Schedule, item 3000-E-50.

Disposal method include burning or shredding paper materials and erasing computer tapes.

SYSTEM MANAGER AND ADDRESS:

Chief, Department of Transfusion Medicine, National Institutes of Health, Building 10, Room 5D56, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

To obtain access to a record, contact the system manager at the address specified above. Requesters should provide the same information as is required under the notification procedures above. Requesters should also reasonably specify the record contents being sought. You may also request a list of accountable disclosures that have been made of your record.

CONTESTING RECORD PROCEDURE:

Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Data are collected from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0012

SYSTEM NAME:

Clinical Research: Candidate Normal Volunteer Records, HHS/NIH/CC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, Room 1N230, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Normally healthy individuals who volunteer to participate in NIH studies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Program application, health questionnaire and record of participation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 263.

PURPOSE OF THE SYSTEM:

(1) To determine suitability for participation in the normal volunteer program, (2) to document remuneration of normal volunteers, (3) to provide a record of participation to be used (a) in writing letters of recommendation/reference for the volunteer, and (b) preparing reports on the normal volunteer program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PROGRAM OF SUCH USES:

1. Clinical research data are made available to approved or collaborating researchers, including HHS contractors and grantees.

2. Certain infectious diseases may be reported to state government as required by law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. Disclosure may be made to a congressional office from the record of an individual in response in an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Program applictions and health questionnaries are stored in file folders. Records of participation are stored on index cards.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, procedural safeguards such as the following:

1. Authorized Users: Access is granted only to the Normal Volunteer Program staff in the Office of Special Programs and to NIH physicians who have requested the recruitment of volunteers for their clinical research projects.

2. Physical Safeguards: Record facilities are locked when system personnel are not present.

3. Procedural Safeguards: Access to the files is strictly controlled by the files staff. Records may be removed from the file only at the request of the system manager or other authorized employees.

RETENTION AND DISPOSAL:

Program applications and health questionnaires are kept for 36 months (3 years) after an individual leaves NIH. Applications which are eligible but not accepted may be kept for 1 year.

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Assistant Director for Special Program, CC, Building 10, Room 1C226, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

To obtain access to a record, contact: Assistant Director for Special Programs, Building 10, Room 1N226, NIH, 9000 Rockville Pike, Bethesda, MD 20892. and provide the information described under notification Procedures above.

Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Volunteer, sponsoring contractor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0014

SYSTEM NAME:

Clinical Research: Student Records, HHS/NIH/CC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, Room 1C292, 9000 Rockville Pike, Bethesda, MD 20892.

Write to the system manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Potential and accepted Medical Staff and Research Fellows, medical students, and other students in NIH training programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application form, transcripts, references, evaluations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241.

PURPOSE OF THE SYSTEM:

(1) To identify candidates for Medical Staff and Research Fellow, clinical elective, and other training positions. (2) To maintain a permanent record of those individuals who have received clinical research training at the NIH for historical and reference uses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Information may be used to respond to congressional inquires for constituents concerning admission to the program.

2. Information may be used to respond to prospective future employers of these individuals who wish to confirm their presence at NIH.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and year.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to health care personnel of the NIH who are involved in the evaluation and selection of training candidates.

2. Physical Safeguards: Records are maintained in locked cabinets with access limited to authorized personnel (systems manager and staff).

3. Procedural Safeguards: Access to the file is strictly controlled by the files staff. Records may be removed from the file only at the request of the system manager or other authorized employees.

RETENTION AND DISPOSAL:

Years at NIH: Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the NIH Records Control Schedule. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Assistant Director for Special Programs, CC, Building 10, Room 1C292, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

To obtain access to a record, contact the system manager at the above address and provide the information described under Notification Procedures above. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Write to the system manager at the address specified above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Applicants, universities and teachers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0035

SYSTEM NAME:

International Activities: International Health Exchange Programs Participants, HHS/NIH/FIC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 38A, Room 612, 9000 Rockville Pike, Bethesda, MD 20892.

Write to system manager at the address below for the address of the Federal Records Center where records may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizens applying for participation in international health exchange programs through NIH.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications and associated records and reports, including curricula vitae and letters of reference.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2421.

PURPOSE OF THE SYSTEM

To administer individual health exchange programs and prepare for scientific review and approval.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. To qualified experts not within the definition of Department employees as prescribed in Department Regulations for opinions as a part of the application review process.

3. Information is furnished to pertinent staff of the relevant foreign ministry for acceptance purposes.

4. Applications are made available to authorized employees and agents of the Federal Government for the purpose of inspections and audits, and, in appropriate cases, to the Department of Justice for investigation under civil and criminal laws.

5. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to FIC program staff. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in locked file cabinets. Offices are locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Files may be removed only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Years at NIH: 1. At Federal Records Center: 5. Destroy 6 years after close out (NIH Manual 1743, Appendix I, Section 2300–320–7).

SYSTEM MANAGER(S) AND ADDRESS:

National Institutes of Health, Program Specialist, International Coordination and Liaison, Branch, FIC, Building 38A, Room 612, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to system manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Information is obtained from applicants and individuals who supply references.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0037

SYSTEM NAME:

Clinical Research: Baltimore Longitudinal Study of Aging, HHS/NIH/NIA.

SECURITY CLASSIFICATION:

None

SYSTEM LOCATION:

National Institutes of Health, Building 12, 9000 Rockville Pike, Bethesda, MD 20892;

and

Chief, Longitudinal Studies Branch, IRP, NIA, Gerontology Research Center, 4940 Eastern Avenue, Baltimore, MD 21224.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM

Voluntary participants in the Gerontology Research Center (GRC) Longitudinal Study of Aging.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical histories, psychological and physical test results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 241, 289k–2, k–4. Health Research Extension Act of 1985 PL 99–158.

PURPOSE OF THE SYSTEM:

Epidemiological research on the human aging process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain infectious diseases are reported to state governments as required by law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and on computer files, and on microfiche.

RETRIEVABILITY:

Records are retrieved by ID number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to the clinical, research and support staff of the GRC. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Hard copy files are kept in locked file cabinets.

3. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be removed only at the request of the system manager or other authorized employee. Access to computer files is controlled through

security codes known only to authorized users.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH Records Control Schedule, item 3000–G–3. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER AND ADDRESS:

Chief, Longitudinal Studies Branch, IRP National Institutes of Health Gerontology Research Center, GRC 4940 Eastern Avenue, Baltimore, MD 21224

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requestor must also verify his or her identity by providing either a notarization of the request or a written certification that the requestor is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

Individuals seeking notification of or access to medical records should designate a representative (including address) who may be a physician, other health professional, or other responsible individual, who would be willing to review the record and inform the subject individual of its contents, at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Individuals, research staff, test results.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0038

SYSTEM NAME:

Clinical Research: Patient Data, HHS/NIH/NIDDK.

SECURITY CLASSFICIATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, Room 9N222, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients of the National Institute of Diabetes, and Digestive and Kidney Diseases (NIDDK).

CATEGORIES OF RECORDS IN THE SYSTEM:

Patient history, demographic data, miscellaneous correspondence with patients.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 281a, 289c.

PURPOSE OF THE SYSTEM:

(1) Care and treatment of patients with arthritic, metabolic or digestive disease; (2) Experimentation and investigation on the etiology, treatment and prevention of arthritic, metabolic or digestive disease; (3) Administration of these clinical and research programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain infectious diseases are reported to state governments as required by law.

3. Information may be used to respond to congressional inquiries for constitutents concerning admission to the NIH Clinical Center.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and on magnetic tape.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unathorized disclosures are implemented as appropriate for each location. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the NIADDK whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in a limited access area. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual indentification.

4. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be removed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users. Access codes are changed frequently.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH Records Control Schedule, item 3000–G–3. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Chief, Clinical Investigations, NIDDK, Building 10, Room 9N222, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURES:

To determine if a record exists write to:

National Institutes of Health, Administrative Officer, Building 31, Room 9A46, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Patients.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0040

SYSTEM NAME:

Clinical Research: Southwestern American Indian Patient Data, HHS/HIH/NIDDK.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Phoenix Area Indian Hospital, Room 541 Phoenix, Arizona 85016.

Write to system manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients of the National Institute of Diabetes, and Digestive and Kidney Diseases (NIDDK) being treated at the Phoenix Area Indian Hospital.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical history, treatment schedules, diagnostic records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

(1) Used by clinicians and support staff of the Phoenix Clinical Research Section for treatment of NIADDK patients, and for research related to such treatment. (2) Records are forwarded to the Indian Health Service which maintains records after patient discharge in case follow-up or later treatment is necessary.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain infectious diseases are reported to state governments as required by law.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and patient number.

SAFEGUARDS:

Records are maintained in secured areas and containers, with personnel screening to prevent unauthorized access. Charge-out records are maintained on records charged out from the files.

RETENTION AND DISPOSAL:

Records are retained and destroyed according to the same standards that apply to other medical records of the Indian Health Service.

SYSTEM MANAGER AND ADDRESS:

Chief, Phoenix Clinical Research Section, Phoenix Area Indian Hospital, Room 541, 4212 North 16th Street, Phoenix, Arizona 85016.

NOTIFICATION PROCEDURE:

To determine if a record exists write to: National Institutes of Health, Administrative Officer, NIDDK, Building 31, Room 9A46, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access, to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Clinicians of the Phoenix Clinical Research Section.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0042

SYSTEM NAME:

Clinical Research: National Institute of Dental Research Patient Records, HHS/NIH/NIDR.

SECURITY CLASSIFICATION.

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, Room 6S237, 9000 Rockville Pike, Bethesda, MD 20892.

Write to system manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients and other participants in current and past research projects of the National Institute of Dental Research (NIDR).

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical and dental histories, dental pathologies and therapies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 285h.

PURPOSE OF THE SYSTEM:

(1) To record the diagnosis and treatment of patients with diseases of the mouth, tongue, teeth and surrounding tissues; (2) To record the normal condition of the mouth, tongue, teeth and surrounding tissues of individuals referred to the dental clinic; (3) To provide clinical data for research into the etiology, treatment and prevention of oral diseases; (4) For review and planning of the NIDR clinical program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the clinical and research purposes for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain infectious diseases are reported to state governments as required by law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example, when a claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and hospital ID number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to dentists, physicians, dental hygienists, dental assistants and other health care personnel involved in the care and treatment of patients in the NIDR dental clinic, and to referring professionals. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are stored in a cabinet which is locked at all times when not in use.

3. Procedural Safeguards: Access is controlled by clerical staff of the Dental Clinic during clinic hours, and by the Officer of the Day when the clinic is closed.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule, Manual Chapter 1743 (HHS Records Management Manual, Appendix B-361), Manual Chapter 1743, item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Records will be destroyed by shredding or burning.

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Chief, Clinical Investigations and Patient Care Branch, NIDR, Building 10, Room 6S237A, 9000 Rockville Pike, Bethesda, MD 20829.

NOTIFICATION PROCEDURE:

To determine if a record exists contact: NIDR Privacy Act Coordinator, Westwood Building, Room 535, 5333 Westbard Avenue, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably

identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Individual, parents or guardians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0044

SYSTEM NAME:

Clinical Research: Sensory Testing Research Program, HHS/NIH/NIDR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, Room 6S-247, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Infants, children and adults participating in the Sensory Testing Research Program of the National Institute of Dental Research (NIDR).

CATEGORIES OF RECORDS IN THE SYSTEM:

Test results, extracts from medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 288a.

PURPOSE OF THE SYSTEM:

(1) To record the medical/dental histories of individuals participating in the Sensory Testing Research Program; (2) To record the results of chemosensory tests of individuals participating in the Sensory Testing Research Program; (3) For research on sensitivity to oral nasal stimulation; (4) For review and planning of the Clinical Investigations and Patient Care Branch program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees, referring health professionals and collaborating researchers and their staff in order to accomplish the clinical and research purposes for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain infectious diseases are reported to state governments as required by law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example, when a claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, data books and in a mini-computer maintained by the NIDR Scientific Systems Section.

RETRIEVABILITY:

Records are retrieved by name, date of observation and age of subject.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to Clinical Investigations Section staff, to scientist colleagues by invitation of the principal investigator and to referring professionals. Other one time and special access by other employees is granted on a need to know basis as specifically authorized by the System Manager.

2. Physical Safeguards: Records are stored in rooms which are locked at all times when not in use. Computer terminals are in secured areas. Access to computer file is controlled by software protection codes associated with each site.

3. Procedural Safeguards: Access is controlled by Clinical Investigation Section staff.

These safeguards are in compliance with the standards of chapter 45-13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS.hf: 45-13, and part 6, ADP Systems Security, of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule (HHS Records Management Manual, Appendix B-361), item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Disposal is by shredding or burning.

SYSTEM MANAGER AND ADDRESS:

Research Psychologist, Clinical Investigations, NIDR, Building 10, Room 1A05, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists contact: NIDR Privacy Act Coordinator, Westwood Building, Room 535, 5333 Westbard Avenue, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Subject individual, cooperating clinician or health agency, family members.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0053

SYSTEM NAME:

Clinical Research: Vision Studies, HHS/NIH/NEI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, Room 10N202, CC, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients and subjects in the National Eye Institute research studies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical history as relevant to vision research.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289i, 289k.

PURPOSE OF THE SYSTEM:

(1) To gather photographic evidence of various stages or progressions of certain visual disorders; (2) To record certain diagnostic test results (such as color vision testing) in the compilation of empirical data to support research evaluations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

3. Certain infectious diseases may be reported to State Government as required by law.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatable with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file cabinets.

RETRIEVABILITY:

Records are retrieved by name and cross referenced by anatomical entity.

SAFEGUARDS:

Employees who maintain records in this system are instructed to grant regular access only to HHS scientists conducting research and physicians treating the patient whose records are involved. Other one time and special access by other employees is granted on a need to know basis as specifically authorized by the system manager. File cabinets are in locked rooms and access to files is strictly controlled. Specifically, records may be removed from files only at the request of the System Manager or authorized employees.

The particular safeguards implemented at each site are developed in accordance with chapter 45-13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS.hf: 45-13, and part 6, ADP Systems Security, of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH Records Control Schedule, item 3000-G-3. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Clinical Director, NEI, Building 10, Room 10N-202, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURES:

To determine if a record exists, contact: Executive Officer, NEI, Building 31, Room 6A05, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under a false pretense is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. You may also request an accounting of disclosures that have been made of your record, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought.

RECORD SOURCE CATEGORIES:

Medical examinations conducted by and under the direction of the research investigators.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0054

SYSTEM NAME:

Administration: Property Accounting, HHS/NIH/ORS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, Room 2E47, 9000 Rockville Pike, Bethesda, MD 20892, and National Institutes of Health, Computer Center, Building 12, 9000 Rockville Pike, Bethesda, MD 20892, and National Institutes of Health, Building 31, Room B1C06, 9000 Rockville Pike, Bethesda, MD 20892, and National Institute of Environmental Health Sciences, Office of Facilities Engineering, 102–01, NIEHS, P.O. Box 12233, Research Triangle Park, N.C., 27709.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the National Institutes of Health who are issued tools or card keys.

CATEGORIES OF RECORDS IN THE SYSTEM:

Property management.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 5 U.S.C. 5901; 5 U.S.C. 7903; 40 U.S.C. 318a; 42 U.S.C. 241.

PURPOSE OF THE SYSTEM:

Used for tool and card keys issuance and control.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, and on magnetic media.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Textual records are stored in offices which are locked when not in use. Computer files are password protected.

RETENTION AND DISPOSAL:

Records are kept until two years after an item is released by an individual.

SYSTEM MANAGER AND ADDRESS:

For tools: National Institutes of Health, Administrative Officer, DES, Building 31, Room 2E47, 9000 Rockville Pike, Bethesda, MD 20892.

For card keys: National Institutes of Health, Chief, Crime Prevention Section, Security Branch, DS, ORS, Building 31, Room B3B16, 9000 Rockville Pike, Bethesda, MD 20205.

National Institute of Environmental Health Sciences, Chief, Office of Facilities Engineering, 102–01, P.O. Box 12233, Research Triangle Park, NC 27709.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. You may also request an accounting of disclosures that have been made of your record, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Data is obtained from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0057

SYSTEM NAME:

Clinical Research: Burkitt's Lymphoma Registry, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

Environmental Epidemiological, DCE, NCI, Executive Plaza North, Room 434, 6130 Executive Blvd., Bethesda, MD 20205, and Frederick Cancer Research Facility, Room 434, Frederick, MD 21701.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients with Burkitt's Lymphoma in the registry of the National Cancer Institute.

CATEGORIES OF RECORDS IN THE SYSTEM:

Clinical abstracts, pathology reports, and other laboratory correspondence with attending physicians.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 281, 282.

PURPOSE OF THE SYSTEM:

Epidemiologic research on Burkitt's Lymphoma.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry

from the congressional office made at the request of the individual.

3. Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in a limited access area. Offices are locked during off-duty hours.

3. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH Records Control Schedule, item 3000–G–3. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER AND ADDRESS:

American Burkitt's Lymphoma Registry, Division of Cancer Etiology, NCI, Executive Plaza North, Suite 434, 6130 Executive Blvd., Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. You may also request an accounting of disclosures that have been made of your record, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably indentify the record and specify the information to be contested, and state the corrective action sought.

RECORD SOURCE CATEGORIES:

Hospitals, physicians.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0060

SYSTEM NAME:

Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, Room 13C103, 9000 Rockville Pike, Bethesda, MD 20892, and Frederick Cancer Research Center, Building 426, Frederick, MD 21701, and National Cancer Institute, Navy Hospital, Building 8, Room 3146, Bethesda, MD 21814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All patients who have been hospitalized in the National Cancer Institute.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 281, 282.

PURPOSE OF THE SYSTEM:

(1) Patient care and treatment. (2) Clinical and epidemiological research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to

directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition, and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tapes, on index cards, and manual paper records.

RETRIEVABILITY:

Records are retrieved by patient name or number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute, or its contractors, whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in a limited access area. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual identification.

3. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users. Access codes are changed frequently.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH Records Control Schedule, item 3000–G–3. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER AND ADDRESS:

Head, Biostatistics and Data Management Section, National Institutes of Health, Building 10, Room 13C103, 9000 Rockville Pike, Bethesda, MD 20892, and Chief, Clinical Research Branch, Biological Response Modifiers Program, Frederick Cancer Research Center, 335 Park Avenue, Building 567, Room 129, Frederick, MD 21701, and Navy Hospital, Deputy Branch Chief, NCI—Naval Medical Oncology Branch, Building 8, Room 5101, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Write to system manager for the appropriate location to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought.

RECORD SOURCE CATEGORIES:

Hospital medical records, referring physician, referring hospitals, clinical laboratories, patient contact, and Central Tumor Registries.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0069

SYSTEM NAME:

NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Chief, Genetics Section, DCE, Executive Plaza North, Room 400, 6130 Executive Blvd., Bethesda, MD 20205, and National Institutes of Health, Division of Computer Research and Technology, Building 12A, 9000 Rockville Pike, Bethesda, MD 20205.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former cancer patients admitted to the NIH Clinical Center or the National Cancer Institute (NCI).

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical histories, reports and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 281, 282.

PURPOSE OF THE SYSTEM:

National Cancer Institute physicians and supporting staff are involved in research on the cause and diagnosis of disease and the treatment of patients, requiring the maintenance of working files to chart progress, responses to treatment, etc.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Disclosure may be made to a congressional office from the record of

an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) and Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee; for example, in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and on computer files.

RETRIEVABILITY:

Records are retrieved by name and identification number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute and the Clinical Center whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in limited access areas. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual identification.

3. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employees. Access to computer files is controlled through security codes known only to authorized users. Access codes are changed frequently.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH Records Control Schedule, item 3000–G–3. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Epidemiology & Biostatistics, Clinical Epidemiology Branch, Division of Cancer Etiology, NCI, Chief, Clinical Genetics Section, Executive Plaza North, Suite 400, 6130 Executive Blvd., Bethesda, MD 20205, and Chief, Family Studies Section, Environmental Epidemiology Branch, Executive Plaza North, Suite 439, 6130 Executive Blvd., Bethesda, MD 20205.

NOTIFICATION PROCEDURE:

Write to system manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A Parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought.

RECORD SOURCE CATEGORIES:

Patients' personal physicians, NIH staff treating the patients or performing tests, and patients themselves.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0074

SYSTEM NAME:

Clinical Research: Division of Cancer Biology and Diagnosis Patient Trials, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, DCBD, NCI, Executive Plaza North, Room 330C, Bethesda, MD 20892, and at hospitals and clinics, educational and research institutions, Federal, State or local government agencies, and private facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Cancer patients, individuals undergoing biopsies, and normal controls in clinical studies of the Division of Cancer Biology and Diagnosis (DCBD).

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical & treatment history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 281, 282.

PURPOSE OF THE SYSTEM:

This system is used to support research: (1) To compare cancer diagnostic tests, (2) to develop statistical methodology, (3) to trace the natural history of the cancer under study, and (4) to develop, evaluate and verify biological markers for early cancer detection and for monitoring treatment success.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating

researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in files and on computer tapes and discs.

RETRIEVABILITY:

Records are retrieved by coded identification number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute and its contractors whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in limited access areas. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual identification.

3. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users. Access codes are changed frequently.

The particular safeguards implemented at each site are developed in accordance with chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS.hf: 45–13, and part 6, "ADP Systems Security," of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH Records Control Schedule, item 3000–G–3. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER AND ADDRESS:

Computer Systems Analyst, National Institutes of Health, Executive Plaza North, Room 344, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Hospitals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0077

SYSTEM NAME:

Clinical Research: Biological Carcinogenesis Branch Human Specimen Program, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Executive Plaza North, Rm. 540, 6130 Executive Blvd., Bethesda, MD 20892, and at private organizations under contract. Write to the system manager for a list of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Cancer and other patients, and normal donors of biopsy and tumor specimens, who are seen at clinically-oriented organizations under contract to the National Cancer Institute. Both adults and children are covered.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical history and diagnostic information about the donor, information on the type of specimen, location of repository (if specimen is stored before use), and distribution record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 281, 282: "Research and Investigation," "National Cancer Institute," and "Cancer Research and Other Activities."

PURPOSE OF THE SYSTEM:

(1) For cancer research, using by-products of cancer treatment, such as biopsy and tumor specimens that would normally be discarded, to allow interpretation of experimental results; (2) To project future research needs; (3)

To monitor and evaluate the NCI distribution system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The Department contemplates that it may contract with a private firm for storage and preservation of specimens. Records necessary for identification, retrieval and research use will be disclosed to such a contractor. The contractor will be required to comply with the requirements of the Privacy Act with respect to such records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, magnetic tape, discs.

RETRIEVABILITY:

Retrieved by name of donor and cross-referenced by identifying number, procurement source, and various epidemiological characteristics.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute, or its contractors, whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records, computers and computer terminals are kept in limited access areas. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual identification.

3. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users.

4. Contractor compliance is assured through inclusion of Privacy Act requirements in contract clauses, and through monitoring by contract and project officers. Contractors who maintain records in this system are instructed to make no disclosure of the records except as authorized by the system manager.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH Records Control Schedule, item 3000–G–3. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER AND ADDRESS:

Coordinator, Research Resources, Biological Carcinogenesis Branch, Division of Cancer Etiology, NCI, National Institutes of Health, Executive Plaza North, Room 540, 6130 Executive Blvd., Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Specimen Report Form filled out by the organization providing specimens.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0078

SYSTEM NAME:

Administration: Consultant File, HHS/NIH/NHLBI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

List of consultants available for use in evaluation of National Heart, Lung, and Blood Institute special grants and contracts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names and resumes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241(d), 281.

PURPOSE OF THE SYSTEM:

(1) To identify and select experts and consultants for program reviews and evaluations. (2) For use in evaluation of NHLBI special grants and contracts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry

from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer disc and file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Data on computer files is accessed by keyword known only to authorized users. Rooms where records are stored are locked when not in use. During regular business hours rooms are unlocked but are controlled by on-site personnel.

RETENTION AND DISPOSAL:

Records are kept until the individual is no longer available for consultation.

SYSTEM MANAGER AND ADDRESS:

National Heart, Lung, and Blood Institute, Computer Specialist, Division of Extramural Affairs, Westwood Building, Room 5A15, 5333 Westbard Avenue, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact: National Institutes of Health, Privacy Act Coordinator, NHLBI, Building 31, Room 5A08, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under also pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought.

RECORD SOURCE CATEGORIES:

Subject individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0087

SYSTEM NAME:

Administration: Employee and Consultants, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, Room 7A32, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former key professional employees of the Institute and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Press releases, curriculum vitae, nominations for awards and photographs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241(d) 289a.

PURPOSE OF THE SYSTEM:

For background records to provide public announcements on National Institute of Allergy and Infectious Diseases (NIAID) Council members, advisors and guest lecturers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to staff whose duties require the use of such information. Authorized users are located in the Office of the Director, NIAID. Other one time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records in this system are stored in file folders which are kept in locked cabinets. The room is locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are kept until no longer needed for reference.

SYSTEM MANAGER AND ADDRESS:

Chief, Office of Communications, National Institutes of Health, Building 31, Room 7A32, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to:

National Institutes of Health, Privacy Act Coordinator, NIAID, Westwood Building, Room 704, 5333 Westbard Avenue, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as record notification procedures. Requesters should also

reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the System Manager at the address above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Individuals and newspaper clippings.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0091

SYSTEM NAME:

Administration: General Files on Employees, Donors and Correspondents, HHS/NIH/NEI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, Room 6A03, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Donors of gifts, employees, correspondents of the National Eye Institute (NEI).

CATEGORIES OF RECORDS IN THE SYSTEM:

Budget, administrative services, correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 289i.

PURPOSE OF THE SYSTEM:

(1) To identify certain donors of unconditional gifts to the National Eye Institute; (2) To record certain delegations and permit holders; (3) To maintain a mailing list of persons in the vision research community; (4) To provide service or information to specific requesters; (5) To communicate with collaborating investigators in vision research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and subject area.

SAFEGUARDS:

Employees who maintain records in this system are instructed to grant regular access only to staff with designated responsibilities directly related to the purpose for which the records are kept. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager. Records are kept in locked offices.

RETENTION AND DISPOSAL:

Years at NIH: 1. Disposal methods include burning or shredding paper materials.

SYSTEM MANAGER AND ADDRESS:

National Eye Institute, Executive Officer, Building 31, Room 6A05, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to:

National Eye Institute, Records Management Officer, Building 31, Room 6A17, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0099

SYSTEM NAME:

Clinical Research: Patient Medical Records, HHS/NIH/CC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Patient Medical Records, Building 10, Room 1N208, 9000 Rockville Pike, Bethesda, MD 20892; and National Institutes of Health, Patient Nutrition Records, Building 10, Room B1S229, 9000 Rockville Pike, Bethesda, MD 20892.

and at private organizations under contract. Write to the system manager for a list of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Registered Clinical Center patients. Some individuals not registered as patients but seen in Clinical Center for diagnostic tests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical treatment records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 248: "Research and Investigation," and "Hospitals, Medical Examinations, and Medical Care."

PURPOSE OF THE SYSTEM:

(1) To provide a continuous history of the treatment afforded individual patients in the Clinical Center; (2) To provide a data base for the clinical research conducted within the hospital.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Information may be used to respond to Congressional inquiries for constituents concerning their admission to NIH Clinical Center.

2. Social Work Department may give pertinent information to community agencies to assist patients or their families.

3. Referring physicians receive medical information for continuing patient care after discharge.

4. Information regarding diagnostic problems, or having unusual scientific value may be disclosed to appropriate medical or medical research organizations or consultants in connection with treatment of patients or in order to accomplish the research purpose of this system. For example, tissue specimens may be sent to the Armed Forces Institute of Pathology; X-rays may be sent for the opinion of a radiologist with extensive experience in a particular kind of diagnostic radiology. The recipients are required to maintain Privacy Act safeguards with respect to these records.

5. Records may be disclosed to representatives of the Joint Commission on Accreditation of Hospitals conducting inspections to ensure that the quality of Clinical Center medical record-keeping meets established standards.

6. Certain infectious diseases are reported to State Government as required by law.

7. Medical information may be disclosed to tumor registries for maintenance of health statistics.

8. The Department contemplates that it may contract with a private firm for transcribing, updating, copying, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to comply with the requirements of the Privacy Act with respect to such records.

9. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and/or on microfiche, and on computer tapes.

RETRIEVABILITY:

Records are retrieved by unit number and patient name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees maintaining records in this system are instructed to grant regular access only to physicians and dentists and other health care professionals officially participating in patient care, to contractors, or to NIH researchers specifically authorized by the system manager.

2. Physical Safeguards: All record facilities are locked when system personnel are not present.

3. Procedural Safeguards: Access to files is strictly controlled by the system manager. Records may be removed only by system personnel following receipt of a request signed by an authorized user. Access to computerized records is controlled by the use of security codes known only to the authorized user. Codes are user- and function-specific.

Contractor compliance is assured through inclusion of Privacy Act requirements in contract clauses, and through monitoring by contract and project officers. Contractors who maintain records in this system are instructed to make no disclosure of the records except as authorized by the system manager.

These safeguards were developed in accordance with chapter 45–13, Safeguarding Records Contained in Systems of Records, of the HHS General Administration Manual, corresponding chapter PHS hf: 45–13, and part 6, ADP Systems Security, of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH Records Control Schedule, item 3000–E–22. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER AND ADDRESS:

Chief, Medical Record Department, National Institutes of Health, Building 10, Room 1N208, 9000 Rockville Pike, Bethesda, Md. 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager at the above address. The requester must provide tangible proof of identity, such as a driver's license. If no identification papers are available, the requester must verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. The representative may be a physician, or other health professional, or other responsible individual. The subject individual will be granted direct access unless it is determined that such access is likely to have an adverse effect on him or her. In that case, the medical/dental record will be sent to the designated representative.

The individual will be informed in writing if the record is sent to the representative.

A parent or guardian who requests notification of or access to a child's/incompetent person's record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child/incompetent person as well as his/her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the system manager and reasonably identify the record and specify the information to be contested, and state the corrective action sought and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Referring physicians, other medical facilities (with patient's consent), patients, relatives of patients.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0112

SYSTEM NAME:

Grants: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

See Appendix I.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Grant applicants and Principal Investigators; Program Directors; Institutional and Individual Fellows; Research Career Awardees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grant applications and review history, awards, financial records, progress reports and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

"Research and Investigation," "National Library of Medicine," "National Cancer Institute," "National Heart, Lung and Blood Institute," "National Institute of Dental Research," "National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases," "National Institute of Neurological and Communicative Diseases and Stroke, and Other Institutes," National Institute of Child Health and Human Development," "National Institute of General Medical Sciences," "National Eye Institute," and "National Institute on Aging," of the Public Health Service Act (42 U.S.C. 241, 276, 281, 287, 288, 289 (a), (d), (e), (i), 289(k-2)).

PURPOSE OF THE SYSTEM:

1. Information provided is used by NIH staff for review, award, and administration of grant programs.

2. Information is also used to maintain communication with former fellows who have incurred an obligation through the National Research Service Award Program.

3. Staff may also use curriculum vitae to identify candidates who may serve as ad hoc consultants or committee and council members in the grant peer review process.

4. As a part of the cost analysis of a proposed grant, a budget review is conducted of the percentage of time and effort listed under personnel category, equipment and supply categories, and other items listed under "other" category.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made:

1. Of assignments of research investigators and project monitors to specific research projects to the National Technical Information Service (NTIS), Department of Commerce, to contribute to the Smithsonian Science Information Exchange, Inc.;

2. To the cognizant audit agency for auditing;

3. In the event of litigation where the defendent is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected;

4. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual;

5. To qualified experts not within the definition of Department employees as prescribed in Department Regulations, 45 CFR 56.2, for opinions as a part of the application review and award administration processes;

6. To a Federal agency, in response to its request, in connection with the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter;

7. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

8. To a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in a system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records;

9. To the grantee institution in connection with performance or administration under the terms and conditions of the award, or in connection with problems that might arise in performance or administration if an award is made on a grant proposal.

10. To the profit institution's president or official responsible for signing the grant application in connection with the review or award of a grant application and in connection with the administration and performance of a grant under the terms and conditions of the awards.

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made

from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

The Department may disclose to consumer reporting agencies information on individuals who have failed to meet payback obligations incurred under awards made under authority of the National Research Service Awards Program (41 U.S.C. 2891–1). Information disclosed includes data identifying the individual, the amount, status and history of the obligation, and that the obligation arose from an award made under the National Research Service Awards Program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders, on computer tapes and discs, cards and in notebooks.

RETRIEVABILITY:

Retrieved by name and grant number.

SAFEGUARDS:

A variety of physical and procedural safeguards are implemented, as appropriate, at the various locations of this system:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to officials whose duties require use of the information. These officials include review groups, grants management staff, other extramural program staff, health scientist administrators, data processing and analysis staff and management officials with oversight responsibilities for extramural programs. Other one-time and special access is granted on an individual basis as specifically authorized by the system manager. Authorization for access to computerized files is controlled by the system manager or designated official and is granted on a need-to-know basis. Lists of authorized users are maintained.

2. Physical Safeguards: Secured facilities, locked rooms, locked cabinets, personnel screening; records stored in order of grant numbers which are randomly assigned.

3. Procedural Safeguards: Access to file rooms and files is strictly controlled by files staff or other designated officials; charge-out cards identifying users are required for each file used; inactive records are transferred to controlled storage in Federal Records Center in a timely fashion; retrieval of records from inactive storage is controlled by the system manager or designated official and by the NIH Records Management Officer; computer files are password protected and access is actively monitored by the Computer Center to prevent abuse. Employees are given specialized training in the requirement of the Privacy Act as applied to the grants program.

These safeguards are developed in accordance with chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS.hf: 45–13, and part 6, ADP Systems Security, of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Years at NIH: For the appropriate Retention period and disposal method; refer to NIH Manual Chapter 1743: National Research Service Awards—chapter 4000–B–4, Construction Awards—chapter 4600 D–1, Funded Grants—Chapter 4000 B–1, Unfunded Grants—Chapter 4000 C–1.

SYSTEM MANAGER AND ADDRESS:

See Appendix II.

NOTIFICATION PROCEDURE:

Write to official at the address specified in Appendix II to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Write to the official at the address specified in Appendix IV to obtain access to a record, and provide the same information as is required under the Notification Procedures above. Requesters should also reasonably specify the record contents being sought.

Individuals may also request lists of accountable disclosures that have been made of their record(s).

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified in Appendix II, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Information submitted by applicant; supplemented by outside reviewers and internal staff.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I: System Location

National Cancer Institute, Westwood Building, Room 8A18, 5333 Westbard Avenue, Bethesda, MD 20892.

National Heart, Lung and Blood Institute, Westwood Building, Room 4A09, 5333 Westbard Avenue, Bethesda, MD 20892.

National Library of Medicine, Building 38A, Room 5N509, 8600 Rockville Pike, Bethesda, MD 20892.

National Institute of Allergy and Infectious Diseases, Chief, Grants Management Branch, EAP, Westwood Building, Rooms 722 and 733, Bethesda, MD 20892.

National Institute of Allergy and Infectious Diseases, Chief, Data Control Section OAM, Westwood Building, Room 733, 5333 Westbard Avenue, Bethesda, MD 20892.

National Institute of Diabetes, Digestive and Kidney Diseases, Westwood Building, Room 610, 5333 Westbard Avenue, Bethesda, MD 20892.

National Institute of Arthritis and Musculoskeletal and Skin Diseases, Westwood Building, Room 8A18, 5333 Westbard Avenue, Bethesda, MD 20892.

National Institute of Child Health and Human Development, Landow Building, Room 6A21, 7910 Woodmont Avenue, Bethesda, MD 20892.

National Institute of Aging, Building 31, Room 5C39, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute of Dental Research, Grants Management Officer, Westwood Building, Room 518, Bethesda, MD 20892.

National Institute of Environmental Health Sciences, Grants Management Officer, Building 2, Room 204, 104 Alexander Drive, Research Triangle Park, NC 27709.

National Institute of General Medical Sciences, Grants Management Officer, Westwood Building, Room 936, 5333 Westbard Avenue, Bethesda, MD 20892.

National Institute of Neurological and Communicative Disorders and Stroke, Federal Building, Room 10A12, 7550 Wisconsin Avenue, Bethesda, MD 20892.

National Eye Institute, Building 31, Room 6A47, 9000 Rockville Pike, Bethesda, MD 20892.

Division of Research Resources, Building 31, Room 5B32, 9000 Rockville Pike, Bethesda, MD 20892, National Center for Nursing Research, Building 38A, Room B2E17, 9000 Rockville Pike, Bethesda, MD 20892.

Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409.

Appendix II: System Manager and Address

National Cancer Institute, Grants Privacy Act Coordinator, Grants Administration Branch, Westwood Building, Room 8A18, Bethesda, MD 20892.

National Heart, Lung and Blood Institute, Chief, Grants Operations Branch, Division

of Extramural Affairs, Westwood Building, Room 4A10, 5333 Westbard Avenue, Bethesda, MD 20892.
National Heart, Lung, and Blood Institute, Administrative Officer, Division of Extramural Affairs, Westwood Building, Room 7A11, Bethesda, MD 20892.
National Library of Medicine, Associate Director for Extramural Programs, Building 38A, Room 5N505, 9000 Rockville Pike, Bethesda, MD 20892.
National Institute of Allergy and Infectious Diseases, Chief, Grants Management Branch, EAP, Westwood Building, Room 710, Bethesda, MD 20892.
National Institute of Allergy and Infectious Diseases, Chief, Data Control Section, ITEB, OAM, Westwood Building, Room 733, 5333 Westbard Avenue, Bethesda, MD 20892.
National Institute of Diabetes, Digestive and Kidney Disease, Grants Management Officer, Room 639, Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892.
National Institute of Child Health and Human Development, Chief, Office of Grants & Contracts, Executive Plaza North Room S01, 6130 Executive Building, Bethesda, MD 20892.
National Institute on Aging, Grants Management Officer, Room 5C07, Building 31, Bethesda, MD 20892.
National Institute of Dental Research, Grants Management Officer, NIDR, Westwood Building, Room 518, 5333 Westbard Avenue, Bethesda, MD 20892.
National Institute of Environmental Health Sciences, Grants Management Officer, Building 2, Room 204, 104 Alexander Drive, Research Triangle Park, NC 27709.
National Institute of General Medical Sciences, Grants Management Officer, NIGMS, Westwood Building, Room 936, Bethesda, MD 20892.
National Institute of Neurological and Communicative Disorders and Stroke, Grants Management Officer, Federal Building, Room 1004A, Bethesda, MD 20892.
National Center for Nursing Research, Acting Director, Division of Extramural Programs, Building 38A, Room B2E17, 9000 Rockville Pike, Bethesda, MD 20892.
National Eye Institute, Grants Management Officer, Building 31, Room 6A52, 9000 Rockville Pike, Bethesda, MD 20892.
Division of Research Resources, Director, Office of Grants and Contracts Management, Building 31, Room 5B32, 9000 Rockville Pike, Bethesda, MD 20892.

Appendix III: Notification Procedures

National Cancer Institute, See Appendix II.
National Heart, Lung and Blood Institute, Privacy Act Coordinator, Building 31, Room 5A50, Bethesda, MD 20892.
National Library of Medicine, See Appendix II.
National Institute of Allergy and Infectious Diseases, See Appendix II.
National Institute of Diabetes, Digestive, and Kidney Diseases, Administrative Officer, Building 31, Room 9A46, 9000 Rockville Pike, Bethesda, MD 20892.
National Institute of Child Health and Human Development, See Appendix II.
National Institute of Aging, See Appendix II.
National Institute of Dental Research, See Appendix II.
National Institute of Environmental Health Sciences, See Appendix II.
National Institute of General Medical Sciences, See Appendix II.
National Institute of Neurological and Communicative Disorders and Stroke, See Appendix II.
National Eye Institute, See Appendix II.
National Center for Nursing Research, See Appendix II.
Division of Research Resources, See Appendix II.

Appendix IV: Records Access Procedures

National Cancer Institute, Privacy Act Coordinator, Building 31, Room 10A30, 9000 Rockville Pike, Bethesda, MD 20892.
National Heart, Lung, and Blood Institute, See Appendix III.
National Libary of Medicine, See Appendix II.
National Institute of Allergy and Infectious Diseases, Privacy Act Coordinator, Westwood Building, Room 703, Bethesda, MD 20892.
National Institute of Arthritis, Diabetes, Digestive and Kidney Diseases, See Appendix III.
National Institute of Child Health and Human Development, See Appendix II.
National Institute on Aging, See Appendix II.
National Institute of Dental Research, Grants Management Officer, Westwood Building, Room 518, 5333 Westbard Avenue, Bethesda, MD 20892.
National Institute of Environmental Health Sciences, See Appendix II.
National Institute of General Medical Sciences, Privacy Act Coordinator, Westwood Building, Room 9A05, Bethesda, MD 20892.
National Institute of Neurological and Communicative Disorders and Stroke, Head, Administration Management Section, Building 31, Room 8A47, 9000 Rockville Pike, Bethesda, MD 20892.
National Eye Institute, Administrative Officer, Building 31, Room 6A31, 9000 Rockville Pike, Bethesda, MD 20892.
Division of Research Resources, Privacy Act Coordinator, Building 31, Room 5B10, 9000 Rockville Pike, Bethesda, MD 20892.

09-25-0115

SYSTEM NAME:

Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, Room 7A52, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consultants and Clinical Investigators under National Institute of Allergy and Infectious Diseases (NIAID) Investigational New Drug Applications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Curriculum vitae.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a.

PURPOSE OF THE SYSTEM:

(1) To maintain a record of the investigators under Investigational New Drug (IND) applications. (2) To appoint consultants to the Clinical Research Subpanel (CRS).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STRONG, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in books.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as

appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to NIAID staff whose duties require the use of such information. Authorized users are located in the Clinical and Epidemiological Studies Branch, Microbiology and Infectious Diseases Program, NIAID. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Building is locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Years at NIH: Indefinite.

SYSTEM MANAGER AND ADDRESS:

Chief, Clinical and Epidemiological Studies Branch, NIAID, Building 31, Rm. 7A52, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: NIAID Privacy Act Coordinator, Westwood Building, Room 703, 5333 Westbard Avenue, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as record notification procedures.

Requesters should also reasonably specify the record contents being sought. You may also request a list of accountable disclosures that have been made of your record.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0124

SYSTEM NAME:

Administration: Pharmacology Research Associates, HHS/NIH/NIGMS

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Westwood Bldg., Room 919, 5333 Westbard Avenue, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for positions as Pharmacology research Associates with the Institutes of General Medical Sciences (NIGMS).

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual application forms, academic transcripts and references.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 209.

PURPOSE OF THE SYSTEM:

(1) For review, award and administration of the Pharmacology Research Associate Program (PRAT). (2) For consideration of the applicant by other NIH Associate Programs at the applicant's request.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

By name of applicant.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain the system are instructed to grant access only to authorized personnel (System Manager and staff assigned to the program).

2. Physical Safeguards: The records are maintained in locked file cabinets when not in use and system location is locked during non-working hours.

3. Procedural Safeguards: Access to files is strictly controlled by responsible individuals who have been instructed in the Privacy Act requirements. Records are returned to the locked cabinets when not in use.

RETENTION AND DISPOSAL:

1. Records of applications who are admitted to the program are kept not more than five years following their termination. 2. Records of applicants who are not permitted to the program are kept for one year. All records are shredded after proper time has elapsed.

SYSTEM MANAGER AND ADDRESS:

Director, PRAT Program, Pharmacological Sciences, NIGMS, Westwood Bldg. Room 919, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to System Manager and provide the following information: applicant's name and date of application.

The requester must also verify his or her identity by providing either a notarization of the request or a written

certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought.

RECORD SOURCE CATEGORIES:

Clinical treatment records from physicians, nurses and other sources of care.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0126

SYSTEM NAME:

Clinical Research: National Heart, Lung, and Blood Institute Epidemiological and Biometric Studies, HHS/NIH/NHLBI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system are located in hospitals, universities, research centers, research foundations, and coordinating centers under contract with the National Heart, Lung, and Blood Institute, and in NHLBI facilities in Bethesda, Maryland. A list of locations is available from the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in these studies include (1) individuals who have been or who are presently being treated by the National Heart, Lung, and Blood Institute, for diseases or conditions of the heart, lung, blood vessels and blood; (2) individuals whose physical, genetic, social, economic, environmental, behavioral or nutritional conditions or habits are being studied in relation to the incidence of heart, lung, blood vessel and blood diseases among human beings; and (3) normal volunteers who have agreed to provide control data germane to these studies.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of clinical, medical and statistical information resulting from or contained in research findings, medical histories, vital statistics, personal interviews, questionnaires, or direct observation. The system also includes records of current addresses of study participants, photographs, fingerprints, and correspondence from or about participants in these studies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 412, 413 of the Public Health Service Act (42 U.S.C. 287a, 287b)

PURPOSE OF THE SYSTEM:

(1) Summaries of data resulting from these studies are used by the National Heart, Lung, and Blood Institute to monitor and evaluate the incidence of the diseases or the conditions under investigation and the relationship of various factors to the occurrence of these diseases. (2) The summaries are also used for program planning and evaluation purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, Inc.

3. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosures may be made to the Department of Justice for the purpose of obtaining its advice.

4. Where the appropriate official of the Department, pursuant to the Department's Freedom of Information Regulation determines that it is in the public interest to disclose a record which is otherwise exempt from mandatory disclosure, disclosure may be made from this system of records.

5. The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in the system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

7. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

8. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

9. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same

conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, magnetic tapes or discs, punched cards, bound note books.

RETRIEVABILITY:

Name and/or participant identification number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized users: Employees who maintain records in this system are instructed to grant regular access only to authorized researchers, physicians and their assistants whose duties require the use of such information.

2. Physical safeguards: Records are kept in locked file cabinets and in some instances in locked offices or guarded buildings. Locations are locked during non-working hours, and are attended at all times during working hours.

3. Procedural safeguards: Access to the data is controlled by the System Manager and the Project Officer. Data stored in computers is accessed through the use of key words known only to principal investigators or authorized personnel.

The particular safeguards implemented at each site are developed in accordance with chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS.hf: 45–13, and part 6, ADP Systems Security, of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Records are retained and destroyed according to the authority of the NIH Records Control Schedule (HHS Records Management Manual, Appendix B–361), section 3000–G. For a copy of this authority, write to the System Manager.

SYSTEM MANAGER AND ADDRESS:

Associate Director for Epidemiology and Biometry, National Heart, Lung, and Blood Institute, Federal Building, 2C–08, 7550 Wisconsin Avenue, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact: NHLBI Privacy Coordinator, Building 31, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

Requesters must provide the following information in writing:

1. Full name
2. Name and location of research study
3. Approximate dates of enrollment.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Write to System Manager as indicated above. The contestor must reasonably specify in writing the record contents at issue and state the corrective action sought and the reasons for the correction. The right to contest with supporting justification. The record is limited to information which is incomplete, irrelevant, incorrect, or untimely.

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants and from medical and clinical research observations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0130

SYSTEM NAME:

Clinical Research: Environmental Epidemiologic Studies in the Division of Cancer Cause and Prevention, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Executive Plaza North, Room 443, 6130 Executive Blvd., Bethesda, MD 20892, and National Institutes of Health, Bldg. 12, 9000 Rockville Pike, Bethesda, MD 20892.

and at hospitals, medical schools, universities, research institutions commercial organizations, state agencies, and collaborating government agencies. A list of locations and contracts is available upon request from the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients with cancer and other environmentally caused diseases, (e.g., birth defects), patients with other diseases (e.g., heart disease), normal and other persons (e.g., family members) for the purpose of making comparisons.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records, progress reports, correspondence, epidemiological computerized data and records on biological specimens (e.g., blood, tumors, urine, etc.).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, and 282.

PURPOSE OF THE SYSTEM:

To determine: (1) Factors or substances in the environment which cause cancer; (2) ways in which these factors or substances may cause cancer; (3) characteristics of persons who may be particularly susceptible to the environmental factor(s) or substance(s) and/or to cancer.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to

accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

3. The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, microfilm, charts, graphs, computer tapes, disks, and punch cards.

RETRIEVABILITY:

By name and/or code number.

SAFEGUARDS:

HHS contractors and collaborating researchers are required to comply with the provisions of the Privacy Act and with Department to Regulations. Subjects participating in a clinical study are advised that their identity will only be known to those who are involved in conducting the study and that any published findings will be in a format which precludes individual identification. Data are kept in secured areas with access limited authorized personnel (system manager, project officer, contracting officer, collaborating researchers, staff, and HHS contractors). Data transmitted to the NCI are in a form which precludes individual identification. For computerized records the contractor is required to comply, where appropriate, with Department standards and National Bureau of Standards Guidelines. For example, access is controlled by the use of security codes known only to authorized personnel.

RETENTION AND DISPOSAL:

One year to indefinitely depending on the project. Hard copy burned; computer tapes and disks erased.

SYSTEM MANAGER AND ADDRESS:

National Cancer Institute, Chief, Environmental Epidemiology Branch, Executive Plaza North, Room 443, 6130 Executive Blvd., Bethesda, Maryland 20892.

NOTIFICATION PROCEDURE:

To determine if a file exists, write to System Manager and provide the following information:

a. System name: Environmental Epidemiologic Studies in the Division of Cancer Cause and Prevention.

b. Complete Name at time of study.

c. Facility and Home Address at the time the study was undertaken.

d. Date(s) at the time the information was provided (if known).

e. Birthdate.

f. Disease type (if known).

The requester must also verify his or her identity by providing either a notarization of the request of a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to five thousand dollar fine.

Individuals seeking notification of or access to medical records should designate a representative (including address) who may be a physician, other health professional, or other responsible individual who would be willing to review the record and inform the subject individual of its contents, at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Write to System Manager and specify the record sought. The same information required above for notification is also needed for access.

CONTESTING RECORD PROCEDURE:

Write to System Manager and specify the record and the part(s) to be contested, and state the corrective action sought and the reasons for the correction.

RECORD SOURCE CATEGORIES:

HHS agencies, institutions under contract to the U.S. Government, universities, medical schools, hospitals, research institutions, commercial institutions, state agencies, other U.S. Government agencies, patients and normal volunteers, physicians, research investigators and other collaborating personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0133

SYSTEM NAME:

Clinical Research: Kidney Transplant Histocompatibility Study (KTHS), HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system are located in hospitals, research foundations, and universities under contract, in Federal Records Centers and in the National Institute of Allergy and Infectious Diseases (NIAID) facilities in Bethesda, Md. Write to the system manager at the address below for the addresses of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients who have received kidney transplants and donors of kidneys transplanted at participating institutions during the period January 1, 1974, through December 31, 1976.

CATEGORIES OF RECORDS IN THE SYSTEM:

Clinical and medical records containing information on clinical examinations, laboratory findings, and related research records. For kidney recipients, a demographic profile is also included.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241a, and 289c.

PURPOSE OF THE SYSTEM:

(1) To study the relevance of tissue typing to the outcome of kidney transplants. (2) To study the influence of organ preservation techniques and various surgical and medical therapies on the outcome of kidney transplants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

3. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

4. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

5. Certain infectious diseases are reported to State Governments as required by law.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, punched cards, and magnetic tapes or discs.

RETRIEVABILITY:

Information is retrieved by name and location of study and by transplant number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to NIAID staff whose duties require the use of such information. Authorized users are located in the Genetics and Transplantation Biology Branch, Immunology and Allergic and Immunologic Diseases Program, NIAID.

2. Physical Safeguards: Records in this system are stored in locked cabinets. Access to the computer files is by key word.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee. For computerized records, access is controlled by the use of security codes known only to authorized users.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule, Manual Chapter 1743 (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Disposal is by burning or shredding and computer tapes are erased.

SYSTEM MANAGER AND ADDRESS:

Chief, Genetics and Transplantation Biology Branch, IAIDP, National Institute of Diabetes and Digestive Kidney Diseases, NIH, Westwood Building, Room 754, 5333 Westbard Avenue, Bethesda, Maryland, 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: Privacy Act Coordinator, NIAID, Westwood Building, Room 703, 5333 Westbard Avenue, Bethesda, Maryland 20892 and provide the following information:

1. Full name

2. Name and location of clinical trial facility

3. Approximate dates of enrollment in the research study

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedure. Requesters should also reasonably specify the record contents being sought. You may also request a list of accountable disclosures that have been made of your record.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants and from medical records and clinical research observations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0140

SYSTEM NAME:

International Activities: International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Fogarty International Center, Building 16A, Room 101, 9000 Rockville Pike, Bethesda, MD 20892, and Division of

Computer Research and Technology, Building 12A, Room 3061, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

Ancillary records are located in the Office of the Associate Director for Intramural Affairs, laboratories, administrative and personnel offices where participants are assigned. Write to System Manager at the address below for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Health scientists at all levels of their postdoctoral or equivalent research careers who are invited to the National Institutes of Health for further training or to conduct research in their biomedical specialties under the auspices of FIC's administration of International Activities. Most of these scientists are foreign, however some may be resident aliens or U.S. citizens.

Individuals in these categories include Visiting Associates, Visiting Scientists, Foreign Special Experts who are employees and Visiting Fellows, Guest Researchers, Exchange Scientists, International Research Fellows, and Fogarty Scholars and Residents who are not employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

History of fellowship, employment and/or stay at NIH; education, immigration data and references. For payroll purposes, social security numbers are requested of all applicants accepted into the program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2421 and Section 307 of the Public Health Service Act.

PURPOSE OF THE SYSTEM:

To document the individual's presence at the NIH, to record immigration history of the individual in order to verify continued eligibility in existing programs, and to meet requirements in the code of Federal Regulations (Parts 8 & 22).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Information is made available to authorized employees and agents of the U.S., including the General Accounting Office, for purposes of investigations, inspections and audits, and in appropriate cases, to the Department of Justice for prosecution under civil and criminal laws.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

3. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and on file cards, computer tapes and microfilm.

RETRIEVABILITY:

By name, country of citizenship, institution, fellowship number, social security number, visa and immigration status, and home address.

SAFEGUARDS:

A variety of safeguards is implemented for the various sets of records included under this system according to the sensitivity of the data they contain.

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to FIC program staff. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: The records are maintained in locked file cabinets, and offices are locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Records may be removed from files only at the requet of the system manager or other authorized employees. For computerized records, access is controlled by the use of security codes known only to authorized users; access codes are changed periodically. The computer system maintains an audit record of all requests for access.

These practices are in compliance with the standards of chapter 45–13 of the HHS General Administration Manual, supplementary chapter PHS hf: 45–13, and Part 6, "ADP System Security" of the HHS Information Resource Management Manual.

RETENTION AND DISPOSAL:

Records of successful are retained indefinitely.

SYSTEM MANAGER AND ADDRESS:

Chief, Foreign Scientist Assistance Branch, Building 16A, Room 101, Fogarty International Center, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

NOTIFICATION PROCEDURE:

Requests for notification of or access to records should be addressed to the system manager as listed above. Verification of identity is required.

RECORD ACCESS PROCEDURE:

Same as notification procedure. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official listed under notification procedure above, and reasonably identify the record, and specify the information to be contested, and state the corrective action sought and the reasons for the correction.

RECORD ACCESS CATEGORIES:

Subject individuals and other federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0142

SYSTEM NAME:

Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography and Biometry Studies on Aging, HHS/NIH/NIA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system will be located in hospitals and clinics, research centers and research foundations, and in facilities of the National Institute on Aging (NIA) in Bethesda, MD. They may be stored at Federal Records Centers. A list of

locations is available upon request from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in these studies will include: (1) Individuals whose physical, genetic, social, psychological, cultural, economic, environmental, behavioral, pharmacological, or nutritional conditions or habits are studied in relationship to the normal aging process and/or diseases and other normal or abnormal physical or psychological conditions of the aged, and (2) normal volunteers who are participants in such studies.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system will consist of a variety of health, demographic, and statistical information resulting from or contained in research findings, medical histories, vital statistics, personal interviews, questionnaires, or direct observations. The system will also include records of current addresses of study participants, and correspondence from or about participants in the studies. When supplied on a voluntary basis, Social Security numbers will also be included.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority is provided by Sections 301, Research Contracting, and 463–4, Health Research Extension Act of 1985, Pub. L. 99–158.

PURPOSE OF THE SYSTEM:

The National Institute on Aging will use the data collected; (1) in research projects on (a) the health status of individuals and changes in health status over time, (b) the incidence and prevalence of certain diseases and problems of the aged in certain populations, and (c) the changes that take place as individuals age; (2) and for program planning and evaluation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Records may be disclosed to HHS contractors, collaborating researchers and their staffs in order to accomplish the basic research purpose of this system. The recipients will be required to maintain Privacy Act safeguards with respect to such records.

2. Data may be disclosed to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review.

3. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use of disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

4. In the event the Department deems it desirable or necessary in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

5. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, magnetic tapes or discs, punched cards, or bound notebooks. Stored data may include textual, photographic, X-ray, or other material.

RETRIEVABILITY:

Information will be retrieved by personal identifiers such as name, code number and/or Social Security number, when this is supplied on a voluntary basis.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Access will be limited to principal investigators, collaborating researchers and necessary support staff.

2. Physical Safeguards: Hard copy data will be maintained in locked file cabinets. Information stored in computer systems will be accessible only through proper sequencing of signal commands and access codes specifically assigned to the Project Officer or contractor.

3. Procedural Safeguards: Access to the information will be controlled directly by the Project Officer or his or her representative at remote locations, and by the system manager at NIA locations. Contractors and collaborating researchers will be notified that they are subject to the provisions of the Privacy Act, and will be required to make formal agreements to comply with these provisions. The particular safeguards implemented in each project are developed in accordance with chapter 45–13 and supplementing chapter PHS of 45–13 of the HHS General Administration Manual and part 6, ADP Systems Security, of the HHS Information Resources Management Manual, and the National Bureau of Standards Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records at contractor facilities will be retained and disposed of under the specific terms established in each contract. Records at NIA facilities will

be retained and disposed of under the authority of the NIH Records Control Schedule (HHS Records Management Manual, Appendix B–361, item 3000–G–3). Write to system manager for a copy of the authorized disposition.

SYSTEM MANAGER AND ADDRESS:

Privacy Act Coordinator, National Institute on Aging, Building 31, Room 2C08, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address below and provide the following information in writing:

1. Full name at time of participation in the study,
2. Date of birth,
3. Home address at the time of study,
4. The facility where the examination was given or where information was collected,
5. Approximate date or dates of participation,
6. Name of study, if known,
7. Current name, address and telephone number.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollars fine.

An individual who requests notification of or access to a medical or dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's description.

RECORD ACCESS PROCEDURE:

Contact the system manager at the above address and provide the same information as outlined under the notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the system manager at the address below. The contestor must reasonably identify the record, specify in writing the information being contested, and state the corrective action sought and the reasons for the correction and the reasons for the correction.

RECORD SOURCE CATEGORIES:

Information will be obtained directly from individual participants and from medical and clinical research observations, or indirectly from existing source documents such as disease registries.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0143

SYSTEM NAME:

Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

At National Institutes of Health facilities in Bethesda, Maryland, and at hospitals, medical schools, universities, research institutions, commercial organizations, state agencies, and collaborating Federal agencies. Inactive records may be retired to Federal Records Centers. A list of locations is available upon request from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients with infectious diseases, immunologic diseases involving adverse reactions of the body (e.g., allergic reactions) and related diseases (e.g. Acquired Immunodeficiency Disease Syndrome/AIDS), normal health volunteers who serve as controls for comparison with patients, relatives of patients and other individuals whose characteristics or conditions are being studied for possible connections with the occurrence of the diseases under investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of clinical, medical, and epidemiological information resulting from or contained in direct observations, medical records and other histories, vital statistics reports, records on biological specimens (e.g., blood, urine, etc.), personal interviews, questionnaires, progress reports, correspondence or research findings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

This system will be used to support (1) Epidemiologic, clinical and biometric investigations into the causes, nature (morbidity and mortality), outcome, therapy and cost of infectious, immunologic and related diseases; (2) Review and evaluation of the progress of these research projects, and identification of and planning for improvements or for additional research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

4. In the event the Department deems it desirable or necessary, in determining

whether particular records are required to be disclosed under the Freedom of Information Act, disclosures may be to the Department of Justice for the purpose of obtaining its advice.

5. The Department contemplates that it may contract with one or more private firms for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect to such records.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, computer-accessible forms (e.g. tapes or discs), punched cards, bound notebooks, microfilm, charts, graphs, and X-rays.

RETRIEVABILITY:

Information is retrieved by name and/or participant identification number.

SAFEGUARDS:

Access to or disclosure of information is limited to collaborating researchers, contractors and NIAID employees who are involved in the conduct, support or review and evaluation of the research activities supported by this system. Contractors and collaborating researchers are required to comply with the provisions of the Privacy Act and with Department regulations.

Data are kept in secured areas (e.g. rooms which are locked when not in regular use, buildings with controlled access). Data stored in computer-accessible form is accessed through the use of key words known only to principal investigators or authorized personnel; all other information is stored in locked files.

These and other appropriate safeguards are implemented in each project in accordance with chapter 45–13 of the HHS General Administration Manual, supplementary chapter PHS hf. 45–13, and part 6, Systems Security, of the HHS Information Resources Management Manual.

RETENTION AND DISPOSAL:

Records at contractor facilities are retained and destroyed according to the terms of the contract. Records at NIAID facilities are retained and destroyed in accordance with the authority provided in the NIH Records Control Schedule (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows the records to be kept until the system manager determines that the data has no further value for scientific research. Disposal methods include burning or shredding hard copy and erasing computer tapes and discs.

SYSTEM MANAGER AND ADDRESS:

Chief, Epidemiology and Biometry Section, MIDP, National Institute of Allergy and Infectious Diseases, Westwood Building, Room 739, Bethesda, Maryland 20892, and Chief, Epidemiology Branch, AIDSP, Room 240P, Control Data Building, 6003 Executive Blvd., Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: NIAID Privacy Act Coordinator, Room 703, Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892, and provide the following information:

1. System name,
2. Complete name and home address at the time of the study,
3. Birthdate,
4. Facility conducting study,
5. Disease type (if known),
6. Approximate dates of enrollment in the research study.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate, in writing, a responsible representative, who may be a physician, other health professional, or other responsible individual, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. A parent or guardian who requests notification of, or acess to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. You may also request a list of accountable disclosures that have been made of your record.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants, from physicians, research investigators and other collaborating persons and from medical records and clinical research observations at hospitals, HHS agencies, universities, medical schools, research institutions, commercial institutions, state agencies, collaborating Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0148

SYSTEM NAME:

Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institute of Neurological and

Communicative Disorders and Stroke, HHS/NIH/NINCDS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

At National Institutes of Health facilities in Bethesda, Maryland, and at hospitals, medical schools, universities, research institutions, commercial organizations, state agencies, and collaborating Federal agencies. Inactive records may be retired to Federal Records Centers. A list of locations is available upon request from the respective System Managers of the subsystems included in this notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients with neurological diseases, communicative disorders, stroke, and related diseases; normal, healthy volunteers who serve as controls for comparison with patients; relatives of patients; and other individuals whose characteristics or conditions are suited for possible connections with the occurrence of the diseases under investigations. Subject individuals include both adults and children.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of clinical, biomedical, and epidemiological information resulting from or contained in direct observations, medical records and other histories, vital statistics reports, records on biological specimens (e.g., blood, urine, etc.), personal interviews, questionnaires, progress reports, correspondence, or research findings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 241, Research and Investigation, and 289a, Establishment of Institutes, of the Public Health Service Act (42 U.S.C. 301, 431).

PURPOSE OF THE SYSTEM:

This system will be used to support (1) contracted and contract-related epidemiological, clinical and biometric investigations into the causes, nature, outcome, therapy, prevention and cost of neurological and communicative disorders and stroke; (2) review and evaluation of the progress of these research projects, and identification and planning for improvements or for additional research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to aoccomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosures may be made to the Department of Justice for the purpose of obtaining its advice.

5. The Department contemplates that it may contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect to such records.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, computer-accessible forms (e.g., tapes or discs), punched cards, bound notebooks, microfilm, charts, graphs and X-rays.

RETRIEVABILITY:

Information is retrieved by name and/or patient identification number.

SAFEGUARDS:

Access to or disclosure of information is limited to collaborating researchers, contractors and employees, and other authorized biomedical researchers who are involved in the conduct, support or review and evaluation of the research activities supported by this system. Contractors and collaborating or other researchers are required to comply with the provisions of the Privacy Act and with HHS Privacy Act regulations.

Data are kept in secured areas (e.g., rooms which are locked when not in regular use, buildings with controlled access). Data stored in computer-accessible form is accessed through the use of key words known only to principal investigators or authorized

personnel; all other information is stored in locked files.

These and other appropriate safeguards are implemented in each project in accordance with chapter 45–13 of the HHS General Administration Manual, supplementary chapter PHS hf. 45–13, and Part 6, Systems Security, of the HHS Information Resources Management Manual.

RETENTION AND DISPOSAL:

Records at contractor facilities are retained and destroyed as specified in individual contracts.

Records at NIH facilities are retained and destroyed in accordance with the NIH Records Control Schedule (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows the records to be kept until the system manager determines that the data has no further value for scientific research.

Disposal methods include burning or shredding hard copy and erasing computer tapes and discs.

SYSTEM MANAGERS AND ADDRESSES:

NINCDS research activities are divided, functionally and administratively, into five programs and one office. In effect, there are five subsystems within this single umbrella system. System Managers have been designated for each subsystem as follows:

Director, Division of Communicative Disorders, Federal Building, Room 1C11, 7550 Wisconsin Avenue, Bethesda, MD 20892, and, Director, Division of Fundamental Neurosciences, Federal Building, Room 916, 7550 Wisconsin Avenue, Bethesda, MD 20892, and Director, Division of Convulsive, Developmental and Neuromuscular Disorders, Federal Building, Room 716, 7550 Wisconsin Avenue, Bethesda, MD 20892, and Director, Division of Demyelinating Atropic, and Dementing Disorders, Federal Building, Room 8A08, 7550 Wisconsin Avenue, Bethesda, MD 20892, and Director, Division of Intramural Research, NIH Building 36, Room 5A05, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to:

NINCDS Privacy Act Coordinator, Federal Building, Room 816, 7550 Wisconsin Avenue, Bethesda, MD 20892, and provide the following information:

1. system name,
2. complete name and home address at the time of the study,
3. birthdate,
4. facility conducting the study,
5. disease type (if known),
6. approximate dates of enrollment in the research study.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a 5,000 dollar fine.

Individuals seeking notification of or access to medical records should designate a representative (including address) who may be a physician, other health professional, or other responsible individual, who would be willing to review the record and inform the subject individual of its contents, at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) of whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notifications procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Write to the system manager and reasonably identify the record, specify the information being contested and state the corrective action sought and the reasons for the correction.

RECORD SOURCE CATEGORIES:

Information in these records is obtained directly from individual participants, and from physicians, research investigators and other collaborating persons, and from medical records and clinical research observations at hospitals, HHS agencies, universities, medical schools, research institutions, commercial institutions, state agencies, and collaborating Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0154

SYSTEM NAME:

Biomedical Research: Records of Subjects in Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Executive Plaza North, Room 343K, 6130 Executive Blvd., Bethesda, MD 20892, and National Institutes of Health, Building 12, 9000 Rockville Pike, Bethesda, MD 20892, and at hospitals, medical schools, universities, research institutions, commercial organizations, collaborating State and Federal Government agencies, and Federal Records Centers. Write to system manager at the address below for the address of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Adults and children in the following categories: patients with cancer; persons for whom cancer risk can potentially be lowered; and persons without signs or symptoms who may be identified through screening and detection methods as having cancer or being at increased risk of developing cancer. For certain types of epidemiologic studies, e.g., case-control studies, NCI may also collect, for purposes of comparison, records on other persons. These comparison groups could include normal individuals (e.g., family members or neighborhood controls), or other patient groups (e.g., hospital controls) who do not have cancer or are not at a particularly high risk of developing cancer.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information identifying participants (such as name, address, Social Security Number), medical records, progress reports, correspondence, epidemiological data, and records on biological specimens (e.g., blood, tumors, urine, etc).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 301, Research and Investigation, and Title IV, Part A, National Cancer Institute, of the Public Health Service Act (42 U.S.C. 241, and 281–286).

PURPOSES:

Records in this system will be used, (1) to evaluate cancer control programs, including prevention, screening, detection, diagnosis, treatment, rehabilitation, and continuing care; (2) to identify characteristics of persons who may be particularly susceptible to environmental or occupational factors for substances which cause or prevent cancer, and/or to cancer; (3) to determine risk factors or substances

which cause or prevent cancer, and the ways in which they do so; (4) to evaluate statistical and epidemiological methodologies for risk factor assessment, clinical trials, cancer control studies, and the study of the natural history of cancers; (5) to plan for, administer, and review research activities as described in the above purposes; (6) information from this system may be reported to the Food and Drug Administration (FDA) as a condition for approval of clinical investigations of new drugs, or to report adverse effects of drugs so that FDA can make informed decisions on authorizing use of such drugs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purposes for which the records are collected. The recipients are required to comply with the requirements of the Privacy Act with respect to such records.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. The Department contemplates that it may contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to comply with the requirements of the Privacy Act with respect to such records.

4. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use of disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee—for example in defending a claim against the Public Health Service based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, microfilm, charts, graphs, computer tapes, disks, and punch cards.

RETRIEVABILITY:

By name, Social Security Number when supplied voluntarily or contained in existing records used in projects under this system, or other identifying number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists, and support staff of the National Cancer Institute (NCI), or its contractors, grantees or collaborators who need such information in order to contribute to the research or administrative purposes of the system. The system manager specifically authorizes one-time and special access by others on a need-to-know basis consistent with the purpose and routine uses of the system.

2. Physical safeguards: Records are kept in limited access areas. Offices and records storage locations are locked during off-duty hours. Input data for computer files is coded to avoid individual identification. Where possible, information on individual identities is kept separate from data used for analysis.

3. Procedural safeguards: Access to manual files is granted only to authorized personnel, as described above. Access to computer files is controlled through security codes known only to authorized users. Names and other details necessary to identify individuals are not included in data files used for analysis. These files are indexed by code numbers.

Code numbers and complete identifiers are linked only if there is a specific need, such as for data verification.

Contractors, grantees or collaborators who maintain records in this system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act. Privacy Act requirements are specifically included in contracts and in agreements with grantees or collaborators participating in research activities supported by this system. HHS project director, contract officers and project officers oversee compliance with these requirements

The particular safeguards implemented at each site are developed in accordance with chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS.hf: 45–13, and part 6, ADP Systems Security, of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

NCI retains research records in accordance with the NIH Records

Control Schedule, item 3000–G–3, which allows the system manager to keep the records as long as they are useful in scientific research. Contractors, grantees and collaborators who receive disclosures of records from this system retain the records only as long as necessary to accomplish the purpose for which the disclosures are made. Inactive records may be transferred to a Federal Records Center. Disposal methods include burning hard copy and erasing computer tapes and disks.

SYSTEM MANAGER AND ADDRESS:

Chief, Surveillance and Operations Research Branch, DCPC, National Cancer Institute, Executive Plaza North, Room 343K, 6130 Executive Blvd., Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a file exists, write to the system manager and provide the following information:

a. System name: "Biomedical Research: Records of Subjects in Cancer Studies of the Division of Cancer Prevention and Control Activities";

b. Complete name at time of participation;

c. Facility and home address at the time of participation;

d. In some cases, where records are retrieved by an identifying number, such as the Social Security Number or Hospital identification Number, it may be necessary to provide that number. In some cases, to ensure proper identification it may be necessary to provide date(s) of participation (if known), birthdate, or disease type (if known).

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a maximum fine of five thousand dollars.

Individuals seeking notification of or access to medical records should designate a representative (including address) who may be a physician, other health professional, or other responsible individual, who would be willing to review the record and inform the subject individual of its contents, at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURES:

Write to the system manager and provide the same information as requested under the notification procedure above. Requesters should also reasonably specify the record contents being sought. You may also request a list of accountable disclosures which have been made of your record.

CONTESTING RECORD PROCEDURES:

Write to the system manager, identify the record, and specify the information contested. State the corrective action sought and your reasons for requesting the correction, and provide supporting information to show that the record is inaccurate, incomplete, irrelevant, untimely, or unnecessary.

RECORD SOURCE CATEGORIES:

HHS agencies, institutions under contract to the U.S. Government, such as universities, medical schools, hospitals, research institutions, commercial institutions, state agencies, other U.S. Government agencies, patients and normal volunteers, physicians, research investigators and other collaborating personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0156

SYSTEM NAME:

Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institutes of Health, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system of records is an umbrella system comprising separate sets of records located either in the organizations responsible for conducting evaluations or at the sites of programs or activities under evaluation. Locations include National Institutes of Health (NIH) facilities in Bethesda, Maryland, or facilities of contractors of the NIH. Write to the appropriate System Manager below for a list of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system are those who provide information or opinions that are useful in evaluating programs or activities of the NIH, other persons who have participated in or benefited from NIH programs or activities; or other persons included in evaluation studies for purposes of comparison. Such individuals may include (1) participants in research studies; (2) applicants for and recipients of grants, fellowships, traineeships or other awards; (3) employees, experts and consultants; (4) members of advisory committees; (5) other researchers, health care professionals, or individuals who have or are at risk of developing diseases or conditions studied by NIH; (6) persons who provide feedback about the value or usefulness of information they receive about NIH programs, activities or research results; (7) persons who have received Doctorate level degrees from U.S. institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:

This umbrella system of records covers a varying number of separate sets of records used in different evaluation studies. The categories of records in each set depend on the type of program being evaluated and the specific purpose of the evaluation. In general, the records contain two types of information: (1) Information identifying subject individuals, and (2) information which enables NIH to evaluate its programs and services.

(1) Identifying information usually consists of a name and address, but it might also include a patient identification number, grant number, Social Security Number, or other identifying number as appropriate to the particular group included in an evaluation study, or

(2) Information used for evaluation varies according to the program evaluated. Categories of evaluative information include personal data and medical data on participants in clinical and research programs; personal data, publications, professional achievements and career history of researchers; and opinions and other information received directly from individuals in evaluation surveys and studies of NIH programs.

The system does not include any master list, index or other central means of identifying all individuals whose records are included in the various sets of records covered by the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for this system comes from the following general authorities regarding the establishment of the National Institutes of Health, its general authority to conduct and fund research and to provide training assistance, and

its general authority to maintain records in connection with these and its other functions (42 U.S.C. 203, 241, 2891–1 and 44 U.S.C. 3101).

PURPOSE OF THE SYSTEM:

This system supports evaluation of the policies, programs, organization, methods, materials, activities or services used by NIH in fulfilling its legislated mandate for (1) conduct and support of biomedical research into the causes, prevention and cure of diseases; (2) support for training of research investigators; (3) communication of biomedical information.

This system is not used to make any determination affecting the rights, benefits or privileges of any individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors and collaborating researchers, organizations, and State and local officials for the purpose of conducting evaluation studies or collecting, aggregating, processing or analyzing records used in evaluation studies. The recipients are required to protect the confidentiality of such records.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, bound notebooks, or computer-accessible media (e.g., magnetic tapes or discs).

RETRIEVABILITY:

Information is retrieved by name and/or participant identification number within each evaluation study. There is no central collection of records in this system, and no central means of identifying individuals whose records are included in the separate sets of records that are maintained for particular evaluation studies.

SAFEGUARDS:

A variety of safeguards is implemented for the various sets of records in this system according to the sensitivity of the data each set contains. Information already in the public domain, such as titles and dates of publications, is not restricted. However, sensitive information, such as personal or medical history or individually identified opinions, is protected according to its level of sensitivity. Records derived from other systems of records will be safeguarded at a level at least as stringent as that required in the original systems. Minimal safeguards for the protection of information which is not available to the general public include the following:

1. Authorized Users: Regular access to information in a given set of records is limited to NIH or to contractor employees who are conducting, reviewing or contributing to a specific evaluation study. Other access is granted only on a case-by-case basis, consistent with the restrictions required by the Privacy Act (e.g., when disclosure is required by the Freedom of Information Act), as authorized by the system manager or designated responsible official.

2. Physical Safeguards: Records are stored in closed or locked containers, in areas which are not accessible to unauthorized users, and in facilities which are locked when not in use. Records collected in each evaluation project are maintained separately from those of other projects. Sensitive records are not left exposed to unauthorized persons at any time. Sensitive data in machine-readable form may be encrypted.

3. Procedural Safeguards: Access to records is controlled by responsible employees and is granted only to authorized individuals whose identities are properly verified. Data stored in computers is accessed only through the use of keywords known only to authorized personnel. Contracts for operation of this system of records require protection of the records in accordance with these safeguards; NIH project and contracting officers monitor contractor compliance.

These practices are in compliance with the standards of chapter 45–13 of the HHS General Administration Manual, supplementary chapter PHS hf: 45–13, and Part 6, Systems Security, of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Studies, analyses, reports, and statistical compilations created or collected in evaluation of NIH mission-related activities are scheduled for permanent retention by the National Archives as part of the historical record of the NIH, as provided by the NIH Records Control Schedule, section 1100–C–2. Working papers, extra copies, or records not used in evaluations of major programs of the NIH or any of its Bureaus, Institutes or Divisions are destroyed no later than 5 years after completion of the evaluation study (NIH Records Control Schedule, items 1100–C–12d, 1100–C–14b, 1100–C–15b).

Policy Coordination for this system is provided by: Associate Director for Science, Policy and Legislation, National Institutes of Health, Building 1, Room 137, 9000 Rockville Pike, Bethesda, MD 20892.

SYSTEM MANAGERS AND ADDRESSES:

See Appendix 1.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the official of the organization responsible for the evaluation, as listed in Appendix 2. If you are not certain which component of NIH was responsible for the evaluation study, or if you believe there are records about you in several components of NIH, write to NIH Privacy Act Coordinator, Building 31, Room 3B07, 9000 Rockville Pike, Bethesda, MD 20892.

Requesters must provide the following information:

1. Full name;

2. Name and location of the evaluation study or other NIH program in which the requester participated or the institution at which the requester was a student or employee, if applicable;

3. Approximate dates of participation, matricultation or employment, if applicable.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, other health professional, or other responsible individual, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian

must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. You may also request a list of accountable disclosures that have been made of your record.

CONTESTING RECORD PROCEDURES:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants; from systems of record 09–25–0036, "Grants: IMPAC (Grants/Contract Information), HHS/NIH/DRG;" 09–25–0112, "Grants: Research, Research Training, Fellowship and Construction Applications and Awards, HHS/NIH/OD"; NSF–6, "Doctorate Record File", NSF–43, "Doctorate Work History File" (previously entitled "NSF–43, "Roster and Survey of Doctorate Holders in The United States" and other records maintained by the operating programs of NIH; the National Academy of Sciences and other contractors; grantees or collaborating researchers; or publicly available sources such as bibliographies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix 1: System Managers

National Institutes Health, Office of the Director, Associate Director for Science, Policy and Legislation, Building 1, Room 137, 9000 Rockville Pike, Bethesda, MD 20892.

National Heart, Lung and Blood Institute (NHLBI): Director, Office of Program Planning & Evaluation, Building 31, Room 5A03, Bethesda, MD 20892.

National Library of Medicine (NLM): Special Assistant for Operations Research, Office of the Director, Building 38, Room 2S18, Bethesda, MD 20892.

National Eye Institute (NEI): Associate Director for Program Planning, Analysis and Evaluation, Building 31, Room 6A25, Bethesda, MD 20892.

National Cancer Institute (NCI), Privacy Act Coordinator, National Institutes of Health, Building 31, Room 4B43, Bethesda, MD 20892.

National Institute on Aging (NIA): Chief, Office of Planning, Analysis, Technical Information and Evaluation, Federal Building, Room 6A09, 7550 Wisconsin Avenue, Bethesda, MD 20892.

National Institute of Allergy and Infectious Diseases (NIAID): Chief, Information Technology and Evaluation Branch, Office of Administrative Management, Building 31, Room 7A17, Bethesda, MD 20892.

National Institute of Child Health and Human Development (NICHD): Chief, Office of Planning and Evaluation, Building 31, Room 2A10, Bethesda, MD 20892.

National Institute of Dental Research (NIDR): Chief, Office of Planning, Evaluation Section, Building 31, Room 2C36, Bethesda, MD 20892.

National Institute of Environmental Health Sciences (NIEHS): Program Analyst, Office of Program Planning and Evaluation, P.O. Box 12233, Research Triangle Park, NC 27709.

National Institute of General Medical Sciences (NIGMS): Associate Director for Evaluation, Westwood Building, Room 9A18, 5333 Westbard Avenue, Bethesda, MD 20892.

Fogarty International Center (FIC): National Institutes of Health, Assistant Director for Planning and Evaluation, Building 38A, Room 607, Bethesda, MD 20892.

Division of Research Grants (DRG), Assistant Director for Special Projects, Westwood Building, Room 457, 5333 Westbard Avenue, Bethesda, MD 20892.

Division of Research Resources (DRR): Evaluation Officer, Office of Program Planning and Evaluation, NIH, Building 31, Room 5B54, Bethesda, MD 20892.

National Center for Nursing Research (NCNR), Chief, Office of Program Planning and Evaluation, Building 38, Room B2E17, Bethesda, MD 20892.

Appendix 2: Notification and Access Officials

NIH, Office of the Director: Associate Director for Science, Policy and Legislation, Building 1, Room 137, 9000 Rockville Pike, Bethesda, MD 20892.

National Heart, Lung and Blood Institute (NHLBI): Privacy Act Coordinator, Building 31, Room 5A29, Bethesda, MD 20892.

National Library of Medicine (NLM): Special Assistant for Operations Research, Office of the Director, Building 38, Room 2S18, Bethesda, MD 20892.

National Eye Institute (NEI): Executive Officer, Building 31, Room 6A25, Bethesda, MD 20892.

Fogarty International Center (FIC): Assistant Director for Planning and Evaluation, Building 38A, Room 607, Bethesda, MD 20892.

Division of Research Grants (DRG): Assistant Director for Special Projects, Westwood Building, Room 457, 5333 Westbard Avenue, Bethesda, MD 20892.

Division of Research Resources (DRR): Program Analyst, Office of Program Planning and Evaluation, Building 31, Room 5B54, Bethesda, MD 20892.

National Cancer Institute, Privacy Act Coordinator, National Institutes of Health, Building 31, Room 10A30, Bethesda, MD 20892.

[FR Doc. 88–26752 Filed 11–21–88; 8:45am]

BILLING CODE 4101–01–M

Centers for Disease Control

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Centers for Disease Control, HHS.

ACTION: Annual publication of system of record notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Centers for Disease Control (CDC) is publishing the table of contents and minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION: CDC has completed the annual review of its systems of records and is publishing below the table of contents and those minor changes which affect the public's right or need to know, such as changes in the system location of records or the designation and address of system managers.

1. CENTERS FOR DISEASE CONTROL

TABLE OF CONTENTS

A. The following CDD active systems of records were last published in the **Federal Register**, 51 FR 42449, November 24, 1986:

09–20–0000 Cooperative Mycoses Study. HHS/CDC/CID.

09–20–0001 Certified Interpreting Physician File. HHS/CDC/NIOSH.

09–20–0027 Radiation Exposure Records for NIOSH Employees. HHS/CDC/NIOSH.

09–20–0055 Administrative Files for Research/Demonstration and Training Grants, and Cooperative Agreements Applications. HHS/CDC/NIOSH.

09–20–0059 Division of Training Mailing List. HHS/CDC/NIOSH.

09–20–0089 Studies of Treatment of Tuberculosis and Other Mycobacterioses. HHS/CDC/CPS.

09–20–0090 Studies of Testing for Tuberculosis and Other Mycobacterioses. HHS/CDC/CPS.

09–20–0096 Records of Tuskegee Study Health Benefit Recipients. HHS/CDC/CPS.

09–20–0102 Alien Mental Waiver Program. HHS/CDC/CPS.

09–20–0103 Alien Tuberculosis Followup Program. HHS/CDC/CPS.

09–20–0106 Specimen Handling for Testing and Related Data. HHS/CDC/CID.

09–20–0112 CDC Exchange Visitor and Guest Researcher Records. HHS/CDC/PMO

09–20–0113 Epidemic Investigation Case Records. HHS/CDC/CID.

09–20–0117 Medical and Test Record Results of Individuals Involved in NIOSH Laboratory Studies. HHS/CDC/NIOSH.
09–20–0118 Study at Work Sites Where Agents Suspected of Being Occupational Hazards Exist. HHS/CDC/NIOSH.
09–20–0136 Epidemiologic Studies and Surveillance of Disease Problems. HHS/CDC/CID.
09–20–01137 Passport File. HHS/CDC/IHPO.
09–20–0138 Epidemic Intelligence Service Officers Files. HHS/CDC/EPO.
09–20–0147 Occupational Health Epidemiological Studies. HHS/CDC/NIOSH.
09–20–0149 Morbidity Studies in Coal Mining, Metal and Non-metal Mining and General Industry HHS/CDC/NIOSH.
09–20–0153 Mortality Studies in Coal Mining, Metal and Non-metal Mining and General Industry. HHS/CDC/NIOSH.
09–20–0154 Medical and Laboratory Studies. HHS/CDC/NIOSH.
09–20–0157 Clinical Laboratory Personnel Proficiency Test Results (Medicare). HHS/CDC/TLPO.
09–20–0159 Records of Subjects in Certification, Testing, Studies of Personal Protective Devices, and Accident Investigations. HHS/CDC/NIOSH.
09–20–0160 Records of Subjects in Health Promotion and Education Studies. HHS/CDC/CHPE.
09–20–0161 Records of Health Professionals in Disease Prevention and Control Training Programs. HHS/CDC/CPS.
09–20–0162 Records of Subjects in Agent Orange, Vietnam Experience, and Selected Cancers Studies. HHS/CDC/CEHIC.

B. The following National Center for Health Statistics systems, renumbered to reflect the organizational realignment with CDC, were last published in the **Federal Register**, 51 FR 42368, November 24, 1986:

09–20–0163 Applicants for National Center for Health Statistics Technical Assistance. HHS/CDC/NCHS. (Formerly numbered 09–37–0009.)
09–20–0168 Curricula Vitae of Consultants to the National Center for Health Statistics. HHS/CDC/NCHS. (Formerly numbered 09–37–0014).
09–20–0169 Users of Health Statistics. HHS/CDC/NCHS. (Formerly numbered 09–37–0016.)

C. The following four NCHS system notices were last published in the **Federal Register**, 49 FR 37692, September 25, 1984:

09–20–0164 Health and Demographic Surveys Conducted in Probability Samples of the United States Population. HHS/CDC/NCHS. (Formerly numbered 09–37–0010).
09–20–0165 Health Manpower Inventories and Surveys. HHS/CDC/NCHS. (Formerly numbered 09–37–0011).
09–20–0166 Vital Statistics for Births, Deaths, Fetal Deaths, Marriages, and Divorces Occurring in the United States During Each Year. HHS/CDC/NCHS. (Formerly numbered 09–37–0012.)
09–20–0167 Health Resources Utilization Statistics. HHS/CDC/NCHS. (Formerly numbered 09–37–0013).

2. The following systems reflect changes in the system location of records or the designation or address of system managers. The revised categories are published in their entirety below:

09–20–0055

SYSTEM NAME:

Administrative Files for Research/Demonstration and Training Grants, and Cooperative Agreements Applications. HHS/CDC/NIOSH.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

Division of Research Grants, National Institutes of Health, Westbard Bldg., Westbard Avenue, Bethesda, MD 20014.

Grants Management Office, Procurement and Grants Office, Buckhead Bldg., Rm. 300, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Grants Program Activity, Office of the Director, National Institute for Occupational Safety and Health (NIOSH), Bldg. 1, Rm. 3053, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Division of Training and Manpower Development, Division of Biomedical and Behavioral Science, Division of Physical Science and Engineering, and Division of Surveillance, Hazard Evaluations, and Field Studies, NIOSH, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Division of Respiratory Disease Studies and Division of Safety Research, NIOSH, 944 Chestnut Ridge Road, Morgantown, WV 26505.

Federal Records Center, 4205 Suitland Road, Suitland, MD 20409, and 1557 St. Joseph Avenue, East Point, GA 30344.

A list of contractor sites where individually identifiable data are currently located is available upon request to the system manager.

Data are also occasionally located at grantee sites as studies are developed, data collected, and reports written. A list of grantee sites where individually identifiable data are currently located is available upon request to the system manager.

* * * * *

SYSTEM MANGER(S) AND ADDRESS:

Grants Management Officer, Procurement and Grants Office, Buckhead Bldg., Rm. 300, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Associate Director for Grants, Grants Program Activity, Office of the Director, NIOSH, Bldg. 1, Rm. 3053, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Policy coordination is provided by: Director, Office of Program Support, Bldg. 1, Rm. 2011, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

* * * * *

09–20–0106

SYSTEM NAME:

Specimen Handling for Testing and Related Data. HHS/CDC/CID.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

Center for Infectious Diseases, Bldg. 4, Rm. B–35, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

San Juan Laboratories, Center for Infectious Diseases, Centers for Disease Control, San Juan, Puerto Rico 00936.

Center for Prevention Services, Freeway Office Park, Rm. 310, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

A list of contractor sites where individually identifiable data are currently located is available upon request to the appropriate system manager.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Center for Infectious Diseases, Bldg. 1, Rm. 6013, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Chief, Dengue Branch, Division of Vector-Borne Viral Diseases, Center for Infectious Diseases, Centers for Disease Control, GPO Box 4532, San Juan, Puerto Rico 00936.

Director, Center for Prevention Services, Freeway Office Park, Rm. 310, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Policy coordination is provided by: Director, Office of Program Support, Bldg. 1, Rm. 2011, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

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09-20-0136

SYSTEM NAME:

Epidemiologic Studies and Surveillance of Disease Problems. HHS/CDC/CID.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

Center for Infectious Diseases, Bldg. 1, Rm. 6013, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

San Juan Laboratories, Center for Infectious Diseases, Centers for Disease Control, San Juan, Puerto Rico 00936.

Center for Prevention Services, Freeway Office Park, Rm. 313, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Center for Environmental Health and Injury Control, Chamblee Bldg. 27, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Epidemiology Program Office, Bldg. 1, Rm. 5009, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Training and Laboratory Program Office, Executive Park, Bldg. 24, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

A list of contractor sites where individually identifiable data are currently located is available upon request to the appropriate system manager.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Center for Infectious Diseases, Bldg. 1, Rm. 6013, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Chief, Dengue Branch, Division of Vector-Borne Viral Diseases, Center for Infectious Diseases, Centers for Disease Control, GPO Box 4532, San Juan, Puerto Rico 00936.

Director, Center for Prevention Services, Freeway Office Park, Rm. 310, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Director, Center for Environmental Health and Injury Control, Chamblee Bldg. 27, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Director, Epidemiology Program Office, Bldg. 1, Rm. 5009, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Director, Training and Laboratory Program Office, Executive Park, Bldg. 24, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Policy coordination is provided by: Director, Office of Program Support, Bldg. 1, Rm. 2011, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

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09-20-0138

SYSTEM NAME:

Epidemic Intelligence Service Officers Files. HHS/CDC/EPO.

Minor alterations have been made to this system notice. The following category is revised in its entirety:

* * * * *

SYSTEM LOCATION:

Epidemiology Program Office, Bldg. 1, Rm. 5116, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

Dated: October 21, 1988.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 88-24815 Filed 11-21-88; 8:45 am]

BILLING CODE 4160-18-M

Agency for Toxic Substances and Disease Registry

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Agency for Toxic Substances and Disease Registry, HHS.

ACTION: Annual publication of system of record notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A-130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Agency for Toxic Substances and Disease Registry (ATSDR) is publishing the table of contents of its system of records.

SUPPLEMENTARY INFORMATION: ATSDR has completed the annual review of its system of records and is publishing the listing below. There are no changes to report which affect the public's right or need to know.

The following system notice currently maintained by ATSDR was published in the **Federal Register**, 53 FR 30720, August 15, 1988:

TABLE OF CONTENTS

Dated: October 21, 1988.

Walter R. Dowdle,

Acting Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 88-24814 Filed 11-21-88; 8:45 am]

BILLING CODE 4160-70-M

Public Health Service

Indian Health Service

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Indian Health Service, PHS, HHS.

ACTION: Publication of minor changes to systems of records notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A-130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Indian Health Service (IHS) in the Public Health Service (PHS) is publishing minor changes to its notices of systems of records. The three IHS notices of systems of records are being published in their entirety.

SUPPLEMENTARY INFORMATION: IHS has completed the annual review of its systems of records and is publishing below (1) a table of contents which lists all active systems of records in IHS, and (2) the three IHS notices of systems of records in their entirety. Minor changes have been made to the previously published notices of systems of records. These changes reflect the elevation of IHS to agency status within PHS. The designation of IHS as a component agency within PHS went into effect on January 4, 1988. Revisions to systems of records numbers have been made as a result of this change. A revision of the introductory paragraph of the Routine Uses section of the Health and Medical Records Systems Notice, which reflects revisions to the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations, 42 CFR Part 2, which became effective on August 10, 1987, has also been made. Minor changes which affect the public's rights or need to know, such as changes in the storage locations of records within the system or the addresses of system managers have also been made to all three systems notices where appropriate.

Date: October 27, 1988.

Robert McSwain,

Associate Director, Office of Administration and Management.

Indian Health Service

Table of Contents

09–17–0001

System name:

Health and Medical Records Systems, HHS/IHS/OHP.

Security classification:

None.

System location:

Indian Health Service (IHS) hospitals, health centers, school health centers, health stations, field clinics, Service Units, IHS Area Offices (Appendix 1), and Regional Federal Records Centers (Appendix 2). Automated records, including Patient Care Information System (PICS) records, are stored at the Data Processing Service Center, IHS, located in Albuquerque, New Mexico (Appendix 1). Records may also be located at hospitals and offices of health care providers who are under contract to IHS. A current list of contractor sites is available by writing to the appropriate System Manager (Area or Service Unit Director) at the address shown in Appendix 1.

Categories of individuals covered by the system:

Individuals, including both IHS beneficiaries and nonbeneficiaries, who are examined/treated on an inpatient and/or outpatient basis by IHS staff and/or contract (including tribal contract) health care providers.

Categories of records in the system:

1. Health and medical records containing: Examination, diagnostic and treatment data; proof of eligibility; social data such as name, address, data of birth, tribe; case records for special programs such as: Dental, social service, mental health, nursing; and laboratory test results. 2. Follow-up registers of individuals with specific health conditions or a particular health status such as: Tumors, communicable diseases, hospital commitment, suspected and confirmed physical child abuse and neglect, immunizations, self-destructive behavior, or handicap. 3. Logs of individuals provided health care by staffs of specific hospital components such as: Surgery, emergency, obstetric delivery, x-ray and laboratory. 4. Operation and/or disease indices for particular hospitals which list each relevant patient by the operation or disease. 5. Monitoring strips and tapes such as fetal monitoring strips and EEG and EKG tapes. 6. In the Achorage, Alaska; Billings, Montana; and Tucson, Arizona Area Offices automated patient medical records are maintained in the Patient Care Information System (PCIS) which provides for structured patient medical summaries to IHS and contract health care providers, such as: Name; beneficiary code; Social Security Number (SSN) (voluntary); address; tribe; date of birth; and examination, diagnostic and treatment results. 7. Third-party reimbursement records containing name, address, date of birth, date of admission and Medicare or Medicaid claim numbers, SSN (voluntary), health plan name, insurance number, employment status, and other relevant claim information necessary to process and validate third-party reimbursement claims.

Authority for maintenance of the system:

Section 321 of the Public Health Service Act, as amended, (42 U.S.C. 248), "Hospitals, Medical Examinations and Medical Care." Section 327A of the Public Health Service Act, as amended, (42 U.S.C. 254a–1), "Hospital-Affiliated Primary Care Centers." Indian Self Determination and Education Assistance Act (25 U.S.C. 450). Snyder Act (25 U.S.C. 13). Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.). Construction of Community Hospitals Act (25 U.S.C. 2005–2005f). Indian Health Service Transfer Act (42 U.S.C. 2001–2004).

Purposes:

The purposes of this system are:

1. To provide a description of a patient's illness, the treatment administered and results achieved, and to plan for future care of the patient.

2. To provide IHS program officials with statistical data upon which the health care program is evaluated and modified to meet future needs.

3. To serve as a means of communication among members of the health care team who contribute to the patient's care by integrating information from field visits with that from IHS facilities which have provided treatment.

4. To serve as the official documentation of health care rendered.

5. To contribute to continuing education of IHS staff to improve their competency to deliver health care services.

6. For disease surveillance purposes. For example:

(a) The Centers for Disease Control may use these records for their monitoring of various communicable diseases among persons residing within the United States; and

(b) The National Institutes of Health may use these records for their review of the prevalence of particular diseases (i.e., malignant neoplasms, diabetes mellitus, arthritis, metabolism and digestive diseases) for various ethnic groups of the Nation.

7. To compile and provide aggregated program statistics. Upon request of other components of the Department, IHS will provide statistical information, from which individual identifiers have been removed, such as:

(a) To the National Center for Health Statistics, for its dissemination of aggregated health statistics for various ethnic groups;

(b) To the Assistant Secretary for Population Affairs to keep a record of the number of sterilizations provided through the use of Federal funds;

(c) To the Health Care Financing Administration for the documentation of IHS health care covered by the Medicare and Medicaid programs for third-party reimbursement; and

(d) To the Bureau of Support Services, Health Care Financing Administration, to determine the prevalence of end-stage renal disease among the American Indian and Alaska Native population and to coordinate the care of American Indian and Alaska Native patients with this condition.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

If an individual receives treatment, or referral for treatment, for alcohol or drug abuse, then the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations, 42 CFR Part 2 may apply. In general under these regulations, the only disclosures of the alcohol or drug abuse record which may be made without patient consent are: (1) To meet medical emergencies (42 CFR Part D, § 2.51), (2) for research, audit, evaluation and examination (42 CFR Part D, §§ 2.52 and 2.53), (3) pursuant to a court order (42 CFR 2.61–2.67), and (4) pursuant to a qualified service organization agreement, as defined in 42 CFR 2.11. In all other situations, written consent of the patient is usually required prior to disclosure of alcohol or drug abuse information under the routine uses listed below.

Individuals acting *in loco parentis* to minors, as well as parents, legal guardians, and custodians may act on behalf of the subject individual for purposes of giving consent for disclosures to others when it is determined that the subject individual is a minor who is unable to or cannot exercise with appropriate understanding, the right of consent by himself or herself.

1. Records may be disclosed to State, local or other authorized organizations which provide health services to American Indians and Alaska Natives, or provide third-party reimbursement or fiscal intermediary functions, for the purpose of planning for or providing such services, billing or collecting third-party reimbursements and reporting results of medical examination and treatment.

2. Records may be disclosed to Federal and non-Federal school systems which serve American Indians and Alaska Natives for the purpose of student health maintenance.

3. Records may be disclosed to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits, or utilization review.

4. Records may be disclosed to authorized organizations, such as the United States Office of Technology Assessment, or individuals for conduct of analytical and evaluation studies sponsored by the IHS.

5. Records may be disclosed to a congressional office in response to an inquiry from that office made at the request of the subject individual.

6. A record may be disclosed for a research purpose, when the Department:

(a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(b) Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

(c) Has required the recipient to—(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

(d) Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

7. Information regarding the commission of crimes or the reporting of occurrences of communicable diseases, suspected or confirmed physical child abuse or neglect, births, or deaths, etc., may be disclosed by health providers and facilities to State and local agencies as required by State and local law. The disclosure of patient information on alcohol or drug abuse for purposes of criminal investigations or prosecution of the patient must be authorized by court order issued under 42 CFR 2.65.

8. Information regarding suspected cases of physical child abuse or neglect may be disclosed to members of community child protective teams (comprised of representatives of tribes, Bureau of Indian Affairs, a child protective service agency, the judicial system(s) (local, State, tribal), law enforcement officers (State, county, Tribal or local)) and IHS for the purposes of establishing a diagnosis, formulating a treatment plan, monitoring the plan, investigating reports of suspected physical child abuse or neglect and making recommendations to the appropriate court of competent jurisdiction. The disclosure of patient information on alcohol or drug abuse for purpose of criminal investigation or prosecution of the patient for suspected child abuse or neglect must be authorized by a court order issued under 42 CFR 2.65.

9. The Department may disclose information from this system of records to the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when:

(a) HHS, or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

10. Records may be disclosed to the Bureau of Indian Affairs and its contractors for the identification of American Indian and Alaska Native handicapped children to permit that Bureau to carry out the Education for All Handicapped Children Act of 1975 (20 U.S.C. 1401 et. seq.).

11. Records may be disclosed to an IHS contractor for the purpose of computerized data entry or maintenance of records contained in this system. The contractor shall be required to maintain Privacy Act safeguards with respect to the receipt and processing of such records.

12. Records may be disclosed to a health care provider under contract to IHS (including tribal contractors) to permit the contractor to obtain health and medical information about the subject individual in order to provide appropriate health services to that individual. The contractor shall be required to maintain Privacy Act safeguards with respect to the receipt and processing of such records.

13. Records may be disclosed to the State of Alaska, Department of Health and Social Services (DHSS) (which supplies part or all of this information to IHS), in response to its request for patient summaries, portions of immunization registers, disease indices and other computer-generated medical summaries. This information assists DHSS in its provision of health care to the subject individual. Disclosure to the State of Alaska's DHSS is limited to information concerning its patients.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

File folders, ledgers, card files, microfiche, microfilm, punch cards, computer tapes, disk packs and automatic files.

Retrievability:

Indexed by name, record number, and SSN and cross-indexed. SSN is supplied on a voluntary basis.

Safeguards:

1. Authorized Users:

Access is limited to authorized IHS personnel and IHS contractors and subcontractors in the performance of their duties. Authorized personnel include: Medical records personnel, health care providers, authorized researchers, medical audit personnel. and health care team members.

2. Physical Safeguards:

Records are kept in locked metal filing cabinets or in a secured room at all times when not actually in use during working hours and at all times during nonworking hours. Magnetic tapes, disks, other computer equipment and other forms of personal data are stored in areas where fire and life safety codes are strictly enforced.

Telecommunication equipment (computer terminals, modems and disks) of the Patient Care Information System (PCIS) are maintained in locked rooms during nonworking hours. Combinations on door locks are changed periodically and whenever a PCIS employee resigns, retires or is reassigned.

3. Procedural Safeguards:

Within each facility a list of personnel or categories of personnel having a demonstable need for the records in the performance of their duties has been developed and is maintained. Procedures have been developed and implemented to review one-time requests for disclosure to personnel who may not be on the authorized user list. Proper charge-out procedures are followed for the removal of all records from the area in which they are maintained. Persons who have a need to know are entrusted with records from this system of records and instructed to safeguard the confidentiality of these records. They are to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act, and to destroy all copies or to return such records when the need to know has expired. Procedural instructions include the statutory penalties for noncompliance.

The following automated information systems (AIS) security procedural safeguards are in place for automated health and medical records maintained in the Patient Care Information System. A profile of automated systems security is maintained. Security clearance procedures for screening individuals, both Government and contractor personnel, prior to their participation in the design, operation, use or maintenance of IHS automated information systems are implemented. The use of current passwords and log-on codes are required to protect sensitive automated data from unauthorized access. Such passwords and codes are changed periodically. An automated audit trail is maintained. Only authorized IHS Data Processing Service Center staff may modify automated files in batch mode. Personnel at remote terminal sites may only retrieve automated data. Such retrievals are password protected.

Privacy Act requirements and specified Automated Information System security provisions are specifically included in contracts and agreements and the system manager or his/her designee oversee compliance with these contract requirements.

4. Implementing Guidelines:

DHHS Chapter 45–13 and supplementary Chapter PHS.hf:45–13 of the General Administraton Manual; and Part 6, ADP Systems Security," of the DHHS Information Resources Management Manual.

Retention and Disposal:

Patient listings which may identify individuals are maintained in IHS Area and Program Offices permanently. Inactive records are held at the facility which provided health services from three to seven years and then are transferred to the appropriate Federal Records Center. Monitoring strips and tapes (i.e., fetal monitoring strips and EEG and EKG tapes) which are not stored in the patient's official medical record, are stored at the health facility for one year and are then transferred to the appropriate Federal Records Center. (See Appendix 2 for Federal Record Center addresses.) Records are retained at the Regional Federal Records Centers for 25 years. Disposal methods include burning or shredding of hard copy and erasing of magnetic media.

System manager(s) and address:

Policy-Coordinating Official: Director, Division of Clinical and Preventive Health Services, Indian Health Service, 5600 Fishers Lane, Room 6A–55, Rockville, Maryland 20857.

See Appendix 1. The IHS Area/ Program Office Directors and Service Unit Directors listed in Appendix 1 are System Managers.

Notification procedure:

General Procedure:

Requests must be made to the appropriate System Manager (IHS Area/ Program Office Director or Service Unit Director). An individual who requests a copy of, or access to, a medical record shall at the time the request is made designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. Such a representative may be an IHS health professional. When an individual is seeking to obtain information about himself/herself which may be retrieved by a different name or identifier than his/her current name or identifier, he/she shall be required to produce evidence to verify that he/she is the person whose record he/she seeks.

No verification of identity shall be required where the record is one which is required to be disclosed under the Freedom of Information Act.

Requests In Person:

Identification papers with current photographs are preferred but not required. If a subject individual has no identification but is personally known to the designated agency employee, such employee shall make a written record verifying the subject individual's identity. If the subject individual has no identification papers, the responsible system manager or designated agency official shall require that the subject individual certify in writing that he/she is the individual whom he/she claims to be and that he/she understands that the knowing and willful request or acquisition of records concerning an individual under false pretenses is a criminal offense subject to a $5,000 fine. If an individual is unable to sign his/her name when required, he/she shall make his/her mark and have the mark verified in writing by two additional persons.

Requests By Mail:

Written requests must contain the name and address of the requester, his/her date of birth and at least one piece of information which is also contained in the subject record, and his/her signature for comparison purposes. If the written request does not contain sufficient information, the System Manager shall inform the requester in writing that additional, specified information is required to process the request.

Requests By Telephone:

Since positive identification of the caller cannot be established, telephone requests are not honored.

Parents And Legal Guardians:

Parents of minor children and legal guardians of legally incompetent individuals shall verify their own identification in the manner described above, as well as their relationship to the individual whose record is sought. A

copy of the child's birth certificate or court order establishing legal guardianship may be required if there is any doubt regarding the relationship of the individual to the patient.

Record access procedures:

Same as Notification Procedures. Requesters should also provide a reasonable description of the record being sought. Requesters may also request an accounting of disclosures that have been made of their record, if any.

Contesting record procedures:

Write to the appropriate IHS Area/Program Office Director of Service Unit Director at his/her address specified in Appendix 1, and specify the information being contested, the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

Record source categories:

Patient and/or family members, IHS health care personnel, contract health care providers, State and local health care provider organizations, and Medicare and Medicaid funding agencies.

Systems exempted from certain provisions of the act:

None.

Appendix 1—System Managers and IHS Locations Under Their Jurisdiction Where Records Are Maintained

Director, Aberdeen Area Indian Health Service, Federal Building, 115 Fourth Avenue, SE., Aberdeen, South Dakota 57401
Director, Rapid City Service Unit, Rapid City Indian Hospital, Rapid City, South Dakota 57702
Director, Cheyenne River Service Unit, Eagle Butte Indian Hospital, Eagle Butte, South Dakota 57625
Director, Fort Berthold Service Unit, Minni-Tohe Indian Health Center, New Town, North Dakota 58763
Director, Fort Totten Service Unit, Fort Totten Indian Health Center, Fort Totten, North Dakota 58335
Director, Pine Ridge Service Unit, Pine Ridge Indian Hospital, Pine Ridge, South Dakota 57770
Officer in Charge, Wanblee Indian Health Center, Wanblee, South Dakota 57577
Director, Rosebud Service Unit, Rosebud Indian Hospital, Rosebud, South Dakota 57570
Director, Sisseton-Wahpeton Service Unit, Sisseton Indian Hospital, Sisseton, South Dakota 57262
Director, Wahpeton Indian School Health Center, Wahpeton, North Dakota 58075
Director, Standing Rock Service Unit, Fort Yates Indian Hospital, Fort Yates, North Dakota 58538
Director, McLaughlin Indian Health Center, McLaughlin, South Dakota 57642
Director, Turtle Mountain Service Unit, Belcourt Indian Hospital, Belcourt, North Dakota 58316
Director, Omaha-Winnebago Service Unit, Winnebago Indian Hospital, Winnebago, Nebraska 68071
Director, Yankton-Wagner Service Unit, Wagner Indian Hospital, Wagner South Dakota 57380
Director, Pierre Service Unit, Ft. Thompson Indian Health Station, Ft. Thompson, South Dakota 57339
Director, Pierre Indian School Health Center, c/o Ft. Thompson Indian Health Station, Ft. Thompson, South Dakota 57339
Director, Lower Brule Indian Health Center, Lower Brule, South Dakota 57584
Director, Bemidji Area Office, Indian Health Service, 203 Federal Building, Bemidji, Minnesota 56601
Director, Eastern Michigan Service Unit, Kincheloe Indian Health Center, Kincheloe, Minnesota 49788
Director, Leach Lake Service Unit, Cass Lake Indian Hospital, Cass Lake, Minnesota 56633
Director, Inger Indian Health Station, Inger Route, Deer River, Minnesota 56636
Director, Squaw Lake Indian Health Station, Squaw Lake, Minnesota 56681
Director, Ball Club Indian Health Station, Ball Club, Minnesota 56622
Director, Onigum Indian Health Station, Star Route, Walker, Minnesota 56484
Director, Red Lake Service Unit, Red Lake Indian Hospital, Red Lake, Minnesota 56671
Director, Ponemah Indian Health Station, Ponemah, Minnesota 56666
Director, White Earth Service Unit, White Earth Indian Health Center, White Earth, Minnesota 56591
Director, Naytahwaush Indian Health Station, Naytahwaush, Minnesota 56566
Director, Pine Point Indian Health Station, White Earth, Minnesota 56591
Director, Alaska Native Health Service, 250 Gambell Street, Third and Gambell Street, Anchorage, Alaska 99501
Director, Anchorage Service Unit, PHS, Alaska Native Medical Center, P.O. Box 107741, Anchorage, Alaska 99510
Director, Alaska Native Health Center, St. George Island, Alaska 99660
Director, Alaska Native Health Center, St. Paul Island, Alaska 99660
Director, Barrow Service Unit, Barrow Alaska Native Hospital, Barrow, Alaska 99723
Director, Southeast Area Regional Health Center, 3272 Hospital Drive, Juneau, Alaska 99801
Director, Kotzebue Service Unit, Kotzebue Alaska Native Hospital, Kotzebue, Alaska 99752
Director, Ketchikan Alaska Native Health Center, 3289 Tongass Avenue, Ketchikan, Alaska 99901
Director, Annette Islands Service Unit, Metlakatla Alaska Native Health Center, Box 428, Metlakatla, Alaska 99926
Director, Yukon-Kuskokwim-Delta Service Unit, Yukon-Kuskokwim-Delta Regional Hospital, Indian Health Service, Bethel, Alaska 99559
Director, Albuquerque Area Indian Health Service, 505 Marquette, NW., Suite 1502, Albuquerque, New Mexico 87102–0097
Director, Albuquerque Service Unit, Albuquerque Indian Hospital, 801 Vassar Drive, NE., Albuquerque, New Mexico 87106
Director, Isleta Indian Health Center, P.O. Box 429, Isleta, New Mexico 87022
Director, Jemez Indian Health Center, P.O. Box 256, Jemez Pueblo, New Mexico 87024
Chief Dental Program, IHS Dental Training Center, Southwestern Indian Polytechnical Inst., 9168 Coors Road, NW., P.O. Box 25927, Albuquerque, New Mexico 87125
Director, Indian School Health Center, Southwestern Indian Polytechnical Inst., 9168 Coors Road, NW., P.O. Box 25927, Albuquerque, New Mexico 87125
Director, Sandia Indian Health Station, Sandia, New Mexico 87047
Director, Santa Ana Indian Health Station, P.O. Box 580, Bernalillo, New Mexico 87004
Director, Zia Indian Health Station, General Delivery, San Ysidro, New Mexico 87053
Director, Mescalero Service Unit, Mescalero Indian Hospital, P.O. Box 210, Mescalero, New Mexico 88340
Director, Santa Fe Service Unit, Santa Fe Indian Hospital, 1700 Cerrillos Road, Santa Fe, New Mexico 87501
Director, Dulce Indian Health Center, Dulce, New Mexico 87528
Director, Taos Indian Health Center, Taos, New Mexico 87571
Director, Santa Clara Indian Health Center, P.O. Box 1322, Espanola, New Mexico 87532
Director, Santo Domingo Indian Health Station, Santo Domingo, New Mexico 87052
Director, San Juan Indian Health Station, San Juan, New Mexico 87566
Director, Cochiti Indian Health Station, Cochiti, New Mexico 87041
Director, San Felipe Indian Health Station, General Delivery, San Felipe Pueblo, New Mexico 87001
Director, Southern Colorado-Ute Service Unit, P.O. Box 778, Ignacio, Colorado 81137
Director, Ignacio Indian Health Center, Ignacio, Colorado 81137
Director, Towaoc Indian Health Center, Towaoc, Colorado 81334
Director, White Mesa Indian Health Station, General Delivery, Towaoc, Colorado 81334
Director, Zuni-Ramah Service Unit, Zuni Indian Hospital, Zuni, New Mexico 87327
Director, Acoma-Canoncito-Laguna Service Unit, Acoma-Canoncito-Laguna Indian Hospital, P.O. Box 130, San Fidel, New Mexico 87049
Director, Laguna Indian Health Center, P.O. Box 199, New Laguna, New Mexico 87038
Director, Canoncito Indian Health Station, c/o Acoma-Canoncito-Laguna Indian Hospital, P.O. Box 130, San Fidel, New Mexico 87049
Director, Billings Area Indian Health Service, P.O. Box 2143, 711 Central Avenue, Billings, Montana 59103
Director, Blackfeet Service Unit, Browning, Indian Hospital, Browning, Montana 59417

Director, Heart Butte Indian Health Station, Heart Butte, Montana 59448
Director, Crow Service Unit, Crow Indian Hospital, Crow Agency, Montana 59022
Director, Lodge Grass Indian Health Center, Lodge Grass, Montana 59050
Director, Pryor Indian Health Station, Pryor, Montana 59066
Director, Flathead Service Unit, St. Ignatius Indian Health Center, St. Ignatius, Montana 59865
Director, Polson Indian Health Center, 320–B 4th Avenue East, Polson, Montana 59860
Director, Fort Belknap Service Unit, Harlem Indian Hospital, Harlem, Montana 59526
Director, Hays Indian Health Station, Hays, Montana 59527
Director, Fort Peck Service Unit, Poplar Indian Health Center, Poplar, Montana 59255
Director, Wolf Point Indian Health Center, Wolf Point, Montana 59201
Director, Wind River Service Unit, Fort Washakie Indian Health Center, Fort Washakie, Wyoming 82514
Director, Arapahoe Indian Health Center, Arapahoe, Wyoming 82510
Director, Northern Cheyenne Service Unit, Lame Deer Indian Health Center, Lame Deer, Montana 59043
Director, Rocky Boy's Service Unit, Box Elder Indian Health Center, Box Elder, Montana 59521
Director, Navajo Area Indian Health Service, P.O. Box G, Window Rock, Arizona 86515–0190
Director, Chinle Service Unit, Chinle Indian Hospital, P.O. Drawer P.H., Chinle, Arizona 86503
Director, Tsailee Indian Health Center, P.O. Box 467, Tsailee, Arizona 86556
Director, Many Farms Indian School Health Center, c/o Chinle Comprehensive Health Facility, P.O. Box P.H., Chinle, Arizona 86503
Director, Pinon Indian Health Station, Pinon, Arizona 86510
Director, Rock Point Indian Health Station, c/o Chinle Comprehensive Health Facility, P.O. Box P.H., Chinle, Arizona 86503
Director, Crownpoint Service Unit, Crownpoint Indian Hospital, Crownpoint, New Mexico 87313
Director, Pueblo Pintado Clinic, c/o Community Health Services, Crownpoint Indian Hospital, Crownpoint, New Mexico 87313
Director, Fort Defiance Service Unit, Fort Defiance Indian Hospital, Fort Defiance, Arizona 86504
Medical Officer in Charge, Toyei Indian Health Clinic, Fort Defiance, Arizona 86504
Director, Shiprock Service Unit, Shiprock Indian Hospital, P.O. Box 160, Shiprock, New Mexico 87420
Director, Teec Nos Pos Indian Health Center, P.O. Drawer D., Teec Nos Pos, Arizona 86514
Director, Dzilth-Na-O-Dith-Le Indian Health Center, Star Route 4, P.O. Box 5400, Bloomfield, New Mexico 87413
Director, Sansostee Indian Health Clinic, c/o Shiprock Indian Hospital, Field Health, Shiprock, New Mexico 87420
Director, Todalena Indian Health Clinic, c/o Shiprock Indian Hospital, Field Health, Shiprock, New Mexico 87420
Director, Gallup Service Unit, Gallup Indian Medical Center, P.O. Box 1337, Gallup, New Mexico 87301
Medical Officer in Charge, Tohatchi Indian Health Center, P.O. Box 142, Tohatchi, New Mexico 87325
Medical Officer in Charge, Fort Wingate Indian School Health Center, Fort Wingate, New Mexico 87316
Director, Kayenta Service Unit, Kayenta Indian Health Center, P.O. Box 368, Kayenta, Arizona 86033
Director, Inscription House Indian Health Center, P.O. Box 7397, Shonto, Arizona 86054
Director, Dennhotso Indian Health Center, c/o Kayenta Indian Health Center, Kayenta, Arizona 86033
Director, Tuba City Service Unit, Tuba City Indian Hospital, Tuba City, Arizona 86045
Director, Winslow Service Unit, Winslow Indian Health Center, P.O. Drawer 40, Winslow, Arizona 86047
Director, Dilkon Indian Health Center, P.O. Drawer 40, Winslow, Arizona 86047
Director, Leupp Indian School Health Center, c/o Winslow Indian Health Center, P.O. Drawer 40, Winslow, Arizona 86047
Director, Leupp Indian Health Center, c/o Winslow Indian Health Center, Community Health Services, P.O. Drawer 40, Winslow, Arizona 86047
Director, Oklahoma City Area Indian Health Service, 215 Dean A. McGee Street NW., Oklahoma City, Oklahoma 73102–3477
Director, Ada Service Unit, Carl Albert Indian Hospital, 1001 North Country Club Drive, Ada, Oklahoma 74820
Director, Wewoka Indian Health Center, Wewoka, Oklahoma 74884
Director, Claremore Service Unit, Claremore Comprehensive Indian Health Facility, Claremore, Oklahoma 74017
Director, Miami Indian Health Center, P.O. Box 1498 Miami, Oklahoma 74354
Director, Locust Grove Indian Health Station, Locust Grove, Oklahoma 74352
Director, Clinton Service Unit, Clinton Indian Hospital, Route 4, Box 213, Clinton, Oklahoma 73601
Director, Watonga Indian Health Center, P.O. Box 878, Watonga, Oklahoma 73772
Director, Concho Indian Health Clinic, P.O. Box 150, Concho, Oklahoma 73022
Director, Kansas Service Unit, Holton Indian Health Center, 100 West 16th Street, Holton, Kansas 66436
Facility Director, Lawrence (Haskell) Indian Health Center, 2415 Massachusetts Avenue, Lawrence, Kansas 66044
Director, Lawton Service Unit, Lawton Indian Hospital, Lawton, Oklahoma 73501
Director, Anadarko Indian Health Center, P.O. Box 828, Anadarko, Oklahoma 73005
Director, Riverside Indian Health Station, Anadarko, Oklahoma 73005
Director, Carnegie Indian Health Center, Carnegie, Oklahoma 73015
Director, Pawnee Service Unit, Pawnee Indian Health Center, Rural Route 2, Box 1, Pawnee, Oklahoma 74058
Director, Pawhuska Indian Health Center, 715 Grandview, Pawhuska, Oklahoma 74056
Director, White Eagle Indian Health Center, P.O. Box 2071, Ponca City, Oklahoma 74601
Director, Shawnee Service Unit, Shawnee Indian Health Center, 2001 South Gordon Cooper Drive, Shawnee, Oklahoma 74801
Director, Tahlequah Service Unit, W.W. Hastings Indian Hospital, 100 S. Bliss, Tahlequah, Oklahoma 74464
Director, Jones Academy Indian Health Station, Heartshorne, Oklahoma 74547
Director, Phoenix Area Indian Health Service, 3738 N. 16th Street, Suite A, Phoenix, Arizona 85016–5981
Director, Colorado River Service Unit, Parker Indian Hospital, Route 1, P.O. Box 12 Parker, Arizona 85344
Director, Peach Springs Indian Health Center, Peach Springs, Arizona 86434
Director, Chemehuevi Indian Health Clinic, Chemehuevi Valley, California 92363
Director, Havasupai Indian Health Station, Supai, Arizona 86435
Director, Fort Yuma Service Unit, Fort Yuma Indian Hospital, P.O. Box 1368, Fort Yuma, Arizona 85364
Director, Sherman Indian School Health Center, 8934 Magnolia, Riverside, California 92503
Director, Keams Canyon Service Unit, Keams Canyon Indian Hosptial, P.O. Box 98, Keams Canyon, Arizona 86034
Director, Second Mesa Indian Health Center, P.O. Box General Delivery, Second Mesa, Arizona 86043
Director, Owyhee Service Unit, Owyhee Indian Hospital, P.O. Box 212, Owyhee, Nevada 89832
Director, Southern Bank Indian Health Clinic, 1545 Silver Eagle Road, Elko, Nevada 89801
Director, Phoenix Service Unit, Phoenix Indian Medical Center, 4212 North 16th St., Phoenix, Arizona 85016
Director, Fort Mcdowell Indian Health Station, c/o Phoenix Indian Medical Center, 4212 North 16th Street, Phoenix, Arizona 86016
Director, Salt River Indian Health Center, Route 1, Box 215, Scottsdale, Arizona 85256
Director, Gila Crossing Indian Health Clinic, Route 1, Box 770, Laveen, Arizona 85339
Director, San Lucy Indian Health Station, c/o Phoenix Indian Medical Center, 4212 North 16th Street, Phoenix, Arizona 85016
Director, Phoenix Indian School Health Center, c/o Phoenix Indian Medical Center, 4212 North 16th Street, Phoenix, Arizona 85016
Director, Sacaton Service Unit, Sacaton Indian Hospital, Sacaton, Arizona 85247
Director, San Carlos Service Unit, San Carlos Indian Hospital, San Carlos, Arizona 85550
Director, Bylass Indian Health Center, P.O. Box 208, San Carlos, Arizona 85550
Director, Schurz Service Unit, Schurz Indian Hosptial, Schurz, Nevada 89427
Director, Stewart Indian Health Station, Stewart, Nevada 89437
Director, Fort McDermitt Indian Health Station, P.O. Box 475, McDermitt, Nevada 89421
Director, Pyramid Lake Indian Health Clinic, Nixon, Nevada 89424
Director, Unitah and Ouray Service Unit, Fort Duchesne Indian Health Center, P.O. Box 160, Roosevelt, Utah 84066

Director, Whiteriver Service Unit, Whiteriver Indian Hosptial, Whiteriver, Arizona 85941
Director, Cibicue Indian Health Center, Cibicue, Arizona 85941
Director, Portland Area Indian Health Service, Room 476, Federal Building, 1220 Southwest Third Avenue, Portland, Oregon 97204–2892
Director, Chemawa Indian Health Center, 3750 Hazelgreen Road, NE. Salem, Oregon 97303
Director, Colville Service Unit, Colville Indian Health Center, Nespelem, Washington 99155
Director, Inchellium Indian Health Center, Inchellium, Washington 99138
Director, Fort Hall Service Unit, Fort Hall Indian Health Center, P.O. Box 317, Fort Hall, Idaho 83203
Director, Northern Idaho Service Unit, Northern Idaho Indian Health Center, P.O. Drawer 367, Lapawai, Idaho 83540
Director, Kamiah Indian Health Station, Kamiah, Idaho 83536
Director, Coeur d'Alene Indian Health Station, Coeur d'Alene, Idaho 83814
Director, Warm Springs Service Unit, Wellpinit Indian Health Center, P.O. Box 357, Wellpinit, Oregon 99040
Director, Puget Sound Service Unit, Puget Sound Indian Health Station, 1212 South Judkins, Seattle, Washington 98144
Director, Yakima Service Unit, Yakima Indian Health Center, Route 1, Box 1104, Toppenish, Washington 98948
Director, Yellowhawk Service Unit, Yellowhawk Indian Health Center, P.O. Box 160, Pendleton, Oregon 97801
Director, Taholah Service Unit, Taholah Indian Health Center, P.O. Box 219, Taholah, Washington 98587
Director, Queets Indian Health Station, c/o Service Unit, Director, Taholah Indian Health Center, P.O. Box 219, Taholah, Washington 98587
Director, Neah Bay Service Unit, Neah Bay Indian Health Center, P.O. Box 418, Neah Bay, Washington 98357
Director, Northwest Washington Service Unit, Lummi Indian Health Center, 2592 Kwina Road, Bellingham, Washington 98225
Director, Tucson Area Office, Indian Health Service, 7900 S. J. Stock Road, Tucson, Arizona 85746–9352
Director, Sells Service Unit, Sells Indian Hospital, P.O. Box 548, Sells, Arizona 85634
Director, Santa Rosa Indian Health Center, Star Route, Box 71, Sells, Arizona 85634
Director, San Xavier Indian Health Center, 7900 S. J. Stock Road, Tucson, Arizona 85734
Director, Nashville Area Office, Indian Health Service, Oak Towers Building, 1101 Kermit Drive, Suite 810, Nashville, Tennessee 37217–2191
Director, Cherokee Service Unit, Cherokee Indian Hospital, Cherokee, North Carolina 28719
Director, California Area Office, Indian Health Service, 2999 Fulton Avenue, Sacramento, California 95821

Appendix 2—Federal Archives and Records Centers

District of Columbia, Maryland except U.S. Court Records for Maryland, Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409
GSA Region 1—Connecticut, Maine, and Rhode Island, Federal Archives and Records Center, 380 Trapelo Road, Waltham, MA 02154
GSA Region 2—New York, Federal Archives and Records Center, Military Ocean Terminal, Bldg. 22, Bayonne, NJ 07002
GSA Region 3—Pennsylvania, Federal Archives and Records Center, 5000 Wissahickon Avenue, Philadelphia, PA 19144
GSA Region 4—Alabama, Florida, Mississippi and North Carolina, Federal Archives and Records Center, 1557 St. Joseph Avenue, East Point, GA 30344
GSA Region 5—Wisconsin, Minnesota and U.S. Court Records for Michigan, Federal Archives and Records Center, 7358 South Pulaski Road, Chicago, IL 60629
GSA Region 5—Michigan, except U.S. Court Records, Federal Records Center, 3150 Springboro Road, Dayton, OH 45439
GSA Region 6—Kansas, Iowa and Nebraska, Federal Archives and Records Center, 2306 East Bannister Rd., Kansas City, MO 64131
GSA Region 7—Louisiana, New Mexico, Oklahoma and Texas, Federal Archives and Records Center, P.O. Box 6216, Ft. Worth, TX 76115
GSA Region 8—Colorado, Wyoming, Utah, Montana, North Dakota and South Dakota, Federal Archives and Records Center, P.O. Box 25307, Denver, CO 80225
GSA Region 9—California, Except Southern California and Nevada, Except Clark County, Federal Archives and Records Center, 1000 Commodore Drive, San Bruno, CA 94066
GSA Region 9—Arizona: Clark County, Nevada and Southern California (Counties of San Luis Obispo, Kern, San Bernardino, Santa Barbara, Ventura, Los Angeles, Riverside, Orange, Imperial Inyo, and San Diego), Federal Archives and Records Center, 24000 Avila Road, Laguna Niguel, CA 92677
GSA Region 10—Washington, Oregon, Idaho and Alaska, Federal Archives and Records Center, 6125 Sand Point Way, Seattle, WA 98115

09–17–0002

SYSTEM NAME:

INDIAN HEALTH SERVICE SCHOLARSHIP PROGRAMS, HHS/IHS/OHP.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Scholarship Branch, Indian Health Service, Room 6–12, 5600 Fishers Lane, Rockville, Maryland 20857, and Washington National Records Center, 4205 Suitland Road. Suitland, Maryland 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for, persons who have been approved to receive, persons who are receiving, and persons who have received scholarship funds administered by the Indian Health Service (IHS) since January 1976, such as, but not necessarily limited to the Health Professions Pregraduate Scholarship Program for Indians, the Health Professions Preparatory Scholarship Program for Indians, and the Health Professions Scholarship Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include all scholarship applications; associated forms from selected applicants only; selection and performance records; progress reports; vouchers of expenditures; and Social Security Numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 103 of the Indian Health Care Improvement Act, 25 U.S.C. 1613, Health Professions Preparatory Scholarship Program for Indians, and the Health Professions Pregraduate Scholarship Program for Indians.

Section 104 of the Indian Health Care Improvement Act, 42, U.S.C. 294y-1, Health Professions Scholarship Program.

Section 4 of the Debt Collection Act of 1982, Pub. L. 97–365, 5 U.S.C. 5514 note, Requirement That Applicant Furnish Taxpayer Identifying Number.

PURPOSE OF THE SYSTEM:

The purpose of this system of records is to select candidates for the Indian Health Service scholarship programs, to monitor the scholarship-related activities of candidates selected, and to evaluate the effectiveness of the programs. Scholarship-related activities are defined as enrollment and attendance in IHS-funded courses, the receipt by the student of a monthly stipend and the expenditure of funds by the student for the purchase of supplies (including books), equipment, tuition, fees and other reimbursable and justified expenditures authorized by IHS.

Records may be transferred to system No. 09–15–0045, "Health Resources and Services Administration Loan Repayment/Debt Management Records System, HHS/HRSA/OA," for debt collection purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Records may be disclosed to a congressional office in response to a verified inquiry from that office made at the written request of the subject individual.

2. Records may be disclosed to authorized persons employed by the grantee institution (the institution which the recipient of a scholarship grant is attending) as needed for the administration of a scholarship grant award.

3. Records may be disclosed to other Federal agencies that also provide scholarship funding at the request of these Federal agencies in conjunction with a matching program conducted by these Federal agencies to detect or curtail fraud and abuse in Federal scholarship programs, and to collect delinquent loans or benefit payments owed to the Federal Government.

4. IHS will provide to any person requesting it a list of recipients of scholarship grants, including the school attended and tribal affiliation of each recipient.

5. The Department may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when

(a) HHS, or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components,

is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 158a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purposes of these disclosures are: (1) To provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records, and (2) to enable IHS to improve the quality of loan and scholarship decisions by taking into account the financial reliability of applicants. Disclosure of records will be limited to the individual's name, Social Security Number (SSN), and other information necessary to establish the identity of the individual, the amount, status, and history of the claim, and the agency or program under which the claim arose.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in folders, ledgers, magnetic tapes, and on electronic word processing diskettes.

RETRIEVABILITY:

Records which identify individual persons are indexed by name or identification number of scholarship applicant or recipient.

SAFEGUARDS:

1. Authorized Users: Access is limited only to authorized personnel in the performance of their duties. Authorized personnel include: the system manager, his/her staff, IHS Area Office Scholarship Coordinators, IHS Headquarters Branch Chiefs acting as advisors to scholarship recipients and staffs of the IHS Grants Management Offices in IHS Headquarters and IHS Area Offices.

2. Physical Safeguards: Paper records are stored in locked file cabinets. The records storage areas are secured during off-duty hours.

Word processing diskettes are stored in areas where fire and life safety codes are strictly enforced. Word processing diskettes are off-loaded and stored in locked cabinets when not in use.

3. Procedural Safeguards: All IHS personnel who make use of records contained in this system are made aware of their responsibilities under the provisions of the Privacy Act and are required to maintain Privacy Act safeguards with respect to such records.

The records storage areas are not left unattended during office hours, including lunch hours. Records are not removed from these areas in which they are maintained in the absence of proper charge-out procedures. Twenty-four hour, seven-day security guards perform random checks on the physical security of the records storage areas and word processing diskettes. A data set name controls the release of data to only authorized users.

When copying records for authorized purposes, care is taken to ensure that any imperfect pages are not left in the reproduction room where they can be read, but are destroyed or obliterated.

4. Implementing Guidelines: DHHS Chapter 45–13 and supplementary Chapter PHS.hf:45–13 of the General Administration Manual, "Information on Individuals Obtained in Grant Applications."

RETENTION AND DISPOSAL:

Scholarship application materials are returned to unsuccessful applicants. Records in the system are retained by IHS for one year after the final award payment has been made by IHS and are then retired to a Federal Records Center. Records are shredded or burned by the Federal Recorfds Center four years after they are received.

SYSTEM MANAGER AND ADDRESS:

Chief, Scholarship Branch, Indian Health Service, 5600 Fishers Lane, Room 6–12, Rockville, Maryland 20857

NOTIFICATION PROCEDURE:

Requests by mail or in person: To substantiate the identity of the subject individual seeking access to his/her scholarship grant application and/or performance record the requester must provide his/her name, signature, and Grant Identification Number, and to identify the record sought the requester must provide dates of attendance, school(s) of attendance, and field or speciality or courses taken.

In addition, the requester is informed that provision of the SSN may assist in the verification of the identity of the person as well as the identification of his/her record. The requester is informed that provision of his/her SSN is voluntary and that the individual will not be refused access to his/her record for failure to disclose his/her SSN.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also provide a reasonable description of the record being sought.

Requesters may also request an accounting of disclosures that have been made of their record, if any.

CONTESTING RECORD PROCEDURES:

Contact the System Manager, provide a reasonable description of the record, specify the information being contested, the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Individuals whose records are contained in the system, third parties who provide references concerning the subject individuals, and schools that individuals in the system attend or have attended.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-17-0003

SYSTEM NAME:

Indian Health Service Medical Staff Credentials and Privileges Records, HHS/IHS/OHP.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Each Indian Health Service (IHS) Area Office and each IHS Service Unit (Appendix 1). Records may also be located at hospitals and offices of health care providers who are under contract to IHS. A current list of contractor sites is available by writing to the appropriate System Manager (Area or Service Unit Director) at the address shown in Appendix I.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prospective, current and former Indian Health Service (IHS) medical staff members. The term IHS medical staff includes fully licensed individuals permitted by law to provide patient care services independently and without concurrent professional direction or supervision, within the scope of his /her license and in accordance with individually granted clinical privileges. The IHS medical staff includes physicians (M.D. and D.O.) and dentists and may include other health care practitioners such as psychologists, optometrists, podiatrists, audiologists, and, in some states, certified nurse midwives.

Types of assignment categories of current and former IHS medical staff members include the following:

Provisional—Those new members of the medical staff who are serving a required initial probationary period, as specified in the local medical staff bylaws. During this time, their qualifications for membership on the active or courtesty IHS medical staff are assessed.

Active—Those members who are either IHS employees or employees of Pub. L. 93-638 Tribal Contractors who spend at least 50 percent of their professional time within the IHS facility and/or IHS Service Unit. They have served their probationary period and have been found to be fully qualified for membership on the IHS medical staff.

Temporary—Those members who provide services on a short-term basis.

Courtesty or Associate—Those members who generally provide services on a periodic or episodic basis (e.g., consultants for specialty clinics) and are usually not IHS employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, Social Security Number, IHS medical staff membership and privileges applications and associated forms, employment data, liability insurance coverage, credentialing history of licensed health professionals, personal, educational, and demographic background information, professional performance information consisting of continuing education, performance awards, and adverse or disciplinary actions, and evaluations and approvals completed by IHS medical staff reviewers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Indian Self Determination and Education and Assistance Act (25 U.S.C. 450), Snyder Act (25 U.S.C. 13), Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.), Indian Health Service Transfer Act (42 U.S.C. 2001-2004).

PURPOSE

The purposes of this system are:

1. To ensure that IHS medical staff members are qualified, competent and capable of delivering quality health services consistent with those of the medical community at large and that they are granted privileges commensurate with their training and competence and with the ability of the facility to provide adequate support equipment, services, and staff.

2. To inform health care practitioner(s) and staff of health care facilities, state or county health professional societies or licensing boards to whom the subject individual may apply for clinical privileges, membership or licensure, of the subject individual's professional competence, character and ethical qualifications. This may include information regarding drug or alcohol abuse or dependency. Within the Department such releases may be made to personnel staffs of DHHS Regional Offices.

3. To provide adverse health care practice information to the data bank established under Title IV of Pub. L. 99-660, the Health Care Quality Improvement Act of 1986. The purpose of such a release is to provide information concerning a current or former IHS medical staff member whose professional health care activity failed to conform to generally accepted standards of professional medical practice.

4. To provide health care practice information concerning current or former members of the IHS medical staff with Commissioned Corps status to the Division of Commissioned Personnel, U.S. Public Health Service, so that an informed decision may be made concerning the promotion, retention, or reassignment of the subject individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Records may be disclosed to organizations authorized to conduct evaluation studies concerning the delivery of health care services by the Indian Health Service (e.g., Joint Commission on the Accreditation of Healthcare Organizations).

2. IHS may disclose records consisting of name, Social Security Number, employment history and any professional qualification information concerning medical staff membership and privileges, professional competence, clinical judgment and personal character to a State or local government health professional licensing board, to the Federation of State Medical Boards, to the data bank established under Title IV of Pub. L. 99-660 and/or to a similar entity which has the authority to maintain records concerning the issuance, retention or revocation of licenses or registrations necessary to practice a health professional occupation or specialty. The purpose of this disclosure is to inform medical profession licensing boards and appropriate entities about the health care practices of a current, terminated, resigned, or retired IHS medical staff member whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of members of the general public. This will be done within the guidelines for notice, hearing, and review as delineated in the medical staff bylaws for the IHS facility and/or within other HHS or IHS regulations or policies.

3. IHS may disclose biographic data and information supplied by potential applicants to (a) references listed on the IHS medical staff and/or privileges application and associated forms for the purpose of evaluating the applicant's professional qualifications, experience, and suitability, and (b) a State or local government health profession licensing board, to a health-related professional organization, to the Federation of State Medical Boards, and to the data bank established under Title IV of Pub. L. 99-660 or a similar entity for the purpose of verifying that all claimed background and employment data are valid and all

claimed credentials are current and in good standing.

4. Records may be disclosed to other Federal agencies (including the Office of Personnel Management for subject individuals applying for or maintaining Civil Service appointments), to State and local governmental agencies, and to organizations in the private sector to which the subject individual applies for clinical privileges, membership or licensure for the purpose of documenting the qualifications and competency of the subject individual to provide health services in his/her health profession based on the individual's professional performance while employed by the IHS.

5. The Department may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof, or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

6. Records may be disclosed to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

7. In the event that a system of records maintained by the IHS to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State, or local, charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Indexed and retrieved by name, Social Security Number, and any other identifying numbers necessary to establish the identity of an individual whose record is maintained in the system of records.

SAFEGUARDS:

1. Authorized Users:

Access is limited to authorized personnel for use in the performance of their official duties. Authorized personnel include: Physician Recruitment and other Health Professions Branch Staff and Area Governing Board Members at IHS Area Offices, and Service Unit Directors, Clinical Directors and members of the Credentials and Privilege Committee of each IHS Service Unit. At each location where records in this system will be maintained, a list of personnel or categories of personnel having an official need-to-know has been developed and is maintained.

2. Physical Safeguards:

Records are kept in locked metal filing cabinets or in locked desk drawers in secured rooms at all times when not actually in use during working hours and at all times during non-working hours. Record storage areas, including file cabinets and desks, are not left unattended or unlocked during office hours, including lunch hours.

3. Procedural Safeguards:

Persons who have an official need-to-know are entrusted with records from this system of records and are instructed to safeguard the confidentiality of these records and to destroy all copies or to return such records when the need to know has expired. Instructions include the statutory penalties for noncompliance. Proper charge-out procedures are followed for the removal of records from the area in which they are maintained. Before an employee who will control disclosure of records can work with the records (i.e., employees who report to the system manager) the system manager or designee ensures that the employee has received training in the safeguards applicable to the records and is aware of the actions to take to restrict disclosure. When copying records for authorized purposes, care is taken to ensure that any imperfect pages are not left in the reproduction room where they can be read but are destroyed or obliterated.

4. Implementation Guidelines:

DHHS Chapter 45–13 and supplementary Chapter PHS.hf:45–13 of the General Administration Manual.

RETENTION AND DISPOSAL:

Records are maintained by IHS for at least five years after the individual's termination of employment or association with IHS. Records of unsuccessful applicants for medical staff membership will be retained for three years after his/her rejection. After these periods of retention expire, records are destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

See Appendix 1.

Policy Coordinating Official: Director, Patient Care Professional Affairs and Support IHS, 5600 Fishers Lane, Room 6A–55, Rockville, Maryland 20857.

The IHS Clinical Directors at all IHS Service Units listed in Appendix 1 are System Managers. IHS medical staff credentials and privileges files are stored at these locations. Other addresses listed in Appendix 1 are locations at which all or parts of these records may also be stored (Physician Recruiter at IHS Area Offices). Post Office Box designations appearing in Appendix 1 should be specified when making requests by mail.

NOTIFICATION PROCEDURE:

Requests must be made to the appropriate System Manager (Clinical Director for the appropriate Service Unit) listed in Appendix 1.

Requests by mail: Requests for information and/or access to records received by mail must contain information providing the identity of the writer and a reasonable description of the record desired. Written requests must contain, at a minimum, the name, signature, Social Security Number, and address of the requester, and for unsuccessful applicants the date when the application was submitted, and for current or former IHS health care providers the dates and locations of service.

We may request additional identification when we hold records for different persons with the same name or where an apparent discrepancy exists between information contained in the record and that provided by the individual requesting access to the record.

Other names used: Where an individual is seeking to obtain information about himself/herself which may be retrieved by a different name than his/her current name, he/she shall be required to produce evidence to

verify that he/she is the person whose record he/she seeks.

Requests in person: A subject individual who appears in person at a specific location (where he or she currently works or formerly worked) seeking access or disclosure of records contained in this system of records relating to him/her shall provide the information described in "Requests by mail" (above) and at least one piece of tangible identification such as a driver's license or passport.

Requests by telephone: Since positive identification of the caller cannot be established, telephone requests are not honored.

RECORD ACCESS PROCEDURES:

Same as Notification Procedure. Requesters should also provide a reasonable description of the record being sought.

Requesters may also request an accounting of disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Write to the appropriate Service Unit Clinical Director at the address specified in Appendix 1 and reasonably identify the record, specify the information being contested, and state the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES

Subject individual, IHS health care personnel, references supplied by the subject individual, professional societies or associations, specialty boards, colleges and universities attended by the subject individual, former employers, health facilities or health providers with which the subject individual was associated, liability insurance carriers, organizations providing cardiopulmonary resuscitation (CPR) training to the subject individual, State and local health and health care licensing or certifying organizations, and organizations which serve as repositories of information on health care professionals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix 1—System Managers

Director, Aberdeen Area Indian Health Service, Federal Building, 115 Fourth Avenue, SE, Aberdeen, South Dakota 57401
Clinical Director, Rapid City Service Unit, Rapid City Indian Hospital, Rapid City, South Dakota 57702
Clinical Director, Cheyenne River Service Unit, Eagle Butte Indian Hospital, Eagle Butte, South Dakota 57625
Clinical Director, Fort Berthold Service Unit, Minni-Tohe Indian Health Center, New Town, North Dakota 58763
Clinical Director, Fort Totten Service Unit, Fort Totten Indian Health Center, Fort Totten, North Dakota 58335
Clinical Director, Pine Ridge Service Unit, Pine Ridge Indian Hospital, Pine Ridge, South Dakota 57770
Clinical Director, Rosebud Service Unit, Rosebud Indian Hospital, Rosebud, South Dakota 57570
Clinical Director, Sisseton-Wahpeton Service Unit, Sisseton Indian Hospital, Sisseton, South Dakota 57262
Clinical Director, Standing Rock Service Unit, Fort Yates Indian Hospital, Fort Yates, North Dakota 58538
Clinical Director, Turtle Mountain Service Unit, Belcourt Indian Hospital, Belcourt, North Dakota 58316
Clinical Director, Omaha-Winnebago Service Unit, Winnebago Indian Hospital, Winnebago, Nebraska 68071
Clinical Director, Yankton-Wagner Service Unit, Wagner Indian Hospital, Wagner, South Dakota 57380
Clinical Director, Pierre Service Unit, Ft. Thompson Indian Health Center, Ft. Thompson, South Dakota 57339
Director, Bemidji Area Office, Indian Health Service, 203 Federal Building, Bemidji, Minnesota 56601
Clinical Director, Eastern Michigan Service Unit, Kincheloe Indian Health Center, Kincheloe, Minnesota 49788
Clinical Director, Leach Lake Service Unit, Cass Lake Indian Hospital, Cass Lake, Minnesota 56633
Clinical Director, Red Lake Service Unit, Red Lake Indian Hospital, Red Lake, Minnesota 56671
Clincial Director, White Earth Service Unit, White Earth Indian Health Center, White Earth, Minnesota 56591
Director, Alaska Native Health Service, 250 Gambell Street, Third and Gambell Street, Anchorage, Alaska 99501
Clinical Director, Anchorage Service Unit, PHS, Alaska Native Medical Center, P.O. Box 107741, Anchorage, Alaska 99510
Clinical Director, Barrow Service Unit, Barrow Alaska Native Hospital, Barrow, Alaska 99723
Clinical Director, Kotzebue Service Unit, Kotzebue Alaska Native Hospital, Kotzebue, Alaska 99752
Clinical Director Annette Island Service Unit, Metlakatla Alaska Native Health Center, Box 428, Metlakatla, Alaska 99926
Clinical Director, Yukon-Kuskokwim-Delta Service Unit, Yukon-Kuskokwim-Delta Regional Hospital, Indian Health Servcie, Bethel, Alaska 99559
Director, Albuquerque Area Indian Health Service, 505 Marquette NW Suite 1502, Albuquerque, New Mexico 87102–0097
Clinical Director, Albuquerque Service Unit, Albuquerque Indian Hospital, 801 Vassar Drive NE, Albuquerque, New Mexico 87106
Clinical Director, Mescalero Service Unit, Mescalero Indian Hospital, P.O. Box 210, Mescalero, New Mexico 88340
Clinical Director, Southern Colorado-Ute Service Unit, P.O. Box 778, Ignacio, Colorado 81137
Clinical Director, Zuni-Ramah Service Unit, Zuni Indian Hospital, Zuni, New Mexico 87327
Clinical Director, Acoma-Canoncito-Laguna Service Unit, Acoma-Canoncito-Laguna Indian Hospital, P.O. Box 130, San Fidel, New Mexico 87049
Director, Billings Area Indian Health Service, P.O. Box 2143, 711 Central Avenue, Billings, Montana 59103
Clinical Director, Blackfeet Service Unit, Browning Indian Hospital, Browning, Montana 59417
Clinical Director, Crow Service Unit, Crow Indian Hospital, Crow Agency, Montana 59022
Clinical Director, Flathead Service Unit, St. Ignatius Indian Health Center, St. Ignatius, Montana 59865
Clinical Director, Fort Belknap Service Unit, Harlem Indian Hospital, Harlem, Montana 59526
Clinical Director, Fort Peck Service Unit, Poplar Indian Health Center, Poplar, Montana 59255
Clinical Director, Wind River Service Unit, Fort Washakie Indian Health Center, Fort Washakie, Wyoming 82514
Clinical Director, North Cheyenne Service Unit, Lame Deer Indian Health Center, Lame Deer, Montana 59043
Clinical Director, Rocky Boy's Service Unit, Box Elder Indian Health Center, Box Elder, Montana 59521
Clinical Director, Navajo Area Indian Health Service, P.O. Box G, Window Rock, Arizona 86515–0190
Clinical Director, Chinle Service Unit, Chinle Indian Hospital, P.O. Drawer P.H., Chinle, Arizona 86503
Clinical Director, Crownpoint Service Unit, Crownpoint Indian Hospital, Crownpoint, New Mexico 87313
Clinical Director, Fort Defiance Service Unit, Fort Defiance Indian Hospital, Fort Defiance, Arizona 86504
Clinical Director, Gallup Service Unit, Gallup Indian Medical Center, P.O. Box 1337, Gallup, New Mexico 87301
Clinical Director, Kayenta Service Unit, Kayenta Indian Health Center, P.O. Box 368, Kayenta, Arizona 86033
Clinical Director, Shiprock Service Unit, Shiprock Indian Hospital, P.O. Box 160, Shiprock, New Mexico 87420
Clinical Director, Tuba City Service Unit, Tuba City Indian Hospital, Tuba City, Arizona 86045
Clinical Director, Winslow Service Unit, Winslow Indian Health Center, P.O. Drawer 40, Winslow, Arizona 86047
Director, Oklahoma City Area Indian Health Service, 215 Dean A. McGee Street NW., Oklahoma City, Oklahoma 73102–3477
Clinical Director, Ada Service Unit, Carl Albert Indian Hospital, 1001 North Country Club Drive, Ada, Oklahoma 74820
Clinical Director, Claremore Service Unit, Claremore Comprehensive Indian Health Facility, Claremore, Oklahoma 74017

Clinical Director, Clinton Service Unit, Clinton Indian Hospital, Route 4, Box 213, Clinton, Oklahoma 73601
Clinical Director, Kansas Service Unit, Holton Indian Health Center, 100 West 16th Street, Holton, Kansas 66436
Clinical Director, Lawton Service Unit, Lawton Indian Hospital, Lawton, Oklahoma 73501
Clinical Director, Pawnee Service Unit, Pawnee Indian Health Center, Rural Route 2, Box 1, Pawnee, Oklahoma 74058
Clinical Director, Shawnee Service Unit, Shawnee Indian Health Center, 2001 South Gordon Cooper Drive, Shawnee, Oklahoma 74801
Clinical Director, Tahlequah Service Unit, W.W. Hastings Indian Hospital, 100 S. Bliss, Tahlequah, Oklahoma 74464
Director, Phoenix Area Indian Health Service, 3738 N. 16th Street, Suite A, Phoenix, Arizona 85016–5981
Clinical Director, Colorado River Service Unit, Parker Indian Hospital, Route 1, P.O. Box 12, Parker, Arizona 85344
Clinical Director, Fort Yuma Service Unit, Fort Yuma Indian Hospital, P.O. Box 1368, Fort Yuma, Arizona 85364
Clinical Director, Keams Canyon Service Unit, Keams Canyon Indian Hospital, P.O. Box 98, Keams Canyon, Arizona 86034
Clinical Director, Owyhee Service Unit, Owyhee Indian Hospital, P.O. Box 212, Owyhee, Nevada 89832
Clinical Director, Phoenix Service Unit, Phoenix Indian Medical Center, 4212 North 16th St., Phoenix, Arizona 85016
Clinical Director, Sacaton Service Unit, Sacaton Indian Hospital, Sacaton, Arizona 85247
Clinical Director, San Carlos Service Unit, San Carlos Indian Hospital, San Carlos, Arizona 85550
Clinical Director, Schurz Service Unit, Schurz Indian Hospital, Schurz, Nevada 89427
Clinical Director, Unitah and Ouray Service Unit, Fort Duchesne Indian Health Center, P.O. Box 160, Roosevelt, Utah 84066
Clinical Director, Whiteriver Service Unit, Whiteriver Indian Hospital, Whiteriver, Arizona 85941
Director, Portland Area Indian Health Service, Room 476, Federal Building, 1220 Southwest Third Avenue, Portland, Oregon 97204–2892
Clinical Director, Coleville Service Unit, Coleville Indian Health Center, Nespelem, Washington 99155
Clinical Director, For Hall Service Unit, Fort Hall Indian Health Center, P.O. Box 317, Fort Hall, Idaho 83203
Clinical Director, Northern Idaho Service Unit, Northern Idaho Indian Health Center, P.O. Drawer 367, Lapawai, Idaho 83540
Clinical Director, Puget Sound Service Unit, Puget Sound Indian Health Station, 1212 South Judkins, Seattle, Washington 98144
Clinical Director, Yakima Service Unit, Yakima Indian Health Center, Route 1, Box 1104, Toppenish, Washington 98948
Clinical Director, Yellowhawk Service Unit, Yellowhawk Indian Health Center, P.O. Box 160, Pendleton, Oregon 97801
Clinical Director, Taholah Service Unit, Taholah Indian Health Center, P.O. Box 219, Taholah, Washington 98587
Clinical Director, Neah Bay Service Unit, Neah Bay Indian Health Center, P.O. Box 418, Neah Bay, Washington 98357
Clinical Director, Northwest Washington Service Unit, Lummi Indian Health Center, 2592 Kwina Road, Bellingham, Washington 98225
Clinical Director, Warm Springs Service Unit, Wellpinit Indian Health Center, P.O. Box 357, Wellpinit, Oregon 99040
Director, Tucson Area Office, Indian Health Service, 7900 S.J. Stock Road, Tucson, Arizona 85746–9352
Clinical Director, Sells Service Unit, Sells Indian Hospital, P.O. Box 548, Sells, Arizona 85634
Director, Nashville Area Office, Indian Health Service, Oak Towers Building, 1101 Kermit Drive, Suite 810, Nashville, Tennessee 37217–2191
Clinical Director, Cherokee Service Unit, Cherokee Indian Hospital, Cherokee, North Carolina 28719
Director, California Area Office, Indian Health Service, 2999 Fulton Avenue, Sacramento, California 95821.

[FR Doc. 88–25299 Filed 11–21–88; 8:45 am]
BILLING CODE 4160–16–M

Health Resources and Services Administration

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Department of Health and Human Services; Public Health Service (PHS); Health Resources and Services Administration (HRSA).

ACTION: Publication of minor changes to systems of record notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," HRSA is publishing minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION: HRSA has completed the annual review of its systems of records and is publishing below those minor changes which affect the public's right or need to know, such as system deletions, title changes, and changes in the system location of records, or the address of system managers.

1. HRSA has deleted the following systems during the year:

09–15–0019 Health and Medical Records Systems, HHS/HRSA/IHS;

09–15–0036 Indian Health Service Scholarship, HHS/HRSA/IHS.

On January 4, 1988, in accordance with the Reorganization Order of the Secretary (52 FR 47053–47056), the Indian Health Service was elevated from a Bureau in HRSA to the status of a PHS Agency. The above Privacy Act systems of records have been transferred to the Indian Health Service, which is assuming all responsibility for the records. Therefore, HRSA has deleted these systems from its inventory of active systems of records.

2. Other minor system notice changes affecting individual categories are published below.

Date: October 5, 1988.

James A. Walsh,

Associate Administrator for Operations and Management.

TABLE OF CONTENTS

The following table of contents lists all currently active Privacy Act systems of records maintained by the Health Resources and Services Administration:

09–15–0052 Nurse Practitioner and Midwifery Traineeships Program, HHS/HRSA/BHPr.

09–15–0001

SYSTEM NAME:

Division of Federal Occupational and Beneficiary Health Services, Health and Counseling Records, HHS/HRSA/BHCDA. Minor alterations have been made to this system notice. The following portion of the "Retention and Disposal" category should be revised to reflect the location of retired records:

* * * * *

RETENTION AND DISPOSAL:

National Personnel Records Center in St. Louis, Missouri.

* * * * *

09–15–0004

SYSTEM NAME:

Federal Employee Occupational Health Data System, HHS/HRSA/BHCDA. Minor alterations have been made to this system notice. The following categories should be revised in their entirety:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal employees served by PHS/Division of Federal Occupational and Beneficiary Health Services (DFOBHS) Service Units.

CATEGORIES OF RECORDS IN THE SYSTEM:

Occupational health record and service-derived data organized and presented for program operation purposes.

* * * * *

09–15–0007

SYSTEM NAME:

Patient Medical Record System PHS Hospital/Clinics, HHS/HRSA/BHCDA. Minor alterations have been made to this system notice. The following categories should be revised in their entirety:

* * * * *

RETENTION AND DISPOSAL:

Number of years held at Federal Records Center (see Appendix 2) before disposal—45 years for active duty uniformed service personnel, 20 years for all others. How destroyed: The disposal standard for these records may be obtained by writing the System Manager at the address below.

SYSTEM MANAGER(S) AND ADDRESS:

Director, PHS Health Data Center, Gillis W. Long Hansen's Disease Center, Carville, LA 70721.

NOTIFICATION PROCEDURE:

To determine the existence of a record, write to the facility where treatment was rendered if listed in Appendix 1B. (Note that the facility may now be operated under a different name by the successor organization.) If the facility is not listed, write to: Director, Public Health Service Data Center, Gillis W. Long Hansen's Disease Center, Carville, LA 70721.

* * * * *

09–15–0052

SYSTEM NAME:

Nurse Practitioner and Midwife Program, HHS/HRSA/BHPr. Minor alterations have been made to this system notice. The following categories should be revised in their entirety:

* * * * *

SYSTEM NAME:

Nurse Practitioner and Nurse Midwifery Traineeships Programs, HHS/HRSA/BHPr.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals selected to receive nurse practitioner and nurse midwifery traineeships by schools participating in the program.

* * * * *

[FR Doc. 88–24280 Filed 11–21–88; 8:45 am]
BILLING CODE 4160–15–M

Food and Drug Administration

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: FDA is publishing this document to meet the requirements of the Office of Management and Budget (OMB) Circular No. A–130, "Management of Federal Information Resources," Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," which limits republication to revised system notices only.

SUMMARY: FDA has reviewed each of its system notices and has revised some this year to enhance specificity and clarify the effects of reorganization. These revisions are minor and have no affect on the public's need-to-know; therefore, FDA is not republishing any of its system notices at this time, but is republishing the table of contents of all current systems of records. FDA's system notices were published in their entirety November 24, 1986, 51 FR 42524–42538. A copy of FDA's system notices is available from the FDA Privacy Act Coordinator, HFI–30, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

SUPPLEMENTARY INFORMATION:

A. General Information

1. The routine uses set forth in each notice describe permissible disclosures outside the Department of records in that system which may be made without the consent of individuals who are the subjects of those records. Additional disclosures without consent of subject individuals are permitted by the Privacy Act in Section 3(b) as follows:

"(1) To those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

"(2) Required under section 552 of this title [the Freedom of Information Act];

"(3) For a routine use as [described in the routine use section of each specific system notice];

"(4) To the Bureau of Census for purposes of planning or carrying out census or survey or related activity pursuant to the provisions of Title 13;

"(5) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

"(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation of the Administrator of General Services or his designee to determine whether the record has such value;

"(7) To another agency or to an instrumentality of any government jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

"(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if, upon such disclosure

notification is transmitted to the last known address of such individual;

"(9) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

"(10) To the Comptroller General, or any of his authorized representatives in the course of the performance of the duties of the General Accounting Office;

"(11) Pursuant to the order of a court of competent jurisdiction; or

"(12) To a consumer reporting agency in accordance with section 3(d) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952(d))." (This "Special Disclosure" statement does not apply to any FDA systems of records.)

Table of Contents

Dated: October 27, 1988.

Jack W. Martin,

Associate Commissioner for Public Affairs.

[FR Doc. 88–26835 Filed 11–21–88; 8:45 am]

BILLING CODE 4160–01–M

federal register

Tuesday
November, 22, 1988

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 135 and 145
Foreign Repair Station Rules; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 135 and 145

[Docket No. 25454; Amdt. Nos. 135-29 and 145-21]
RIN 2120-AC50

Foreign Repair Station Rules

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to revise the regulations to accommodate the increasing demand for maintenance and alteration of U.S.-registered aircraft operated worldwide. These amendments modify the requirements for U.S. certification of a foreign repair station. In addition, a foreign or domestic manufacturer of a product for which it holds a U.S. type certificate and that is certificated by the FAA as a repair station will be allowed to return to service a component maintained or altered by a noncertificated source, subject to specified conditions. Lastly, to be consistent with the air carrier operating rules, the air taxi/commercial operator rules are amended to permit the airworthiness release to be signed by a person authorized by a U.S.-certificated foreign repair station. This action is part of a general project underway to review and update all Federal Aviation Regulations (FAR) governing repair stations.

EFFECTIVE DATE: December 22, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Leo Weston, Aircraft Maintenance Division (AFS-340), Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-8203.

SUPPLEMENTARY INFORMATION:

Background

Subpart C, Part 145 of the FAR, Foreign Repair Stations, has its origin in Civil Air Regulations (CAR) Part 52 by an amendment adopted in 1949 as § 52.38 (14 FR 623; February 11, 1949). The purpose of the amendment was to provide for the issuance of foreign repair station certificates for facilities located outside the United States where the Administrator found that "* * * such agencies are needed for the maintenance, alteration, and repair of United States aircraft operated outside the United States."

The lack of repair agencies authorized to perform work on U.S.-registered aircraft in certain areas outside the United States at that time resulted in considerable inconvenience to aircraft owners, pilots, and operators conducting international flight operations. It was recognized that certification of foreign agencies, even those not staffed with holders of U.S. airman certificates, would expedite the maintenance, repair, and return to service of U.S. aircraft in those areas where certificated repair stations were not available. Consistent with the concept that the maintenance was to be performed on U.S.-registered aircraft in areas outside the United States, the scope of a certificated foreign repair station's authority provided for in § 52.38 was limited to "performance of work on aircraft which are used in operations conducted in whole or in part outside the United States * * *."

CAR Part 52 was revised in 1952 (17 FR 2981; April 5, 1952) with § 52.38 becoming § 52.50. When the Civil Air Regulations were recodified in 1962, CAR Part 52 became FAR Part 145, and CAR section 52.50 became FAR sections 145.71 and 145.73 (27 FR 6662; July 13, 1962).

On July 1, 1986, the FAA prepared two draft internal action notices which were later revised on October 3, 1986. The first addressed foreign repair station privileges and responsibilities under Part 145 and the eligibility of replacement parts for return to service on U.S.-registered aircraft. The second draft action notice addressed air carrier privileges and responsibilities under Parts 121 and 135 when using noncertificated sources for parts. The draft action notices did not represent new FAA policy.

Although it is not regular or required practice for the FAA to solicit comments on internal guidance material, such as action notices, the original notices were broadly circulated to be consistent with the FAA's practice of seeking constructive input and promoting international cooperation. The FAA received comments from 34 different entities, including several foreign civil aviation authorities. Several of the commenters were of the opinion that existing rules and practices required substantive change, and that, to be in accordance with the Administrative Procedure Act, a rulemaking proceeding was appropriate.

In addition, the FAA received petitions from the Air Transport Association of America (ATA) (Docket No. 25169) and the Regional Airline Association (RAA) (Docket Nos. 25162 and 25163). These petitions request changes to the FAR to clarify the rules and expand the availability of foreign repair stations and foreign aircraft manufacturers for the maintenance and alteration of U.S.-registered aircraft and components, whether or not such aircraft are used wholly or partly outside the United States. Related parts of these petitions have been considered in the preparation of this rule and are considered a part hereof. Issues in the petitions not within the scope of the Notice will be acted upon separately.

The civil aviation environment has changed significantly since the foreign repair station regulations were first adopted in 1949. More foreign-manufactured aircraft are being flown by U.S. operators, and the need for increased maintenance capability for U.S.-registered aircraft from both foreign manufacturers and U.S.-certificated foreign repair stations has dramatically increased in the past 39 years. This need is reflected by exemptions that have been granted in recent years related to maintenance and alterations performed by foreign repair stations. Exemptions to §§ 145.71 and 145.73 have authorized certain U.S.-certificated foreign repair stations to perform work on foreign-manufactured products to be used on U.S.-registered aircraft that may not be operated outside the United States. Over 100 exemptions from the operating rules have also been issued to air carriers to permit them to use other than U.S.-certificated airmen (i.e., to use foreign manufacturers and foreign U.S.-certificated repair stations) to repair and return to service U.S.-registered aircraft and components under the provisions of the air carrier operating rules.

Many U.S. air carriers currently use foreign-manufactured aircraft and other aeronautical products. This use is partly a result of multinational consortiums and cooperative agreements to manufacture and market domestic and foreign products between U.S. and foreign manufacturers. In recent years, the type and number of aircraft and aircraft parts manufactured in foreign countries and used by U.S. operators in the United States have increased rapidly.

Many U.S. air carriers use foreign-manufactured aircraft and products as the prime elements of their fleets. United States commuter airlines are heavily dependent upon foreign-manufactured aircraft. Due to the unavailability of modern U.S.-manufactured passenger aircraft in the 20-50 seat range, almost all of the aircraft with passenger capacities exceeding 19 seats used by U.S. commuter airlines are foreign manufactured. Larger foreign-manufactured aircraft, such as the Airbus, as well as foreign-manufactured engines, are being used increasingly by U.S. air carriers.

In addition, many U.S. aircraft manufacturers rely on foreign subcontractors for many component parts of their aircraft. Under current regulatory limitations, however, foreign manufacturers (with or without a U.S. foreign repair station certificate) have been unable in many situations to repair their products, even to the extent that warranty work has been curtailed.

United States operators have expressed a need for expanded access to U.S.-certificated foreign repair stations for maintenance, alteration, and preventive maintenance of their aircraft, aircraft engines, propellers, appliances, and component parts because of the increased worldwide demand for maintenance and the increasing amount of foreign-manufactured equipment being used by U.S. operators. This expanded access can be accomplished by changes to Subpart C, Part 145, that would modify the restrictions on who may apply for U.S. certification as a foreign repair station and the limitations on work that such a repair station can perform.

Accordingly, on November 24, 1987, the FAA issued Notice of Proposed Rulemaking (NPRM) No. 87–12 (52 FR 45124; November 24, 1987). The notice proposed to amend Part 145 for certificating foreign repair stations by modifying the requirements for determination of need before a foreign repair station may be considered for U.S. certification. The notice also proposed modifying the limitation on the scope of work that a foreign repair station may perform on U.S.-registered aircraft and on aircraft engines, propellers, appliances, and component parts for use on U.S.-registered aircraft. Subject to specified conditions, the notice provided that a repair station that is also a U.S. type certificate holder may use a noncertificated facility for maintenance. The notice also proposed amending Part 135 to permit the airworthiness release to be signed by a person authorized by a U.S.-certificated foreign repair station. Comments on the notice were requested from the public to be received on or before January 25, 1988.

Subsequent to the opening of the docket on this notice, on December 21, 1987, Congress, in Amendment No. 45 to the Conference Report on the Continuing Resolution H.J. Res. 395 making continuing appropriations for the fiscal year 1988, stated that the proposed rulemaking on foreign repair stations raised significant policy, economic, and safety issues that should be carefully reviewed by the appropriate authorizing committees, and that the FAA should defer final action on the notice of proposed rulemaking until October 1, 1988. (133 Cong. Rec. H12799 daily ed. Dec. 21, 1987).

The FAA received 3,894 comments on this notice. These comments have been reviewed and considered by the FAA in the promulgation of this rule. Of the 3,894 comments reviewed, 3,808 oppose NPRM No. 87–12 and 79 commenters are in support. No comments specifically oppose the proposed amendment to Part 135 to permit the airworthiness release to be signed by a person authorized by a U.S.-certificated foreign repair station, and this amendment is adopted herein as proposed. Seven commenters did not express a position on the notice.

Of the 3,894 comments received and reviewed by FAA, 1,116 comments regarding foreign repair stations were received by the FAA prior to the issuance of the notice in the **Federal Register** on November 24, 1987. The 1,116 pre-docket comments have been reviewed and generally oppose the substance of the notice and parallel the comments received in opposition to the notice after the docket opened.

A considerable number of comments on the notice were received after the docket was closed. As of May 16, 1988, all of these late comments were reviewed to ensure that all of the issues raised by those comments have been addressed in this rulemaking.

Of the comments opposing the notice, most of the commenters are either individual mechanics employed, or persons who have family members employed, by a domestic repair station or airline. The labor unions representing mechanics, the Air Line Pilots Association (ALPA) and the Association of Flight Attendants (AFA), unanimously oppose the proposal. Other union groups and organizations, such as the American National Association of Letter Carriers, the Moving Picture Machine Operators, the United Food and Commercial Workers, and the Aeronautical Repair Station Association (ARSA) also oppose the Notice. American Airlines opposes the proposal as it applies to all foreign repair stations, but supports expanding the scope of the present regulations to permit foreign manufacturers to support their own products.

The Office of the Secretary of State for the State of Oklahoma forwarded a Resolution, adopted by the House of Representatives of the Second Session of the 41st Oklahoma Legislature, requesting the FAA to withdraw the proposed rule. By House Resolution No. 139, on February 24, 1988, the House of Representatives of the Eighty-fourth General Assembly, Second Regular Session, of the State of Missouri resolved that the Missouri House of Representatives encourage each member of the Missouri Congressional Delegation to contact the United States Department of Transportation and any other appropriate Federal Agency regarding the potential impact on Missouri's economy with any expansion of maintenance authority granted under Part 145 and that the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly transcribed copies of the resolution for the Governor of Missouri, the Missouri Department of Economic Development and for each member of the Missouri Congressional Delegation for their information and possible action. The Attorney General for the State of Minnesota urged the withdrawal of the proposed relaxation of the FAA's rules regarding the use of foreign repair stations.

Of the 79 comments received by FAA on NPRM No. 87–12 supporting the proposals contained therein, the majority of the comments are from corporate or foreign government entities. Seven foreign civil aviation authorities support the notice, as do several foreign airlines, foreign manufacturers, and foreign repair stations, as well as their representative associations. Several U.S. airlines support the notice, as do their associations. Several U.S. manufacturers and associations support the proposal, including Pratt & Whitney, General Electric, Fokker Aircraft of USA, Incorporated, MBB of America, Inc., Aerospace Industries Association (AIA), and General Aviation Manufacturers Association (GAMA).

Discussion of Comments

The comments on this notice received by the FAA address 15 separate issues. These are discussed below.

Use of a Noncertificated Facility Subject to Specified Conditions

A number of commenters express concern and some misunderstanding with the proposed amendment to § 145.47 by adding a new paragraph (§ 145.47(c)). The new paragraph would permit a domestic or foreign manufacturer holding a U.S. type certificate and a U.S. repair station certificate to have maintenance and alteration work performed on certain components by a noncertificated source under certain specified conditions.

In proposing the change to § 145.47, it was the FAA's intent to permit a type certificate holder holding the U.S. type certificate for a product it manufactures

or manufactured to contract for maintenance and alterations of a component of that product with a noncertificated original component manufacturer (or licensee), provided such type certificate holder is also a U.S.-certificated repair station. This change would permit the original component manufacturer (or licensee) to perform maintenance on or alteration of a component of the original type certificated product it manufactures for the type certificate holder.

The type certificated product (i.e., aircraft, aircraft engine, propeller, or appliance) has been determined by the FAA to be of proper design, material, specification, construction, and performance for safe operations, and to have met minimum FAA standards, rules, and regulations. Permitting the type certificate holder, that is also a U.S.-certificated repair station, to maintain the component or to contract for its maintenance or alteration, will permit that foreign or domestic type certificate holder to support its product (including warranty work), regardless of where the component was manufactured. To use a noncertificated facility for maintenance, a type certificate holder must not only hold the type certificate for the product, including components thereof, but must also be a functioning U.S.-certificated repair station. Under all circumstances, the type certificate holder's repair station must be under its control. Further, the noncertificated subcontractor must have produced the original component under the type certificate.

Before a noncertificated source (original component manufacturer or licensee) may be used by the type certificate holder to repair the component, the type certificate holder must show the FAA that the original component manufacturer or its licensee has all of the necessary data, facilities, materials, and qualified personnel to accomplish the work. In addition, the component would be returned to service by the type certificate holder in accordance with a quality control system for maintenance that (1) Recognizes the credit given to the quality control system that the manufacturer has in place for the type certificated product as well as the necessary differences between the manufacturing and maintenance processes; (2) is approved by the FAA; and (3) is included in the operations specifications and inspection procedures manual of the type certificate holder's repair station.

The type certificate holder, that is also a certificated repair station, is responsible for the airworthiness of the repaired component: (1) By ensuring that the maintenance quality control system established for the component was followed in accordance with the procedures in its repair station's inspection procedures manual; and (2) by ensuring that the maintenance or repair of the component was properly documented. This procedure for using noncertificated sources is different from that permitted under current rules (§ 145.47(b)), though under both § 145.47(b) and the new § 145.47(c) the repair station must have the system capability to determine the airworthiness of certain articles or processes. The difference between the two paragraphs is that the quality control system and procedures of the type certificate holder to control a newly manufactured component from the component manufacturer can be modified by the type certificate holder's repair station to a quality control system for maintenance. After a component is repaired by the component manufacturer, the component will go through the type certificate holder's repair station maintenance quality control system. The type certificate holder's repair station will inspect such a component in accordance with its inspection procedures manual to ensure that, before the component is placed in stock for use in an aircraft or part thereof, it is in a good state of preservation and is free from apparent defects or malfunctions.

Under the existing rules (§ 145.47(b)), a repair station, if authorized by the FAA, can only contract those functions asterisked in Appendix A to Part 145. The amendment to § 145.47(c) will permit the type certificate holder to contract for the repair of a component under its repair station certificate using the quality control system inspection as set forth in its inspection procedures manual. Under this amendment, any maintenance functions that are included in the inspection procedures manual of the type certificate holder's repair station may be accomplished under the quality control system approved for the repair station.

In proposing this concept, the FAA recognized the process established and approved for type certification and manufacture of new products, and established a parallel system to include maintenance requirements for a product and to provide an additional means for a repair station to contract out certain components to a noncertificated facility for maintenance. This process is intended to ensure that the repaired component, like the original manufactured component, is airworthy and meets all requirements for installation on the type certificated product. This process also recognizes that the original component manufacturer is a viable source for engineering data, technical expertise, and service information. In addition, the repair of the component would be accomplished under the auspices of a U.S.-certificated repair station (the type certificate holder), which has met the requirements under Part 145 for such a facility, and is inspected and approved by the FAA.

Twenty-seven commenters supporting the notice recommend that the FAA permit a non-type certificated original component manufacturer to carry out maintenance and repair on its products as a "noncertificated source" under very broad conditions. The commenters recommend that the noncertificated component manufacturer be permitted to approve a product's return to service without quality verification by a type certificate holder and have the authority for direct shipment of parts. Commenters also recommend that the United States accept direct shipment from the component manufacturer if the manufacturer is approved and authorized to maintain the product by a national (foreign) airworthiness authority.

These recommendations are beyond the intent and purpose of rulemaking as contained in the notice and will not be considered. However, with respect to the authority contained in the new § 145.47(c), when the FAA certificates a foreign manufacturer (that is a holder of a U.S. type certificate) as a foreign repair station, any relevant approvals given by foreign airworthiness authorities will continue to be considered. If the noncertificated component manufacturer desires to direct ship a repaired component to a user, bypassing the type certificate holder, this amendment provides for a component manufacturer to become a U.S.-certificated repair station with an appropriate rating and, thus, be accorded such privileges.

Other commenters contend that by adding a new paragraph to § 145.47 as proposed, a conflict would arise with the existing § 145.47(b) in that the proposal would limit the use of outside vendors to essentially the original equipment manufacturers and their subcontractors. The commenters also point out that the proposed new paragraph to be added to § 145.47 is in conflict with § 145.1(c), which specifies that regulations regarding maintenance performed by manufacturers are

covered under Part 145, Subpart D, and that §§ 145.11 through 145.79 do not apply to manufacturers. Accordingly, the commenters contend that any rules intended to apply to manufacturers should be addressed only in Subpart D, rather than in Subpart B, as proposed.

The FAA sees no conflict in § 145.47 between existing paragraph (b) and the paragraph proposed for inclusion in that section as new paragraph (c). Furthermore, a manufacturer with a limited rating under Part 145, Subpart D, cannot contract for repair of a component to a noncertificated facility and must perform its maintenance and preventive maintenance operations in accordance with Part 43. Presently, § 145.47(b) provides that a repair station, after obtaining approval from the FAA, may contract certain limited functions of repair to another facility without having, in house, the required equipment and materials for the function. Those job functions that can be so contracted to an outside agency are set forth in Appendix A to Part 145. In such an arrangement, the repair station must determine the airworthiness of the article involved before it is returned to service, unless the contractor is an appropriately rated repair station, in which case the part would be returned to service in accordance with the procedures as authorized in the repair station's inspection procedures manual. To determine the airworthiness of the article involved, the repair station must not only be appropriately rated to perform the contracted function, but must have the appropriate data, qualified personnel, and inspection capabilities to ensure the airworthiness of the article involved.

The new paragraph (§ 145.47(c)) would permit a type certificate holder that is a certificated repair station to subcontract any repair of a component of a type certificated product to the noncertificated component manufacturer. Such a type certificate holder would be responsible for the airworthiness of the article involved, as required in current § 145.47(b). However, as long as the component is returned to service in accordance with the FAA-approved quality control system of the type certificate holder's repair station, the airworthiness of the article involved is effectively ensured. This process and the scope of permitted maintenance are the basic differences between existing § 145.47(b) and new § 145.47(c).

The FAA also disagrees that the amendment to § 145.47 is in conflict with § 145.1(c). Section 145.1(c) provides that a manufacturer may obtain a repair station certificate with a limited rating issued under Subpart D of Part 145 to exercise the privileges of that rating as a "manufacturer's maintenance facility" (MMF) without having to meet the basic requirements for a repair station as set forth in Subpart B of Part 145. The amendment, however, requires the type certificate holder to obtain a rating as a repair station and to meet all of the requirements for a certificated repair station as set forth in Subpart B or C of Part 145.

A commenter also recommends that the proposal to add a new paragraph (c) to § 145.47 be withdrawn and that the FAA amend § 43.3(i) relating to persons authorized to perform maintenance, preventive maintenance, rebuilding, and alterations. The commenter recommends that the word "maintain" be added to that paragraph to allow a manufacturer holding a type certificate and its subcontractors to perform maintenance, in addition to rebuilding and alterations.

The FAA disagrees with this recommendation. Such an amendment would not establish a parallel maintenance quality control system—as would be accomplished by adding a new paragraph to § 145.47—but would permit a manufacturer's maintenance facility to perform maintenance on a component without showing maintenance capabilities required under Subpart B of Part 145. Further, as foreign manufacturers do not hold production approvals, this suggestion would exclude such foreign manufacturers.

Several commenters express the concern that, as proposed, § 145.47(c) would require a component manufacturer's noncertificated facility that repairs a component for a type certificate holder to send the repaired component part "through" the type certificate holder for quality verification. The commenters point out that such a physical transfer of the repaired component back to the type certificate holder's repair station would be pointless, cause delay, and increase expense. The commenters further maintain that only the manufacturers of the component have the specialized test equipment for a full specification check.

The FAA disagrees that it would be unnecessarily burdensome for components repaired by a noncertificated contractor, as defined in new § 145.47(c), to be routed physically through the type certificate holder's repair station facility. This inspection is essential if such a component manufacturer remains noncertificated. If the component manufacturer were certificated by the United States as a repair station, the requirement to route the component through the type certificate holder would not be necessary, or even appropriate assuming the component manufacturer is properly rated, and the component manufacturer could direct ship a repaired component. Important safety objectives can only be satisfied if the individual components are returned to service by a certificated repair station in accordance with the quality control system of the type certificate holder's repair station, as approved by the Administrator and set forth in the operations specifications and inspection procedures manual of the type certificate holder's repair station. The FAA, in adopting the concept as proposed in § 145.47 for a new paragraph (c), has clarified this intent in the wording of the final rule.

Other commenters referring to the proposed new paragraph, § 145.47(c)(1), express concern that there may be a potential ambiguity concerning whether or not the type certificate holder can use the privileges granted by this section if the product is no longer in production. They also suggest that § 145.47(c)(1) be changed to "the product" as opposed to "a product."

The FAA agrees with both of these suggestions and in § 145.47(c)(1), as adopted, has eliminated any question as to whether or not a certificate holder that still holds the type certificate for the product can use the privilege granted if the product is no longer in production.

Other commenters express concern that the new authority in § 145.47(c) for holders of repair station certificates, that are also holders of U.S. type certificates, might affect the current authority of all Subpart B and Subpart C repair stations to contract with noncertificated agencies as currently set forth in Appendix A to Part 145.

As stated above, it is the FAA's intent that the authority in new paragraph § 145.47(c) is in addition to the existing contracting authority in § 145.47(b), and § 145.47(b) authority is not affected by this amendment.

A commenter questions whether or not the proposed amendment to § 145.47 benefiting original equipment manufacturers is justified. In the commenter's opinion, the proposed change to § 145.47 would extend the ability to use noncertificated sources beyond warranty work revisions without an apparent safety justification. The commenter contends that the proposed amendment may be based on an FAA assumption that the manufacturing process and the repair process involve basically the same engineering concepts, whereas the manufacturing process and the repair process utilize different analyses.

The FAA agrees that the processes of manufacturing a single product line and of repairing the product do not necessarily involve the same knowledge or perspective. A manufacturer's quality control system and a maintenance quality control system may not be the same, but similarities between these two processes do exist and can be recognized. The amendment takes advantage of the process already established and approved for type certification and manufacture of new products and establishes a parallel maintenance concept. This maintenance process for the repair station of the type certificate holder would explicitly be set forth in its repair station's operations specifications and inspection procedures manual as approved by the Administrator. A component of the type certificated product repaired by the component manufacturer would only be returned to service if the type certificate holder's repair station ensures that the component has been returned to service in accordance with the repair station's maintenance procedures and approved quality control system.

Concern is also expressed that the proposal to add a new paragraph (c) to § 145.47 would permit and encourage a "paper transaction" between the type certificate holder and an associated repair station to create a minimal corporate relationship with a type certificate holder. Under the proposal, the work done by the repair station of the manufacturer type certificate holder would be under the quality control system of the type certificate holder. This will be covered in each repair station's operations specifications and inspections procedures manual for each type certificate holder's repair station that undertakes to exercise the authority under new § 145.47(c).

Commenters contend that there is no assurance that the noncertificated licensee of a noncertificated component manufacturer would have any repair competence, as no requirements are set forth that the licensee establish any corporate relationship or have any repair insight into the component manufacturer's design concept.

The FAA's intent is to permit a licensee of a component manufacturer that actually manufactures the component to also do repair work, if that licensee is approved in the same manner as the original component manufacturer in accordance with the FAA-approved operations specifications and inspection procedures manual of the type certificate holder's repair station.

The proposal for amendment of § 145.47 as contained in the notice has been modified in accordance with the discussion above.

"Need" for Foreign Repair Stations

Those commenters opposing modification of the foreign repair station rules in Part 145, Subpart C, would retain the existing wording in § 145.71 that a foreign repair station certificate would be issued only if the Administrator finds that the station is necessary for maintaining or altering U.S.-registered aircraft outside of the United States. The notice proposed deletion of the restriction that such U.S. aircraft be "outside of the United States." Of those commenters supporting the Notice in general, the majority favored deleting this restriction. The commenters point out that the current regulation is a very restrictive approach to foreign maintenance and repairs and is based on factors increasingly out of touch with the international character of modern aviation. They emphasize that the current regulation, which was written for an aircraft fleet that was all U.S. manufactured and only occasionally operated overseas, is inappropriate in today's multinational aviation markets and industries.

Twenty-one commenters supporting the notice recommend that the required statement of need be eliminated from § 145.71 or, if retained, the word "necessary" be defined more precisely. These commenters suggest that the "need" clause would lend itself to an interpretation whereby the FAA, on grounds unrelated to safety, could determine which repair stations could be used by U.S.-registered aircraft owners. As pointed out in the notice, the FAA does not intend to implement the "need" clause in such an inappropriate manner.

In developing the proposals contained in the notice, the FAA desired to retain a requirement for need when certifying foreign repair stations. The FAA has stated that U.S. foreign repair station certification should not be used in a manner that has no relationship to the support of U.S.-registered aircraft or U.S. operators. Further, it is necessary to retain a provision which requires a showing of need to avoid situations that could develop where certification is requested where no reasonable need to support U.S.-registered aircraft could be expected to develop. This provision will ensure that foreign repair stations that would not support U.S.-registered aircraft would not burden U.S. resources for FAA certification or recertification. As to the recommendation to explain the word "necessary" in a more precise manner, the use of this word in existing § 145.71 has not led to the difficulties in administration of the regulation that some commenters suggest. The word "necessary" as retained in § 145.71 will not be used to deny the issuance of foreign repair station certificates to otherwise qualified applicants provided such stations will work on U.S.-registered aircraft.

Scope of Work of Foreign Repair Stations

Those commenters opposing modification of the foreign repair station rules in Part 145, Subpart C, would retain the existing wording in § 145.73 that a foreign repair station can work on U.S.-registered aircraft and on aircraft engines, propellers, appliances, and component parts for use on U.S.-registered aircraft only if such aircraft are used in operations conducted wholly or partly outside of the United States. The notice proposed deleting this geographical restriction. All commenters supporting the notice agree with this deletion. These commenters contend that the geographic limitation in the scope of work of authorized foreign repair stations in today's environment creates an unrealistic regulatory situation. For example, if a foreign repair station performed identical maintenance on the identical components of two identical aircraft of a U.S. air carrier, one aircraft of which operated outside of the United States and the other operated solely domestically, a literal interpretation of existing § 145.73 would result in a determination that the aircraft operating internationally was legally maintained while the aircraft operating domestically was not. The FAA recognized this anomaly in the notice by pointing out that if properly qualified and certificated by the FAA, a foreign repair station operating in accordance with FAA requirements and surveillance can provide proper and safe maintenance and alteration of U.S.-registered aircraft and their components. This capability does not depend on the aircraft's physical location at the time maintenance or alteration is required and accomplished. The amended rule deletes this geographical restriction.

Return of Warranted Parts to the Type Certificate Holder

RAA and several U.S. commuter air carriers commenting in support of the notice emphasize the necessity that such operators be given the flexibility to return warranted aircraft components or unusually troublesome components back to the manufacturer, that holds the type

certificate, for maintenance. RAA indicates that the commuter industry in the United States currently operates approximately 780 foreign-built aircraft representing about 41 percent of the total estimated commuter aircraft in operation in 1987. Of the 18 most commonly flown types of passenger aircraft in regional airline service in 1987, 12 were foreign manufactured. Those foreign aircraft together constituted over 65 percent of the total seating capacity of the regional passenger industry in 1987.

Several commuter/regional airlines state that the proposed amendments in the notice would greatly facilitate maintenance support of their foreign-build aircraft by providing more flexibility through increased resources by permitting operators to reduce inventories of high-value replacement components. They also point out that certificated repair stations in the United States have long had the opportunity to acquire the tooling, equipment, and training to support foreign-manufactured aircraft system components and have largely failed to do so.

One operator states that it has been operating the German Dornier DO–228 aircraft for over 3 years, and during this time has been directly involved in an attempt to broaden the scope of domestic capabilities for the maintenance of foreign-built components on its aircraft. This commenter contends that due to the small Dornier fleet size in the United States, there has been resistence by domestic repair stations to purchase the necessary test equipment, special tools, repair parts, inventory, and documentation from the respective foreign manufacturer.

Commenters opposing the notice disagree with the views of the commuter/regional airline industry on this issue. These commenters question the role and place of commuter/regional airlines in the airline industry as a whole, and suggest that the views of these airlines be discounted. The commuter/regional airlines are those carriers that provide regularly scheduled passenger and/or cargo service with aircraft seating less than 60 passengers and cargo payload capacity of 18,000 pounds or less. These airlines operate pursuant to schedules published in widely used airline schedule guides. The commuter/regional airline industry has shown dramatic growth during the years since the Airline Deregulation Act of 1978 and has been recognized as representing a distinct class of air carriers. Today, these airlines are an integral part of the nation's air transporation system.

Because the Airline Deregulation Act of 1978 (and subsequent Civil Aeronautics Board action) permitted communter/regional airlines to operate aircraft with up to 60 seats and a payload capacity of up to 18,000 pounds, these carriers were able to operate more efficiently. This development, which allowed carriers to match the most economical airplanes to their market requirements, spurred a worldwide revolution in new aircraft development. Today, a series of new generation light transport aircraft, most of them foreign manufactured, are being put into service by the commuter/regional airlines. According to RAA, in 1986 the 179 commuter/regional airlines carried 28.4 million passengers and the average number of passengers per airline enplaned in 1986 was 158,400. RAA states that regional airline industry revenue passenger miles grew to 4.47 million in 1986.

The FAA recognizes this need as expressed by the regional airline industry and others for operators to be able to return warranted parts to a type certificate holder for maintenance, not only by the adoption of the rules relating to Part 145 regarding foreign repair stations, but by the amendment to § 135.443 as well.

Impact on Air Safety

Two thousand and seventeen commenters express concern with an anticipated negative impact of the proposal on air safety. Several state that they had firsthand experience with poor quality work performed overseas. Some specifics relating to safety include the lack of quality control in foreign shops, work permitted to be done by unqualified people, and the lack of tools and facilities necessary to maintain aircraft effectively. Many commenters express an opinion that the standards of foreign repair stations are considerably and routinely lower than the standards of U.S. domestic repair stations. The overriding concern expressed by such commenters is that work is being done in foreign repair stations by non-U.S.-licensed mechanics. Many commenters are concerned about work being done and approved by noncertificated supervisory and inspection personnel as well. Because of these points, the commenters conclude that a rash of "bogus parts" would appear, and unauthorized replacement parts for use on U.S.–registered aircraft would result from the change under the proposal.

These commenters also contend that air safety would be compromised, because translation difficulties are currently being encountered when maintenance records are obtained on aircraft and components repaired and operated outside of the United States. In particular, the commenters point to difficulty in obtaining adequate translations of repair records since "some languages do not have technical terms which can be translated into English." These commenters conclude that changing the foreign repair station regulations without a uniform language requirement for maintenance records would increase the likelihood of inadequate records and compromise the FAA's ability to regulate and enforce its own requirements. They also state that the Notice should be withdrawn, because the proposals in the Notice do not include assurances that the quality of aircraft maintenance performed by foreign repair stations is equal to that performed by domestic repair stations.

No substantive information or examples were submitted by these commenters in support of their allegations that if the proposed changes were adopted there would be a negative impact on air safety.

The FAA has stated that if the proposals in the Notice are adopted, an equivalent level of air safety will be retained. The FAA has concluded that these changes will not derogate safety. Foreign repair stations, which have been found properly qualified and certificated by the FAA and have been operating in accordance with FAA requirements and surveillance, have been providing safe and proper maintenance and alteration on U.S.-registered aircraft and their components for almost 40 years. No substantial evidence to the contrary has been presented by any commenter. The FAA intends that this safe maintenance will continue and that safety will not be adversely affected by the adoption of this rule. Each foreign repair station must prove to the FAA that it fully complies with all of the requirements to be an authorized U.S.-certificated repair station before the FAA will issue it a certificate to work on U.S.-registered aircraft. These requirements are similar to U.S. domestic repair stations except that foreign repair stations do not require U.S.-certificated airmen in inspection and supervisory positions. However, the FAA does review the qualifications of these airmen, even if they are certificated by the country in which the station is located, to ensure that they are able to perform, supervise, and inspect the work for which the repair station is rated. The foreign repair station or rating must be renewed every 12 or 24 months in accordance with § 145.17. If at any time the repair station

fails to comply with the FAA requirements, its certificate can be suspended and/or revoked as has been the case in the past. The FAA has the power of emergency suspension if the situation warrants.

When the Administrator issues a foreign repair station certificate, a finding is made that the holder is competent to perform safely the repairs for which it is rated. Prior to the issuance of such a certificate, a representative of the Administrator reviews the detailed application which is required to be submitted, analyzes the station's proposed inspection procedures and quality control system, examines the physical facilities of the repair station, scrutinizes the organization and the personnel who are to perform these functions, and assesses the outside sources that the station intends to utilize. Only after this safety review does FAA consider issuance of a foreign repair station certificate.

Thus, the certification process for a foreign repair station is substantially the same as the process the FAA uses for domestic repair facilities and involves the same standards. If a foreign repair station has been found to be competent to repair a U.S.-registered aircraft operating wholly or partly outside of the United States, as permitted under the current rules, then it should be equally competent to make those same repairs for aircraft operating within the United States. When found properly qualified and certificated by the FAA, a foreign repair station, in accordance with FAA requirements and surveillance, can provide proper and safe maintenance and alteration on U.S.—registered aircraft and their components. This amendment does not change that fact.

Under current regulations for domestic repair stations, only an individual in a supervisory or inspection category need be certificated as an airman; consequently, a person performing routine maintenance need not be an FAA-certificated airman. However, as to supervisory and inspection personnel, both the Civil Aeronautics Act of 1938 and its successor, the Federal Aviation Act of 1958, as amended, specifically provide that individuals employed outside the United States in charge of the inspection, maintenance, overhaul, or repair of aircraft, aircraft engines, propellers, or appliances may, to the extent that the Administrator may provide, be excepted from the requirement to hold an appropriate U.S. airman certificate. This statutory mandate was recognized in the adoption of the foreign repair station regulations in 1949. This exception, authorized by Congress, is being carried out by the FAA.

As to the contention that inadequate maintenance records are obtained from foreign repair stations because some languages do not have technical terms which can be translated into English, the *Lexicon of Terms Used in Connection with International Civil Aviation* of the International Civil Aviation Organization (ICAO) provides for uniform use of such technical terms. Also, the ICAO Standards and Recommended Practices require adequate recordkeeping, regardless of the language.

In a letter to the FAA, the National Safety Council (NSC) recommends that the FAA not amend §§ 145.71 and 145.73. NSC is of the view that foreign repair stations should not provide modification, major repair, or overhaul work without inspection by U.S.-licensed personnel, unless the aircraft are operated wholly outside of the United States. NSC also refers to a contact with the U.S. Air Force Inspection and Safety Center (AFISC) who is familiar with foreign standards. According to the AFISC contact (as related by the NSC), no AFISC personnel would agree that foreign regulatory standards are equivalent to U.S. standards, and "* * * if foreign nationals are doing our maintenance work, we could be in trouble." AFISC personnel, as well as NSC, are apparently of the opinion that the proposals as contained in the Notice are solely for monetary purposes and that the FAA did not consider the actual safety impact. On the other hand, the FAA is advised that the U.S. Air Force has relied heavily on foreign sources to repair its deployed assets for many years. Such reliance involving airframes, engines, and exchangeables increases Air Force readiness and sustainability by retaining these assets close to the operating locations where they would be used during conflict. Moreover, the Air Force has advised that "* * * we have found the reliability for foreign work to be comparable to U.S. work."

FAA Surveillance

Six hundred and fifty-eight commenters contend that if the proposals in the notice are adopted, the FAA would be unable to monitor foreign repair stations effectively, due to limited inspector personnel, and compliance monitoring and enforcement would be impossible. Among such commenters are the Transport Workers Union (TWU) and the Aeronautical Repair Station Association (ARSA). According to TWU, the ratio of FAA inspectors to air carrier oprators has signfiicantly decreased since deregulation. ARSA contends that there is a serious inadequacy in the FAA's inspection and enforcement system which has a direct bearing on these proposals. ARSA further states that its members have reported that the average interval between FAA physical plant inspections and document reviews ranges from 6 to over 36 months with the typical interval being 18 months. Many commenters express belief that the FAA is already stretched beyond its limits without incurring additional responsibilities.

The cost to the FAA for additional inspectors is addressed by many commenters. Although Part 187 permits a charge for certification, these commenters contend that the costs of inspector hiring, training, etc., cannot be recovered.

Two aeronautical authorities, from the United Kingdom and the Federal Republic of Germany, state that they do not believe there would be any increase in applications for FAA foreign repair station certificates if the proposals in the notice are adopted because, during the past 18 months of debate on the foreign repair station issue, there has been little or no increase in the number of organizations (repair stations that are not U.S.-certificated) expressing an interest to either government for certification.

A large domestic repair station, generally supporting the notice, contends that it is reasonable to project a reduction in the approximately 200 existing foreign repair station certificates by the end of 1988. This commenter bases this contention on several factors: (1) The FAA appears to have implemented a general policy of reissuing Part 145 certificates for 12 months rather than 24 months so as to reduce the number of existing certificates; (2) it is fair to assume that the FAA will review foreign repair station certificate applications more rigorously in the future; (3) there will be no surge in the number of foreign repair station certificates granted to organizations located in less-developed countries with low labor costs since the FAA will exercise more scrutiny of a foreign repair station certificate application from a less-developed country; (4) if there are any cost advantages in terms of lower wages, those labor advantages are being offset by the change in the relative value of the foreign country's currency with the dollar; and (5) an air carrier will carefully assess a number of factors prior to committing to a foreign repair station, including the continued

availability of that facility as a source of maintenance.

This commenter further contends that the certification and surveillance system conducted by the FAA is critical to the integrity of foreign and domestic repair stations, as well as all entities regulated by the FAA. If there is any shortfall between the cost incurred by the FAA in surveillance and certification of foreign repair stations and the charges assessed for those services, immediate amendment of Part 187 to recover those costs should be initiated.

Several U.S. air carriers state that they do not believe any increase in the number of foreign repair stations servicing airline aircraft would approach the magnitude suggested by the FAA. The 50 to 100 percent increase mentioned in the notice was intended only as an example. Those numbers were used to demonstrate that even for a very large percentage increase, the effects would be minimal. These commenters state that those foreign repair agencies with a capability and capacity to service U.S.-registered airline aircraft have already become certificated within the past 39 years, and that resources available to the FAA from the fees assessed foreign repair station applicants are sufficient to fund the necessary personnel to provide the required inspections.

In addition, these air carriers note that foreign repair stations are not only subject to the same FAA surveillance imposed on domestic repair stations, but, in addition, all work performed for a U.S. airline by any outside repair agency, either domestic or foreign, must be accomplished in accordance with the air carrier's FAA-approved maintenance operations specifications. Furthermore, the records of all work performed by such repair agencies must be made and maintained in accordance with the current Federal Aviation Regulations. Thus, these air carriers contend, not only will the FAA perform its surveillance responsibilities, but the U.S. airlines also will continue to exercise surveillance over any work performed for them by foreign repair stations.

The FAA is dedicated to meeting its responsibilities under the Federal Aviation Act of 1958, as amended, and will continue to do so. It is anticipated that by modifying these restrictions related to a determination of need and to the scope of work to be conducted by foreign repair stations, a number of noncertificated foreign facilities can apply for FAA certification. This could have some impact on FAA certification and surveillance resources. It is difficult to anticipate the increase in foreign repair stations that might result from this amendment; however, based upon the domestic experience, the resource impact should be minimal. The FAA will respond to any increased workload.

There are approximately 900 FAA inspectors now responsible for domestic repair stations. This translates into approximately 4½ repair stations per inspector. There are now approximately 200 foreign repair stations. If that number increased to 300 or 400, and the number of repair stations per inspector were the same as the domestic case, it would require an increase of 22 to 44 inspectors. Thus, even for an increase of 50 to 100 percent in the number of foreign repair stations, the increase in the number of required inspectors would be less than 5 percent of the current inspector work force. The FAA will continue the surveillance of the existing certificated repair stations, domestic or foreign, and the influx of any new ones. Having experienced the problems associated with deregulation and an expanding industry with a declining FAA inspection work force, the FAA has grown highly sensitive to the need for a safety surveillance work force equal to the work demands. In addition, the certification and surveillance responsibilities of the FAA for foreign repair stations will make full use of information provided by local airworthiness authorities when appropriate, thus enhancing the capabilities of the FAA work force. In any event, there will be no deregulation in safety because of the rule as adopted. Regarding the costs incurred by the FAA in the certification and surveilllance of foreign repair stations and the minimal fees currently assessed for those services, future rulemaking will be conducted to review the adequacy of the fees prescribed in Part 187.

FAA Enforcement

Several commenters point out that if the proposals in the notice are adopted, the FAA could not enforce its regulations, because foreign businesses or individuals could not be prosecuted by the U.S. Government. Although the commenters state that the United States cannot levy civil penalties against foreign violators, they do not provide any explanation to support this conclusion.

Under this proposal, the FAA would retain enforcement oversight over U.S.-certificated foreign repair stations through certificate action and civil penalty action. Moreover, Pub. L. 100–223 amended section 901 of the Federal Aviation Act of 1958, as amended, to provide for a two-year civil penalty demonstration program for violations of the Act or any rule or regulation issued thereunder which occur after December 30, 1987. Under the demonstration program, the Administrator may assess ("order") civil penalties not to exceed $50,000, after notice and the opportunity for hearing. This will allow FAA to adjudicate those civil penalty actions without referring them to a U.S. attorney for adjudication in a U.S. District Court. In the case of civil penalties in excess of $50,000, if the parties cannot reach a compromise settlement, the actions will continue to be adjudicated by referring them directly to a U.S. attorney for adjudication in a U.S. District Court.

In those instances where a respondent foreign repair station or foreign mechanic fails to pay a civil penalty (not in excess of $50,000) assessed under the demonstration program or fails to offer and pay a compromise civil penalty (in excess of $50,000) acceptable to the Administrator in full settlement of the alleged violations, the FAA may have difficulty in obtaining in personam jurisdiction which is necessary to pursue a collection action in the appropriate U.S. District Court. However, the fact that many foreign repair stations have designated agents for purposes of service in the United States obviates the problem. In any event, where civil penalty actions are unsuccessful, the FAA can take certificate action and this enforcement mechanism will be more than sufficient to ensure that safety is maintained. The FAA has not had substantial difficulty in enforcing violations of the FAR committed by foreign repair stations or a foreign mechanic in the past and does not foresee such difficulties in the future.

Loss of Jobs

Among those opposing the proposal, the majority express concern over loss of jobs in the United States and the general negative impact on the U.S. economy that would result if the proposals are adopted. Twenty-four hundred and twenty-six commenters consider the loss of jobs as the major factor in their opposition to the proposal. The magnitude of concern varies from fear for the individual's job to "several million" jobs lost nationwide, including jobs in related industries. Many commenters express concern with the potential impact on the national economy and on specific cities such as Tulsa, Oklahoma, and Kansas City, Missouri. The Professional Aviation Maintenance Association (PAMA) expresses concern that sufficient consideration was not given by the FAA to the loss of jobs. PAMA questions the statement in the Notice that the need for maintenance service

will increase in the United States; PAMA contends that maintenance jobs will decrease because production of general aviation aircraft has decreased by over 90 percent in the last few years. Some commenters state that the aviation industry is going the way of the steel, electronics, and textile industries: overseas. No data or analyses were included in any comment to support these claims.

In contrast to the contentions of those expressing concern over loss of jobs and negative effects on the economy, the following information has been provided to the FAA. The *U.S. Industrial Outlook 1988—Aerospace*, U.S. Department of Commerce, January 1988 states:

> * * * The increasing trend toward international collaboration is fostering an escalation in trade of aircraft engines and aircraft parts, as the world's expanding fleet of civil and military aircraft demands more equipment for maintenance and repair * * * International collaboration in the engine sector is providing a catalyst for trade and is creating an industry which transcends national boundaries * * * The inflation-adjusted value of U.S. aerospace shipments is projected to climb about 3.3 percent in 1988, marking the sixth consecutive year of industry growth. Meanwhile, U.S. aerospace exports and imports will reach record highs of $22.1-billion and $8.8-billion, respectively. The rising trend of industrial collaboration beween U.S. and foreign manufacturers in the aircraft sector will be the chief reason for this increase in the flow of trade. Total industry employment is forecast to increase almost 3 percent in 1988, to 836,000.

A study by Gellman Research Associates, Inc., Jenkintown, Pennsylvania, which was jointly sponsored by the Air Transport Association of America (ATA) and the International Air Transport Association (IATA), and included in the ATA and IATA comments, also addresses this issue and refutes the allegation that adoption of the proposal will result in the wholesale loss of jobs in the United States. The study contends that U.S. domestic repair stations currently receive more business from foreign customers than U.S.-certificated foreign repair stations receive from U.S. customers, and that the real threat to U.S. jobs would be the establishment of trade barriers that could result in retaliation affecting both domestic repair stations and other aerospace activities. Also, in this regard, one major U.S. manufacturer supporting the notice comments that its business as a U.S. manufacturer of a major product depends in substantial part on foeign-source business, not only for new engine buys but for follow-up repair and overhaul product support. This commenter points out that such reliance confirms the international and interdependent nature of today's aviation marketplace. If this foreign source business is lost, which may occur if the proposals in the notice are not adopted, this manufacturer is of the opinion that the inevitable result would be not only a probable loss of U.S. Jobs at its overhaul and repair facilities, but also a probable job loss on the manufacturing side as well.

Impact on National Economy and Trade Balance

Several commenters express concern that foreign repair stations would have an unfair economic advantage over domestic repair stations. ARSA reports that of the ARSA members responding to its survey, 80 percent stated that they thought they would be adversely affected by having to compete with foreign-owned and subsidized firms. The FAA understands that this association represents approximately 90 of the 4,400 repair stations. The number of repair stations responding to the ARSA survey was not stated in the ARSA comments. ALPA states that the Notice requires foreign repair stations to meet less stringent standards and will therefore put domestic repair stations at an economic disadvantage. Some other commenters state that this would be unfair competition, because some foreign countries subsidize the work of their repair stations. They state that there is, therefore, a potential for a negative trade balance. Many commenters relate this change to other industries that have lost jobs to foreign sources, including the steel, automobile, and electronics industries. One commenter states that the domestic air transport industry employs over 100,000 skilled aircraft mechanics, and even the loss of only 10 percent of repair work in the United States means a loss of $300 million in direct wages, causing up to $600 million in net loss of U.S. income. The basis for these estimates is not provided.

Several commenters referred to the FAA view expressed in the notice that the proposed rule changes would be consistent with the terms of several trade agreements to which the United States is a signatory. These commenters, in supporting the proposal, concur and stress that the proposal is in accord with section 1102(a) of the Federal Aviation Act of 1958, as amended, which requires the FAA to exercise and perform its powers and duties consistently with any obligation assumed by the United States in any agreement that may be enforced between the United States and any foreign country or countries. Under section 103 and Title VI of the Federal Aviation Act of 1958, as amended, Congress mandated that the FAA would perform its functions on the basis of aviation safety considerations. Congress did not delegate to FAA its power to regulate commerce with foreign nations, but rather directed the FAA to perform its duties and functions consistent with international treaties and agreements.

British Airways, as well as several other European commenters, refers to records maintained by the Association of European Airlines (AEA) on its members. It was reported that during 1986, AEA members performed approximately $34.3 dollar's worth of repair work on U.S.-registered aircraft operated by U.S.-based operators. The $34.3-million figure and all other data contained in these records were based on information provided by 11 AEA foreign air carrier members who accounted for over 80 percent of the repair facility capacity of AEA members. However, in that same year, it is stated that those same AEA members spent $80.9 million, more than double the amount of money spent by the U.S. operators, for repair services performed for them by U.S. repair stations. In other words, U.S. repair stations enjoyed better than a two-to-one trade surplus in aircraft repair work. Furthermore, it is pointed out, that for the past 5 years, AEA figures indicate an increasing trend in favor of U.S. repair stations.

One large U.S.-certificated foreign repair station provided data showing that its gross revenue from its aircraft engine maintenance work worldwide was approximately $77 million in 1986 and $89 million in 1987. However, in 1986 this foreign repair station paid approximately $32 million, or 42 percent, of its total maintenance revenue to various U.S. businesses retained to perform maintenance services as subcontractors and to provide tools; equipment; spare parts such as turbine blades, vanes, and discs; components; and surplus supplies. The flow of such funds to the United States increased in 1987 to approximately $39 million. This foreign repair station expects this trend to continue in the future.

One foreign air carrier reports that it purchased $57 million in U.S. maintenance services in 1986 and performed $47 million in maintenance services for U.S. customers. Another large foreign air carrier reports that it spent $11.2 million on contract repair of its aircraft in the United States in 1986 and received just over $5 million from services performed for U.S. air carriers.

British Airways also points out that it is a matter of public record that since 1986 the value of the U.S. dollar has

significantly declined relative to the value of virtually all of the national currencies of the AEA member airlines. As a result, British Airways believes that, compared to 1986, it would now be significantly more expensive for U.S. carriers to have repair work performed by repair stations operated by AEA members and significantly less expensive for AEA member carriers to utilize the services of U.S. domestic repair stations.

In addition to the comments of ARSA, there were 10 domestic repair stations that commented on the notice. Three of these repair stations support the proposals in the notice. One such commenter states that, because the FAA is authorized to promote the development of civil aeronautics under the Federal Aviation Act, the proposals in the Notice should be promulgated as a final rule.

One commenter, although a member of PAMA, disagrees with PAMA's stated opposition that the proposals would have a negative economic and trade balance impact. The commenter states that protectionism is a delicate art, and protectionism should be practiced by the consumer, not the government, to minimize retaliation. The commenter points out that the balance of payments is of concern to all U.S. citizens, but so is the ability to obtain aircraft maintenance in a timely manner by a qualified repair station in accordance with the Federal Aviation Regulations.

Other commenters supporting the proposals as contained in the Notice provide information specifically on the effect of the proposals on the national economy and the balance of trade, and submit supporting data. The ATA surveyed 14 of the largest ATA member airlines concerning work performed by foreign repair stations for those U.S. airlines, as well as the work performed by those airlines for foreign operators in 1987. Responses from these airlines indicate that approximately 104 million dollars' worth of work was performed by the U.S. air carriers for foreign operators in 1987. In contrast, approximately 89 million dollars' worth of work was performed for these airlines by foreign repair stations during the same period. Moreover, of this $89 million, approximately $11 million was not performed under the authority of the foreign repair station certificate, but was performed under the airlines' authority to contract maintenance under § 121.363(b) as well as under §§ 121.371(a) and 121.378(a) exemption authority. ATA also points out that U.S. domestic repair stations enjoy substantial advantages over foreign repair facilities in competing for repair work from U.S. air carriers in that they are located much closer to the center of the carrier's operations. This is particularly the case when the repair station is owned and operated by the U.S. carrier concerned.

ATA also surveyed 21 large U.S. organizations that work on transport airplanes and components. All of these organizations reported to ATA that they perform work for foreign operators who are operating in the United States. Ten of these organizations reported that 30 percent or more of their work is accomplished for foreign operators. Similarly, the results of a recent survey by IATA of its member airlines show an expenditure of approximately $184 million in 1987 by 20 foreign airlines for work performed by U.S. repair stations. Charts submitted by ATA and IATA set forth the use of maintenance by foreign operators in the United States and the resultant creation of jobs in this country.

To determine the economic impact of the proposed rulemaking on the domestic airlines, repair stations, aircraft manufacturers, and ultimately U.S. consumers, ATA and IATA jointly commissioned an economic analysis by Gellman Research Associates, Inc. As stated above, a copy of the Gellman analysis is enclosed with both the ATA and IATA comments. ATA is of the opinion that the Gellman analysis demonstrates that (1) The United States would not benefit by restricting international trade in aircraft maintenance; (2) the aircraft maintenance business does not contain the elements (such as economies of scale) required to provide economic benefits to a nation by restricting trade; and (3) even if an economic benefit from restricting trade in aircraft maintenance did accrue to repair stations, such restrictions would result in higher costs to aircraft operators, such as airlines, which could translate into higher rates and fares. The Gellman report concludes that the ultimate impact would be reduced demand for air transportation by consumers and shippers, accompanied by a reduced earnings and employment for airlines.

Foreign commenters also submitted information to indicate that, in their opinion, the proposal in the notice would not have a negative effect on the U.S. national economy or on the U.S. balance of trade. As referred to above, data taken from the records of the Association of European Airlines indicate that U.S. domestic repair stations enjoyed better than a two-to-one trade surplus in aircraft repair work. In the opinion of British Airways, the AEA figures indicate an increasing trend in favor of U.S. repair stations.

In promulgating the proposals contained in the notice, the FAA expressed the view that the demand for maintenance services would continue to grow in the United States, as well as at foreign locations, and that the effects of the proposals in the Notice on the increase in foreign maintenance and on the existing work performed in the United States must be considered in the context of expected overall growth in the industry. In addition, the FAA stated that, in light of these views, the proposals would not adversely affect either the national economy or the U.S. trade balance. The FAA encouraged commenters to respond and submit supporting economic and trade data for any beneficial or adverse impacts that would be anticipated to occur should the proposed rules be adopted. Though the views expressed by the FAA were generally challenged by those opposing the proposals as a whole, no supportive economic or trade data were submitted by these commenters to indicate that any adverse impact would occur should the proposed rules be adopted. In contrast, as described above, considerable information was submitted that supports the initial FAA views.

The U.S. Department of Commerce, as indicated in its publication, the *U.S. Industrial Outlook For 1988—Aerospace*, expresses the opinion that the rising trend of industrial collaboration between U.S. and foreign manufacturers in the aviation sector will be the chief reason that the increase in the flow of trade may reach record highs in 1988 of $22 billion for exports and $8.8 billion for imports. The FAA reiterates its position that the proposals as contained in the notice would not appear to have any adverse impact on the national economy or trade balance.

Impact of War and Terrorism/Sabotage

Over 60 commenters opposing the notice express the view that, with more U.S. jobs lost to foreign facilities by enactment of the proposals, there would be fewer qualified mechanics and maintenance facilities available to the United States in the event of war. They also express concern that U.S. aircraft would be more susceptible to international terrorism or sabotage activity. No supporting data were submitted by the commenters espousing this issue.

As stated above, the FAA has been advised that the U.S. Air Force (USAF) has relied heavily on foreign sources to repair its aircraft for many years so that USAF readiness and sustainability can

be increased by retaining its aircraft close to operating locations where the aircraft would be used during conflict.

In the nearly 40 years since U.S.-registered aircraft have been utilizing foreign repair stations, the threat of war or terrorism/sabotage has not been a problem; there is no reason to believe the amendments adopted in this rule would change that.

Drugs

Several commenters express concern over the use of illegal substances by personnel overseas. The commenters state that drug use is checked in the United States by the growing practice of testing for illegal substances, which may not be the case at foreign repair stations. Testing for drug use in the aviation industry is a matter of growing importance. The FAA has initiated other regulatory actions in this area. Therefore, the commenters' concerns are outside the scope of this rulemaking.

Exemption Process

Over 15 commenters opposing NPRM No. 87–12 point out that the proposed rule is not necessary, because exemptions currently permit certain work to be performed overseas by foreign repair stations.

The FAA has handled over 100 exemption actions from petitions filed by U.S. air carriers for relief from the operating Parts of the regulations (Parts 121 and 135) to permit these carriers to use foreign repair facilities that otherwise would not be available under current regulations. Exemptions were granted to air carriers who operate foreign-manufactured aircraft and/or foreign-manufactured components installed on U.S.-registered aircraft, and have limited access to qualified repair and overhaul facilities in the United States. As an example, one U.S. air carrier commenting on the Notice points out that it uses a foreign-manufactured air compressor, and there is no U.S. domestic repair station authorized or equipped to overhaul and repair such a unit. The FAA has found that allowing such carriers to utilize experienced type certificate holders and U.S.-certificated foreign repair facilities with trained personnel, who are qualified to perform work on original foreign-manufactured component parts, provides a level of safety equal to that provided by the rules from which the exemptions have been sought. While the FAA has granted exemptions to U.S. air carriers in these cases, that mechanism does not provide a solution to all of the problems brought about by the increasingly international character of U.S. air carrier operations. As stated by one U.S. air carrier, the exemption process not only increases the workload of an already heavily burdened FAA staff, it poses serious problems for carriers requiring prompt maintenance. The unavoidable delay caused by the need to prepare, file, and obtain an exemption can be a serious problem for a carrier that faces unexpected maintenance problems. Furthermore, the exemption process is not only time consuming and burdensome for the petitioner, but is intended to cover only unique problems of a person, rather than classes of problems.

Bogus Parts

Over 75 commenters oppose the proposal contained in the Notice contending that there would be increased use of unauthorized or "bogus" parts and components on U.S.-registered aircraft if the proposals are adopted. The International Association of Machinists (IAM) refers to the large amount of foreign parts not maintained according to FAA specifications that were found during the National Air Transportation Inspections (NATI) and the investigation of the crash of an Arrow Air DC–8. Other than IAM's reference, no supporting documentation was submitted on this issue.

The problems encountered during the NATI program are complex, involving repair station authority and surveillance issues. Some of the problems associated with repair station authority are addressed by this rulemaking in that what are currently considered to be "unauthorized" parts are so, simply because of the existing restrictive scope of work that can be accomplished by foreign repair stations. The problems associated with surveillance have been addressed by the FAA and will continue to be closely monitored.

Dissolution of U.S. Air Carrier Maintenance Operations

Over 45 commenters that oppose NPRM No. 87–12 express concern that airline management, in supporting amendment of Part 145 in regard to foreign repair stations, is looking only at maintenance costs, not quality, and that airline management would be quick to move all of their airline overhaul facilities out of the country. These commenters contend that if the proposals are adopted U.S. air carriers would completely dissolve portions of their maintenance operations and send all component and aircraft work overseas. No substantive data were presented to support the above contention.

The FAA place full maintenance responsibility on the operator. Airline comments supporting the proposal point out that U.S. carriers have, and will continue to have, the overwhelming portion of all maintenance work performed in the United States. This is borne out by U.S. airline testimony before Congress on the use of foreign repair stations by U.S.airlines (*Hearing Before the Aviation Subcommittee of the House Committee on Public Works and Transportation*, 100th Congress, First Session, July 28, 1987, pages 59, 92, and 362). ATA's comments supporting this notice point out that there is more to consider in the cost of maintenance than the cost of the labor, such as overhead, depreciation of sophisticated equipment, inventory costs, shop capacity, delays in shipment to aircraft or components to foreign shops, and the availability of skilled labor to perform the maintenance. ATA takes the position that the United States is well in the lead in these areas.

RAA, in supporting the proposals in the notice, states that U.S. regional airlines do not, as a rule, operate revenue flights outside of the United States. Thus, regional airlines do not rely heavily on foreign repair stations to do work that could be done in this country. On the other hand, RAA points out that regional airlines are impacted by FAA rules that prevent such air carriers from sending aircraft and components to the original manufacturer for repair or overhaul to ensure that the manufacturer remains accountable for the quality of the product.

Evidence and arguments submitted by the commenters forwarding information support the conclusion that U.S. airlines prefer to maintain their aircraft at domestic locations.

The FAA does not concur with the contention that, if the proposals are adopted, there will be an exodus of U.S. air carrier maintenance operations overseas.

Foreign Retaliation

Several commenters supporting the notice point out that failure of the United States to adopt the proposed amendments may be viewed by foreign governments as an overly protectionist act by the U.S. Government and, under these circumstances, it would be reasonable to assume that if the proposed amendments are not adopted, there would be intense pressures on foreign governments to impose reciprocal restrictions on the use of U.S. repair stations by their national flag carriers. Furthermore, the commenters state that the demand for reciprocal restrictions could easily expand to include other aviation products and

services, such as a product manufactured by both domestic and foreign entities.

Aeronautical authorities of the British and German governments (CAA and LBA) remind the FAA in their comments that their governments permit U.S. domestic repair stations unrestricted access to their aviation industry, subject only to the need for current release documentation and records. Any significant difference between the intent of the final rule and the intent of the notice would be assumed by these governments to be caused by concern for safety standards. They, in turn, would be required to review their own acceptance standards from any foreign source, including U.S. domestic repair stations. The aeronautical authority of the French government (DGAC) states that they are planning to review their regulations related to DGAC certification of foreign repair stations (e.g., U.S. domestic repair stations) under the same technical requirements as French repair stations except in cases where, due to maintenance arrangements or bilateral agreements between authorities, it will be reciprocally recognized that the approvals given by one authority are considered valid by the other.

Other supporters of the proposals also point out that no major foreign government currently imposes any regulatory restrictions on the use of FAA-certificated U.S. repair facilities by its own airlines. These commenters refer repeatedly to testimony at the Congressional hearing on the use of foreign repair stations by U.S. airlines in July 1987 (Hearing before the Aviation Subcommittee of the House Committee on Public Works and Transportation). Mr. Crawford F. Brubaker, the Deputy Assistant Secretary of Commerce for the United States, testified at this hearing that many foreign governments had informed him that retaining existing geographic restrictions on foreign repair stations is inconsistent with the Agreement on Trade in Civil Aircraft which was negotiated pursuant to the General Agreement on Tariffs and Trade (GATT). In his testimony, Mr. Brubaker stated (page 8):

> However, if, in the view of our foreign trading partners this issue is not resolved in a prompt and fair manner, there is a possibility that a dispute action [GATT] might be filed by one or more signatories. Should any trading partner take counteraction, it could be detrimental to both our airlines and to our aircraft industry.

At this same hearing, Pratt & Whitney testimony (page 103) and Boeing Co. testimony (page 101) were to the effect that if foreign governments were to adopt regulations that narrowed their current foreign repair restrictions, the U.S. aviation maintenance industry would suffer a substantial loss of business. The Aerospace Industries Association of America declared that (pages 98 and 99):

> Any regulation that would restrict the free flow of trade in the international airline market would ultimately have a negative impact on the U.S. aerospace industry and the Nation's overall trade balance. Last year, the industry employed 1.3 million people. Loss of competitiveness in the world market could lead to a catastrophic loss of American jobs in this vital manufacturing sector.
>
> * * * Further, the imposition of trade restrictions is clearly not within FAA's purview and should be left to international negotiation. The use of FAA's regulations for protectionism will give rise to reciprocal actions from foreign airworthiness agencies and will undermine the FAA's worldwide credibility in safety.

Commenters raising this issue conclude the foreign retaliation could well result in reduced business by domestic repair stations. These commenters also contend that domestic airframe, engine, electronics, and equipment manufacturers could be targeted for retaliatory measures resulting in higher costs to their businesses, reduced demand for their products, and ultimately reduced earnings and employment.

Paperwork Reduction Act

Information collection requirements in the proposed amendments to § 135.443 have previously been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0039.

Regulatory Evaluation

In promulgating the proposals contained in the notice, the FAA expressed the view that the demand for maintenance services will continue to grow in the United States as well as at foreign locations. The effects of the proposals in the notice on the increase in foreign maintenance and on the existing work performed in the United States must be considered in the context of expected overall growth in the industry. In addition, the FAA stated that the proposals would not adversely affect either the national economy or the U.S. trade balance. The FAA further concluded that there would not be a large shift of jobs from the United States to foreign countries.

In light of the above views, the FAA encouraged commenters to respond and submit supporting factual economic and trade data for any anticipated benefical or adverse impacts should the proposed rules be adopted. The FAA also solicited recommendations for better methods to achieve the objectives of the rules and rule changes proposed in the Notice. Though the views by the FAA were strongly challenged by those opposing the proposals as a whole, no supportive factual economic or trade information was submitted by these commenters to indicate how an adverse impact would occur to the national economy or trade balance should the proposed rules be adopted; nor were any recommendations submitted by these commenters for achieving the objectives of the rules. These commenters desire to retain the status quo and maintain the foreign repair station regulations adopted in 1949 as they are now set forth in Part 145.

Those opposed to the proposals contained in the notice express concern that foreign repair stations would have an unfair economic advantage over domestic repair stations. These commenters allege foreign repair stations would have to meet less stringent standards than domestic repair stations and that domestic repair stations would be placed at an economic disadvantage. One unsubstantiated statement alleges that if the proposals are adopted, there would be a net loss in U.S. income of up to $600 million. The basis for these estimates is not provided. An association of repair stations reported that, of its members responding to a survey sent out by the association, 80 percent stated that they thought they would be adversely affected by having to compete with foreign-owned and subsidized firms. No supporting data were submitted by this association, even as to the number of repair stations the association represented, or the number of repair stations responding to the survey. The FAA understands that this association represents approximately 90 of the 4,400 repair stations.

The primary concern expressed in most of the opposing comments is related to the loss of jobs in the United States and the general negative impact on the U.S. economy that would result if the proposals are adopted. A wide range of estimates for lost jobs is offered; however, there is no explanation of how these estimates were made. In general, no data or analyses were included in any comment to support these claims.

As detailed in the *Discussion of Comments* section, commenters supporting the proposals submitted extensive and factual information indicating that foreign entities currently spend up to twice as much in the United

States for maintenance as U.S. operators spend abroad. These commenters contend that this trend will continue, because there will not be a dramatic increase in the number of new foreign repair stations. Furthermore, there are a limited number of facilities in the world that can meet the FAA's stringent requirements.

The expectation that trade will not be adversely affected is supported by the U.S. Department of Commerce that concludes the rising trend of industrial collaborating between U.S. and foreign manufacturers in the aviation sector will increase the expected flow of trade for 1988 to record highs. The U.S. Department of Commerce cited figures of $22 billion for exports and $8.8 billion for imports in the aviation sector. This trend towards international collaboration in aircraft manufacturing will also result in the growth of trade in equipment for maintenance and repair, and consequently reciprocal growth in the trade of repair services. This expected expansion supports the FAA view that overall growth in the aviation industry will offset losses, if any, in maintenance and services.

Supporters of the proposals refute the allegations that the rules would create an exodus of jobs from the United States to foreign countries, contending that the allegations are unsupported. As pointed out by such supporters in the *Discussion of Comments* section, there will not be a wholesale use of foreign repair stations by U.S. operators. Also, the U.S. Department of Commerce points out that the world's expanding fleet of aircraft will demand more equipment for maintenance and repair, and the total industry employment for 1988 in the overall aviation sector is forecast to increase by almost 3 percent.

Additionally, as pointed out in the *Discussion of Comments* section, if the foreign repair station rules are not updated and adopted as proposed, and if the United States retains the status quo and adopts a stance of protectionism, there are sufficient indicators regarding the likelihood of some retaliatory action from some foreign governments to adjust their regulations, making them as restrictive as those currently in effect in Part 145. These actions could very well result in a negative impact on the U.S. economy. This possibility is supported by the fact that the U.S. Department of Commerce has been advised by many foreign governments that, in their opinion, retention of existing geographic restrictions on foreign repair stations by the United States is inconsistent with certain international treaties to which the United States is a signatory. These foreign governments have further stated that if they were to take counteraction, it could be detrimental to both U.S. airlines and to the U.S. aircraft industry.

Although expanding access to world markets for aircraft maintenance could result in additional work being done at foreign locations, the FAA must conclude from the information submitted to this docket (Docket No. 25454) that the consequences would not inlcude a major, if any, shift in jobs. Nor, will adoption of these rules have an adverse impact on the national economy or on the U.S. balance of trade. The *Discussion of Comments* section points out that the rules will be beneficial, particularly to U.S. air carriers and to manufacturers (as well as to some domestic repair stations) in their ability to obtain maintenance and repair work on foreign-manufactured aircraft and components. Further, it should also be noted that there are no direct compliance costs to U.S. interests associated with the foreign repair station revisions, because certification as a repair station is strictly voluntary. A loss of some jobs could certainly be possible, if only as a normal effect of any competition; however, the supporting information in the docket does not show that such a major loss would occur.

Though the rule could be restricted solely to foreign manufacturers, this restriction would not fully address many U.S. air carrier problems, particularly in cases where there is no domestic facility capable of performing certain necessary maintenance. Likewise, limiting the scope of work only to warranted items will not cover a situation in which no U.S. domestic repair station is authorized or equipped to overhaul and repair a certain component not covered by warranty.

The airline industry has experienced rapid growth following deregulation resulting in a demand for equipment suitable to the individual operator's requirements. This demand has been increasingly met through international endeavors in the manufacture of aircraft and their components. The demand for qualified maintenance services and facilities has grown as the fleet of foreign-manufactured aircraft has increased, particularly in the regional and commuter airline industry.

Many U.S. operators have not invested the capital required to provide domestic maintenance facilities that are capable of servicing foreign-manufactured aircraft, nor have they been able to attract outside repair facilities to provide the necessary services. Under the existing regulations, some carriers that operate foreign-manufactured aircraft have obtained exemptions to take advantage of the manufacturer's warranty provisions for the products they operate. Presently, some manufacturers are precluded from repairing their own products, because of their repair station's location or their inability to obtain U.S. certification under §§ 145.71 and 145.73.

While the FAA has granted exemptions to U.S. air carriers to permit them o use foreign repair facilities that would not be othewise available under current regulations, that mechanism does not provide a solution to all of the problems brought about by the increasingly international character of U.S. air carrier operations. The exemption process is time consuming and by its very nature places a repeated and continued burden on a petitioner. It does not take care of unforeseen maintenance needs and is only intended to cover unique problems of an individual person, rather than classes of problems, such as the matter of foreign repair stations. Also, in light of the lengthy negotiation process associated with formulating and refining bilateral agreements, pursuing additional bilateral agreements for maintenance of U.S.-registered aircraft is not considered advantageous in terms of any short-term benefits for the U.S. aviation community.

The FAA has determined that allowing domestic and foreign manufacturers holding U.S. repair station certificates to contract the repair of components to non-U.S.-certificated repair stations, domestic and foreign, under the specific circumstances set forth in the amended § 145.47(c) will not diminish the quality of the repairs, as the components would be approved for return to service under the repair station's quality control process that has been found acceptable to the FAA. This new process will increase the amount of maintenance resources available to U.S. operators, thereby reducing costs and delays associated with their operations.

The amendment to § 135.443(b), which permits a foreign repair station to return an aircraft or part to service after performance of maintenance, similar to existing § 121.709(b), should not result in any adverse impact. Because the implementation of § 121.709(b) has not created any problems, none are anticipated from the change to Part 135. Further, being able to use a foreign repair station to return their aircraft to service would be a major benefit for Part 135 operators.

International Trade Impact Analysis

As set forth in the *Discussion of Comments* section, the amendments contained herein are consistent with the terms of several trade agreements to which the United States is a signatory, such as the Trade Agreements Act of 1979 (19 U.S.C. 2501 *et seq.*), incorporating the Agreement on Trade in Civil Aircraft (31 U.S.T. 619), and the Agreement on Technical Barriers to Trade (Standards) (19 U.S.C. 2531). Not only do these changes reflect the FAA's desire to eliminate unnecessary barriers to international trade, but such action is consistent with section 1102(a) of the Federal Aviation Act of 1958, as amended, which requires the FAA to exercise and perform its powers and duties consistently with any obligation assumed by the United States in any agreement that may be in force between the United States and any foreign country or countries. The economic trade impacts are discussed in the previous section (*Regulatory Evaluation*).

Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 was enacted by Congress to ensure that small entitities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies to review rules which may have "a significant impact on a substantial number of small entities."

The FAA has determined that these amendments are not expected to have a significant impact on a substantial number of small entities. The provisions of this rule are primarily directed toward the activities of foreign repair stations and, therefore, domestic repair stations are not expected to incur any costs for compliance. Consequently, the domestic repair stations should not incur any significant economic impact under FAA Order 2100.14A, September 16, 1986, Regulatory Flexibility Criteria and Guidance. Furthermore, by deleting barriers in the aviation repair station industry and encouraging potential entrepreneurs to introduce beneficial products and processes to the aviation industry as a whole, the amendments are consistent with the Act (see RFA sec. 2(a)(5)). This is supported by comments received on the notice.

Of the 10 domestic repair stations that commented individually, 5 indicate that they are large repair stations and not small entities; no indication was given as to the size of the other 5 repair stations. The bulk of those commenters opposing the notice are individual employees of large entities, particularly large airlines. The majority of the 4,400 domestic repair stations are small entities (businesses with less than 200 employees). These small domestic repair stations are primarily concerned with the smaller general aviation U.S.-registered aircraft and components and are not impacted by an increase or decrease in the number of foreign repair stations. Therefore, the FAA has determined that the amendments are not expected to have a significant impact on a substantial number of small entities and has concluded that a regulatory flexibility analysis is not required.

Federalism Implications

The regulations set forth in these amendments are promulgated pursuant to authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt State law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this final rule is not major under Executive Order 12291, and that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposal is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The regulatory evaluation of this final rule, including a Regulatory Flexibility Determination and Trade Impact Analysis, is printed in its entirety in this final rule and has been placed in the regulatory docket. A copy may be obtained by contacting the person identified under "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects

14 CFR Part 135

Air carriers, Air taxis, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 145

Aircraft, Airworthiness, Aviation safety, Reporting and recordkeeping requirements.

The Rule

In consideration of the foregoing, the Federal Aviation Administration amends Parts 135 and 145 of the Federal Aviation Regulations (14 CFR Parts 135 and 145) as follows:

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

1. The authority citation for Part 135 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

2. By amending § 135.443(b) by adding a flush paragraph following § 135.443(b)(3) to read as follows:

§ 135.443 Airworthiness release or aircraft maintenance log entry.

* * * * *

(b) * * *

(3) * * *

Notwithstanding paragraph (b)(3) of this section, after maintenance, preventive maintenance, or alterations performed by a repair station certificated under the provisions of Subpart C of Part 145, the airworthiness release or log entry required by paragraph (a) of this section may be signed by a person authorized by that repair station.

* * * * *

PART 145—REPAIR STATIONS

3. The authority citation for Part 145 continues to read as follows:

Authority: Secs. 313, 314, 601, and 607, 72 Stat. 752; 49 U.S.C. 1354(a), 1355, 1421, and 1427, unless otherwise noted.

4. By amending § 145.47 by redesignating paragraph (c) as (d) and adding a new paragraph (c) to read as follows:

§ 145.47 Equipment and materials: Ratings other than limited ratings.

* * * * *

(c) A certificated domestic or foreign repair station may contract maintenance and alteration of components of a type certificated product to a noncertificated source identified in the repair station's inspection procedures manual provided:

(1) The repair station is the manufacturer who originally manufactured the product for which it holds a U.S. type certificate;

(2) The contracted component is included as part of the type certificated product;

(3) The component maintenance is done by the original component manufacturer or its manufacturing licensee; and

(4) Before such a component is returned to service, the repair station ensures that it is being returned to service in accordance with the repair station's quality control system as approved by the Administrator and set forth in the repair station's operations specifications and inspection procedures manual.

* * * * *

5. By revising § 145.71 to read as follows:

§ 145.71 General requirements.

A repair station certificate with appropriate ratings may be issued for a foreign repair station if the Administrator determines that it will be necessary for maintaining or altering United States registered aircraft and aircraft engines, propellers, appliances, and component parts thereof for use on United States registered aircraft. A foreign repair station must meet the requirements for a domestic repair station certificate, except those in §§ 145.39 through 145.43.

6. By revising § 145.73 to read as follows:

§ 145.73 Scope of work authorized.

(a) A certificated foreign repair station may, with respect to United States registered aircraft, maintain or alter aircraft, airframes, powerplants, propellers, or component parts thereof. The Administrator may prescribe operations specifications containing limitations that the Administrator determines necessary to comply with the airworthiness requirements of this chapter.

(b) A certificated foreign repair station may perform only the specific services and functions within the ratings and classes that are stated in its operations specifications.

Issued in Washington, DC, on November 16, 1988

T. Allan McArtor,

Administrator.

[FR Doc. 88-26934 Filed 11-17-88; 12:28 pm]

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federal register

Tuesday
November 22, 1988

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 701

Permanent Regulatory Program; Definitions; Support Facilities; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 701

Permanent Regulatory Program; Definitions; Support Facilities

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

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) is removing the definition of *support facilities* from its regulations because a definition is not needed in order to ensure that such facilities are regulated under the Surface Mining Control and Reclamation Act ("the Act" or SMCRA). OSMRE has determined that the identification of facilities that support surface coal mining operations has been conducted in a manner consistent with the intent of SMCRA during those periods when there has been no definition in Federal regulations (prior to the 1983 introduction of a definition and since the 1985 suspension of the definition).

EFFECTIVE DATE: December 22, 1988.

FOR FURTHER INFORMATION CONTACT: Stephen M. Sheffield, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone: 202–343–5950 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Background

The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* ("the Act" or SMCRA), sets forth general regulatory requirements governing surface coal mining and the surface impacts of underground coal mining. Sections 701(28) (A) and (B) of the Act define *surface coal mining operations* subject to regulation under the Act to include (A) specific activities conducted in connection with a coal mine and:

(B) The areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities or other property or materials on the surface, resulting from or incident to such activities; * * *

OSMRE had initially proposed a definition of "resulting from or incident to" on September 18, 1978 (43 FR 41801). However, following review of comments on the proposed definition, OSMRE decided not to include it in the final regulations issued on March 13, 1979. In the preamble to those final regulations (44 FR 14915), OSMRE stated that "a meaningful definition which would cover all situations is not possible." Instead, the determination as to whether an off-site area or facility would be subject to regulation under section 701(28)(B) of SMCRA would be made on a case-by-case basis. Further guidance was provided in the discussion of permitting requirements for support facilities and coal processing plants at § 785.21 (44 FR 15095). In that discussion, OSMRE stated that regulatory authorities would be required to extend their permit requirements to include all facilities on the mine site and all facilities incident to the mine at or near the site.

On May 5, 1983, in an attempt to further clarify which facilities were subject to regulation under section 701(28)(B) of SMCRA, OSMRE defined the term *support facilities* (48 FR 20401). In the 1983 definition, OSMRE included in regulations an interpretation of the phrase in section 701(28)(B) of SMCRA, "resulting from or incident to," to connote an element of geographic proximity. Facilities regulated as support facilities were to be determined, in part, based upon their location relative to a regulated activity.

The 1983 definition was challenged in the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation II*, No. 79–114 (D.D.C. July 6, 1984) (*In Re: Permanent II*). Plaintiffs maintained that there was no lawful basis for a geographic limitation in the definition, and that the statutory language, "resulting from or incident to," connotes a functional relationship. The court determined that there was no evidence to support OSMRE's conclusion that areas that result from or are incident to activities must be located near those activities. The court found that a limitation based solely on proximity could not stand. *In Re: Permanent (II)*, Slip op. at 20–23.

On July 10, 1985, in response to the court's finding, OSMRE published an interim final regulation (50 FR 28186) suspending the definition of *support facilities*. At the same time, OSMRE proposed the removal of the definition (50 FR 28180). OSMRE further stated in those rulemakings that it had determined that a definition of *support facilities* was not needed, and that there was no need to amplify the language of section 701(28)(B) of the Act with respect to the meaning of the phrase "resulting from or incident to" a regulated activity.

Nine comments were received from representatives of the coal industry, environmental organizations, and State regulatory authorities on the 1985 proposal to delete the definition of *support facilities*. All commenters favored retention of a definition to clarify which types of facilities would be subject to regulation as support facilities. Because of the expressed interest in having a regulatory definition, OSMRE reconsidered possible definitions. On May 11, 1987, OSMRE stated in the preamble to a final regulation defining "coal preparation" (52 FR 17724) that it would propose a new definition of *support facilities*. However, for reasons discussed in the following section of this preamble, "Discussion of Final Rule," OSMRE did not propose a new definition.

In order to ensure full consideration of opinions on this issue, OSMRE undertook an extensive outreach effort involving the participation of interested parties from industry, environmental groups, State regulatory authorities and professional societies. This included holding facilitated outreach meetings to provide interested parties with an opportunity to comment on draft rule language and to fully discuss issues relative to this proposed rulemaking.

In addition to embarking on the outreach effort and reconsidering possible definitions, responsible officials in each of OSMRE's field offices were consulted to determine if support facilities have been adequately identified by States. The results of that consultation, as well as the outreach effort, are discussed in the following section of this preamble, "Discussion of Final Rule."

Finally, on January 29, 1988, the U.S. Court of Appeals issued a decision which overturned the decision in *In Re: Permanent (II)* concerning whether proximity could be considered in determining SMCRA's jurisdiction over off-site facilities. (*NWF v. Hodel*, 839 F.2d 694, 765–766 (D.C. Cir., 1988) ("*NWF*")). The court of appeals affirmed the Secretary's incorporation of a consideration of proximity in the 1983 definition of *support facilities*.

Specifically, the court stated that the "phrase 'resulting from or incident to' clearly suggests a causal connection, which, while not indicating an element of geographic proximity, certainly does require some type of limiting principle of proximate causation * * *." (*NWF*, 839 F.2d at 745). The court of appeals reinstated the provision which stated that "resulting from or incident to an activity connotes an element of proximity to that activity." Based on this ruling, OSMRE reinstated the definition of *support facilities* on June 9, 1988 (53 FR 21767).

On June 22, 1988, OSMRE proposed to amend its permanent program regulations at 30 CFR 701.5 by removing the definition of *support facilities* (53 FR 23522). Removal was reproposed rather than taking final action on the similar proposal of 1985 (50 FR 28180) because of the public expectation that a new definition would be forthcoming following OSMRE's statement to that effect in the final rulemaking defining "coal preparation" (52 FR 17724). This allowed all interested parties to consider again the proposed removal and comment on it prior to any final effect.

In addition to soliciting public comments and providing an opportunity for public hearings upon request, OSMRE provided a 45-day public comment period. OSMRE received comments from three organizations: A State regulatory authority, a representative of a coalition of environmental groups, and a representative of the coal industry. No public meeting was requested and none was held.

II. Discussion of Final Rule

OSMRE is removing the definition of *support facilities* from 30 CFR 701.5. Although comments on the 1985 proposed removal of the definition of *support facilities* (50 FR 28180) favored having a definition, generally because it would help in interpreting which facilities should be subject to regulations, outreach discussions with commenting parties indicated that the interest in having a definition was not strong. The 1987 outreach consultations focused, in particular, on an effort to identify those categories of facilities which would always be considered support facilities and those which would never be support facilities. OSMRE was unable to develop a definition of *support facilities* based upon categories of facilities. Any such definition would involve high potential for either under- or over-inclusive findings when applying the criteria of "resulting from or incident to."

In addition, the outreach participants expressed the concern that having a definition could be harmful in that it would limit the ability of regulatory authorities to make case-by-case determinations of what is "resulting from or incident to." Indeed, during the discussions there developed considerable support for making the proposed removal of the definition final.

Concurrent with the outreach effort, responsible officials in each of OSMRE's field offices were consulted to determine if support facilities have been adequately identified by States. While only two approved State programs contain a definition of *support facilities*, rarely have objections been raised to OSMRE concerning the administration of State programs on this issue. In fact, there have been only two instances where OSMRE has issued a ten-day notice to a State with an approved program questioning whether or not particular facilities should be regulated as support facilities.

In consideration of OSMRE's experience with this issue, it appears that regulatory authorities are capable of identifying off-site facilities that should be subject to the provisions of SMCRA without having a definition of *support facilities* in Federal regulations. In fact, there appears to be no significant difference in the administration of State programs with or without a Federal definition. OSMRE believes that the term "resulting from or incident to," in the context of the rest of the language of section 701(28) of SMCRA, provides adequate guidance to regulatory authorities in the identification of facilities that support surface coal mining operations. Having considered the court's decision, OSMRE will again recognize that the consideration of proximity, as well as function, is valid in determining whether facilities are "resulting from or incident to" regulated activities. The agency is dealing with industrial practices of great complexity (*NWF*, 839 F.2d at 745). It is imperative that OSMRE's regulations provide reasonable flexibility to implement the statute in a manner that considers the myriad site-specific situations that cannot be fully anticipated in a Federal regulation.

OSMRE will continue to monitor, through existing oversight and annual evaluation mechanisms, the interpretation by regulatory authorities of the term "resulting from or incident to." If, as a result of this monitoring, it is determined that there has developed a need for additional guidance or regulatory action, OSMRE will take appropriate action.

III. Response to Comments

Two commenters supported the proposed removal. One commenter suggested that, because the definition merely gives examples of facilities which may be regulated, and the definition of *surface coal mining operations* provides sufficient guidance to enable regulatory authorities to identify such facilities, a definition of *support facilities* is not needed. The second commenter expressed support for the court of appeals finding that the consideration of an element of proximity is a reasonable approach to determining when the facilities in section 701(28)(B) of the Act are "resulting from or incident to" the activities in (A). This commenter also endorsed the court's finding that interpreting the scope of such a statutory phrase is, as the court stated, "an obvious example of the sort of congressional delegation of policy choices to an agency the courts are bound to respect."

One of these supporting commenters went on to suggest that OSMRE should also remove the performance standards for support facilities in 30 CFR 816.181. Because such facilities must be operated in accordance with the permit issued for the mine which they support and must comply with all other performance standards, the commenter maintained, special performance standards are not needed.

OSMRE has noted this suggestion. However, the performance standards of 30 CFR 816.181 are beyond the scope of this rulemaking.

The commenter opposing the removal of the definition of *support facilities* suggested that the June 9, 1988, reinstatement of the definition had the effect of classifying certain coal preparation activities (e.g. crushing, sizing, screening) as activities of support facilities rather than as surface coal mining operations. This, the commenter maintained, conflicts with the express direction given the Secretary in *In Re: Permanent II* and warrants the promulgation of a final definition that conforms to the decision in *In Re: Permanent II*.

OSMRE recognizes that an argument can be made that the coal preparation facilities of concern to the commenter could be considered to be support facilities under the reinstated definition but does not agree that this is a problem or that it warrants redefining *support facilities*. The reinstatement was made in response to the direction of the court of appeals. Thus, regardless of whether or not it conflicts with the direction given in *In Re: Permanent II*, it was

necessary to comply with the higher court's decision. The Office is taking actions, in this rulemaking and in another final rule, fully consistent with the decision of the court of appeals reversing the finding of the lower court relative to the scope of regulation of coal processing. (see separate final rule for Coal Preparation Plants Not Located Within the Permit Area of a Mine in this issue of the **Federal Register**, proposed June 22, 1988; 53 FR 23526).

This same commenter suggested the need to redefine *support facilities* to assure uniform regulation among all states. Lack of a definition, the commenter maintained, would result in having no minimum national standards for identifying such facilities and would leave the States, the public, and the industry with no guidance on the scope of regulated support facilities. Industry would be subject to more after-the-fact liabilities and the public would be deprived of intended statutory protection, the commenter asserted. In addition, the commenter suggested, States will inevitably diverge widely in their decisions on the scope of regulation of facilities, and OSMRE will have no basis upon which to exercise Federal jurisdiction where States fail to act. One result, the commenter maintained, will be "forum shopping," particularly in the Kentucky-Ohio-West Virginia border area, for the least restrictive State policy on support facilities, a result which Congress intended be avoided.

OSMRE believes that adequate guidance exists to regulatory authorities in the statutory definition of *surface coal mining operations.* This belief is reinforced by OSMRE's and the State's experience in identifying support facilities as discussed elsewhere in this preamble. OSMRE is concerned that any attempt to be too prescriptive in regulation covering the broad spectrum of possible facilities would unduly restrict the discretion that regulatory authorities must have in order to make valid decisions about the jurisdiction of SMCRA in individual cases. Categorical exclusions or inclusions would almost certaintly result in inappropriate applications of the rule in some instances. Further, the court of appeals explicitly acknowledged the legal defensibility of OSMRE's "flexible implementation of the statute that allows regulatory authorities to 'consider the myriad site specific situations that cannot be fully anticipated in writing a Federal regulation.' 48 FR 20397 (1983)." *NWF,* 839 F.2d at 745.

As noted in this preamble, OSMRE had initially proposed a definition of "resulting from or incident to" on September 18, 1978 (43 FR 41801). However, based on comments received and following further consideration, OSMRE excluded the definition from the 1979 final regulations and chose, instead, to take a case-by-case approach to identifying support facilities. The history of the program shows that there has not been a compelling need to have such a definition.

Concerning the commenter's assertion about "forum shopping," this simply has not been OSMRE's experience. OSMRE has verified that only two States, Ohio and Virginia, define *support facilities* in their program rules. These definitions, which have been approved by OSMRE as "no less effective" than Federal requirements, will not have to be removed as a result of the removal of the definition of *support facilities* at 30 CFR 701.5. To the extent operators wish to take into account any aspect of a State's regulatory program and its implementation in determining the location of facilities, they are free to do so. However, OSMRE has seen no evidence that such considerations are likely to override other more significant economic factors, such as transportation availability and costs and ease of access and communications, when an operator is deciding on the location of support facilities.

In addition to maintaining that a definition of *support facilities* is necessary, this same commenter provided an interpretation of section 701(28)(B) of the Act upon which to base the definition. The commenter suggested that there are six discernable subcategories of section 701(28)(B): (1) The areas upon which section 701(28)(A) activities occur; (2) the areas where section 701(28)(A) activities disturb the land surface; (3) adjacent lands the use of which is incidental to section 701(28)(A) activities; (4) all lands affected by new roads or improvements of existing roads for haulage or access; (5) excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, and shipping areas; and (6) other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities. Those specific areas enumerated by Congress, the commenter maintained, such as roads, excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas and shipping areas, etc., because of their enumeration by Congress, are "resulting from or incident to" activities in section 701(28)(A).

The commenter quoted Senate Report 95–128: " 'Surface coal mining operations' also includes all areas upon which occur surface mining activities and surface activities incident to underground mining. It also includes all roads, facilities[,] structures, property, and materials on the surface resulting from or incident to such activities, *such as* refuse banks, dumps, culm banks, impoundments and processing wastes.' " (Emphasis added by commenter). The areas identified in (B), the commenter maintained, were thus listed as specific examples of areas which Congress determined to be resulting from or incident to activities in (A). The phrase "and other areas * * *" the commenter continued, was included to cover any other areas which Congress did not delineate. It is only for this latter unidentified "other areas upon which are sited structures, facilities or other property or materials on the surface" that OSMRE must create a criterion for determining which facilities are "resulting from or incident to" activities in (A), the commenter concluded.

OSMRE disagrees with the commenter's interpretation of section 701(28)(B) and cites the court of appeals: "At issue in the interpretation of § 701(28)(B) is the scope of 'processing areas * * * and other areas upon which are sited structures, facilities or other property or materials on the surface resulting from or incident to such activities.' " Later in the same paragraph, the court refers to "processing areas * * * resulting from or incident to such activities." Clearly, the court of appeals decision provides a basis for OSMRE's interpretation that the phrase "resulting from or incident to" modifies "processing."

In addition, contrary to the commenter's assertion, the phrase "resulting from or incident to" clearly does modify all those other areas specified in section 701(28)(B) of the Act. OSMRE does not believe that the enumeration by Congress of examples in section 701(28)(B) was intended to reach any such facilities which are not resulting from or incident to a mine. If the enumeration were intended to reach such facilities, then all impoundments and dams nationwide would be subject to SMCRA regardless of whether or not they had anything to do with a coal

mine. Certainly Congress did not intend OSMRE to regulate cattle-watering agricultural impoundments or major water project impounding structures without any coal mining association. Congress did not intend that "shipping areas" regardless of their association with mines be regulated under SMCRA. It is unreasonable to assume that Congress intended to regulate all coal processing at industrial facilities nationwide, absent any relationship to a mine. Rather than enumerating the examples in section 701(28)(B) as always-regulated types of facilities, irrespective of whether or not they are associated with coal mines, OSMRE believes that Congress identified them as examples of facilities that will be regulated if they are "resulting from or incident to" activities in connection with a mine.

This commenter suggested an approach to defining *support facilities* involving the identification of specific classes of facilities which would categorically fall within or outside of the regulatory ambit of SMCRA, coupled with the identification of those in the gray area where more site-specific analyses would be applied. In addition, the commenter provided some examples of how case-by-case decisions could be made for those facilities that would be covered explicitly in the definition. A coal transfer operation (e.g. from truck to rail) dedicated solely to coal transfer would clearly be dependent on and resulting from coal extraction activities, the commenter asserted. The commenter suggested that a transfer operation, which also transferred some other commodity, like grain or rock, where coal was not a significant factor in the economic viability of the enterprise, would not likely be found to be resulting from coal extraction activities.

In 1987, in consultation with regulatory authorities and representatives of the coal industry and environmental organizations, OSMRE developed for consideration a three-tiered approach to defining *support facilities*. As mentioned already in this preamble, OSMRE concluded that any definition that categorized property as always regulated, never regulated, or sometimes regulated would involve high potential for finding instances within each category in which the criteria of "resulting from or incident to" would be applied either under- or over-inclusively.

Thus, not only must OSMRE reject the commenter's particular categorization of facilities based on the interpretation of section 701(28)(B) of the Act, but the Office reaffirms its long-held belief that any attempt to categorize such facilities in the context of a definition of *support facilities* would lead to the inappropriate application of SMCRA.

On the question of what factors should be considered in determining whether or not a facility is "resulting from or incident to" an activity in section 701(28)(A) of the Act, the commenter suggested that the determination should hinge on whether or not the facility is resulting from or incident to the types of activities included in the definition, rather than be based on an integration of ownership or control with a specific regulated mining activity. The commenter further maintained that Congress was concerned with regulating these facilities wherever impacts occurred regardless of whether the facility was independently operated or was part of an integrated mining operation. The basis for the determination, the commenter asserted, should be the economic viability of the facility independent of the mining activity.

OSMRE agrees. Economic independence is a valid consideration in determining whether a facility is a support facility. Indeed, OSMRE would expect the economic dependence of a facility on a mine to be a critical element in determining the degree to which the facility results from or is incident to a regulated mining activity.

An additional consideration in identifying support facilities, the commenter suggested, would be whether the environmental and public health and safety impacts of the support area are regulated by other agencies for water discharges or other environmental impacts. This would not mean, the commenter continued, that areas should be excluded from regulation based on the magnitude of impact or on the basis that OSMRE's regulations would not fully mitigate the impacts. Instead, the commenter urged, it should be a consideration of whether there are, in close cases, unaddressed coal-related environmental impacts of the sort that Congress sought to remedy, such as toxic runoff, proximity to dwellings, surface or groundwater contamination. For example, the commenter suggested, as a practical matter, extended storage of coal would likely cause impacts on both the subsurface hydrology and surface water quality from runoff. Absent the application of SMCRA, the commenter continued, such impacts would be classified as "non-point" pollution under the Clean Water Act and subject to no regulatory controls. The commenter reminded OSMRE that the Office has previously acknowledged that if not regulated, support areas can cause acid and toxic drainage and will be left unreclaimed when they are no longer needed, creating a safety and environmental hazard.

OSMRE does not agree that the consideration of environmental effects in this context is relevant to the determination of whether a "resulting from or incident to" relationship exists. In fact, OSMRE considered this concept during its 1987 outreach activities on this rule but was convinced by the negative comments received, and by further review of the definition of *surface coal mining operations* at section 701(28) of the Act, that such a consideration is irrelevant to determining "resulting from or incident to," and therefore inappropriate. Congress passed this Act to require environmental protection and reclamation at coal mines and for activities and areas associated with coal mines. This Act was not intended to regulate other industrial facilities not associated with mines even if the facilities involve some coal-related activity and even if they would have undesirable environmental impacts. Therefore, whether there is jurisdiction to regulate a particular facility under some other environmental statute must be irrelevant to a determination of whether there is jurisdiction to regulate the facility under SMCRA. The facility either is or is not properly subject to jurisdiction under SMCRA. Also, the reach of any other statute concerning the facility cannot be affected by whether or not there is jurisdiction under SMCRA.

Effect in Federal Program States and on Indian Lands

The proposed rule would apply through cross-referencing in those States with Federal programs. This includes California, Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for these States appear at 30 CFR Parts 905, 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947 respectively. The proposed rule also would apply through cross-referencing to Indian lands under the Federal program for Indian lands as provided in 30 CFR Part 750.

IV. Procedural Matters

Paperwork Reduction Act

This rule does not contain collections of information which require approval

by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Executive Order 12291

The Department of the Interior has determined, in accordance with the criteria of Executive Order 12291 (February 17, 1981), that this rule is not major and does not require a regulatory impact analysis because it will not affect existing costs to the coal industry and coal consumers, and will not adversely affect competition, employment, investment, productivity, or innovation.

Regulatory Flexibility Act

The Department of the Interior has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that this rule will not have a significant economic effect on a substantial number of small entities.

National Environmental Policy Act

OSMRE has prepared an environmental assessment (EA), and has made a finding that this rule will not significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). The EA is on file in the OSMRE Administrative Record in Room 5131, 1100 L St., NW., Washington, DC.

Author

The principal author of this rule is Stephen M. Sheffield, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202–343–5950 (Commercial or FTS).

List of Subjects in 30 CFR Part 701

Coal mining, Surface mining, Underground mining.

Accordingly, 30 CFR Part 701 is amended as set forth below.

Dated: October 7, 1988.

J. Steven Griles,

Assistant Secretary—Land and Minerals Management.

PART 701—PERMANENT REGULATORY PROGRAM

1. The authority citation for Part 701 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, and Pub. L. 100–34.

§ 701.5 [Amended]

2. Section 701.5 is amended by removing the definition of *support facilities.*

[FR Doc. 88–26916 Filed 11–21–88; 8:45 am]

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Tuesday
November 22, 1988

Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 785 and 827

Permanent Regulatory Program; Coal Preparation Plants Not Located Within the Permit Area of a Mine; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 785 and 827

Permanent Regulatory Program; Coal Preparation Plants Not Located Within the Permit Area of a Mine

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

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) is amending its regulations to clarify the circumstances under which coal preparation plants located outside of the permit area of a mine are subject to the performance standards and permitting requirements of the Surface Mining Control and Reclamation Act ("the Act" or SMCRA).

OSMRE is concerned that, because of the May 11, 1987, promulgation of a new definition of "coal preparation" (52 FR 17724), existing regulations at 30 CFR 785.21 and 30 CFR 827.1 might be interpreted to regulate certain coal preparation plants which are not properly subject to regulation under the Act. By more closely tracking the language of SMCRA in this final rule, OSMRE ensures that coal preparation activities that are carried out "in connection with" a coal mine are appropriately regulated under SMCRA.

EFFECTIVE DATE: December 22, 1988.

FOR FURTHER INFORMATION CONTACT: Stephen M. Sheffield, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington DC 20240; Telephone: 202–343–5950 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Background

The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* ("the Act" or SMCRA), sets forth general regulatory requirements governing surface coal mining and the surface impacts of underground coal mining. Section 701(28) of the Act is a lengthy definition of "surface coal mining operations." Because this final rule implements an element of that definition, and because commenters focused on the question of the proper interpretation of this definition, it is included here verbatim from the Act.

> For the purposes of this Act * * * "surface coal mining operations" means—
>
> (A) activities conducted on the surface of lands in connection with a surface coal mine or subject to the requirements of section 516 surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading or coal for interstate commerce at or near the mine site: *Provided, however,* That such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ per centum of the tonnage of minerals removed for purposes of commercial use of sale or coal explorations subject to section 512 of this Act; and
>
> (B) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities * * *. (SMCRA section 701(28), 30 U.S.C. 1291(28)).

The processing and preparation activities mentioned in the definition are usually conducted at the mine site and are then covered by OSMRE's permitting requirements at 30 CFR Parts 780 and 784 and also by the performance standards at 30 CFR Parts 816 and 817. However, such activities sometimes occur at a preparation plant which is not located at a mine site but is still operating "inconnection with" a coal mine and, thus, is subject to the requirements of the Act. To ensure that off-site coal preparation is appropriately regulated, OSMRE established a special category of permitting requirements for coal preparation plants not located within the permit area of a mine at 30 CFR 785.21 and also established special performance requirements for such facilities at 30 CFR Part 827.

The terms "processing" and "preparation" in the definition at section 701(28) of the Act are often used interchangeably. Indeed, OSMRE is not aware of any practical difference between coal preparation and coal processing. "Coal preparation" at 30 CFR 701.5 is defined as meaning "chemical or physical *processing* and the cleaning, concentrating, or other *processing* or preparation of coal" (emphases added). Although OSMRE uses the term "preparation" in this final rule at 30 CFR 785.21 and 30 CFR Part 827 and also in the definition at 30 CFR 701.5, because of numerous references to "processing" in the Act, earlier regulations, court decisions, and comments received, OSMRE continues to refer to the subject activity as "processing" as well as "preparation" in the preamble to this rulemaking.

Final regulations published on March 13, 1979 (44 FR 15317) defined a "coal processing plant" as a facility "where run-of-the-mine coal is subjected to chemical or physical processing *and* separated from its impurities" (emphasis added). In the preamble to those definitions, OSMRE discussed the rationale for the need to reach facilities not located at the mine site (44 FR 15292). "Coal processing plants are usually located at the mine mouth, but frequently one central preparation plant may serve several mines as a focal point for coal preparation and shipment to market. The coal may be transported to this central plant without removal of the rock and other impurities in the run-of-mine coal."

The revised permanent program regulations of May 5, 1983, defined "coal preparation plant" and added a complementary definition of "coal preparation or coal processing." Both of the 1983 definitions described the activity being conducted as "cleaning, concentrating, or other processing or preparation" (48 FR 20400). This definition retained the concept of separation of coal from its impurities as an integral element of coal preparation.

Also on May 5, 1983, OSMRE made final the addition of limiting language in §§ 785.21 and 827.1 to exclude facilities "at the site of ultimate coal use." (48 FR 20401). In addition, OSMRE stated that it would treat "all facilities which handle coal as either 'in connection with' a mine or 'in connection with' an end user." OSMRE continues to believe that regulation of facilities operated by or for the end user of coal at the point of such use is not required under SMCRA because, by virtue of their association with the end user of the coal, such facilities are not operated "in connection with" a coal mine.

The 1983 definitions of "coal preparation or coal processing" and "coal preparation plant," and the Secretary's jurisdiction to regulate off-site processing plants, were challenged in the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation II,*

No. 79–1144 slip op. (D.D.C. July 6, 1984) (*In Re: Permanent (II)*). The court concluded that these definitions were based on a misreading of the statute. The court rejected OSMRE's interpretation that coal preparation activities necessarily involve the separation of coal from its impurities. *In Re: Permanent II*, Slip op. at 15–20. However, the court affirmed the Secretary's jurisdiction to regulate off-site processing plants. *In Re: Permanent II*, Slip op. at 17, note 12.

In response to the court's decision, OSMRE redefined "coal preparation" and "coal preparation plant" in an interim final rule and, concurrently, in a proposed rule (July 10, 1985; (50 FR 28180)). The revised definitions included "chemical or physical processing" and "cleaning, concentrating, or other processing or preparation." Most significantly, the condition that coal preparation must include the separation of coal from its impurities was deleted from the definitions. These definitions were published as a final rule on May 11, 1987 (52 FR 17724).

On January 29, 1988, the U.S. Court of Appeals upheld the decision in *In Re: Permanent (II)* affirming the Secretary's jurisdiction to regulate off-site processing plants. (*NWF v. Hodel*, 829 F.2d 694, 742–745 (D.C. Cir., 1988) ("*NWF*")). This decision and its effect on OSMRE's interpretation of the phrase "in connection with" are discussed in the following "Discussion of Final Rule."

On June 22, 1988, OSMRE proposed to amend its permanent program regulations at 30 CFR Parts 785 and 827 to clarify that off-site coal preparation is subject to regulation under SMCRA only when it is conducted "in connection with" a coal mine (53 FR 23526). In addition to soliciting public comments and providing an opportunity for public hearings upon request, OSMRE provided a 45-day public comment period. OSMRE received comments from nine organizations, including State regulatory authorities, environmental groups and representatives of the coal industry. No public meeting was requested and none was held.

II. Discussion of Final Rule

OSMRE is amending the language in 30 CFR 785.21, the permitting requirements for off-site preparation plants, and 30 CFR 827.1, the performance standards for off-site preparation plants, to make clear that those sections apply only to off-site coal preparation that is "in connection with" a coal mine.

The first sentence of § 785.21(a), which specifies the requirements for permits for coal preparation plants not located within the permit area of a mine, previously read, "This section applies to any person who operates or intends to operate a coal preparation plant outside the permit area, other than such plants which are located at the site of ultimate coal use." Under this final rule, this sentence is replaced with, "This section applies to any person who operates or intends to operate a coal preparation plant in connection with a coal mine but outside the permit area for a specific mine." Further, this language differs from the proposed rule in that it includes the clarifying phrase, "for a specific mine." The second sentence of paragraph (a) remains the same. Because the purpose of this rulemaking is to clarify that the rule applies only to coal preparation plants operated in connection with a coal mine, and OSMRE believes that this limitation necessarily excludes facilities at the site of ultimate use, the redundant phrase "other than such plants which are located at the site of ultimate coal use," is deleted in this final rule.

Section 827.1, which specifies the performance standards for coal preparation plants not located within the permit area of a mine, previously read, "This part sets forth requirements for coal preparation plants not within the permit area for a specific mine other than those plants which are located at the site of ultimate coal use." In the final rule, this language is replaced with, "This part sets forth requirements for coal preparation plants operated in connection with a coal mine but outside the permit area for a specific mine." As in the case of 30 CFR 785.21, this language differs from the proposed rule in that it includes the clarifying phrase, "for a specific mine." Again, for the reasons cited above, the redundant phrase "other than those plants which are located at the site of ultimate coal use," is deleted.

The new definitions of "coal preparation" and "coal preparation plant" promulgated on May 11, 1987 (52 FR 17724), include activities and facilities in addition to those that involve the separation of coal from its impurities. OSMRE's experience has been that these additional activities are not necessarily conducted at the point of ultimate use, nor are they necessarily conducted "in connection with" a coal mine. As a result, OSMRE can no longer treat all facilities which handle coal as either "in connection with" a mine or "in connection with" an end user as it could when the definition of coal preparation was based on the separation of coal from its impurities. For example, facilities such as the docks at Baltimore, MD; Hampton Roads, VA; Mobile, AL; and Long Beach, CA, that may occasionally crush or size coal, may conduct "coal preparation" under the new definition. However, OSMRE does not believe that the activities being conducted at such facilities are "in connection with" a coal mine or that the Act was intended to regulate the activities at such facilities.

In light of the broadened definitions of "coal preparation" and "coal preparation plant," it is necessary to ensure that the performance standards in 30 CFR Part 827 and the permitting requirements in 30 CFR 785.21 are applied only to facilities conducting coal preparation "in connection with" a coal mine. The limitation to coal preparation conducted "in connection with" a coal mine is necessarily implied in Parts 785 and 827 because of the statutory and regulatory use of that phrase in the definition of the term "surface coal mining operations." However, OSMRE believes it would clarify the provisions if the limitation were explicitly referenced and would help to ensure that the provisions are not misconstrued.

No definition of the term "in connection with" is included in this final rule. Any attempt to further define this phrase in a regulation would unduly restrict the discretion that regulatory authorities must have in order to make valid decisions about the applicability of the performance standards of SMCRA in individual cases. Categorical exclusions or inclusions would almost certainly result in inappropriate applications of the rule in some instances. Regulatory authorities will find ample guidance for making determinations as to whether a coal preparation plant is being operated in connection with a coal mine in the language in the definitions of "surface coal mining operations" in section 701(28) of SMCRA and 30 CFR 700.5, in case histories interpreting those definitions, and in preamble discussions in OSMRE's related 1979 and 1983 rules.

OSMRE continutes to believe that the ability of mine operators, or coal handlers directly servicing such operators, to have control of processing operations is essential in establishing that a processing plant is being operated in connection with a coal mine. This position was set forth in an explanation of the reach of the 1979 regulation (30 CFR 785.21) when OSMRE stated, "OSM is only requiring regulatory authorities to extend their permit requirements as far into the stream of commerce as those activities over which mine operators and the coal handlers who directly serve them, such as coal processors, have or

could have control of operations." (44 FR 15095).

In identifying the relationship necessary for coal preparation to be "in connection with" a coal mine, the principle stated in the May 5, 1983, preamble to the definition of "coal preparation of coal procesing" should be referenced. In that preamble, OSMRE cited examples of facilities which could be considered to be "in connection with" a coal mine, including "facilities which receive a significant portion of their coal from a mine; facilities which receive a significant portion of the output from a mine; facilities which have an economic relationship with a mine; or any other type of integration that exists between a facility and a mine." Further, OSMRE stated that a "facility need not be owned by a mine owner to be in connection with a mine." (48 FR 20393; see also discussion at 52 FR 17726, May 11, 1987). This rulemaking does not alter that position.

Finally, in determining the applicability of SMCRA to off-site facilities, OSMRE has considered the January 29, 1988, ruling of the court of appeals (*NWF*, 839 F.2d at 742–745). That decision affirmed OSMRE's interpretation that the phrase "at or near the mine site" found in section 701(28)(A) of the Act did not limit the Act's regulatory jurisdiction over coal processing activities. While acknowledging that the reasonableness of the Secretary's reading of section 701(28)(A) of the Act concerning jurisdiction over coal processing activities was a close question, the court affirmed OSMRE's authority to regulate off-site coal processing under section 701(28)(B) of SMCRA, which extends the Secretary's authority to "processing areas" and other areas upon which are sited structures and facilities "resulting from or incident to" activities specified in section 701(28)(A).

In addition to affirming this authority, the court of appeals found that the phrase "resulting from or incident to" could be construed to connote an element of proximity. Specifically, the court of appeals stated that the "phrase 'resulting from or incident to' clearly suggests a causal connection, which, while not indicating an element of geographic proximity, certainly does require some type of limiting principle of proximate causation * * *." (*NWF*, 839 F.2d at 745).

Because the court affirmed the Secretary's authority to regulate offsite coal processing under section 701(28)(B) of SMCRA, it is appropriate for OSMRE to consider the court's approval of the use of a proximity factor in determining the reach of 701(28)(B). Hence, OSMRE believes that geographic proximity, as well as the functional relationship between mines and coal preparation plants, are proper factors to be considered by regulatory authorities when identifying off-site preparation plants which operate in connection with a coal mine and therefore are subject to regulation under SMCRA.

III. Response to Comments

Jurisdiction of SMCRA over "Coal Processing"

One commenter maintained that the rule is an attempt to assert authority beyond the limits of SMCRA. Congress did not intend, the commenter asserted, to regulate off-site activities incidental to the loading of coal, such as crushing or sizing.

OSMRE does not agree. The question of whether Congress intended the physical processing of coal, such as crushing and sizing, to be regulated under SMCRA is not at issue in this rulemaking. As discussed in the "Background" of this preamble, OSMRE revised the definitions of "coal preparation" and "coal preparation plant" (May 11, 1987; 52 FR 17724) to include physical processing of coal in response to the decision in *In Re: Permanent II* (Slip op. at 15–20). The issue in this rulemaking is how to determine those off-site coal preparation activities which are included in the definition of "surface coal mining operations" at section 701(28) of the Act.

Another commenter suggested that the rule was an illegal attempt to curtail jurisdiction over crushing, screening, sizing, and other physical processing. The commenter maintained that OSMRE was failing to meet the intent of SMCRA to regulate *all* coal processing.

OSMRE disagrees. Contrary to the commenter's assertion, there is nothing in the Act or its history that implies that SMCRA was meant to apply nation-wide to all industrial facilities that process coal irrespective of whether or not they are operating in connection with a coal mine. This rule relies on the statutory standard in section 701(28)(A) of the Act that the off-site coal preparation must be performed "in connection with" a coal mine. Because the phrase "in connection with" is not defined in the Act, and there is no statutory obligation to define it in regulations, OSMRE has the latitude to adopt it verbatim and apply it in a reasonable manner consistent with its normal meaning.

Specifically, this commenter maintained that the consideration of proximity in determining jurisdiction over off-site coal processing is illegal. The proximity consideration authorized by the court of appeals for support facilities, the commenter maintained, does not apply to coal processing. The phrase in section 701(28)(B), "resulting from or incident to," the commenter asserted, modifies "other areas upon which are sited structures, facilities, or other property or materials on the surface" and does not modify "processing" in (B).

OSMRE disagrees. OSMRE's position is based in part on the decision of the court of appeals, which stated, "At issue in the interpretation of section 701(28)(B) is the scope of 'processing areas * * * and other areas upon which are sited structures, facilities or other property or materials on the surface resulting from or incident to such activities.' " The court continued, "We agree * * * with the district court that the Secretary may reasonably construe the meaning of 'processing areas * * * resulting from or incident to such activities' to include processing facilities that are not at or near the mine site." The court added, "The language of subsection (B) is without geographic limitation; coal processing facilities can certainly be 'incident to' surface coal mining operations without being onsite" (*NWF*, 839 F.2d at 744–745). This language supports OSMRE's conclusion that the phrase "resulting from or incident to" modifies "processing areas," and that OSMRE may regulate off-site coal preparation facilities pursuant to the definition of "surface coal mining operations" at section 701(28) of the Act.

This same commenter suggested that even if it is accepted, for argument's sake, that "processing areas" is modified by "resulting from or incident to," it is arbitrary to apply this to dry coal preparation and not other coal preparation. If, the commenter maintained, the phrase does modify "coal processing," then it also modifies the other enumerated facilities in section 701(28)(B), including coal waste impoundments, dams, spoil banks, overburden piles, etc. The commenter suggested that OSMRE would be hard-pressed to argue before any court that this is the case because of the obvious environmental hazards that would result from such an interpretation.

Contrary to this assertion, OSMRE is not interpreting the modifying phrase "resulting from or incident to" as limited to dry coal preparation but rather interprets it to apply to all coal processing or preparation. Although OSMRE is not addressing in this rulemaking the interpretation of (B) as it applies to facilities other than coal preparation plants, OMSRE must note

that the phrase "resulting from or incident to" clearly does modify all those other areas specified in section 701(28)(B) of the Act. OSMRE does not believe that the enumeration by Congress of examples in section 701(28)(B) was intended to reach such facilities not resulting from or incident to a mine. If Congress had intended to regulate these enumerated facilities without any consideration of whether they were resulting from or incident to coal mine activities, then all impoundments and dams nationwide would be subject to SMCRA regardless of whether or not they had anything to do with a coal mine. Certainly Congress did not intend OSMRE to regulate cattle-watering agricultural impoundments or major water project impounding structures without any coal mining association. Congress did not intend that "shipping areas" regardless of their association with coal mines be regulated under SMCRA. It is unreasonable to assume that Congress intended to regulate all coal processing at all industrial facilities nationwide, absent any relationship to a mine. Congress did not enumerate the examples in section 701(28)(B) as types of facilities which will always be regulated under SMCRA, irrespective of whether or not they are associated with coal mines. Congress identified them as examples of facilities that will be regulated if they are "resulting from or incident to" activities in connection with a coal mine.

In addition to the objection concerning OSMRE's interpretation of the language in section 701(28)(B) of the Act, this commenter suggested that OSMRE's rule amounts to an expansion of the 1988 court of appeals decision and that it conflicts with the 1980 and 1984 district court decisions that paragraphs (A) and (B) of section 701(28) of the Act are independent and that they cumulatively establish the scope of jurisdiction. OSMRE has attempted, the commenter continued, to interject a geographic proximity consideration crafted under paragraph (B) into an interpretation of "in connection with" which is found in paragraph (A). This, the commenter argued, is contrary to court decisions in that it makes paragraph (A) servient to the language in paragraph (B).

The commenter suggested that the court of appeals, although expressly declining to find jurisdiction under paragraph (A), endorsed the lower court's judgment to find authority under paragraph (B). Thus, according to the commenter, the lower court's interpretation of the relationship between paragraphs (A) and (B) must stand as the only proper interpretation consistent with rules of statutory construction and the broad intent of Congress.

Again, OSMRE disagrees. First, the court of appeals found authority to regulate off-site coal processing under section 701(28)(B) of the Act. Second, the court acknowledged that the term "processing areas" is modified by the phrase "resulting from or incident to." The question is which processing areas are resulting from or incident to the activities in section 701(28)(A) of the Act. Third, the court found the element of proximity to be a valid consideration in determining whether a facility is "resulting from or incident to." Thus, the consideration of proximity in determining the reach of the regulation to "processing areas" is appropriate. The court indicated that the Secretary may properly limit the reach of the regulation to "facilities that are 'in connection with' a surface coal mine * * *." Thus, the court acknowledged without objection an approach to determining what is "coal processing * * * resulting from or incident to" coal mining activities, which is based on a consideration of proximity appropriate in implementing section 701(28) (B) of the Act, and which incorporates pertinent limiting language found in section 701(28) (A) of the Act—"activities * * * in connection with."

This view is also consistent with the finding of the court of appeals that the "phrase 'resulting from or incident to' * * * certainly does require some type of limiting principle of *proximate* causation that is familiar to the courts in tort law. Otherwise, every support facility that could be considered a 'but for' result of a surface coal mining operation would be subject to SMCRA regulation" (emphasis added) (*NWF*, 839 F. 2d at 745).

OSMRE believes that a limiting principle similar to the one found by the court of appeals to have merit under section 701(28) (B) of the Act can also be reasonably applied in determining whether coal processing activities are "in connection with" a coal mine under section 701(28)(A). Thus, the element of geographic proximity, along with the element of functional relationship described in this preamble, are proper factors to consider in evaluating whether an off-site coal preparation plant is subject to regulation under SMCRA. Contrary to the assertion of the commenter, OSMRE is interpreting the complex definition in section 701(28) of the Act in a manner wholly consistent with and supported by this latest court decision.

One commenter maintained that the most straight-forward approach to regulating off-site coal processing would be to acknowledge what the court of appeals found to be a "clearly better" reading of the statute—that "at or near the mine site" in section 701(28)(A) of the Act modifies "cleaning, concentrating, or other processing or preparation."

OSMRE has considered this interpretation in the past but, in light of the fact that the court of appeals has upheld the Secretary's jurisdiction over coal processing under section 701(28)(B) of the Act, it is not necessary to revisit the interpretation of the "at or near the mine site" language in section 701(28)(A). The purpose of this rule is to recognize that there are processing facilities other than those at the point of ultimate use that are not in connection with a coal mine, and to ensure that jurisdiction is extended only to preparation plants operating in connection with a coal mine.

One commenter suggested that OSMRE clarify that off-site coal loading absent chemical or physical processing is not regulated under section 701(28)(B) of the Act as "processing areas" or as "other areas upon which are sited structures * * * resulting from or incident to" mining. The commenter pointed to the language in (A) stipulating that the definition of "surface coal mining operations" includes loading "for interstate commerce" that occurs "at or near the mine site," and suggested that this would preclude regulating coal loading that did not meet this two part criteria in (A).

OSMRE interprets "loading" and "processing" in section 701(28) to be distinct and different activities. Coal loading is not processing, and therefore off-site loading facilities that do not process coal are not subject to the performance standards of 30 CFR Part 827. OSMRE agrees with the commenter that loading facilities that do not process coal are not regulated unless located at or near the mine site. OSMRE construes the specific language of section 701(28)(A) of the Act limiting the regulation of loading facilities to those at or near the mine site to limit proximity considerations concerning off-site loading facilities.

Applying "In Connection With"

In addition to supporting the incorporation of the phrase "in connection with" into the rule, one commenter suggested that OSMRE define the term in order to limit the rule's application.

As mentioned above, there is no statutory obligation to flesh out the language in this rule. OSMRE believes that further attempts to define the phrase "in connection with" would unduly hamper regulatory authorities in making valid case-by-case determinations and would result in inappropriate applications of the rule. For example, in 1983, OSMRE amended the rules governing the reach of SMCRA to off-site coal processing by including all processing but that which was conducted at the point of ultimate use. While the test was mechanical and very easy to apply, it posed the potential for inclusion of facilities that do not operate in connection with a coal mine. To that extent, the fleshing out of the rule was undesirable and needed to be changed.

The preamble to this rule provides adequate guidance, much of which has been in place for many years, on what to consider when evaluating whether a coal preparation plant is operating in connection with a coal mine. Further, the court of appeals (*NWF*, 839 F.2d at 745) found merit in OSMRE's "flexible implementation of the statute that allows regulatory authorities to 'consider the myriad site specific situations that cannot be fully anticipated in writing a Federal regulation.' (48 FR 20397; 1983)."

Another commenter criticized OSMRE's assertion that it can no longer treat facilities as being either in connection with a mine or an end user. The commenter maintained that OSMRE has failed to identify any aspect inherent in the preparation activities newly included in the definition of "coal preparation" that justifies any reconsideration of their being subject to regulation. The commenter then went on to exclude the possibility of basing such a distinction on location or environmental harm because processing involving the separation of coal from its impurities is just as likely to occur away from minesites as that which does not involve separation of impurities, and both types of processing involve environmental impacts.

Contrary to the commenter's assertion, OSMRE's experience indicates that facilities separating coal from its impurities are much more apt to be located near the mine or near the end user, while crushing, sizing, and screening may occur at any point in the stream of commerce. Further, as described earlier in this preamble, once the definition of "coal preparation" was changed to include activities less apt to be conducted "in connection with" a coal mine, it raised the specter of the misapplication of the rules to such activities. Because of the addition to the definition of "coal preparation" of new categories of activities which in some instances may not be "in connection with" a mine or end user (e.g., crushing and sizing), OSMRE must revise the language of this rule. OSMRE wishes to appropriately limit and concisely state the jurisdiction provided in section 701(28) of the Act over coal preparation which results from or is incident to an activity "in connection with" a coal mine. Therefore, OSMRE is revising the rules to incorporate the phrase "in connection with."

Another commenter objected to the removal from existing regulations of the phrase "other than such plants which are located at the site of ultimate coal use" and the insertion of "in connection with," on the basis that the latter phrase is subjective and will require the regulatory authority to make a judgment as to whether a facility is operating "in connection with" a coal mine. The commenter suggested that the determination of jurisdiction was clearer under previous language and recommended retaining the existing language in 30 CFR Parts 785 and 827.

It has always been necessary for regulatory authorities to determine whether coal preparation activities are being conducted "in connection with" a coal mine. The incorporation of the statutory language in this rule merely specifically repeats the statutory requirement. Because of the amended definition of "coal preparation," the terms of the previous criterion could have been interpreted to include activities and facilities which do not meet the statutory definition of surface coal mining operations. Therefore, this provision needed to be changed.

Another commenter was concerned about the effect of the rule on a specific preparation plant that operates in connection with an end user, a power plant burning coal from a mine located about a mile away. Such plants were not subject to regulation under OSMRE's previous rules at 30 CFR Parts 785 and 827 because those rules explicitly excluded from jurisdiction "such plants which are located at the site of ultimate coal use."

As stated above, OSMRE has not changed its interpretation that operations in connection with an end user are not operations in connection with a coal mine. Coal preparation facilities which are being operated only in connection with another industrial facility, such as the power plant of concern to this commenter, do not operate in connection with a coal mine and are not subject to the rule.

Another commenter maintained that this rule is a reversal of OSMRE's July 10, 1985 (50 FR 28186), interim final rule which required States to revise their programs to ensure that every "coal preparation plant" under the interim final definition would be permitted. Certain operations subject to regulation under the interim final rule will no longer be regulated under the new rule, the commenter asserted.

This new rule does not constitute a reversal of the referenced requirement. Although the revised definition of "coal preparation plant" included facilities not previously considered by OSMRE to be conducting coal preparation, it did not alter OSMRE's requirement that regulatory authorities extend jurisdiction only to coal preparation activities when they are "in connection with" a coal mine.

One commenter emphasized that the fact that the statute is phrased in the singular, "in connection with *a* surface coal mine" (emphasis added) means that Congress intended that the activity be regulated only when it is in connection with one mine, not several mines. The commenter maintained that the court of appeals supported this interpretation when it noted that "the Secretary only purports to regulate facilities that are 'in connection with' a surface coal mine."

Although OSMRE recognizes that the reference to "activities * * * in connection with a surface coal mine" in section 701(28)(A) of the Act is phrased in the singular, and the singular is used in this rule, the Office does not interpret the language of the Act to indicate Congressional intent to limit application of the Act to activities in connection with only one mine (see, for example, 44 FR 15095 and 15292; March 13, 1979). The use of the singular "a" in this rule and in the guidance in this preamble does not preclude regulatory authorities from considering the relationship of a facility to more than one mine in determining whether that facility is conducting activities "in connection with" a coal mine.

This commenter also suggested that OSMRE consider whether a plant has a useful life independent of a specific mine in addition to considering those factors already discussed in the preamble to this rule in applying the "in connection with" test.

OSMRE believes that it is valid to consider whether a facility has a useful life independent of the specific mine or mines which it serves, in determining if the facility is operating in connection with a coal mine (particularly in light of the intended effect of the Act as a reclamation statute). A facility lacking a

useful life independent of the specific mine or mines which it currently serves would be operating in connection with a coal mine, while a facility having a useful independent life might not. In the latter case, regulatory authorities would have to consider the other aspects of the relationship between the facility and any particular coal mine or mines to determine if it operates in connection with a coal mine. OSMRE believes that this consideration is consistent with the economic and other considerations set forth in the May 5, 1983, preamble to the definition of "coal preparation or coal processing" (48 FR 20393) and is also consistent with the need for a limitation noted by the court of appeals (*NWF*, 839 F.2d at 745).

This same commenter added that the functional relationship described by example in the preamble is subject to change over time. For example, the commenter noted, a facility's economic relationship to a mine may change from year to year depending on the life of the permit and, particularly, the useful life of the facility. Consequently, the commenter maintained, a facility that meets the "in connection with" test one year may not meet it under the exact same analysis the next year. The commenter suggested the use of a litmus test which would incorporate proximity and the "useful life independent of a mine" test applied in relation to a specific mine.

The commenter asserted that this will lead to the regulation of preparation plants built and operated for the life of a particular mine thus allowing for a more appropriate application of SMCRA's post-mining land use standards. Independent facilities which operate separate from the life of a particular mine do not fit Congress' statutory scheme for post-mining land use, according to the commenter. Such a facility's useful life, the commenter continued, may extend beyond the life of the particular mine it serves, but the level and frequency of activity of the facility may be associated with several mines it serves, rather than a particular mine. The commenter further maintained that OSMRE has in the past insisted that a permit for an independent facility show that it will be dismantled and the area reclaimed once processing activities cease, despite the owner's plans to use the facility sometime in the future for new mining anticipated in the area. It appears from legislative history and statutory construction, the commenter maintained, that Congress intended to regulate only those facilities directly related to a mine with no anticipated life beyond a particular mine.

OSMRE agrees with the commenter that the application of the Act, with its primary emphasis on reclamation and post-mining land use, to industrial facilities designed for long-term use and not operated in connection with a coal mine would be inappropriate. Because SMCRA is primarily a reclamation statute, and any facility regulated as a surface coal mining operation must have a reclamation plan, it is reasonable to expect that a regulated facility will have an estimated or prescribed life span and that reclamation will occur following the close of operations.

However, OSMRE disagrees with the commenter's assertion that SMCRA was intended to regulate only those facilities directly related to a mine with no anticipated life beyond a particular mine. OSMRE sees no basis in SMCRA or the legislative history for the commenter's conclusion. As noted above, a facility may be subject to regulation because it is operating in connection with more than one coal mine.

OSMRE does not expect this approach to lead to a series of situations in which many facilities that meet the "in connection with" test one year will not meet it under the same analysis the next year, as envisioned by the commenter. Decisions of regulatory authorities concerning whether or not facilities operate in connection with a coal mine are to be made consistent with the practical considerations discussed in this rulemaking. OSMRE does not believe that the fundamental economic relationships that exist between facilities and mines fluctuate to the extent that regulatory authorities would properly reverse their determinations from one year to the next. Further, OSMRE believes that the flexibility inherent in this rule does more to enhance the year-to-year consistency of decisions than would be the case if the rule set forth a more mechanical approach.

Issue of "Control of Operations"

One commenter criticized OSMRE for stating in the proposed rule that "the ability of the mine operators, or coal handlers directly servicing such operators, to have control of operations is essential in establishing that a plant is being operated in connection with a mine," and then allegedly contradicting that position by stating that "a facility need not be owned by a mine owner to be in connection with a mine" (53 FR 23528). Because of the confusion surrounding what "control" really is, the commenter maintained, OSMRE needs to provide more guidance here.

Further the commenter maintained, OSMRE should make clear that the "control" discussed in the preamble is different from ownership and control as defined in OSMRE's regulations. The former, the commenter suggested, does not have the legal meaning of the latter, and really relates to function rather than a legal relationship.

The language quoted by the commenter is from guidance provided by OSMRE in 1979 and 1983. This rulemaking is not intended to alter the meaning or utility of that guidance, and the application of that guidance through regulatory programs has not raised any significant questions regarding its utility or appropriateness. Further, OSMRE sees nothing contradictory in that guidance. OSMRE was merely making the point that ownership of a facility is not necessary in order for the facility to be operating in connection with a coal mine. The level of economic reliance of a particular facility on a coal mine is a valid consideration in determining if the facility operates in connection with that mine. OSMRE still considers this guidance to be pertinent.

The commenter's point about the use of the term "control" is well taken. OSMRE defines "owns or controls" and "owned or controlled" at 30 CFR 773.5 (see 53 FR 38868) for purposes of implementing section 510(c) of the Act relative to ownership or control of a mine operation. A definition of "control" did not exist in 1979 when OSMRE first used the term as guidance for resolving questions of SMCRA's jurisdiction over offsite facilities. The purpose and effect of the guidance for this rule is not intended to be altered by OSMRE's recent definition of "owns or controls." The preamble cited in this rulemaking was intended to allude to the economic or functional relationship or linkage that may constitute a connection between coal processing activities and a mine under section 701(28)(A) of the Act, irrespective of ownership of the facilities.

This commenter also suggested that OSMRE's preamble examples of the types of relationships that constitute "in connection with" are vague, and that OSMRE needs to define the terms used in the examples, such as "significant", "economic relationship", or "any type of integration" (53 FR 23528).

OSMRE does not agree that the examples are vague. When used as illustrations in the guidance on evaluating "connections," these terms have generally understood meanings. OSMRE believes that defining or further

fleshing out these terms beyond their normal usage is unnecessary in order for the terms to be useful in this context. And to the extent that more detailed definitions would alter the generally understood meanings of these terms, such definitions would lead to inappropriate applications of the rule.

Miscellaneous Comments

One commenter asserted that OSMRE, by referencing specific harbor facilities in the preamble, was attempting to carve out an illegal exemption for facilities based on distance from a mine.

OSMRE is not proposing any class exemption. The port facilities named in the preamble to the proposed rule were included as specific and illustrative examples of facilities which OSMRE believes are not conducting coal preparation in connection with a coal mine. As another commenter pointed out, these specific facilities are primarily freight handling facilities and, as such, are an intermediate transfer point for coal which has already entered interstate or international commerce. OSMRE does not propose that determinations about jurisdiction be made solely on the basis of location relative to a mine absent any consideration of function or relationship. The approach adopted by OSMRE, and one which the court of appeals found to have merit, is to consider proximity as one of the factors in determining jurisdiction.

One commenter noted that a misconception exists concerning blending of coal, where coal from different seams and of differing qualities is loaded into the same coal carrier to achieve a composite product of specified quality. The commenter was concerned that this will be considered "physical processing" under this rule because the characteristics of the blended coal are different from those of the constituent coals. This is particularly objectionable, the commenter maintained, because there is no environmental consequence to such blending.

OSMRE does not believe that the blending of coal during loading, if all that is involved is the loading of different types or qualities of coal, changes the status of a loading operation for purposes of regulation. Such blending is not processing.

One commenter urged that OSMRE clarify that retail sales dealers having their own coal preparation facilities, where the only contact with a mine is the purchase of run-of-the-mine coal at wholesale prices, are not to be regulated under the rule.

OSMRE cannot state with certainty that the facilities of concern to this commenter do not operate in connection with a coal mine. Whether a particular retail sales dealer is operating in connection with a coal mine is a question of fact, to be determined based on the facts of the particular situation. However, because coal preparation facilities operated by retail sales dealers tend to be closely linked to end users, OSMRE does not expect that regulatory authorities, in making case-by-case determinations, will likely find that such facilities are operating in connection with a coal mine.

A Federal agency reminded OSMRE of the authority of Federal land managing agencies to regulate surface mining on agency lands.

This rule deals with the issue of regulation under SMCRA and thus has no effect on regulation by other Federal agencies of lands under their jurisdiction under other statutes.

One commenter objected to the manner of promulgation of these and previous regulations dealing with off-site coal preparation, and maintained that OSMRE violated the Administrative Procedure Act (APA) in promulgating the 1985 interim final rule defining "coal preparation." The commenter maintained that it is difficult for operators of facilities to determine if they are subject to regulation because of the constant changes in the status of regulations. The commenter criticized OSMRE for proposing changes only to portions of the rules governing off-site coal preparation instead of revising all the rules for off-site preparation. OSMRE should, the commenter suggested, at least provide a reasonable effective date for this final rule so that operators have time to determine if they are to be regulated.

Questions of APA violations in other rulemakings are outside the scope of this rulemaking. The APA and section 526(a) of SMCRA provide appropriate procedures for any interested person who feels that a statutory requirement for another rulemaking has not been met. OSMRE has adhered to the APA in proposing this rule, considering public comments, and promulgating the final rule. The rule is issued with the standard effective date of 30-days from the date of publication, which OSMRE believes is a reasonable effective date, given the nature of the issues addressed in this rulemaking. In addition, OSMRE sees no reason to repropose all the rules dealing with off-site coal preparation when the only question at hand is one of clarifying which preparation plants are subject to regulation under the Act's definition of "surface coal mining operations."

Finally, concerning the commenter's assertion that facility operators cannot tell if they are subject to the rule, OSMRE does not purport to provide the entire regulatory scheme in this rule, but rather seeks to provide a reasonable framework for regulatory authorities to adopt and implement regulatory programs, including appropriate case-by-case decisions about jurisdiction. In this regard, OSMRE believes that it is providing sufficient regulatory guidance, and that operators of processing facilities necessarily know whether or not they are operating in connection with a coal mine or if they are operating a long-term industrial facility not in connection with any coal mine. When in doubt, they should contact the regulatory authority.

Effect in Federal Program States and on Indian Lands

The rule applies through cross-referencing in those States with Federal programs. This includes California, Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for these States appear at 30 CFR Parts 905, 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947 respectively. The rule also applies through cross-referencing to Indian lands under the Federal program for Indian lands as provided in 30 CFR Part 750.

Effect on State Programs

OSMRE will evaluate permanent State regulatory programs approved under section 503 of SMCRA to determine whether any changes in these programs will be necessary. If the Director determines that certain State program provisions should be amended in order to be made no less effective than the revised Federal rules, the individual States will be notified in accordance with the provisions of 30 CFR 732.17.

IV. Procedural Matters

Paperwork Reduction Act

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

Executive Order 12291

The Department of the Interior has determined, in accordance with the criteria of Executive Order 12291 (February 17, 1981), that this rule is not major and does not require a regulatory impact analysis because it will not affect existing costs to the coal industry

and coal consumers, and will not adversely affect competition, employment, investment, productivity, or innovation.

Regulatory Flexibility Act

The Department of the Interior has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that this rule will not have a significant economic effect on a substantial number of small entities.

National Environmental Policy Act

OSMRE has prepared an environmental assessment (EA), and has made a finding that this rule will not significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). The EA is on file in the OSMRE Administrative Record in Room 5131, 1100 L St., NW., Washington, DC.

Author

The principal author of this rule is Stephen M. Sheffield, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202–343–5950 (Commercial or FTS).

List of Subjects

30 CFR Part 785

Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 827

Coal, Environmental protection, Surface mining.

Accordingly, 30 CFR Parts 785 and 827 are amended as set forth below

Date: October 8, 1988.

J. Steven Griles,

Assistant Secretary—Land and Minerals Management.

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

1. The authority citation for Part 785 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, and Pub. L. 100–34.

2. Section 785.21 is amended by revising paragraph (a) to read as follows:

§ 785.21 Coal preparation plants not located within the permit area of a mine.

(a) This section applies to any person who operates or intends to operate a coal preparation plant in connection with a coal mine but outside the permit area for a specific mine. Any person who operates such a preparation plant shall obtain a permit from the regulatory authority in accordance with the requirements of this section

* * * * *

PART 827—PERMANENT PROGRAM PERFORMANCE STANDARDS—COAL PREPARATION PLANTS NOT LOCATED WITHIN THE PERMIT AREA OF A MINE

3. The authority citation for Part 827 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, and Pub. L. 100–34.

4. Section 827.1 is revised to read as follows:

§ 827.1 Scope.

This part sets forth requirements for coal preparation plants operated in connection with a coal mine but outside the permit area for a specific mine.

[FR Doc. 88–26915 Filed 11–21–88; 8:45 am]

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November 22, 1988

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Parts 21 and 36

Noise Certification Standards for Propeller-Driven Small Airplanes and Propeller-Driven Commuter Category Airplanes; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 36

[Docket No. 25034; Amendment Nos. 21-63 and 36-16]

Noise Certification Standards for Propeller-Driven Small Airplanes and Propeller-Driven Commuter Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule, which is based on Notice 86-10 (51 FR 25500), revises noise certification standards for propeller-driven small airplanes and propeller-driven, commuter category airplanes by substituting the use of actual takeoff tests for the level flyover tests currently specified. Subsequent to the publication of Notice 86-10, Parts 21, 23, 36, 91, and 135 of the Federal Aviation Regulations (FAR) were amended to adopt certification procedures, airworthiness and noise standards, and operating rules for an additional category of propeller-driven, multiengine airplane, designated as the Commuter Category. As a result of these amendments, propeller-driven, commuter category airplanes have been included in this final rule. This rule revises noise certification test procedures as of December 22, 1988 and revises the noise level limit numbers to approximate the sound levels measured and corrected in accordance with Appendix F of Part 36. This rule resulted from industry requests that noise certification be more directly based upon typical in-service noise measurements and from studies conducted over a three year period under the auspices of the International Civil Aviation Organization. The rule exempts both antique airplanes and airplanes modified by the addition of floats or skis from the acoustical change measurement and documentation requirements of Part 21.

DATES: Effective date of this amendment is December 22, 1988. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 22, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Albersheim, Noise Policy and Regulatory Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267-3560.

SUPPLEMENTARY INFORMATION:

Synopsis of the Final Rule

Part 36 of the Federal Aviation Regulations (14 CFR Part 36) contains noise standards for aircraft type and airworthiness certification. Appendix F of Part 36 contains the provisions currently applicable to propeller-driven small airplanes and propeller-driven, commuter category airplanes. Compliance with Appendix F is now determined by a level flyover test for which the measured noise is subjected to a calculated "correction" to account for differences in aircraft performance between level flight and takeoff. This rule amends Part 36 adding an Appendix G to include actual takeoff noise tests, instead of the present level flyover test, eliminating the need for the performance correction. The amendment provides the test conditions, procedures, and noise levels necessary to demonstrate compliance with certification requirements. The new noise standard affects the following items:

A. Certification Procedure Provisions

The new rule amends FAR Part 36 by adding an Appendix G which contains the specifications for conducting takeoff noise certification tests. This appendix also contains procedures for adjusting measured noise data for the differences in aircraft performance and acoustic propagation between the test day and the reference standard day. The effective date for Appendix G is December 22, 1988.

B. Noise Level Standard

Appendix G provides for the continued use of the A-weighted sound level (L_A) as the noise measure the propeller-driven small airplanes and propeller-driven, commuter category airplanes.

The Appendix G noise level limit is simply a translation of the current Appendix F noise limit which accounts for the difference in noise level resulting from the change in test airspeed and distance that the airplane is from the microphone. Even though the Appendix G noise level limit is now 5 decibels higher than the Appendix F limit, no change in absolute noise level requirements is expected to occur from this amendment.

C. Acoustical Change

FAR Part 21 has been amended to remove the present limitations on acoustical changes. These limitations were based on the use of the level flyover test and had no provision for increased airplane weight or decreased performance. With this revision, FAR Part 21 now uses one acoustical change provision for all airplanes that are noise certificated using a takeoff test.

The revision to FAR Part 21 also exempts from the acoustical change requirements antique airplanes, i.e., those that had flight time before January 1, 1955, and airplanes modified by the addition of floats or skis. The owners of antique aircraft often experience difficulty in finding airworthy parts, e.g., engines, needed to keep aircraft in safe operable condition. They, therefore, often opt to make changes based on current parts availability and safety. The typical operator of an antique aircraft owns only one airplane and the acoustical change situations arise infrequently; thus, the FAA does not believe that adding noise requirements is justified either economically or environmentally.

Regulatory History

On December 31, 1974, the FAA adopted noise standards (40 FR 1029) for propeller-driven small airplanes, which prescribed noise standards for the issue of normal, utility, acrobatic, transport, and restricted type certificates. The rule also prescribed noise standards for airworthiness certificates and restricted category airworthiness certificates for newly produced propeller-driven small airplanes of older type designs. Finally, the rule prohibited acoustical changes in the type design of those airplanes where those changes increased noise levels beyond specified limits. Section 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1431), as amended by the Noise Control Act of 1972 (Pub. L. 92-574) provided the statutory authority for the provisions published in Notice 73-26 in the **Federal Register** on October 10, 1973 (38 FR 28016). A corrective amendment was published in the **Federal Register** on February 11, 1975 (40 FR 6346). The adopted standards were again amended (41 FR 56506; December 23, 1976) as a result of two proposals submitted to the FAA by the Environmental Protection Agency (40 FR 820, January 3, 1975, and 40 FR 1061; January 6, 1975).

A further amendment (45 FR 67064, October 9, 1980) applied to new production of previously exempt agricultural and fire-fighting airplanes (without flight time before January 1, 1980), and to acoustically changed airplanes (without flight time in the changed configuration before January 1, 1980) that had not been shown to comply with Part 36 noise levels.

In May 1983, the International Civil Aviation Organization (ICAO) Committee on Aircraft Noise recommended replacing the ICAO

flyover noise standard with a takeoff noise standard. In July 1986, a Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** (Notice 86–10, 51 FR 25500; July 14, 1986) to solicit comments on the proposal to revise noise certification for propeller-driven small airplanes by substituting the use of actual takeoff tests for the level flyover tests specified in Appendix F of Part 36. This final rule is substantially the same as the ICAO recommendation, except for microphone placement and associated noise limits.

Need for Regulation

The noise certification method for propeller-driven small airplanes contained in Appendix F approximated the takoff noise by requiring level flyovers and making "corrections" calculated from meaured or assumed aircraft performance. However, ground measurements recorded during actual takeoffs seldom agreed with the Appendix F certification levels. As a result, the Genereal Aviation Manufacturers Association suggested that the noise certification rules should be changed to employ actual takeoff noise measurements. Thus, the purpose of this amendment is only to change the noise testing procedure and not to lower the absolute noise limitations.

Additionally, under Section 611 of the Federal Aviation Act of 1958, as amended (the Act), the FAA Administrator, in prescribing or amending aircraft noise regulations, is required to consider, among other things, whether the action is consistent with the highest degree of safety in air commerce and whether it is economically reasonable, technologically practicable, and appropriate for the particular type of aircraft to which it would apply. The FAA believes that this final rule meets the requirements of Section 611 of the Act.

Rule Structure and Timing

As a part of this rule, an Appendix G has been added to Part 36. This appendix is structured along the general lines of Appendix F which contains the requirements for noise certification of propeller-driven small airplanes and propeller-driven, commuter category airplanes using the level flyover test. While both procedures share some common elements e.g., the use of the A-weighted decibel as the unit of noise measure), their differences are so pervasive that concern for the clarity of the resulting regulation requires the use of a separate appendix.

Similarly, to preclude questions of the applicability of each procedure, the FAA will require the use of Appendix G of all tests conducted on or after December 22, 1988, regardless of the date of application for type certification. This will eliminate the regulatory burden that would be imposed on applicants if different standards and tests were required for different airplanes, or models thereof, in same product line. On or after December 22, 1988, all noise certification tests will be conducted pursuant to Appendix G.

Analysis of the Amendments

The amendment to establish a takeoff test procedure for the noise certification of propeller-driven small airplanes and propeller-driven, commuter category airplanes revises existing Parts 21 and 36 to the Federal Aviation Regulations (14 CFR Parts 21 and 36) as follows: 1. Section 21.93 defines changes to an aircraft type design which require recertification for noise, i.e., acoustical changes. Recertification for those "acoustical changes" for propeller-driven small airplanes and propeller-driven, commuter category airplanes was limited to (a) changes to or removal of mufflers of similar noise-control components or (b) increases in installed power or propeller tip speed. This amendment expands the definition of acoustic change. As amended, § 21.93 states that any voluntary change in the type design of an airplane which may increase the noise levels of that airplane is an "acoustical change". This change allow one "acoustic change" definition to be used by all airplanes.

Section 21.93 has also been amended to eliminate recertification for acoustic change for antique airplanes and land-based airplanes which only add (or substitute) floats or skis to already certificated wheeled aircraft. Recertification for acoustic change is required for acoustic changes made after a wheeled aircraft has been reconfigured with floats or skis. The new definition of "antique" airplane is limited to U.S. registered airplanes with flight time prior to January 1, 1955. As amended in this respect, § 21.93 is now consistant with § 45.22(b) which grants an exemption to antique aircraft from nationality and registration marking. There is no change in airworthiness certification requirements as a result of this rule.

2. Two additional technical publications have been incorporated by reference in § 36.6. The publications contain technical specifications for noise measurement and analysis equipment and are available from the International Electrotechnical Commission. Section 36.6 provides information concerning the purchase of these additional publications and a listing of the U.S. Government offices where the publications are available for inspection. The listing of these offices has been updated to account for changes which occurred subsequent to publication of Notice 86–10. However, this change does not effect the scope of this final rule.

3. Section 36.9 has been amended to require that noise tests conducted for acoustical changes be performed in accordance with § 36.501. At present § 36.9 requires compliance with Appendix F. However, § 36.501 directs applicants to the appropriate appendix.

4. Section 36.501 has been expanded to direct applicants for new, amended, and supplemental type certificates to the appropriate noise limit in Appendix F for certification tests completed before December 22, 1988. or Appendix G for certification tests completed on or after December 22, 1988.

5. Paragraphs (b) and (c) of § 36.501 have been amended to direct applicants for new, amended, and supplemental type certificates to the appropriate noise certification regulation. The amendment establishes Decmeber 22, 1988, as the date on or after which all noise certification tests for propeller-driven small airplanes and propeller-driven, commuter category airplanes will be conducted using the methods and procedures of Appendix G. All tests completed before this date will use Appendix F. The noise levels appropriate to each procedure are contained in the applicable appendix.

6. The title of Appendix F has been changed to clearly indicate that it only pertains to the flyover test requirements for propeller-driven small airplanes and propeller-driven, commuter category airplanes.

7. Similarly, the description of the scope of Appendix F, contained in section F36.1, has been amended to reflect its new status.

8. An Appendix G has been added to FAR Part 36 and its contents are summarized as follows:

PART A—GENERAL

The scope of Appendix G is specified in section G36.1. The appendix prescribes procedures and certification noise levels applicable to tests of propeller-driven small airplanes and propeller-driven, commuter category airplanes which are conducted on or after December 22, 1988. Tests for propeller-driven small airplanes and propeller-driven, commuter category airplanes which are conducted prior to

December 22, 1988, will be performed under Appendix F.

PART B—NOISE MEASUREMENT

Section G36.101 specifies takeoff test conditions including both the physical conditions for the noise measurement site and the meteorological "test window". The meteorological window in which testing is allowable is larger for Appendix G than for Appendix F. Specifically, temperature and relative humidity limits for Appendix G have been increased to match those currently used for testing of large propeller-driven and turbojet powered aircraft. These limits should decrease the need and costs of waiting for acceptable weather conditions before starting tests. The wind limits have been changed to include limits on both total wind and cross-wind velocity. Appendix F only has a total wind limit coupled with a requirement to align the airplane flight direction within +15 degrees of the wind under certain circumstances.

Section G36.103 describes the acoustical measurement system. Since the noise unit chosen for Appendix G is the same as that for Appendix F, no changes in this section have been made.

Section G36.105 is similar to the corresponding section of Appendix F, with some additional technical guidance provided. Specifically, two additional documents from the International Electrotechnical Commission (Publication No. 651, entitled "Sound Level Meters" and No. 561, entitled "Electro-acoustical Measuring Equipment for Aircraft Noise Certification") are incorporated by reference. A reference to the calibration procedures contained in Appendix A is also added to clarify the requirements in this area. The section adds two more categories of acceptable sound level recording instrumentation, graphic level recorders and sound level meters. These additions increase the flexibility of the rule and lower the costs to the applicant. Additionally, use of an inexpensive windscreen is required when the wind speed exceeds 5 knots. This requirement will improve the signal-to-noise ratio on windy days, improve the data, and increase the number of test days available to applicants.

Section G36.107 specifies the requirements for noise measurement procedures, including the orientation of the microphone during takeoff. The orientation of the microphone sensing elements during the test must be related to the direction from which the sound was coming during calibration. Similarly, the recorder must be calibrated within 10 decibels of the full-scale value. Both of these requirements are intended to ensure that differences between measurement systems will not affect measured sound levels.

Section G36.109 provides guidance on the types and extent of data necessary for noise certification including information on the equipment and its response, and meteorological and topography features that might affect noise measurements, aircraft performance, and noise levels. For takeoff noise tests, information must be gathered on aircraft performance and position when the airplane is directly over the microphone to make the corrections required in section G36.201.

Section G36.111 specifies airplane flight procedures with measurement distances taken from the microphone location at the noise measuring site. Specifically, the start of takeoff roll must be 8,200 feet from the noise measuring site and the aircraft must pass over it within ten degrees from the vertical and within twenty percent of the reference (standard day) altitude. The reference day is a no-wind, sea level day of 59 °F and 70 percent relative humidity. The 59 °F standard is that used for calculating aircraft performance for airworthiness certification and by using this value, rather than the 77 °F used in Appendix F, applicants need not re-compute aircraft performance solely for noise certification purposes. Such calculations are not currently necessary under Appendix F since aircraft noise during level flyover can generally be assumed to be independent of temperature.

PART C—DATA CORRECTIONS

Section G36.201 contains the technical specifications for the corrections to measured data necessary under Appendix G. Corrections are required to convert the data to standard reference conditions for (1) atmospheric absorption, (2) noise path length differences caused by conditions such as changes in altitude, (3) propeller tip speed, and (4) engine power. This section does not require correction for atmospheric absorption if the test is conducted within a "no-correction" window, shown in figure G1. A similar "no-correction" window is provided for certain tests conducted within five percent of the reference power.

Section G36.203 requires that the measurement point be overflown at least six times to get enough measurements for a statistically valid average sound level. Further, the variation of these flights must be such that the confidence limit does not exceed 1.5 dB(A).

PART D—NOISE LIMITS

The noise level limits for the takeoff tests of propeller-driven small airplanes and propeller-driven, commuter category airplanes are contained in section G36.301. The noise level must not exceed 73 dB(A) up to and including aricraft weights of 1,320 pounds. Between 1,320 pounds and 3,300 pounds, the noise limit increases linearly at a rate of 1dB(A) for each 165 pounds from 73 dB(A) to 85 dB(A). Between 3,300 pounds and 19,000 pounds, noise cannot exceed 85 dB(A). The maximum weight of the airplane at brake-release must be the maximum weight for which noise certification is requested.

These limits (and all of Appendix G) apply to tests conducted on or after December 22, 1988, for noise certification for a new, amended, or supplemental type certificate. The choice of a single date on which to apply Appendix G, is intended to provide for the smooth transition to the new test procedures and to ensure equitable treatment for all applicants.

Regulatory Impact Evaluation

The FAA conducted a detailed regulatory evaluation which is included in the regulatory docket. This evaluation reviews all changes to Parts 21 and 36. The FAA determined that the final rule is considered to be significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and is not major as defined in Executive Order 12291.

Little or no increase in costs will result from the proposed changes in certification procedures. Such costs, when they occur, would result from limits on future versions of existing aircraft types where those affected aircraft types demonstrate poorer-than-average climb capabilities during takeoff.

Regulatory Flexibility Determination

As detailed in the evaluation, the amendments adopted to Part 36 will not impose any new requirements on small or large entities. In fact, several amendments will reduce regulatory burdens to owners of certain airplanes (e.g., antique airplanes). The majority of changes to Part 36 are either editorial or clarifying in nature. Stringency is neither increased nor decreased. Since no substantial costs are incurred with adoption of the new amendments, it is certified under the criteria of the Regulatory Flexibility Act, the final rule will not have a significant economic

impact on a substantial number of small entities.

Evironmental Analysis

Pursuant to Department of Transportation "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1D), the FAA has determined that this rule will not constitute a major Federal action significantly affecting the quality of the human environment. The amendment will have no net effect on noise levels around airports, including those used exclusively for general aviation. Therefore, no environmental assessment or environmental impact statement is necessary.

Trade Impact Analysis

Little or no impact on U.S. or foreign trade will occur as a result of this amendment. The majority of changes to Part 36 are either editorial or clarifying in nature, and stringency is neither increased nor decreased. Absent the rule, U.S. propeller-driven small aircraft and propeller-driven, commuter category aircraft exports may be placed at a competitive cost disadvantage since each model would be required to be certificated to both the current Appendix F flyover test and the ICAO takeoff test. The cost of multiple certifications would result in either higher selling prices or lower profits to U.S. manufacturers.

Federalism Implications

The regulations adopted in this final rule 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. Thus, 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.

Discussion of Comments

Interested persons were afforded the opportunity to participate in development of this rulemaking by submitting written comments to the public regulatory docket on or before October 9, 1986. All comments received have been reviewed and duly considered in promulgating this amendment.

Nineteen public comments were received in response to the notice (Docket No. 25034). All of the comments supported the revision of noise standards for propeller-driven small airplanes by substituting the use of actual takeoff tests for the level flyover tests specified in Appendix F; however, each commenter also had specific suggestions about one or more of the FAA's proposed amendments.

The comments received in public Docket No. 25034 were grouped by broad categories of issues and are discussed below.

1. Microphone Placement

A number of commenters recommended that a ground plane microphone be used for the measurement program instead of a microphone situated four feet above ground level. The ground plane microphone was recommended for greater accuracy of measurements and for standardization with ICAO measurement procedures. One commenter suggested that some recognition, in this rule, of measurements taken concurrently with both the ground plane microphone and the four foot high microphone is necessary in order to ensure that the FAA's verification of ground plane microphone measurements will be accepted by foreign certification authorities.

After consideration of the ground plane microphone, the FAA has chosen to continue using the four foot high microphone location for several reasons. First, the four foot microphone height measures noise where people receive it. Second, since noise measurements to date have been taken using a four foot microphone height, establishing a noise limit based on ground plane microphone measurements would require the FAA to first obtain additional data using the ground plane microphone in order to establish a reference database. Third, the class of airplanes to which this rule applies often use airports where jets and other large aircraft also fly. The noise from those other aircraft is measured at four feet above ground level. Thus, there would be no way to compare the certified noise levels of different aircraft using the same airport.

To lessen the burden on U.S. manufacturers which export aircraft, the FAA will approve, upon request, supplemental measurements obtained using the ground plane microphone. Although approved by the FAA, this supplemental information will not be considered a certification unless it is approved by the civil aviation authority of the country of import.

2. Aircraft Weight

Several commenters recommended that the upper weight limit of aircraft tested under this rule be increased to comply with the ICAO standard and to be consistent with NPRM, Notice 83–17 (48 FR 52010; November 15, 1983) which contained requirements for an additional category of propeller-driven, multiengine airplane, designated as the Commuter Category. The Commuter Category applies to airplanes with a maximum seating capacity, excluding pilto seats, of 19 or less, and a maximum certificated weight of 19,000 pounds or less. The final rule for the Commuter Category airplane was adopted on January 15, 1987 (52 FR 1806). NPRM, Notice 86–10 (51 FR 25500; July 14, 1986) was published for comment before the Commuter Category final rule was adopted and only covered certification of propeller-driven small airplanes of weights up to and including 12,500 pounds. To include Commuter Category airplane noise certification in Appendix G of Part 36, the upper weight limit for testing under Appendix G has been increased to 19,000 pounds.

3. Meteorological Conditions

Several commenters were concerned with the meteorological conditions and measurement procedures necessary for compliance with Appendix G. One commenter questioned the need to apply a restriction on tests where the atmospheric absorption at 8 KHz is greater than 12 dB/100 meters since the propeller blade passing or engine firing frequencies and their harmonics rarely produce energy above 1 KHz. Another commenter recommended locating the thermometer to measure ambient temperature and the hygrometer to measure relative humidity at 4 feet above the ground to avoid the need for remote monitoring. The NPRM proposed that meteorological measurements be made between 10 feet and 33 feet of the surface. Several commenters recommended that the no-correction window for atmospheric absorption be changed to comply with the ICAO standard. The NPRM proposed a requirement for atmospheric absorption correction for noise data obtained when the temperature is outside the range of 50 to 95 degrees F (10 to 35 degress C) and/or when the relative humidity is outside the range of 45 to 95 percent. One commenter suggested that testing with a temperature inversion should be permitted if a layered atmosphere with appropriate temperature and relative humidity measurements is used.

After consideration of the technical issues involved, the FAA has determined that the rule should not include a restriction on test conditions based on the atmospheric absorption at 8 KHz. By eliminating this restriction, the temperature/relative humidity window required for testing is now the

same as the ICAO window, i.e., the ambient air temperature must be between 36 and 95 degrees F (2.2 and 35 degrees C) and relative humidity must be between 20 percent and 95 percent.

Further, for test simplification, the rule allows temperature and relative humidity measurements to be made with the thermometer and hygrometer situated between 4 feet and 33 feet of the surface instead of the NPRM measurement height of between 10 feet and 33 feet.

The no-correction window for atmospheric absorption has been modified to comply with the ICAO standard. Figure G1 contains the no-correction window for atmospheric absorption.

The correction to account for differences between the test and reference height of the airplane over the noise measuring point has been changed to that used by ICAO. The NPRM specified the correction Delta (1)=22 log (H_T/H_R), where H_T is the height of the test aircraft when directly over the noise measurement point and H_R is the reference height. The final rule requires the correction Delta (1)=20 log (H_T/H_R) be used when test day conditions are outside of those specified in the atmospheric absorption no correction window (Figure G1). Delta (1)=22 log (H_T/H_R) will only be used when test day conditions are within those specified in figure G1.

Finally, it should be noted that section G36.101 is not intended to preclude using a layered atmosphere to correct for a temperature inversion, provided the correction procedure is approved by the FAA. The rule allows as much flexibility as possible with regard to meteorological conditions. Thus, no provision was made to require that a layered atmosphere be used when testing with a temperature inversion if the inversion would not significantly alter the measured noise level of the airplane.

4. Rule Effective Date

Several comments were received regarding the effective date of the rule. Appendix G prescribes procedures and noise levels applicable to noise certification of propeller-driven small airplanes and propeller-driven, commuter category airplanes conducted on or after December 22, 1988. The comments recommended that the date of applicability for the rule be based upon the date of application for the type certificate rather than on when the airplane is tested. In addition, two comments recommended that a time period be established during which a manufacturer who fails to meet the new standard may revert to the existing standard to protect his investment. One comment stated that it was possible for an airplane to satisfy Appendix F, the existing noise certification standard, but be rendered non-compliant under Appendix G.

While recognizing the commenters' concerns about meeting Appendix G certification requirements, the intent of the FAA is to standardize the takeoff noise tests for all propeller-driven small airplanes and propeller-driven, commuter category airplanes. The criteria of Appendix G are designed so that airplanes which meet Appendix F certification requirements should also meet Appendix G requirements. Thus, the final rule requires certification to Appendix G for airplanes tested on or after December 22, 1988.

5. Acoustical Change

One comment stated that the FAA proposal to remove limitations on the definition of acoustical change for propeller-driven small airplanes and align this definition with that used by all other airplanes may impose an unnecessary burden on the manufacturers of this class of airplane. The comment went on to say that the definition of acoustical change currently in § 21.93 has considerable utility because it effectively excludes the need to retest airplanes for minor configuration changes that experience has shown do not increase (or decrease) the measured noise levels.

Section 21.93 of the FAR currently limits the definition of acoustical change for propeller-driven, commuter category airplanes and propeller-driven small airplanes in the normal, utility, acrobatic, transport, and restricted categories to the following type design changes:

(i) Any change to or removal of a muffler or other component designed for noise control.

(ii) Any change to, or installation of, a powerplant or propeller that increases maximum continuous power or thrust at sea level, or increases the propeller tip speed at that power or thrust, over that previously approved for the airplane.

The new rule defines an acoustical change as any voluntary change in the type design of an airplane that may increase the noise levels of that airplane. The FAA agrees with the intent of the comment to avoid retesting for minor configuration changes which are known not to increase the noise level and believes that the new wording more clearly meets that intent. This rule will not require testing for changes which, by past experience, have been shown not to increase noise.

6. Sound Recording

Two comments were received concerning the use of a sound level meter to record test data. Section G36.105 allows airplane noise to be recorded using a magnetic tape recorder, graphic level recorder, or sound level meter when approved by the regional certification authority. One commenter stated that the requirement in section G36.105(a) that the test data should be recorded allowing a graphic level recorder or sound level meter to be used instead of a magnetic tape recorder is inconsistent with the rest of the section. Another comment, addressing the same section, questioned why a sound level meter is acceptable if the sound must be recorded. The comment went on to say that the reading of a sound level meter may be recorded, but this does not constitute recording the noise.

Appendix G is written with the intent of allowing the greatest amount of flexibility possible in order to avoid imposing undue economic burden on any applicant. Allowing the option to use a graphic level recorder or sound level meter is done to permit certification to be accomplished as inexpensively as possible. Thus, when approved by the regional certification authority, a sound level meter, graphic level recorder, or magnetic tape recorder is acceptable for recording airplane noise.

A further clarification has been added to section G36.105 concerning the type of sound level meter to be used. The intent of the rule is to use Type 1 sound level meters, as specified in Appendix F (IEC publication 179). The NPRM specified that sound level meters must comply with International Electrotechnical Commission (IEC) Publication No. 651, entitled "Sound Level Meters." Publication No. 651 supersedes Publications 123 (1961), 179 (1965 and 1973), and 179A (1973). Although Publication 651 contains standards for Type 0,1,2, and 3 sound level meters, it does not specify the type of sound level meter to be used for noise measurement. To correct this ambiguity, section G36.105 has been revised to specify the use of Type 1 sound level meters for Appendix G noise certification.

7. Limiting Noise Value

One commenter recommended that the FAA adopt the aircraft noise limits established by ICAO for noise certification of propeller driven small airplanes.

The aircraft noise limits specified in the FAA rule are as follows. The noise

level must not exceed 73 dB(A) up to and including aircraft weights of 1,320 pounds (600 kg). For weights greater than 1,320 pounds, the limit increases at the rate of 1 dB/165 pounds (1 dB/75 kg) up to 85 dB(A) at 3,300 pounds (1,500 kg), after which it remains at 85 dB(A) up to and including 19,000 pounds (8,640 kg).

ICAO specifies a 76 dB(A) limit up to an airplane mass of 600 kg, then increasing with the logarithm of airplane mass at the rate of 9.83 dB(A) per doubling of mass until 88 dB(A) is reached, after which the limit is constant up to 9000 kg. Thus, the difference in noise limits between the FAA rule and ICAO rule is approximately 3 dB(A) throughout the range of weight values for which the rule applies.

The higher ICAO noise limits can be attributed to their use of a ground plane microphone instead of the four foot height installation. Generally, a ground plane microphone will provide a noise level several dB(A) greater than a microphone situated four feet above ground level for the same airplane. Thus, the difference in limiting noise values between the FAA rule and the ICAO rule is due to a difference in measurement technique rather than a difference in noise standards.

8. Helical Tip Mach Number Correction

One commenter recommended that, in section G36.201(d)(3), the phrase "no correction is to be made when M_t is larger than M_r" should be deleted since it might be interpreted to apply to all cases, even those for which a specific value of the constant "k" has been determined. The constant "k" is equal to the slope of the line obtained for measured values of noise level in dB(A) versus helical tip Mach number.

The FAA agrees that if a specific value of k has been determined, a correction should be allowed when the test helical tip Mach number, M_t, is larger than the reference helical tip Mach number, M_r. The NPRM phrase "no correction is to be made when M_t is larger than M_r" was meant to apply only to cases where the nominal value of k is to be used for the correction. To avoid confusion over this point, section G36.201(d)(3) has been revised as follows. The phrase "no correction is to be made when M_t is larger than M_r has been deleted. The sentence "No correction may be made using the nominal value of k when M_t is larger than M_r" has been added.

9. Noise Level vs Airplane Weight Graph

One commenter suggested including a figure showing graphically the noise level limits as a function of airplane weight. The FAA agrees that the addition of a figure showing noise limits as a function of airplane weight would simplify interpretation of the rule. Thus, figure G2 has been added to section G36.301.

10. Microphone Diameter

One commenter recommended that since the ICAO test procedure specifies that a one half inch diameter microphone be used for data measurement, a one half inch microphone diameter should be specified for the FAA rule in order to achieve better international acceptance of data measured in accordance with the FAA procedure (and of data measured using the ground plane microphone). The NPRM did not specify a microphone size required for data measurement.

The FAA does not find it necessary to specify microphone diameter for noise certification testing in accordance with Appendix G. Both ICAO and the FAA require the same microphone frequency response tolerance. Therefore, the data should be accepted internationally. The one half inch diameter microphone is required for the ground plane microphone installation and thus is only an issue when the ground plane microphone is used.

11. Altitude Tolerance

One commenter recommended that the FAA consider eliminating the requirement that the aircraft pass over the measurement point within 20 percent of the reference altitude. The commenter stated that this requirement is unnecessary since section G36.201 requires a correction to the noise level if the test altitude differs from the reference altitude.

After consideration of this comment, the FAA chose to retain the requirement that the aircraft pass over the measurement point within 20 percent of the reference altitude. This requirement is necessary due to the inaccuracy of the correction for deviations from the reference altitude and for consistency with the ICAO standard.

12. Test Flight Tolerances

In keeping with the general recommendation of most of the commenters that the FAA maintain standardization with the ICAO noise certification rule and to simplify the certification test flight procedure, the FAA has included a tolerance on the flight test speed and weight. As written, the language in the NPRM would have required each test flight to be conducted at a single precise airspeed and weight. The FAA notes that all other Part 36 flight test procedures include reasonable tolerances for the specified reference test conditions. Further, the FAA believes that such tolerances are necessary to account for pilot and meteorological variability from test to test, and for the weight of fuel burned during testing. Accordingly, the ICAO Annex 16 tolerances have been added to section G36.111(a).

List of Subjects

14 CFR Part 21

Aircraft, Aviation safety, Exports, Imports, Reporting and recordkeeping requirements.

14 CFR Part 36

Agriculture, Aircraft, Noise control.

Incorporation by Reference.

Adoption of the Amendments

Accordingly, Parts 21 and 36 of the Federal Aviation Regulations (14 CFR Parts 21 and 36) are amended as follows:

PART 21—[AMENDED]

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

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

2. Section 21.93(b)(3) is revised to read as follows:

§ 21.93 Classification of changes in type design.

* * * * *

(b) * * *

(3) Propeller driven commuter category and small airplanes in the normal, utility, acrobatic, transport, and restricted categories, except for airplanes that are:

(i) Designated for "agricultural aircraft operations" (as defined in § 137.3 of this chapter, effective January 1, 1966) to which § 36.1583 of this chapter does not apply, or

(ii) Designated for dispensing fire fighting materials to which § 36.1583 of this chapter does not apply, or

(iii) U.S. registered, and that had flight time prior to January 1, 1955 or

(iv) Land configured aircraft reconfigured with floats or skis. This reconfiguration does not permit further exception from the requirements of this section upon any acoustical change not enumerated in § 21.93(b).

* * * * *

PART 36—[AMENDED]

3. The authority citation for Part 36 continues to read as follows:

Authority: 49 U.S.C. 1344, 1348, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430, 1431(b), 1651(b)(2), 2121 through 2125; 42 U.S.C. 4321 et seq.; Sec. 124 of Pub. L. 98-473, E.O. 11514, 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983.)

4. Section 36.6 is amended by adding paragraphs (c)(1)(iii) and (c)(1)(iv) and by revising paragraph (e)(3) to read as follows:

§ 36.6 Incorporation by reference.

* * * * *

(c) * * *

(1) * * *

(iii) IEC Publication No. 651, entitled "Sound Level Meters," first edition, dated 1979.

(iv) IEC Publication No. 561, entitled "Electro-acoustical Measuring Equipment for Aircraft Noise Certification," first edition, dated 1976.

* * * * *

(e) * * *

(3) The respective Region Headquarters of the Federal Aviation Administration as follows:

(i) New England Region Headquarters, 12 New England Executive Park, Burlington, Massachusetts 01803.

(ii) Eastern Region Headquarters, Federal Building, John F. Kennedy (JFK) International Airport, Jamaica, New York 11430.

(iii) Southern Region Headquarters, 3400 Norman Berry Drive, East Point, Georgia 30344.

(iv) Great Lakes Region Headquarters, O'Hare Lake Office Center, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

(v) Central Region Headquarters, Federal Building, 601 East 12th Street, Kanasa City Missouri 64106.

(vi) Southwest Region Headquarters, 4400 Blue Mound Road, Fort Worth, Texas 76193-0000.

(vii) Northwest Mountain Region Headquarters, 17900 Pacific Highway South, Seattle, Washington 98168.

(viii) Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Hawthorne, California 92007.

(ix) Alaskan Region Headquarters, 701 C Street, Anchorage, Alaska 99513.

(x) European Office Headquarters, 15, Rue de la Loi (3rd Floor), B-1040 Brussels, Belgium.

* * * * *

5. Section 36.9 is revised to read as follows:

§ 36.9 Acoustical change: Propeller-driven small airplanes and propeller-driven small category airplanes.

For propeller-driven small airplanes in the normal, utility, acrobatic, transport, and restricted categories and for propeller-driven, commuter category airplanes for which an acoustical change approval is applied for under § 21.93(b) of this chapter after January 1, 1975, the following apply:

(a) If the airplane was type certificated under this part prior to a change in type design, it may not subsequently exceed the noise limits specified in § 36.501 of this part.

(b) If the airplane was not type certificated under this part prior to a change in type design, it may not exceed the higher of the two following values:

(1) The noise limit specified in § 36.501 of this part, or

(2) The noise level created prior to the change in type design, measured and corrected as prescribed in § 36.501 of this part.

§ 36.501 [Amended]

6. Section 36.501(a)(1) is amended by changing the words "type certificate" to read "new, amended, or supplemental type certificate"; and by inserting the phrase "and propeller-driven, commuter category airplanes for which application for the issuance of a type certificate in the commuter category is made on or after January 15, 1987" after the words "October 10, 1973."

7. Sections 36.501 (b) and (c) are revised to read as follows:

§ 36.501 Noise Limits.

* * * * *

(b) For aircraft covered by this subpart for which certification tests are completed before December 22, 1988, compliance must be shown with noise levels as measured and prescribed in Parts B and C of Appendix F, or under approved equivalent procedures. It must be shown that the noise level of the airplane is no greater than the applicable limit set in Part D of Appendix F.

(c) For aircraft covered by this subpart for which certification tests are not completed before December 22, 1988, compliance must be shown with noise levels as measured and prescribed in Parts B and C of Appendix G, or under approved equivalent procedures. It must be shown that the noise level of the airplane is no greater than the applicable limits set in Part D of Appendix G.

8. The title of Appendix F of Part 36 is revised to read as follows:

Appendix F—Flyover Noise Requirements for Propeller-Driven Small Airplane and Propeller-Driven, Commuter Category Airplane Certification Tests Prior to December 22, 1988

9. Section F36.1 of Appendix F of Part 36 is revised to read as follows:

PART A—GENERAL

Section F36.1 *Scope.* This appendix prescribes noise level limits and procedures for measuring and correcting noise data for the propeller driven small airplanes specified in §§ 36.1 and 36.501(b).

10. A new Appendix G is added to Part 36 to read as follows:

Appendix G—Takeoff Noise Requirements for Propeller-Driven Small Airplane and Propeller-Driven, Commuter Category Airplane Certification Tests on or After December 22, 1988

PART A—GENERAL

Sec.

PART A—GENERAL

Section G36.1 *Scope.* This appendix prescribes limiting noise levels and procedures for measuring noise and adjusting these data to standard conditions, for propeller driven small airplanes and propeller-driven, commuter category airplanes specified in §§ 36.1 and 36.501(c).

PART B—NOISE MEASUREMENT

Sec. G36.101 *General Test Conditions.*

(a) The test area must be relatively flat terrain having no excessive sound absorption characteristics such as those caused by thick, matted, or tall grass, by shrubs, or by wooded areas. No obstructions which significantly influence the sound field from the airplane may exist within a conical space above the measurement position, the cone being defined by an axis normal to the ground and by a half-angle 75 degrees from the normal ground axis.

(b) The tests must be carried out under the following conditions:

(1) No precipitation;

(2) Ambient air temperature between 36 and 95 degrees F (2.2 and 35 degrees C);

(3) Relative humidity between 20 percent and 95 percent, inclusively;

(4) Wind speed may not exceed 10 knots (19 km/h) and cross wind may not exceed 5 knots (9 km/h), using a 30-second average;

(5) No temperature inversion or anomalous wind condition that would significantly alter the noise level of the airplane when the nose is recorded at the required measuring point, and

(6) The meteorological measurements must be made between 4 ft. (1.2 m) and 33 ft. (10 m) above ground level. If the measurement site is within 1 n.m. of an airport meteorological station, measurements from that station may be used.

(c) The flight test procedures, measuring equipment, and noise measurement procedures must be approved by the FAA.

(d) Sound pressure level data for noise evaluation purposes must be obtained with acoustical equipment that complies with section G36.103 of this appendix.

Sec. G36.103 *Acoustical Measurement System.*

The acoustical measurement system must consist of approved equipment with the following characteristics: (a) A microphone system with frequency response compatible with measurement and analysis system accuracy as prescribed in section G36.105 of this appendix.

(b) Tripods or similar microphone mountings that minimize interference with the sound being measured.

(c) Recording and reproducing equipment characteristics, frequency response, and dynamic range compatible with the response and accuracy requirements of section G36.105 of this appendix.

(d) Acoustic calibrators using sine wave or broadband noise of known sound pressure level. If broadband noise is used, the signal must be described in terms of its average and maximum root-mean-square (rms) value for non-overload signal level.

Sec. G36.105 *Sensing, Recording, and Reproducing Equipment.*

(a) The noise produced by the airplane must be recorded. A magnetic tape recorder, graphic level recorder, or sound level meter is acceptable when approved by the regional certificating authority.

(b) The characteristics of the complete system must comply with the requirements in International Electrotechnical Commission (IEC) Publications No. 651, entitled "Sound Level Meters" and No. 561, entitled "Electro-acoustical Measuring Equipment for Aircraft Noise Certification" as incorporated by reference under § 36.6 of this part. Sound level meters must comply with requirements for Type 1 sound level meters as specified in IEC Publication No. 651.

(c) The response of the complete system to a sensibly plane progressive sinusoidal wave of constant amplitude must be within the tolerance limits specified in IEC Publication No. 651, over the frequency range 45 to 11,200 Hz.

(d) If equipment dynamic range limitations make it necessary, high frequency pre-emphasis must be added to the recording channel with the converse de-emphasis on playback. The pre-emphasis must be applied such that the instantaneous recorded sound pressure level of the noise signal between 800 and 11,200 Hz does not vary more than 20 dB between the maximum and minimum one-third octave bands.

(e) The output noise signal must be read through an "A" filter with dynamic characteristics designated "slow" as defined in IEC Publication No. 651. A graphic level recorder, sound level meter, or digital equivalent may be used.

(f) The equipment must be acoustically calibrated using facilities for acoustic free-field calibration and if analysis of the tape recording is requested by the Administrator, the analysis equipment shall be electronically calibrated by a method approved by the FAA. Calibrations shall be performed, as appropriate, in accordance with paragraph A36.3(e) of Appendix A of this part.

(g) A windscreen must be employed with the microphone during all measurements of aircraft noise when the wind speed is in excess of 5 knots (9 km/hr).

Sec. G36.107 *Noise Measurement Procedures.*

(a) The microphones must be oriented in a known direction so that the maximum sound received arrives as nearly as possible in the direction for which the microphones are calibrated. The microphone sensing elements must be 4 ft. (1.2m) above ground level.

(b) Immediately prior to and after each test, a recorded acoustic calibration of the system must be made in the field with an acoustic calibrator for the purposes of checking system sensitivity and providing an acoustic reference level for the analysis of the sound level data. If a tape recorder or graphic level recorder is used, the frequency response of the electrical system must be determined at a level within 10 dB of the full-scale reading used during the test, utilizing pink or pseudorandom noise.

(c) The ambient noise, including both acoustic background and electrical systems noise, must be recorded and determined in the test area with the system gain set at levels which will be used for aircraft noise measurements. If aircraft sound pressure levels do not exceed the background sound pressure levels by at least 10 dB(A), a takeoff measurement point nearer to the start of the takeoff roll must be used and the results must be adjusted to the reference measurement point by an approved method.

Sec. G36.109 *Data Recording, Reporting, and Approval.*

(a) Data representing physical measurements and adjustments to measured data must be recorded in permanent form and appended to the record, except that corrections to measurements for normal equipment response deviations need not be reported. All other adjustments must be approved. Estimates must be made of the individual errors inherent in each of the operations employed in obtaining the final data.

(b) Measured and corrected sound pressure levels obtained with equipment conforming to the specifications in section G36.105 of this appendix must be reported.

(c) The type of equipment used for measurement and analysis of all acoustical, airplane performance, and meteorological data must be reported.

(d) The following atmospheric data, measured immediately before, after, or during each test at the observation points prescribed in section G36.101 of this appendix must be reported:

(1) Ambient temperature and relative humidity.

(2) Maximum and average wind speeds and directions for each run.

(e) Comments on local topography, ground cover, and events that might interfere with sound recordings must be reported.

(f) The aircraft position relative to the takeoff reference flight path must be determined by an approved method independent of normal flight instrumentation, such as radar tracking, theodolite triangulation, or photographic scaling techniques.

(g) The following airplane information must be reported:

(1) Type, model, and serial numbers (if any) of airplanes, engines, and propellers;

(2) Any modifications or nonstandard equipment likely to affect the noise characteristics of the airplane;

(3) Maximum certificated takeoff weight;

(4) For each test flight, airspeed and ambient temperature at the flyover altitude over the measuring site determined by properly calibrated instruments;

(5) For each test flight, engine performance parameters, such as manifold pressure or power, propeller speed (rpm) and other relevant parameters. Each parameter must be determined by properly calibrated instruments. For instance, propeller RPM must be validated by an independent device accurate to within ±1 percent, when the airplane is equipped with a mechanical tachometer.

(6) Airspeed, position, and performance data necessary to make the corrections required in section G36.201 of this appendix must be recorded by an approved method when the airplane is directly over the measuring site.

Sec. G36.111 *Flight Procedures.*

(a) The noise measurement point is on the extended centerline of the runway at a distance of 8200 ft (2500 m) from the start of takeoff roll. The aircraft must pass over the measurement point within ±10 degrees from the vertical and within 20% of the reference altitude. The flight test program shall be initiated at the maximum approved takeoff weight and the weight shall be adjusted back to this maximum weight after each hour of flight time. Each flight test must be conducted at the speed for the best rate of climb (V_y) ±5 knots (±9 km/hour) indicated airspeed. All test, measurement, and data correction procedures must be approved by the FAA.

(b) The takeoff reference flight path must be calculated for the following atmospheric conditions:

(1) Sea level atmospheric pressure of 1013.25 mb (013.25 hPa);

(2) Ambient air temperature of 59°F (15°C);

(3) Relative humidity of 70 percent; and

(4) Zero wind.

(c) The takeoff reference flight path must be calculated assuming the following two segments:

(1) First segment.

(i) Takeoff power must be used from the brake release point to the point at which the height of 50 ft (15m) above the runway is reached.

(ii) A constant takeoff configuration selected by the applicant must be maintained through this segment.

(iii) The maximum weight of the airplane at brake-release must be the maximum for which noise certification is requested.

(iv) The length of this first segment must correspond to the airworthiness approved value for a takeoff on a level paved runway (or the corresponding value for seaplanes).

(2) Second segment.

(i) The beginning of the second segment corresponds to the end of the first segment.

(ii) The airplane must be in the climb configuration with landing gear up, if retractable, and flap setting corresponding to normal climb position throughout this second segment.

(iii) The airplane speed must be the speed for the best rate of climb (V_y).

(iv) Maximum continuous installed power and rpm for variable pitch propeller(s) shall be used. For fixed pitch propeller(s), the maximum power and rpm that can be delivered by the engine(s) must be maintained throughout the second segment.

PART C—DATA CORRECTIONS

Sec. G36.201. *Corrections to Test Results.*

(a) These corrections account for the effects of:

(1) Differences in atmospheric absorption of sound between meteorological test conditions and reference conditions.

(2) Differences in the noise path length between the actual airplane flight path and the reference flight path.

(3) The change in the helical tip Mach number between test and reference conditions.

(4) The change in the engine power between test and reference conditions.

(b) Atmospheric absorption correction is required for noise data obtained when the test conditions are outside those specified in Figure G1. Noise data outside the applicable range must be corrected to 77 F and 70 percent relative humidity by a FAA approved method.

(c) Helical tip Mach number and power corrections must be made if:

(1) The propeller is a variable pitch type, or

(2) The propeller is a fixed pitch type and the test power is not within 5 percent of the reference power.

(d) When the test conditions are outside those specified, corrections must be applied by an approved procedure or by the following simplified procedure:

(1) Measured sound levels must be corrected from test day meteorological conditions to reference conditions by adding an increment equal to

$$\text{Delta (M)} = (\alpha - 0.7)\, H_T/1000$$

where H_T is the height in feet of the test aircraft when directly over the noise measurement point and α is the rate of absorption for the test day conditions at 500 Hz as specified in SAE ARP 866A, entitled "Standard Values of Atmospheric Absorption as a function of Temperature and Humidity for use in Evaluating Aircraft Flyover Noise" as incorporated by reference under § 36.6 of this part.

(2) Measured sound levels in decibels must be corrected for height by algebraically adding an increment equal to Delta (1). When test day conditions are within those specified in figure G1:

$$\text{Delta (1)} = 22 \log (H_T/H_R)$$

where H_T is the height of the test aircraft when directly over the noise measurement point and H_R is the reference height.

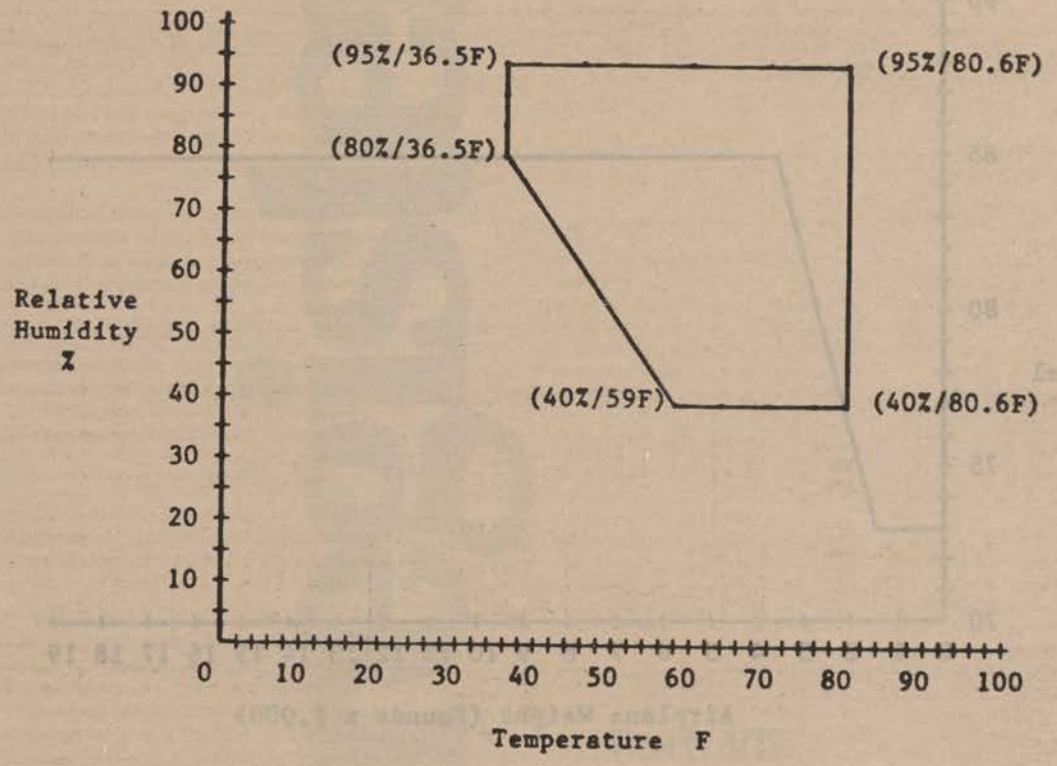
When test day conditions are outside those specified in figure G1:

$$\text{Delta (1)} = 20 \log (H_T/H_R)$$

(3) Measured sound levels in decibels must be corrected for helical tip Mach number by algebraically adding an increment equal to:

$$\text{Delta (2)} = k \log (M_R/M_T)$$

where M_T and M_R are the test and reference helical tip Mach numbers, respectively. The constant "k" is equal to the slope of the line obtained for measured values of the sound level in dB(A) versus helical tip Mach number. The value of k may be determined from approved data. A nominal value of k = 150 may be used when M_T is smaller than



MEASUREMENT WINDOW FOR NO ABSORPTION CORRECTION

Figure G1

M_R. No correction may be made using the nominal value of k when M_T is larger than M_R. The reference helical tip Mach number M_R is the Mach number corresponding to the reference conditions (RPM, airspeed, temperature) above the measurement point.

(4) Measured sound levels in the decibels must be corrected for engine power by algebraically adding an increment equal to:

Delta (3) = 17 log (P_R/P_T)

where P_T and P_R are the test and reference engine powers respectively.

Sec. G36.203 *Validity of Results.*

(a) The measuring point must be overflown at least six times. The test results must produce an average noise level (L_{Amax}) value within a 90 percent confidence limit. The average noise level is the arithmetic average of the corrected acoustical measurements for all valid test runs over the measuring point.

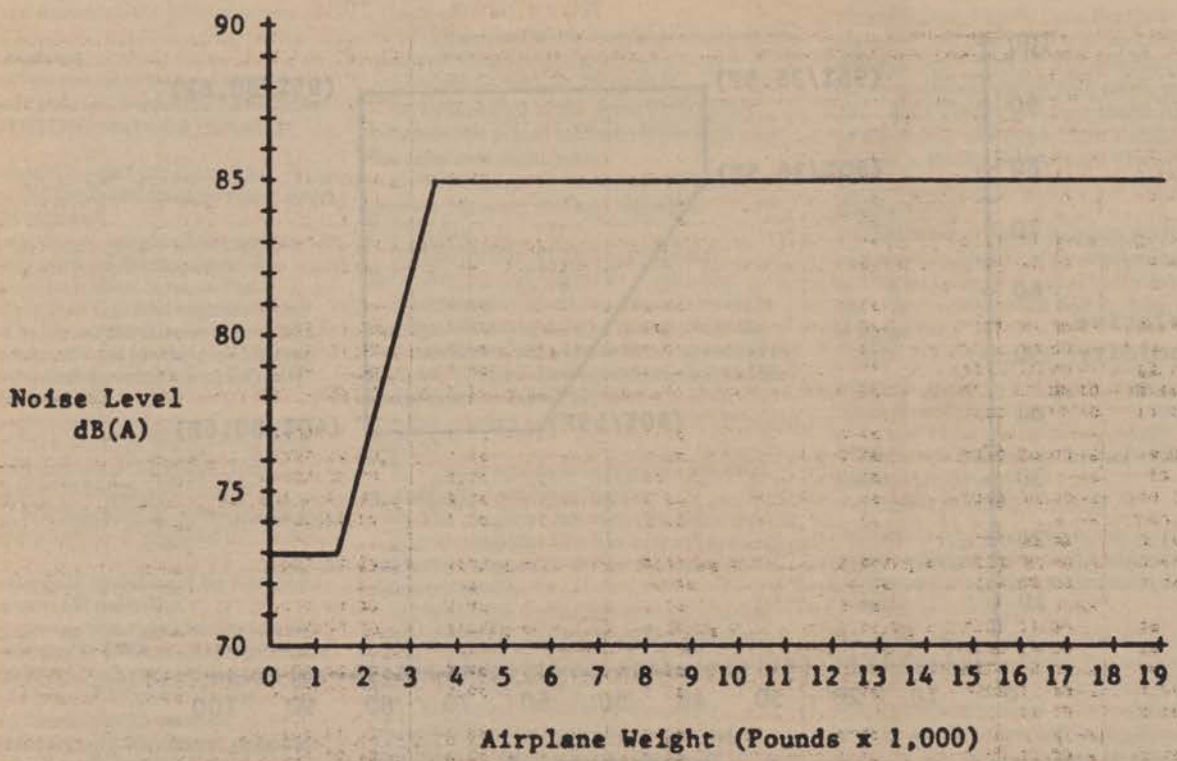
(b) The samples must be large enough to establish statistically a 90 percent confidence limit not exceeding ±1.5 dB(A). No test results may be omitted from the averaging process unless omission is approved by the FAA.

PART D—NOISE LIMITS

Sec. G36.301 *Aircraft noise limits.*

(a) Compliance with this section must be shown with noise data measured and corrected as prescribed in Parts B and C of this appendix.

(b) The noise level must not exceed 73 dB(A) up to and including aircraft weights of 1,320 pounds (600 kg). For weights greater than 1,320 pounds the limit increases at the rate of 1 dB/165



NOISE LEVEL vs AIRPLANE WEIGHT

FIGURE G2

pounds (1 dB/75 kg) up to 85 dB(A) at 3,300 pounds (1,500 kg), after which it is constant at 85 dB(A) up to and including 19,000 pounds (8,640). Figure G2 shows noise level limits vs airplane weight.

(Sec. 313(a), 603, and 611(b), Federal Aviation Act of 1958 as amended (49 U.S.C. 1354(a), 1423, and 1431(b)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)); Title I, National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*); Exceutive Order 11514, March 5, 1970 and 14 CFR 11.45).

Issued in Washington, DC, on September 23, 1988.

T. Allan McArtor,

Administrator.

FR Doc. 88-26887 Filed 11-21-88; 8:45 am]

BILLING CODE 4910-17-A

federal register

Tuesday
November 22, 1988

Part VII

Department of Education

Office of Special Education and Rehabilitative Services

34 CFR Part 307

Services for Deaf-Blind Children and Youth Program; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

34 CFR Part 307

Services for Deaf-Blind Children and Youth Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the Services for Deaf-Blind Children and Youth program. These regulations are needed to implement the amendments to section 622 of the Education of the Handicapped Act (EHA) included in the EHA Amendments of 1986, Pub. L. 99–457. In addition, the amendments to the regulations are needed to implement programmatic changes, including the way the Secretary makes awards to State and multi-State projects authorized by § 307.11.

DATE: Comments must be received on or before December 22, 1988.

ADDRESSES: All comments concerning these proposed regulations should be addressed to: R. Paul Thompson, Severely Handicapped Branch, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 4620), Washington, DC 20202–2734.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Charles W. Freeman. Telephone: (202) 732–1165.

SUPPLEMENTARY INFORMATION: These regulations are proposed to implement section 622 of Part C of the EHA, as amended by the EHA Amendments of 1986, Pub. L. 99–457, and to make programmatic changes in the regulations. These changes do not alter principal objectives or activities authorized under this authority, but rather clarify and support the central thrust of the program.

The most significant changes addressed in these proposed regulations are:

(1) To implement the EHA Amendments of 1986, a new authorized activity has been added that permits the Secretary to make awards for the development and operation of extended school year demonstration programs for severely handicapped children and youth, including deaf-blind children and youth. The regulations clarify that, for the purpose of this program, extended school-year programs are those that provide services during the interim between two regular school terms, where the interim period is at least four weeks in length.

(2) New, weighted criteria have been developed for the evaluation of applications submitted under the State and multi-State priorities authorized under § 307.11.

(3) New weighted criteria are provided for the evaluation of applications addressing the technical assistance activities described in §§ 307.12 and 307.13. These new criteria are designed to promote the development of improved applications that effectively address specific education and related needs of deaf-blind children and youth.

(4) Technical assistance provided under § 307.11 to entities funded to conduct State and multi-State projects, in addition to being made available to State educational agencies, can now be provided to other public and private agencies and organizations providing educational or related services to deaf-blind children and youth within the State.

(5) Sections 307.14 and 307.15, which provided for the support of data analysis and dissemination activities through grant awards, have been removed. If necessary, the Secretary will obtain assistance needed to complete these requirements through individual requests for proposals.

(6) Criteria are established for determining the amount of awards for State and multi-State projects under § 307.11.

(7) The preparation of a coordinated plan for each deaf-blind child and youth served has been included among the services to be made available under a § 307.11 grant. This will promote the development of effective educational programming for each child and youth and avoid duplication of effort among the various agencies serving this population.

(8) Applicants under both the State and multi-State projects under § 307.11 and technical assistance providers under § 307.12, are now required to coordinate with other relevant service providers the provision of services on behalf of deaf-blind children and youth. This will result in increased benefits to these children and youth and reduce duplication of services.

(9) Section 307.12 grantees providing technical assistance to State and multi-State deaf-blind projects funded under § 307.11, in addition to serving State educational agencies, may now provide technical assistance to other agencies, institutions, and organizations which provide services to deaf-blind children and youth. This increases the availability of important technical assistance to direct service providers.

The legislative history of this program clarifies that Congress understood that not all deaf-blind children and youth are classified by the States as deaf-blind. Some of these children and youth may have other handicaps as well and so be classified under some other category of handicapping condition. It is, therefore, the intent of the Secretary that grantees under this part serve eligible deaf-blind children and youth, including those who are counted under other categories of handicapping conditions, but who meet the eligibility criteria under the definition of "deaf-blind" contained in 34 CFR 300.5(b)(2). According to this definition, deaf-blind children and youth are those who have concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in special eduation programs solely for deaf or blind chidren.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The application procedures and other requirements in the proposed regulations are minimal and will not place undue burdens on small entities participating in this program or have a significant impact on these entities. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 307.20, 307.33, 307.35, and 307.36 contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these proposed regulations to the Office of Management and Budget (OMB) for review. Organizations and individuals desiring to submit comments on the information

collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: Jim Houser.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 4620, Switzer Building, 330 C Street, SW., Washington, DC, 20202–2734, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 307

Education, Education of handicapped, Education—research, Grants program—education, Reporting and recordkeeping requirements, Teachers.

(Catalog of Federal Domestic Assistance Number 84.025, Services for Deaf-Blind Children and Youth)

Dated: October 26, 1988.

Lauro F. Cavazos,

Secretary of Education.

The Secretary proposes to amend Part 307 of Title 34 of the Code of Federal Regulations as follows:

PART 307—SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH

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

Authority: 20 U.S.C. 1422, unless otherwise noted.

2. In § 307.4, paragraph (b) is amended by adding "Severely handicapped children and youth (§ 315.4(d))" in alphabetical order to the list of terms defined, and by revising the heading and introductory text, and the authority citation, to read as follows:

§ 307.4 What definitions apply to the Services for Deaf-Blind Children and Youth Program?

* * * * *

(b) *Definitions in 34 CFR Part 300 and Part 315.* The following terms used in this part are defined in 34 CFR Part 300 or Part 315.

* * * * *

Authority: 20 U.S.C. 1401 (1), (16), (17), and (18), and 20 U.S.C. 1424)

3. Section 307.10 is amended by revising paragraph (a), removing paragraphs (d) and (e), adding "and" at the end of paragraph (c), and adding a new paragraph (d), to read as follows:

§ 307.10 What types of activities are considered for support under this part?

* * * * *

(a) Services to deaf-blind children and youth and technical assistance to agencies, institutions, and organizations, as described in § 307.11;

* * * * *

(d) Extended school year educational or related service demonstration projects for severely handicapped children and youth, including children and youth who are deaf-blind, if those activities are provided during an interim period of at least four weeks between two regular school terms.

(Authority: 20 U.S.C. 1422)

4. Section 307.11 is amended by revising the section heading and adding a new paragraph (a)(1)(iv), revising the introductory text of paragraph (a)(2), removing "and" from the end of paragraph (a)(2)(iv), removing the period at the end of paragraph (a)(2)(v) and adding in its place, "; and", adding a new paragraph (a)(2)(vi), revising paragraph (b)(1), removing "and" from the end of paragraph (c)(1), revising paragraph (c)(2), adding a new paragraph (c)(3), revising paragraph (d), and removing paragraph (e) to read as follows:

§ 307.11 What types of services to deaf-blind children and youth and technical assistance are considered for support under this part?

(a) * * *

(1) * * *

(iv) Preparation of a coordinated plan for each child and youth served, describing all the services provided under paragraph (a)(1) (i) through (iii) of this section. These services must be in accordance with other Federal and State programs.

(2) Technical assistance to public and private agencies, institutions, and organizations providing educational, transitional, vocational, early identification, and related services to deaf-blind children and youth, to assure that they may more effectively—

* * * * *

(vi) Promote the integration of deaf-blind children and youth with other handicapped and nonhandicapped children and youth.

(b)(1) Each grantee under this section shall give priority in the use of project funds to the provision of services described in paragraph (a)(1) of this section and to the provision of technical assistance as described in paragraph (a)(2) of this section.

* * * * *

(c) * * *

(2) Provide technical assistance to the public and private agencies, institutions, and organizations served under paragraph (a)(2) of this section in the development and implementation of procedures for evaluating the effectiveness of services they provide to deaf-blind children and youth; and

(3) Engage in on-going coordination with the State educational agency, the State's lead agency under Part H of the EHA, and other State agencies responsible for providing services to deaf-blind children and youth, in the provision of services under this section.

(d) For the purpose of making awards under § 307.11, the Secretary may make awards for single or multi-State projects. Each State may be served through only one project.

(Authority: 20 U.S.C. 1422)

5. Section 307.12 is amended by revising paragraph (a) and the introductory text of paragraph (b) to read as follows:

§ 307.12 What types of technical assistance to grantees under § 307.11 are considered for support under this part?

(a) The Secretary may provide financial assistance under this part for projects that establish and support programs for the provision of technical assistance, to grantees under § 307.11.

(b) Technical assistance services made available under this section must be requested by a grantee under § 307.11 or a State educational agency, and may be extended to other agencies, institutions, and organizations providing services to deaf-blind children and youth, to—

* * * * *

(Authority: 20 U.S.C. 1422)

§§ 307.14, 307.15 and 307.20 [Removed]

6. Sections 307.14, 307.15, and 307.20 are removed.

7. Section 307.31 is revised to read as follows:

§ 307.31 How does the Secretary determine the amount of an award under § 307.11?

In determining the funding level for each award under § 307.11 for a single or multi-State deaf-blind services project, the Secretary considers the following factors:

(a) The number of children and youth in the States the applicant proposes to serve;

(b) The number of deaf-blind children and youth in the State benefiting from services under § 307.11(a) (1) and (2) in relation to the total number of such children across all States;

(c) The relative cost of providing services authorized under this part to deaf-blind children and youth in the States the applicant proposes to serve; and

(d) The quality of the application submitted under this part evaluated on the basis of the criteria in § 307.33.

(Authority: 20 U.S.C. 1422)

8. A new § 307.32 is added to read as follows:

§ 307.32 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application submitted under § 307.11 on the basis of the criteria in § 307.33. If more than one eligible application is received on behalf of any State for an award under § 307.11, the Secretary uses the procedures established in § 307.34. The Secretary uses the selection criteria in § 307.35 or 307.36 to evaluate applications submitted for other types of activities authorized under this part.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(Authority: 20 U.S.C. 1422)

9. A new § 307.33 is added to read as follows:

§ 307.33 What criteria does the Secretary use to evaluate an application?

The Secretary uses the following criteria to evaluate the quality of an application submitted under § 307.11. Each applicant may receive up to a total of 100 points. Each application will be evaluated based only on those factors of each criterion that relate to the service needs of the States the applicant proposes to serve.

(a) *Justification for the project, extent of need, and expected impact.* (15 points) The Secretary reviews each application to determine the justification for the proposed activities in each State, based on the extent of State need for and expected impact from the provision of services and technical assistance, including consideration of—

(1) The age, number, and location of deaf-blind children and youth in the State to whom the State is not obligated to provide a free appropriate public education under Part B of the EHA, to whom the State is not providing special educational and related services under some other authority, and to whom the applicant proposes to provide services;

(2) The specific actions needed for the provision of educational and related services to deaf-blind children and youth based on the State's plan for delivery of services to students with handicaps required under Parts B and H;

(3) The specific actions needed for the provision of technical assistance addressed by the project based on the State's plan for provision of technical assistance to providers of services to deaf-blind children and youth;

(4) The expected benefits to be gained by providing the educational and related services to deaf-blind children and youth to be served by the project, their parents and service providers; and

(5) The expected benefits to be gained by meeting the technical assistance needs of service providers to be assisted by the project.

(b) *Quality of services and technical assistance.* (40 points) The Secretary reviews each application to determine the quality of the plan to provide services and technical assistance in each State to be served, including—

(1) The quality of the design of the project for providing each of the educational and related services described under § 307.11(a)(1), and for providing technical assistance as described under § 307.11(a)(2);

(2) The extent to which the applicant's plan for providing services and technical assistance implements current research findings and exemplary practices including arranging for services that are age-appropriate for project participants, and providing for the maximum integration of deaf-blind children and youth in the least restrictive environment;

(3) How well the objectives of the project respond to the needs of deaf-blind children and youth in the State, their parents, and service providers;

(4) The extent to which the plan of management is effective and ensures proper and efficient provision of educational and related services and technical assistance, and reflects an analysis of the service needs of deaf-blind children and youth in the State;

(5) How well the objectives of the project relate to the purpose of the program;

(6) How the project will assist the State in developing and implementing the State's Comprehensive Systems of Personnel Development required under Parts B and H of EHA;

(7) 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;

(8) The quality of the applicant's plan for providing consultative and training services for families of deaf-blind children and youth as described in § 307.11(a)(1)(iii);

(9) The quality of the applicant's plan to involve parents in the development and delivery of appropriate services to their deaf-blind children and youth; and

(10) The extent to which services provided for children birth through two years of age meet the requirements of Part H of the EHA.

(c) *Quality of key personnel.* (10 points) The Secretary reviews each application to determine the qualifications of the key personnel the applicant plans to use on the project for the provision of services to deaf-blind children and youth and technical assistance to agencies, including—

(1) The qualifications of the project director;

(2) The qualifications of each of the other key personnel to be used in the project;

(3) The experience of each person referred to in paragraphs (c) (1) and (2) of this section, relevant to the provision of quality educational services to deaf-

blind children and youth in less restrictive environments;

(4) The time that each person referred to in paragraphs (c) (1) and (2) of this section will commit to the project; and

(5) 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.

(d) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project including the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project; and

(2) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the grantee)

(e) *Budget and cost effectiveness.* (10 points) The Secretary reviews each application to determine for technical assistance, and direct services where appropriate, in each State to be served, the extent to which—

(1) The budgets are adequate to support the activities;

(2) Costs are reasonable in relation to the objectives of the project; and

(3) Costs reflect—

(i) The time anticipated to be spent by each staff member for the provision of services described under § 307.11(a)(1) and costs for contracted and consultative services, travel costs, and other direct costs;

(ii) The time anticipated to be spent by each staff member for the provision of technical assistance under § 307.11(a)(2), and costs for contracted and consultative services, travel, and other related expenditures for technical assistance activities; and

(iii) The time anticipated to be spent for administrative services.

(Authority: 20 U.S.C. 1422)

(f) *Coordination.* (5 points) The Secretary reviews each application to determine the adequacy of the applicant's procedures for initiating and maintaining coordination in each State to be served with—

(1) Related activities funded from grants, contracts, and cooperative agreements awarded under Parts C, D, E, F, and G of the EHA; and

(2) Relevant agencies, organizations, and institutions having responsibility to deliver service to deaf-blind children and youth in the State, including services providers under Parts B and H of the EHA and section 1221 *et seq.* of Title I of the Hawkins-Stafford Elementary and Secondary School Improvements Amendments of 1988.

(g) *Dissemination.* (5 points) The Secretary reviews each application to determine the adequacy of the applicant's procedures for disseminating significant project information within the State(s) to providers of services to deaf-blind children and youth.

(Authority: 20 U.S.C. 1422)

10. A new § 307.34 is added to read as follows:

§ 307.34 What procedures does the Secretary use if more than one application for an award under § 307.11 proposes to serve the same State?

If more than one eligible application is received on behalf of any State for an award under § 307.11, the Secretary applies the selection criteria in § 307.33 and selects the highest ranked application for funding.

(Authority: 20 U.S.C. 1422)

11. A new § 307.35 is added to read as follows:

§ 307.35 What are the selection criteria used to evaluate an application under § 307.10(d)?

The Secretary uses the selection criteria in 34 CFR 315.33 to evaluate an application for an extended school year project—under § 307.10(d).

(Authority: 20 U.S.C. 1422)

12. A new § 307.36 is added to read as follows:

§ 307.36 What are the selection criteria used to evaluate an application under § 307.12 or § 307.13?

The Secretary uses the following criteria to evaluate an application for the provision of technical assistance under § 307.12 or § 307.13:

(a) *Extent of need and expected impact of the project.* (25 points) The Secretary reviews each application to determine the extent to which the project will assist in meeting national needs in the provision of services to deaf-blind children and youth, including consideration of—

(1) The extent and importance of the needs addressed by the project;

(2) The expected benefits to deaf-blind children and youth served by the project, their parents, and service providers; and

(3) The national significance of the project in terms of potential benefits to deaf-blind children and youth who are not directly involved in the project.

(b) *Plan of operation.* (25 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(3) How well the objectives of the project relate to the purpose of the program;

(4) The quality of the applicant's plan to use its resources and personnel to achieve each objective;

(5) 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.

(c) *Quality of key personnel.* (15 points)

(1) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (c)(1) (i) and (ii) of this section will commit to the project; and

(iv) 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.

(2) To determine personnel qualifications under paragraphs (c)(1) (i) and (ii) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(d) *Budget and cost-effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(e) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project; and

(2) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the grantee)

(f) *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.

(g) *Dissemination plan.* (5 points) The Secretary reviews each application to determine the quality of the dissemination plan for the project, including the extent to which the applicant's plan—

(1) Ensures proper and efficient dissemination of project information throughout the Nation; and

(2) Adequately includes the content, intended audiences, and timelines for production of all project documents and other products that the applicant will disseminate.

(Authority: 20 U.S.C. 1422)

§ 307.40 [Removed]

13. Section 307.40 is removed.

§ 307.42 [Removed]

14. Section 307.42 is removed.

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federal register

Tuesday
November 22, 1988

Part VIII

The President

Proclamation 5911—To Implement Changes to the Harmonized Tariff Schedule of the United States

Federal Register
Vol. 53, No. 225

Tuesday
November 22, 1988

federal register

Part VIII

The President

Proclamation 5979—To Implement Changes to the Harmonized Tariff Schedule of the United States

Federal Register
Vol. 53, No. 225
Tuesday, November 22, 1988

Presidential Documents

Title 3—

The President

Proclamation 5911 of November 19, 1988

To Implement Changes to the Harmonized Tariff Schedule of the United States

By the President of the United States of America

A Proclamation

1. Section 1204(a) of the Omnibus Trade and Competitiveness Act of 1988 (the Act) (P.L. 100–418; 19 U.S.C. 3004(a)) enacts the Harmonized Tariff Schedule of the United States (the HTS). Section 1204(b) (19 U.S.C. 3004(b)) confers authority upon the President to proclaim such modifications to the HTS as are consistent with the standards applied in converting the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) into the format of the International Convention on the Harmonized Commodity Description and Coding System (Harmonized System) and are necessary or appropriate to implement: (1) future outstanding staged rate reductions; (2) the applicable provisions of statutes enacted, Executive actions taken, and final judicial decisions rendered, after January 1, 1988, and before January 1, 1989; and (3) such technical rectifications as the President considers necessary.

2. Pursuant to the terms of Section 1204(b)(1) of the Act, I have determined that certain modifications to the HTS are necessary or appropriate in order to implement the future outstanding staged rate reductions for products of countries entitled to most-favored-nation treatment, as set forth in Annex I to this Proclamation; the future outstanding staged rate reductions for products of Israel, as set forth in Annex II to this Proclamation; and the applicable provisions of statutes enacted and Executive actions taken after January 1, 1988, and before January 1, 1989, along with certain necessary technical rectifications, all of which are set forth in Annex IV to this Proclamation.

3. In Proclamations 5779 of March 23, 1988 (53 FR 9850), and 5805 of April 29, 1988 (53 FR 15785), I terminated preferential tariff treatment under the Generalized System of Preferences (GSP) (19 U.S.C. 2461 *et seq.*) for articles that are eligible for such treatment and that are imported from Bahrain, Bermuda, Brunei Darussalam, Nauru, Hong Kong, the Republic of Korea, Panama, Singapore, or Taiwan, and I modified the general headnotes and other provisions of the TSUS to reflect such terminations. In Proclamation 5787 of March 31, 1988 (53 FR 11031), I also modified the TSUS to reflect the decisions made in the 1987 annual review of the GSP. Further, to carry forward these decisions into the nomenclature of the HTS, pursuant to Sections 1204(b)(1) and 1211(b) of the Act, and consistent with the standards to be applied in converting the TSUS into the format of the Harmonized System, I have determined, pursuant to Title V of the Trade Act of 1974 (the Trade Act), as amended, that certain countries should be redesignated as beneficiary developing countries with respect to certain eligible articles and that certain beneficiary developing countries should no longer receive preferential tariff treatment under the GSP with respect to certain eligible articles. I have determined that the modifications for purposes of the GSP set forth in Annex III are necessary or appropriate to implement in the HTS the applicable provisions of Proclamations 5779, 5787, and 5805, and the additional actions associated with implementing these decisions under the HTS nomenclature.

4. Section 604 of the Trade Act, as amended by Section 1214(j)(4) of the Act (19 U.S.C. 2483, as amended), confers authority upon the President to embody in

the HTS the substance of the relevant provisions of that Act, of other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including but not limited to Sections 1204, 1211, and 1214 of the Act and Title V and Section 604 of the Trade Act, do proclaim that:

(1) For each of the HTS subheadings enumerated in Annex I, the "General" subcolumn of rate of duty column 1 shall be modified as provided in such Annex on the dates specified therein.

(2) For each of the HTS headings/subheadings enumerated in Annex II, the "Special" subcolumn of rate of duty column 1 shall be modified as provided in such Annex on the dates specified therein.

(3) Each occurrence of the symbol corresponding to the United States-Israel Free Trade Area program in the HTS is modified by striking out "I" and inserting "IL" in lieu thereof.

(4) The HTS is further modified as set forth in Annexes III and IV to this Proclamation.

(5) Any provisions of previous proclamations and Executive orders inconsistent with the provisions of this Proclamation are hereby superseded to the extent of such inconsistency.

(6) The provisions of this Proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on and after January 1, 1989.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of November, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.

Ronald Reagan

Billing code 3190-01-M

ANNEX I

MODIFICATIONS TO IMPLEMENT STAGED RATE REDUCTIONS FOR PRODUCTS OF COUNTRIES ENTITLED TO MOST-FAVORED-NATION TREATMENT

Notes:

1. Each rate of duty in the column headed "January 1, 1989" in the following table, set forth opposite the number of a subheading in the Harmonized Tariff Schedule of the United States identified therein, shall replace the existing rate in the "General" subcolumn of rate of duty column 1 for such subheading, effective with respect to goods provided for therein which are entered, or withdrawn from warehouse for consumption, on and after January 1, 1989.

2. Each such rate of duty shall be superseded by the rate for the applicable subheading set forth in the columns headed "April 1, 1989" and "January 1, 1990", effective with respect to goods provided for therein which are entered, or withdrawn from warehouse for consumption, on and after the date at the head of the applicable column.

Subheading	January 1, 1989	April 1, 1989	January 1, 1990
2903.11.00	20%	20%	20%
2915.39.10	20%	20%	20%
4203.29.20	14%	14%	14%
4203.29.30	14%	14%	14%
4203.29.40	14%	14%	14%
4203.29.50	14%	14%	14%
5309.21.20	6.6¢/kg + 27.2%	6.6¢/kg + 27.2%	25%
5309.29.20	6.6¢/kg + 27.2%	6.6¢/kg + 27.2%	25%
5311.00.20	6.6¢/kg + 27.2%	6.6¢/kg + 27.2%	25%
5608.11.00	17%	17%	17%
5608.19.10	17%	17%	17%
6002.20.10	16%	16%	16%
6302.22.10	19.8%	19.8%	17%
6302.32.10	19.8%	19.8%	17%
6304.19.15	19.8%	19.8%	17%
6406.10.60	5.3%	5.3%	5.3%
6406.20.00	5.3%	5.3%	5.3%
6406.99.30	5.3%	5.3%	5.3%
8529.90.20	3.7%	3.7%	3.7%
8540.91.20	3.7%	3.7%	3.7%
9401.50.00	8.6%	7.5%	7.5%
9401.90.25	8.6%	7.5%	7.5%
9403.80.30	8.6%	7.5%	7.5%
9403.90.25	8.6%	7.5%	7.5%
9608.99.30	40¢/thousand + 7%	40¢/thousand + 7%	40¢/thousand + 7%

ANNEX II

MODIFICATIONS TO IMPLEMENT STAGED RATE REDUCTIONS FOR PRODUCTS OF ISRAEL

Notes:

1. Each heading/subheading in the Harmonized Tariff Schedule of the United States (HTS) enumerated in Table 1 is modified by inserting a rate of duty of "Free" followed by the symbol "IL" in parentheses in the "Special" subcolumn of rate of duty column 1, in lieu of the existing rate and symbol for products of Israel, effective with respect to such goods which are entered, or withdrawn from warehouse for consumption, on and after January 1, 1989.

2. Each rate of duty enumerated in Table 2 opposite a heading/subheading in the HTS is inserted (together with the symbol "IL" in parentheses) in the "Special" subcolumn of rate of duty column 1 for such heading/subheading in lieu of the existing rate and symbol for products of Israel, effective with respect to such goods which are entered, or withdrawn from warehouse for consumption, on and after the date at the head of the applicable column.

II-2

Table 1.--Products of Israel Elibible for Duty Free Treatment
Effective January 1, 1989

Heading/subheading in HTS as modified by Annex III and Annex IV	Heading/subheading in HTS as modified by Annex III and Annex IV	Heading/subheading in HTS as modified by Annex III and Annex IV	Heading/subheading in HTS as modified by Annex III and Annex IV
0101.20.20	0709.90.05	1605.10.20	2101.10.40
0201.20.40	0709.90.10	1605.20.05	2101.20.40
0201.30.40	0709.90.13	1605.30.05	2102.10.00
0202.20.40	0709.90.16	1605.40.05	2102.20.20
0207.22.20	0709.90.30	1605.90.05	2104.20.00
0207.22.40	0710.10.00	1605.90.10	2105.00.00
0302.70.20	0710.22.30	1702.10.00	2106.10.00
0303.80.20	0710.30.00	1702.30.40	2106.90.15
0305.20.20	0710.80.20	1702.50.00	2106.90.40
0402.29.00	0710.80.60	1704.90.40	2106.90.50
0402.99.60	0710.90.10	1806.10.30	2106.90.60
0403.10.00	0710.90.90	1806.20.70	2202.90.10
0403.90.80	0711.30.00	1901.10.00	2202.90.20
0404.10.40	0711.90.40	1901.20.00	2204.10.00
0404.90.05	0714.90.20	1901.90.20	2204.21.20
0404.90.20	0802.21.00	1901.90.30	2204.21.40
0404.90.40	0802.32.00	1901.90.40	2204.29.20
0404.90.60	0804.20.80	1901.90.80	2204.29.60
0405.00.80	0804.50.60	1901.90.90	2206.00.30
0406.10.00	0805.10.00	1902.11.40	2206.00.60
0406.20.10	0805.20.00	1902.19.40	2208.20.20
0406.20.20	0805.30.20	1902.20.00	2208.20.30
0406.20.30	0805.30.40	1902.30.00	2208.20.50
0406.20.35	0807.10.30	1902.40.00	2208.40.00
0406.20.40	0807.10.40	1905.90.90	2208.90.20
0406.20.50	0811.20.40	2001.90.10	2208.90.25
0406.20.55	0811.90.22	2001.90.20	2208.90.35
0406.20.60	0811.90.40	2001.90.35	2208.90.60
0406.30.10	0811.90.55	2001.90.60	2401.10.60
0406.30.20	0811.90.60	2003.10.00	2401.10.80
0406.30.30	0812.90.10	2004.10.00	2401.20.60
0406.30.40	0812.90.20	2005.20.00	2401.20.80
0406.30.50	0813.40.30	2005.60.00	2401.30.60
0406.30.55	0813.40.80	2005.90.10	2401.30.90
0406.30.60	1005.90.40	2005.90.50	2402.10.30
0406.40.40	1102.90.40	2006.00.20	2529.21.00
0406.40.60	1104.30.00	2006.00.90	2707.60.00
0406.40.80	1106.10.00	2007.99.20	2806.20.00
0406.90.10	1106.30.40	2007.99.25	2811.19.50
0406.90.15	1302.13.00	2007.99.35	2824.90.10
0406.90.25	1503.00.00	2007.99.55	2825.30.00
0406.90.30	1507.10.00	2007.99.65	2825.90.30
0406.90.35	1507.90.40	2008.19.90	2827.39.10
0406.90.40	1517.10.00	2008.30.40	2827.39.40
0406.90.45	1517.90.10	2008.30.55	2827.49.10
0406.90.60	1517.90.20	2008.30.65	2831.10.00
0406.90.65	1518.00.40	2008.30.95	2831.90.00
0406.90.80	1602.41.10	2008.40.00	2833.29.30
0407.00.00	1602.49.90	2008.50.20	2834.10.10
0408.11.00	1602.50.09	2008.50.40	2841.80.00
0408.19.00	1602.50.90	2008.60.00	2841.90.10
0408.91.00	1604.11.20	2008.70.00	2844.30.10
0408.99.00	1604.13.20	2008.92.10	2846.10.00
0604.99.60	1604.13.30	2008.92.90	2849.90.30
0704.10.40	1604.14.10	2008.99.28	2850.00.10
0706.10.05	1604.14.30	2008.99.29	2850.00.20
0706.90.40	1604.19.40	2008.99.35	2902.11.00
0707.00.20	1604.19.50	2008.99.42	2902.90.50
0707.00.40	1604.20.05	2008.99.45	2903.11.00
0707.00.50	1604.20.40	2008.99.60	2903.13.00
0707.00.60	1604.20.50	2008.99.65	2903.19.50
0709.40.20	1604.30.20	2009.30.20	2903.21.00
0709.51.00	1605.10.05	2009.40.20	2903.30.05

II-3

Table 1--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Heading/subheading in HTS as modified by Annex III and Annex IV	Heading/subheading in HTS as modified by Annex III and Annex IV	Heading/subheading in HTS as modified by Annex III and Annex IV
2903.30.20	2921.44.50	2934.90.18	3214.90.50
2903.40.00	2921.45.50	2934.90.20	3402.20.10
2903.59.30	2921.49.30	2934.90.45	3402.90.30
2903.59.40	2921.51.20	2935.00.15	3404.20.00
2903.59.50	2921.51.50	2935.00.20	3502.10.10
2903.61.20	2921.59.20	2935.00.30	3502.10.50
2904.10.15	2921.59.50	2935.00.31	3504.00.10
2904.90.10	2922.11.00	2935.00.33	3604.90.00
2904.90.35	2922.12.00	2935.00.37	3707.90.30
2905.11.20	2922.13.00	2935.00.50	3804.00.50
2905.12.00	2922.19.40	2936.23.00	3809.92.10
2905.31.00	2922.21.50	2936.26.00	3809.99.10
2905.32.00	2922.22.10	2942.00.50	3810.10.00
2905.39.10	2922.22.50	3003.40.00	3810.90.10
2905.39.50	2922.29.23	3004.50.10	3810.90.50
2905.49.50	2922.29.25	3004.50.20	3811.11.10
2905.50.50	2922.29.29	3202.10.10	3811.19.00
2906.29.10	2922.29.50	3204.11.10	3811.21.00
2907.22.10	2922.30.30	3204.11.15	3811.90.00
2907.23.00	2922.42.10	3204.11.20	3812.10.10
2909.19.50	2922.50.19	3204.11.50	3812.30.10
2909.20.00	2922.50.40	3204.12.10	3814.00.10
2909.41.00	2924.29.07	3204.12.20	3814.00.20
2909.42.00	2924.29.11	3204.12.30	3815.90.10
2909.43.00	2924.29.13	3204.12.40	3817.10.00
2909.44.00	2924.29.14	3204.12.50	3817.20.00
2909.49.05	2924.29.25	3204.13.10	3819.00.00
2909.49.50	2924.29.35	3204.13.20	3820.00.00
2909.50.20	2925.19.50	3204.13.25	3823.30.00
2909.60.50	2926.10.00	3204.13.30	3823.40.10
2910.10.00	2927.00.20	3204.13.50	3823.40.50
2910.20.00	2927.00.30	3204.14.10	3823.90.19
2912.13.00	2927.00.40	3204.14.20	3823.90.29
2912.19.40	2927.00.50	3204.14.25	3823.90.32
2912.21.00	2928.00.20	3204.14.30	3823.90.35
2912.29.10	2929.10.10	3204.14.50	3823.90.36
2912.30.10	2929.10.15	3204.15.10	3823.90.46
2912.42.00	2929.10.50	3204.15.20	3823.90.50
2914.11.10	2929.90.20	3204.15.30	3901.10.00
2914.22.10	2931.00.10	3204.15.35	3901.20.00
2914.69.10	2931.00.50	3204.15.40	3902.10.00
2915.33.00	2932.11.00	3204.15.50	3903.90.10
2915.34.00	2932.19.50	3204.16.10	3904.10.00
2915.35.00	2932.21.00	3204.16.20	3904.21.00
2915.39.10	2932.29.20	3204.16.30	3904.22.00
2915.39.40	2932.29.40	3204.16.50	3921.12.15
2916.31.10	2932.90.35	3204.17.10	3921.13.15
2917.12.10	2932.90.37	3204.17.20	3921.14.00
2917.14.10	2932.90.50	3204.17.30	3921.90.15
2917.19.40	2933.11.00	3204.17.50	3926.90.33
2917.37.00	2933.19.30	3204.19.11	3926.90.85
2917.39.30	2933.19.42	3204.19.15	4013.20.00
2918.15.10	2933.29.40	3204.19.19	4202.11.00
2918.17.10	2933.39.50	3204.19.30	4202.12.40
2918.21.10	2933.59.40	3204.19.40	4202.12.80
2918.22.10	2933.71.00	3204.19.50	4202.19.00
2919.00.30	2933.90.25	3204.20.10	4202.21.60
2920.90.20	2933.90.39	3204.20.50	4202.22.15
2921.41.10	2934.10.20	3205.00.10	4202.22.40
2921.41.20	2934.20.15	3205.00.50	4202.22.45
2921.42.25	2934.20.20	3206.49.20	4202.22.70
2921.42.50	2934.20.50	3206.50.00	4202.22.80
2921.43.15	2934.30.50	3207.40.50	4202.29.00
2921.43.50	2934.90.06	3211.00.00	4202.31.60

II-4

Table 1--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Heading/subheading in HTS as modified by Annex III and Annex IV	Heading/subheading in HTS as modified by Annex III and Annex IV	Heading/subheading in HTS as modified by Annex III and Annex IV
4202.32.20	6103.19.40	6113.00.00	6207.92.40
4202.32.40	6103.32.00	6114.20.00	6207.99.40
4202.39.00	6103.42.10	6114.30.10	6208.19.20
4202.92.15	6103.42.20	6114.30.30	6208.19.40
4202.92.30	6103.43.20	6115.11.00	6208.21.00
4202.92.45	6103.49.20	6115.12.00	6208.22.00
4202.92.60	6104.12.00	6115.19.00	6208.29.00
4202.92.90	6104.13.20	6115.91.00	6208.91.10
4202.99.00	6104.19.15	6115.92.10	6208.92.00
4206.10.90	6104.33.20	6117.80.00	6208.99.60
4301.60.30	6104.39.10	6201.12.20	6208.99.80
4302.19.15	6104.42.00	6201.92.15	6209.20.10
4409.10.65	6104.43.20	6201.92.20	6209.20.30
4409.20.65	6104.44.20	6201.93.20	6209.20.50
4411.19.40	6104.52.00	6201.93.30	6209.90.20
4411.29.90	6104.53.20	6202.12.20	6209.90.40
4412.11.50	6104.59.10	6202.19.00	6210.20.10
4412.12.15	6104.62.10	6202.91.20	6210.20.20
4412.12.50	6104.62.20	6202.92.15	6210.30.10
4412.19.40	6104.63.10	6202.92.20	6210.30.20
4412.19.50	6104.63.20	6202.93.20	6210.40.10
4412.29.40	6104.69.10	6202.93.45	6210.40.20
4412.99.40	6104.69.20	6202.99.00	6210.50.10
4412.99.50	6105.20.20	6203.32.20	6210.50.20
4415.10.90	6106.10.00	6203.42.20	6211.11.20
4415.20.80	6107.12.00	6203.43.15	6211.12.30
4420.90.40	6107.19.00	6203.43.20	6211.20.40
4421.90.20	6107.21.00	6203.43.35	6211.20.60
4421.90.30	6107.22.00	6203.49.10	6211.32.00
4503.90.60	6107.29.40	6204.12.00	6211.33.00
4504.10.50	6107.91.00	6204.13.20	6211.42.00
4504.90.20	6108.11.00	6204.19.20	6211.43.00
4504.90.40	6108.22.00	6204.19.30	6211.49.00
4602.10.11	6108.29.00	6204.22.10	6217.10.00
4602.10.13	6108.31.00	6204.31.10	6302.21.10
4602.10.21	6108.32.00	6204.32.20	6302.31.10
4602.10.23	6108.91.00	6204.33.10	6302.60.00
4602.10.25	6108.92.00	6204.39.40	6302.91.00
4823.90.50	6109.10.00	6204.41.10	6303.92.00
5103.30.00	6109.90.15	6204.42.20	6306.11.00
5402.31.60	6109.90.20	6204.42.30	6306.21.00
5402.32.60	6110.20.10	6204.43.20	6306.22.90
5501.10.00	6110.30.20	6204.43.40	6307.10.20
5509.11.00	6111.20.10	6204.44.40	6307.20.00
5509.21.00	6111.20.30	6204.49.00	6307.90.70
5509.31.00	6111.20.40	6204.52.20	6401.10.00
5509.41.00	6111.20.50	6204.53.30	6401.91.00
5509.51.30	6111.20.60	6204.59.30	6401.92.30
5509.69.20	6111.30.10	6204.59.40	6401.92.60
5510.11.00	6111.30.20	6204.62.20	6401.92.90
5510.90.20	6111.30.40	6204.62.40	6401.99.30
5601.10.20	6111.30.50	6204.63.30	6401.99.60
5601.22.00	6111.90.10	6204.63.35	6401.99.80
5602.10.90	6111.90.20	6204.69.20	6401.99.90
5602.90.60	6111.90.40	6204.69.25	6402.11.00
5603.00.90	6111.90.50	6204.69.30	6402.19.10
5609.00.30	6111.90.60	6204.69.90	6402.19.30
5807.90.20	6112.11.00	6205.30.20	6402.19.50
5808.90.00	6112.12.00	6206.10.00	6402.19.70
5911.90.00	6112.19.10	6206.20.20	6402.19.90
6101.90.00	6112.20.10	6206.30.30	6402.30.30
6102.20.00	6112.20.20	6206.40.20	6402.30.50
6102.30.05	6112.39.00	6206.90.00	6402.30.60
6102.30.20	6112.49.00	6207.22.00	6402.30.70

II-5

Table 1--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Heading/subheading in HTS as modified by Annex III and Annex IV	Heading/subheading in HTS as modified by Annex III and Annex IV	Heading/subheading in HTS as modified by Annex III and Annex IV
6402.30.80	6405.20.90	7108.13.50	8215.10.00
6402.30.90	6405.90.20	7109.00.00	8215.20.00
6402.91.40	6405.90.90	7111.00.00	8215.99.30
6402.91.50	6406.10.05	7114.11.45	8215.99.40
6402.91.60	6406.10.10	7115.10.00	8401.20.00
6402.91.70	6406.10.20	7115.90.50	8421.12.00
6402.91.80	6406.10.25	7116.20.20	8421.19.00
6402.91.90	6406.10.30	7117.19.10	8421.91.00
6402.99.05	6406.10.35	7202.50.00	8442.50.90
6402.99.10	6406.10.40	7219.31.00	8448.33.00
6402.99.15	6406.10.45	7219.32.00	8448.51.10
6402.99.20	6406.10.50	7219.33.00	8448.51.30
6402.99.30	6406.99.90	7219.34.00	8456.10.10
6402.99.60	6603.20.30	7219.35.00	8456.20.10
6402.99.70	6603.20.90	7220.20.60	8456.30.10
6402.99.80	6603.90.00	7220.20.70	8456.90.10
6402.99.90	6702.10.20	7222.10.00	8457.10.00
6403.11.60	6810.19.10	7222.20.00	8457.20.00
6403.19.15	6812.50.10	7228.50.10	8457.30.00
6403.19.45	6905.10.00	7228.60.10	8458.11.00
6403.19.60	6907.10.00	7314.11.20	8458.19.00
6403.20.00	6907.90.00	7314.11.90	8458.91.10
6403.30.00	6908.10.20	7318.11.00	8458.91.50
6403.40.30	6908.10.50	7318.12.00	8458.99.10
6403.40.60	6908.90.00	7319.20.00	8458.99.50
6403.51.30	6909.19.50	7319.30.10	8459.10.00
6403.51.60	6910.10.00	7323.99.30	8459.21.00
6403.51.90	6910.90.00	7326.90.30	8459.29.00
6403.59.15	6911.10.20	7408.22.10	8459.31.00
6403.59.30	6911.90.00	7408.22.50	8459.39.00
6403.59.60	6913.10.50	7412.10.00	8459.40.00
6403.59.90	6914.90.00	7419.99.15	8459.51.00
6403.91.30	7002.20.50	7419.99.30	8459.59.00
6403.91.60	7002.32.00	7804.20.00	8459.61.00
6403.91.90	7002.39.00	7901.12.10	8459.69.00
6403.99.20	7006.00.20	7901.20.00	8459.70.00
6403.99.40	7009.10.00	8101.10.00	8460.11.00
6403.99.60	7009.91.10	8104.11.00	8460.19.00
6403.99.75	7009.91.50	8108.10.50	8460.21.00
6403.99.90	7009.92.10	8108.90.60	8460.29.00
6404.11.20	7009.92.50	8111.00.45	8460.31.00
6404.11.40	7010.90.30	8202.40.30	8460.39.00
6404.11.50	7012.00.00	8203.20.20	8460.40.00
6404.11.60	7013.21.30	8203.20.40	8460.90.00
6404.11.70	7013.29.05	8205.90.00	8461.10.00
6404.11.80	7013.31.30	8206.00.00	8461.20.00
6404.11.90	7013.32.10	8207.11.00	8461.30.00
6404.19.15	7013.39.10	8207.12.30	8461.40.10
6404.19.20	7013.91.30	8207.30.30	8461.40.50
6404.19.25	7013.99.20	8207.40.30	8461.50.00
6404.19.30	7013.99.30	8207.50.20	8461.90.00
6404.19.35	7014.00.10	8207.50.40	8462.10.00
6404.19.40	7014.00.20	8207.60.00	8462.21.00
6404.19.50	7015.90.20	8207.70.30	8462.29.00
6404.19.60	7016.90.10	8207.80.30	8462.31.00
6404.19.70	7016.90.50	8207.90.30	8462.39.00
6404.19.80	7017.20.00	8209.00.00	8462.41.00
6404.19.90	7017.90.00	8211.10.00	8462.49.00
6404.20.20	7018.10.10	8211.91.20	8462.91.00
6404.20.40	7018.20.00	8211.91.30	8462.99.00
6404.20.60	7018.90.10	8213.00.60	8463.10.00
6405.10.00	7103.99.50	8213.00.90	8463.20.00
6405.20.30	7104.90.50	8214.20.30	8463.30.00
6405.20.60	7108.12.50	8214.20.90	8463.90.00

II-6

Table 1--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Heading/subheading in HTS as modified by Annex III and Annex IV	Heading/subheading in HTS as modified by Annex III and Annex IV	Heading/subheading in HTS as modified by Annex III and Annex IV
8483.40.70	9008.90.40	9106.10.00	9507.90.80
8501.10.20	9010.20.30	9106.20.00	9603.10.20
8503.00.40	9010.20.40	9106.90.40	9603.10.40
8512.10.20	9010.90.40	9108.11.40	9603.10.70
8512.90.40	9011.10.80	9108.19.40	9603.29.40
8513.10.20	9011.20.80	9108.19.80	9603.40.20
8513.90.20	9011.80.00	9108.20.80	9605.00.00
8516.40.40	9011.90.00	9108.91.10	9608.20.00
8532.10.00	9013.10.10	9108.91.20	9608.40.40
8532.21.00	9013.90.20	9108.91.30	9608.99.30
8532.22.00	9013.90.40	9108.91.50	9612.10.90
8532.23.00	9015.10.80	9108.99.20	9613.10.00
8532.24.00	9018.31.00	9108.99.40	9613.20.00
8532.25.00	9018.32.00	9108.99.60	9613.80.40
8532.29.00	9018.50.00	9109.11.40	9613.80.60
8532.30.00	9018.90.10	9109.11.60	9613.80.80
8539.29.20	9018.90.20	9109.19.40	9613.90.80
8540.11.00	9018.90.80	9109.19.60	9614.90.40
8544.70.00	9019.10.60	9109.90.40	9615.11.20
8605.00.00	9021.11.00	9109.90.60	9615.11.50
8606.10.00	9021.19.40	9110.12.00	9615.19.60
8606.20.00	9021.21.80	9110.19.00	9615.90.20
8606.30.00	9021.29.80	9114.10.40	9615.90.60
8606.91.00	9025.11.20	9114.30.40	9617.00.30
8606.92.00	9025.11.40	9114.40.60	9617.00.40
8606.99.00	9025.80.20	9114.90.40	9617.00.60
8712.00.10	9026.10.40	9114.90.50	9816.00.20
8712.00.30	9026.80.40	9202.90.60	
8712.00.40	9026.90.40	9207.10.00	
8714.91.90	9027.10.40	9207.90.00	
8714.92.50	9027.30.80	9209.92.80	
8714.93.30	9027.50.80	9303.30.40	
8714.93.80	9027.90.60	9303.90.40	
8714.94.50	9028.90.00	9304.00.20	
8714.95.00	9029.10.40	9305.10.20	
8714.96.10	9029.20.20	9305.10.40	
8714.96.90	9029.20.60	9305.90.50	
8714.99.90	9029.90.20	9401.50.00	
9001.10.00	9029.90.40	9401.90.25	
9001.20.00	9031.40.00	9403.80.30	
9001.90.50	9101.11.80	9403.90.25	
9001.90.60	9101.99.20	9403.90.60	
9001.90.90	9101.99.40	9404.29.10	
9002.11.40	9101.99.60	9404.30.80	
9002.20.80	9101.99.80	9405.10.60	
9002.90.20	9102.29.20	9405.20.60	
9002.90.40	9102.29.50	9405.40.60	
9002.90.90	9102.91.40	9405.50.40	
9003.11.00	9102.91.80	9405.60.40	
9003.19.00	9102.99.20	9405.91.20	
9003.90.00	9102.99.40	9405.91.40	
9004.10.00	9102.99.60	9405.99.40	
9004.90.00	9102.99.80	9501.00.60	
9005.80.60	9104.00.10	9502.99.20	
9005.90.00	9104.00.20	9503.41.20	
9006.40.60	9104.00.40	9503.50.00	
9006.52.60	9105.11.80	9503.90.70	
9006.59.60	9105.19.40	9504.20.20	
9007.21.80	9105.19.50	9505.10.40	
9007.29.80	9105.21.80	9506.69.40	
9007.92.00	9105.29.40	9507.10.00	
9008.10.00	9105.29.50	9507.30.20	
9008.20.80	9105.99.50	9507.90.40	
9008.30.00	9105.99.60	9507.90.70	

II-7

Table 1--Continued

Additional U.S. note 1 to chapter 11 is modified by striking out "6.4%" and inserting "Free" in lieu thereof.

II-8

Table 2.--Staged Reductions in Rates of Duty for Products of Israel Which Become Free of Duty Effective January 1, 1995

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
0804.40.00	5.3¢/kg	4¢/kg	1.3¢/kg	Free
0805.40.40	0.9¢/kg	0.7¢/kg	0.2¢/kg	Free
0805.40.60	0.7¢/kg	0.5¢/kg	0.2¢/kg	Free
0805.40.80	1.2¢/kg	0.9¢/kg	0.3¢/kg	Free
2001.90.25	4.8%	3.6%	1.2%	Free
2005.90.80	7%	5.3%	1.8%	Free
2008.99.10	5.3¢/kg	4¢/kg	1.3¢/kg	Free
2827.59.30	1.5%	1.1%	0.4%	Free
2830.20.00	1.1%	0.8%	0.3%	Free
2903.30.15	1.2%	0.9%	0.3%	Free
2903.59.15	5.4%	4.1%	1.4%	Free
2903.62.00	3.7%	2.8%	0.9%	Free
2903.69.50	3.7%	2.8%	0.9%	Free
2908.10.50	0.7¢/kg + 7.8%	0.5¢/kg + 5.8%	0.2¢/kg + 1.9%	Free
2908.20.50	0.7¢/kg + 7.8%	0.5¢/kg + 5.8%	0.2¢/kg + 1.9%	Free
2908.90.50	0.6¢/kg + 7.8%	0.5¢/kg + 5.8%	0.2¢/kg + 1.9%	Free
2909.30.40	5.4%	4.1%	1.4%	Free
2909.30.50	8%	6%	2%	Free
2909.49.10	5.4%	4.1%	1.4%	Free
2909.49.15	8%	6%	2%	Free
2909.50.45	5.4%	4.1%	1.4%	Free
2909.50.50	8%	6%	2%	Free
2909.60.10	5.4%	4.1%	1.4%	Free
2909.60.20	8%	6%	2%	Free
2917.12.50	5.4%	4.1%	1.4%	Free
2917.19.20	5.4%	4.1%	1.4%	Free
2917.39.50	8%	6%	2%	Free
2921.30.10	5.4%	4.1%	1.4%	Free
2925.20.30	6%	4.5%	1.5%	Free
3916.90.30	3.1%	2.3%	0.8%	Free
3918.10.31	1.7%	1.3%	0.4%	Free
3918.10.32	3.4%	2.6%	0.9%	Free
3918.10.40	2.2%	1.6%	0.5%	Free
3918.90.20	3.4%	2.6%	0.9%	Free
3918.90.30	2.2%	1.6%	0.5%	Free
3921.12.11	1.7%	1.3%	0.4%	Free
3921.12.19	2.2%	1.6%	0.5%	Free
3921.13.11	1.7%	1.3%	0.4%	Free
3921.13.19	2.2%	1.6%	0.5%	Free
3921.90.11	1.7%	1.3%	0.4%	Free
3921.90.19	2.2%	1.6%	0.5%	Free
3921.90.21	2.9%	2.2%	0.7%	Free
3921.90.25	6.4%	4.8%	1.6%	Free
3921.90.29	1.8%	1.3%	0.4%	Free
3924.90.10	1.4%	1%	0.3%	Free
3925.30.10	1.4%	1%	0.3%	Free
3926.20.40	5.6%	4.2%	1.4%	Free
3926.20.50	2%	1.5%	0.5%	Free
3926.90.56	2.1%	1.6%	0.5%	Free
3926.90.57	3.2%	2.4%	0.8%	Free
3926.90.59	1%	0.7%	0.2%	Free
4008.21.00	1.4%	1%	0.3%	Free
4010.91.11	2.1%	1.6%	0.5%	Free

II-9
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
4010.91.15	3.2%	2.4%	0.8%	Free
4010.91.19	1%	0.7%	0.2%	Free
4010.99.11	2.1%	1.6%	0.5%	Free
4010.99.15	3.2%	2.4%	0.8%	Free
4010.99.19	1%	0.7%	0.2%	Free
4015.19.10	1.5%	1.1%	0.4%	Free
4015.19.50	5.6%	4.2%	1.4%	Free
4015.90.00	2%	1.5%	0.5%	Free
4202.22.35	3.4%	2.5%	0.8%	Free
4202.32.80	2.6%	2%	0.7%	Free
4202.32.85	8%	6%	2%	Free
4202.32.95	8%	6%	2%	Free
4203.10.20	1.9%	1.4%	0.5%	Free
4203.29.05	5.6%	4.2%	1.4%	Free
4203.29.08	5.6%	4.2%	1.4%	Free
4203.29.15	5.6%	4.2%	1.4%	Free
4203.29.18	5.6%	4.2%	1.4%	Free
4203.29.20	5.6%	4.2%	1.4%	Free
4203.29.30	5.6%	4.2%	1.4%	Free
4203.29.40	5.6%	4.2%	1.4%	Free
4203.29.50	5.6%	4.2%	1.4%	Free
4203.40.30	2.2%	1.7%	0.6%	Free
4205.00.60	2.2%	1.7%	0.6%	Free
4601.99.00	1.4%	1%	0.3%	Free
5007.90.30	2%	1.5%	0.5%	Free
5007.90.60	2%	1.5%	0.5%	Free
5101.21.60	3.1¢/kg + 2.5%	2.3¢/kg + 1.9%	0.8¢/kg + 0.6%	Free
5101.29.60	3.1¢/kg + 2.5%	2.3¢/kg + 1.9%	0.8¢/kg + 0.6%	Free
5101.30.60	3.1¢/kg + 2.5%	2.3¢/kg + 1.9%	0.8¢/kg + 0.6%	Free
5102.10.90	3.1¢/kg + 2.5%	2.3¢/kg + 1.9%	0.8¢/kg + 0.6%	Free
5105.10.00	3.1¢/kg + 2.5%	2.3¢/kg + 1.9%	0.8¢/kg + 0.6%	Free
5105.21.00	3.1¢/kg + 2.5%	2.3¢/kg + 1.9%	0.8¢/kg + 0.6%	Free
5105.29.00	3.1¢/kg + 2.5%	2.3¢/kg + 1.9%	0.8¢/kg + 0.6%	Free
5105.30.00	3.1¢/kg + 2.5%	2.3¢/kg + 1.9%	0.8¢/kg + 0.6%	Free
5106.10.00	3%	2.3%	0.8%	Free
5107.10.00	3%	2.3%	0.8%	Free
5107.20.00	3%	2.3%	0.8%	Free
5108.10.30	2%	1.5%	0.5%	Free
5108.10.60	3%	2.3%	0.8%	Free
5108.20.30	2%	1.5%	0.5%	Free
5108.20.60	3%	2.3%	0.8%	Free
5109.10.40	2%	1.5%	0.5%	Free
5109.10.60	3%	2.3%	0.8%	Free
5109.90.40	2%	1.5%	0.5%	Free
5111.11.10	7¢/kg + 5%	5.3¢/kg + 3.8%	1.8¢/kg + 1.3%	Free
5111.11.60	13.2%	9.9%	3.3%	Free
5111.19.10	2.8%	2.1%	0.7%	Free
5111.19.20	7¢/kg + 5%	5.3¢/kg + 3.8%	1.8¢/kg + 1.3%	Free

II-10
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
5111.19.60	13.2%	9.9%	3.3%	Free
5111.20.05	2.8%	2.1%	0.7%	Free
5111.20.60	19.4¢/kg + 15.2%	14.6¢/kg + 11.4%	4.9¢/kg + 3.8%	Free
5111.30.05	2.8%	2.1%	0.7%	Free
5111.30.60	19.4¢/kg + 15.2%	14.6¢/kg + 11.4%	4.9¢/kg + 3.8%	Free
5111.90.30	3.1%	2.3%	0.8%	Free
5111.90.60	13.2%	9.9%	3.3%	Free
5112.11.00	13.2%	9.9%	3.3%	Free
5112.19.10	2.8%	2.1%	0.7%	Free
5112.19.60	13.2%	9.9%	3.3%	Free
5112.20.00	19.2¢/kg + 15.2%	14.4¢/kg + 11.4%	4.8¢/kg + 3.8%	Free
5112.30.00	19.2¢/kg + 15.2%	14.4¢/kg + 11.4%	4.8¢/kg + 3.8%	Free
5112.90.30	3.1%	2.3%	0.8%	Free
5112.90.60	3.4%	2.6%	0.9%	Free
5113.00.00	2.2%	1.6%	0.5%	Free
5204.11.00	2%	1.5%	0.5%	Free
5204.19.00	2%	1.5%	0.5%	Free
5204.20.00	2%	1.5%	0.5%	Free
5205.11.10	1.4%	1.1%	0.4%	Free
5205.11.20	2.3%	1.7%	0.6%	Free
5205.12.10	1.7%	1.3%	0.4%	Free
5205.12.20	3%	2.2%	0.7%	Free
5205.13.10	2.2%	1.6%	0.5%	Free
5205.13.20	3.4%	2.6%	0.9%	Free
5205.14.10	3%	2.3%	0.8%	Free
5205.14.20	4%	3%	1%	Free
5205.15.10	3.5%	2.6%	0.9%	Free
5205.15.20	4.8%	3.6%	1.2%	Free
5205.21.00	2.3%	1.7%	0.6%	Free
5205.22.00	3%	2.2%	0.7%	Free
5205.23.00	3.4%	2.6%	0.9%	Free
5205.24.00	4%	3%	1%	Free
5205.25.00	4.8%	3.6%	1.2%	Free
5205.31.00	2.3%	1.7%	0.6%	Free
5205.32.00	3%	2.2%	0.7%	Free
5205.33.00	3.4%	2.6%	0.9%	Free
5205.34.00	4%	3%	1%	Free
5205.35.00	4.8%	3.6%	1.2%	Free
5205.41.00	2.3%	1.7%	0.6%	Free
5205.42.00	3%	2.2%	0.7%	Free
5205.43.00	3.4%	2.6%	0.9%	Free
5205.44.00	4%	3%	1%	Free
5205.45.00	4.8%	3.6%	1.2%	Free
5206.11.00	4.3%	3.2%	1.1%	Free
5206.12.00	4.3%	3.2%	1.1%	Free
5206.13.00	4.3%	3.2%	1.1%	Free
5206.14.00	4.3%	3.2%	1.1%	Free
5206.15.00	4.3%	3.2%	1.1%	Free
5206.21.00	4.3%	3.2%	1.1%	Free
5206.22.00	4.3%	3.2%	1.1%	Free
5206.23.00	4.3%	3.2%	1.1%	Free
5206.24.00	4.3%	3.2%	1.1%	Free
5206.25.00	4.3%	3.2%	1.1%	Free

II-11
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
5206.31.00	4.3%	3.2%	1.1%	Free
5206.32.00	4.3%	3.2%	1.1%	Free
5206.33.00	4.3%	3.2%	1.1%	Free
5206.34.00	4.3%	3.2%	1.1%	Free
5206.35.00	4.3%	3.2%	1.1%	Free
5206.41.00	4.3%	3.2%	1.1%	Free
5206.42.00	4.3%	3.2%	1.1%	Free
5206.43.00	4.3%	3.2%	1.1%	Free
5206.44.00	4.3%	3.2%	1.1%	Free
5206.45.00	4.3%	3.2%	1.1%	Free
5207.10.00	2%	1.5%	0.5%	Free
5207.90.00	2%	1.5%	0.5%	Free
5208.11.20	2.8%	2.1%	0.7%	Free
5208.11.40	3.5%	2.6%	0.9%	Free
5208.11.60	3.1¢/kg + 7.7%	2.3¢/kg + 5.8%	0.8¢/kg + 1.9%	Free
5208.11.80	5%	3.7%	1.2%	Free
5208.12.40	2.8%	2.1%	0.7%	Free
5208.12.60	3.5%	2.6%	0.9%	Free
5208.12.80	5%	3.7%	1.2%	Free
5208.13.00	3 2%	2.4%	0.8%	Free
5208.19.20	3.2%	2.4%	0.8%	Free
5208.19.40	2.8%	2.1%	0.7%	Free
5208.19.60	3.5%	2.6%	0.9%	Free
5208.19.80	5%	3.7%	1.2%	Free
5208.21.20	3.4%	2.5%	0.8%	Free
5208.21.40	4.1%	3.1%	1%	Free
5208.21.60	5.4%	4.1%	1.4%	Free
5208.22.40	3.4%	2.5%	0.8%	Free
5208.22.60	4.1%	3.1%	1%	Free
5208.22.80	5.4%	4.1%	1.4%	Free
5208.23.00	3.7%	2.8%	0.9%	Free
5208.29.20	3.7%	2.8%	0.9%	Free
5208.29.40	3.4%	2.5%	0.8%	Free
5208.29.60	4.1%	3.1%	1%	Free
5208.29.80	5.4%	4.1%	1.4%	Free
5208.31.40	3.8%	2.9%	1%	Free
5208.31.60	4.6%	3.4%	1.1%	Free
5208.31.80	5.9%	4.4%	1.5%	Free
5208.32.30	3 8%	2.9%	1%	Free
5208.32.40	4.6%	3.4%	1.1%	Free
5208.32.50	5.9%	4.4%	1.5%	Free
5208.33.00	4.2%	3.1%	1%	Free
5208.39.20	4.2%	3.1%	1%	Free
5208.39.40	3.8%	2.9%	1%	Free
5208.39.60	4.6%	3.4%	1.1%	Free
5208.39.80	5.9%	4.4%	1.5%	Free
5208.41.40	3.8%	2.9%	1%	Free
5208.41.60	4.6%	3.4%	1.1%	Free
5208.41.80	5.9%	4.4%	1.5%	Free
5208.42.30	3.8%	2.9%	1%	Free
5208.42.40	4.6%	3.4%	1.1%	Free
5208.42.50	5.9%	4.4%	1.5%	Free
5208.43.00	4.2%	3.1%	1%	Free
5208.49.20	4.2%	3.1%	1%	Free
5208.49.40	3.8%	2.9%	1%	Free

II-12
Table 2- Continued

Heading/sub heading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
5208.49.60	4.6%	3.4%	1.1%	Free
5208.49.80	5.9%	4.4%	1.5%	Free
5208.51.40	3.8%	2.9%	1%	Free
5208.51 60	4.6%	3 4%	1.1%	Free
5208.51.80	5.9%	4.4%	1.5%	Free
5208.52.30	3.8%	2 9%	1%	Free
5208.52.40	4.6%	3.4%	1.1%	Free
5208.52.50	5.9%	4.4%	1.5%	Free
5208.53.00	4.2%	3.1%	1%	Free
5208.59.20	4.2%	3.1%	1%	Free
5208.59.40	3.8%	2.9%	1%	Free
5208.59.60	4.6%	3.4%	1.1%	Free
5208.59.80	5.9%	4.4%	1.5%	Free
5209.11.00	2.6%	2%	0.7%	Free
5209.12.00	2.6%	2%	0.7%	Free
5209 19.00	2.6%	2%	0.7%	Free
5209.21.00	3.1%	2.3%	0.8%	Free
5209.22.00	3.1%	2.3%	0.8%	Free
5209.29.00	3.1%	2.3%	0.8%	Free
5209.31.60	3.6%	2.7%	0.9%	Free
5209.32.00	3.6%	2.7%	0.9%	Free
5209 39.00	3.6%	2.7%	0.9%	Free
5209.41.60	3.6%	2.7%	0.9%	Free
5209.42.00	3.6%	2.7%	0.9%	Free
5209.43.00	3.6%	2.7%	0.9%	Free
5209.49.00	3.6%	2.7%	0.9%	Free
5209.51.60	3.6%	2.7%	0.9%	Free
5209.52.00	3.6%	2.7%	0.9%	Free
5209.59.00	3.6%	2.7%	0.9%	Free
5210 11.40	3.4%	2.5%	0.8%	Free
5210.11.60	4.1%	3.1%	1%	Free
5210.11.80	5.4%	4.1%	1.4%	Free
5210 12.00	3.7%	2.8%	0.9%	Free
5210 19 20	3.7%	2.8%	0.9%	Free
5210 19 40	3.4%	2 5%	0.8%	Free
5210.19 60	4.1%	3.1%	1%	Free
5210.19.80	5.4%	4.1%	1.4%	Free
5210 21.40	3.8%	2.9%	1%	Free
5210 21.60	4.6%	3.4%	1.1%	Free
5210 21.80	5 9%	4.4%	1.5%	Free
5210.22.00	4.2%	3.1%	1%	Free
5210.29.20	4.2%	3.1%	1%	Free
5210.29.40	3.8%	2.9%	1%	Free
5210.29.60	4 6%	3 4%	1.1%	Free
5210 29.80	5.9%	4 4%	1.5%	Free
5210.31.40	4.2%	3.1%	1%	Free
5210 31 60	4.9%	3.7%	1.2%	Free
5210 31 80	6 2%	4 7%	1.6%	Free
5210 32 00	4 5%	3 4%	1.1%	Free
5210 39.20	4 5%	3.4%	1.1%	Free
5210 39.40	4.2%	3.1%	1%	Free
5210.39.60	4.9%	3.7%	1.2%	Free
5210 39 80	6.2%	4 7%	1.6%	Free
5210 41.40	4.2%	3 1%	1%	Free
5210 41.60	4.9%	3 7%	1.2%	Free

II-13
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
5210.41.80	6.2%	4.7%	1.6%	Free
5210.42.00	4.5%	3.4%	1.1%	Free
5210.49.20	4.5%	3.4%	1.1%	Free
5210.49.40	4.2%	3.1%	1%	Free
5210.49.60	4.9%	3.7%	1.2%	Free
5210.49.80	6.2%	4.7%	1.6%	Free
5210.51.40	4.2%	3.1%	1%	Free
5210.51.60	4.9%	3.7%	1.2%	Free
5210.51.80	6.2%	4.7%	1.6%	Free
5210.52.00	4.5%	3.4%	1.1%	Free
5210.59.20	4.5%	3.4%	1.1%	Free
5210.59.40	4.2%	3.1%	1%	Free
5210.59.60	4.9%	3.7%	1.2%	Free
5210.59.80	6.2%	4.7%	1.6%	Free
5211.11.00	3.1%	2.3%	0.8%	Free
5211.12.00	3.1%	2.3%	0.8%	Free
5211.19.00	3.1%	2.3%	0.8%	Free
5211.21.00	3.6%	2.7%	0.9%	Free
5211.22.00	3.6%	2.7%	0.9%	Free
5211.29.00	3.6%	2.7%	0.9%	Free
5211.31.00	3.9%	2.9%	1%	Free
5211.32.00	3.9%	2.9%	1%	Free
5211.39.00	3.9%	2.9%	1%	Free
5211.41.00	3.9%	2.9%	1%	Free
5211.42.00	3.9%	2.9%	1%	Free
5211.43.00	3.9%	2.9%	1%	Free
5211.49.00	3.9%	2.9%	1%	Free
5211.51.00	3.9%	2.9%	1%	Free
5211.52.00	3.9%	2.9%	1%	Free
5211.59.00	3.9%	2.9%	1%	Free
5212.11.10	13.2%	9.9%	3.3%	Free
5212.12.10	13.2%	9.9%	3.3%	Free
5212.12.60	3.1%	2.3%	0.8%	Free
5212.13.10	13.2%	9.9%	3.3%	Free
5212.13.60	3.1%	2.3%	0.8%	Free
5212.14.10	13.2%	9.9%	3.3%	Free
5212.14.60	3.1%	2.3%	0.8%	Free
5212.15.10	13.2%	9.9%	3.3%	Free
5212.15.60	3.1%	2.3%	0.8%	Free
5212.21.10	13.2%	9.9%	3.3%	Free
5212.21.60	3.1%	2.3%	0.8%	Free
5212.22.10	13.2%	9.9%	3.3%	Free
5212.22.60	2.9%	2.2%	0.7%	Free
5212.23.10	13.2%	9.9%	3.3%	Free
5212.23.60	2.9%	2.2%	0.7%	Free
5212.24.10	13.2%	9.9%	3.3%	Free
5212.24.60	2.9%	2.2%	0.7%	Free
5212.25.10	13.2%	9.9%	3.3%	Free
5212.25.60	2.9%	2.2%	0.7%	Free
5306.10.00	1.7%	1.3%	0.4%	Free
5306.20.00	2.4%	1.8%	0.6%	Free
5307.10.00	1.4%	1.1%	0.4%	Free
5307.20.00	1.6%	1.2%	0.4%	Free
5308.20.00	2.7%	2%	0.7%	Free
5308.90.00	1.6%	1.2%	0.4%	Free

II-14
Table 2--Continued

Heading/sub heading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
5309.11.00	1.2%	0.9%	0.3%	Free
5309.19.00	1.2%	0.9%	0.3%	Free
5309.21.20	10%	7.5%	2.5%	Free
5309.21.30	2.8%	2.1%	0.7%	Free
5309.21.40	1.2%	0.9%	0.3%	Free
5309.29.20	10%	7.5%	2.5%	Free
5309.29.30	2.8%	2.1%	0.7%	Free
5309.29.40	1.2%	0.9%	0.3%	Free
5311.00.20	10%	7.5%	2.5%	Free
5311.00.30	2.8%	2.1%	0.7%	Free
5311.00.40	1.2%	0.9%	0.3%	Free
5311.00.60	2.2%	1.6%	0.5%	Free
5401.10.00	5.2%	3.9%	1.3%	Free
5401.20.00	5.2%	3.9%	1.3%	Free
5402.10.60	3.6%	2.7%	0.9%	Free
5402.20.60	3.6%	2.7%	0.9%	Free
5402.33.60	3.6%	2.7%	0.9%	Free
5402.39.60	3.6%	2.7%	0.9%	Free
5402.42.00	4%	3%	1%	Free
5402.43.00	4%	3%	1%	Free
5402.49.00	4%	3%	1%	Free
5402.51.00	4%	3%	1%	Free
5402.59.00	4%	3%	1%	Free
5402.61.00	3.7%	2.8%	0.9%	Free
5402.62.00	3.7%	2.8%	0.9%	Free
5402.69.00	3.7%	2.8%	0.9%	Free
5403.10.60	3.6%	2.7%	0.9%	Free
5403.20.60	3.6%	2.7%	0.9%	Free
5403.32.00	4%	3%	1%	Free
5403.41.00	3.7%	2.8%	0.9%	Free
5403.42.00	3.7%	2.8%	0.9%	Free
5403.49.00	3.7%	2.8%	0.9%	Free
5404.10.20	3.1%	2.3%	0.8%	Free
5404.90.00	2.1%	1.6%	0.5%	Free
5405.00.30	3.1%	2.3%	0.8%	Free
5405.00.60	2.6%	2%	0.7%	Free
5407.10.00	2.6%	2%	0.7%	Free
5407.20.00	6.8%	5.1%	1.7%	Free
5407.30.10	1.4%	1%	0.3%	Free
5407.30.90	6.4%	4.8%	1.6%	Free
5407.41.00	6.8%	5.1%	1.7%	Free
5407.42.00	6.8%	5.1%	1.7%	Free
5407.43.10	9.7¢/kg + 9%	7.3¢/kg + 6.8%	2.4¢/kg + 2.3%	Free
5407.43.20	6.8%	5.1%	1.7%	Free
5407.44.00	6.8%	5.1%	1.7%	Free
5407.51.00	6.8%	5.1%	1.7%	Free
5407.52.05	9.7¢/kg + 9%	7.3¢/kg + 6.8%	2.4¢/kg + 2.3%	Free
5407.52.20	6.8%	5.1%	1.7%	Free
5407.53.10	9.7¢/kg + 9%	7.3¢/kg + 6.8%	2.4¢/kg + 2.3%	Free
5407.53.20	6.8%	5.1%	1.7%	Free
5407.54.00	6.8%	5.1%	1.7%	Free
5407.60.05	9.7¢/kg + 9%	7.3¢/kg + 6.8%	2.4¢/kg + 2.3%	Free

II-15
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
5407.60.10	9.7¢/kg + 9%	7.3¢/kg + 6.8%	2.4¢/kg + 2.3%	Free
5407.60.20	6.8%	5.1%	1.7%	Free
5407.71.00	6.8%	5.1%	1.7%	Free
5407.72.00	6.8%	5.1%	1.7%	Free
5407.73.10	9.7¢/kg + 9%	7.3¢/kg + 6.8%	2.4¢/kg + 2.3%	Free
5407.73.20	6.8%	5.1%	1.7%	Free
5407.74.00	6.8%	5.1%	1.7%	Free
5407.81.00	6.8%	5.1%	1.7%	Free
5407.82.00	6.8%	5.1%	1.7%	Free
5407.83.00	6.8%	5.1%	1.7%	Free
5407.84.00	6.8%	5.1%	1.7%	Free
5407.91.05	19.4¢/kg + 15.2%	14.6¢/kg + 11.4%	4.9¢/kg + 3.8%	Free
5407.91.20	6.8%	5.1%	1.7%	Free
5407.92.05	19.4¢/kg + 15.2%	14.6¢/kg + 11.4%	4.9¢/kg + 3.8%	Free
5407.92.20	6.8%	5.1%	1.7%	Free
5407.93.05	19.4¢/kg + 15.2%	14.6¢/kg + 11.4%	4.9¢/kg + 3.8%	Free
5407.93.15	9.7¢/kg + 9%	7.3¢/kg + 6.8%	2.4¢/kg + 2.3%	Free
5407.93.20	6.8%	5.1%	1.7%	Free
5407.94.05	19.4¢/kg + 15.2%	14.6¢/kg + 11.4%	4.9¢/kg + 3.8%	Free
5407.94.20	6.8%	5.1%	1.7%	Free
5408.10.00	2.6%	2%	0.7%	Free
5408.21.00	6.8%	5.1%	1.7%	Free
5408.22.00	6.8%	5.1%	1.7%	Free
5408.23.10	9.7¢/kg + 9%	7.3¢/kg + 6.8%	2.4¢/kg + 2.3%	Free
5408.23.20	6.8%	5.1%	1.7%	Free
5408.24.00	6.8%	5.1%	1.7%	Free
5408.31.05	19.4¢/kg + 15.2%	14.6¢/kg + 11.4%	4.9¢/kg + 3.8%	Free
5408.31.20	6.8%	5.1%	1.7%	Free
5408.32.05	19.4¢/kg + 15.2%	14.6¢/kg + 11.4%	4.9¢/kg + 3.8%	Free
5408.32.30	3.1%	2.3%	0.8%	Free
5408.32.90	6.8%	5.1%	1.7%	Free
5408.33.05	19.4¢/kg + 15.2%	14 6¢/kg + 11.4%	4.9¢/kg + 3.8%	Free
5408.33 15	9.7¢/kg + 9%	7.3¢/kg + 6.8%	2.4¢/kg + 2.3%	Free
5408.33.30	3.1%	2.3%	0.8%	Free
5408.33.90	6.8%	5.1%	1.7%	Free
5408.34.05	19.4¢/kg + 15.2%	14.6¢/kg + 11.4%	4.9¢/kg + 3.8%	Free
5408.34.30	3.1%	2.3%	0.8%	Free
5408.34.90	6.8%	5.1%	1 7%	Free
5501.20.00	4%	3%	1%	Free
5501.30.00	4%	3%	1%	Free
5501.90.00	4%	3%	1%	Free
5502.00.00	4%	3%	1%	Free
5503.40.00	2%	1.5%	0.5%	Free
5503.90.00	2%	1.5%	0.5%	Free
5505.10.00	0.9%	0 7%	0.2%	Free

II-16
Table 2- Continued

Heading/sub heading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
5505.20.00	0.9%	0.7%	0.2%	Free
5506 10.00	2.6%	2%	0.7%	Free
5506.20.00	2.6%	2%	0.7%	Free
5506.30.00	2.6%	2%	0.7%	Free
5506.90.00	2.6%	2%	0.7%	Free
5507.00.00	2.6%	2%	0.7%	Free
5508.10.00	5.2%	3.9%	1.3%	Free
5508.20.00	5.2%	3.9%	1.3%	Free
5509.12.00	4.8%	3.6%	1.2%	Free
5509.22.00	4.8%	3.6%	1.2%	Free
5509.32.00	4.8%	3.6%	1.2%	Free
5509.42.00	4.8%	3.6%	1.2%	Free
5509.51.60	4.8%	3.6%	1.2%	Free
5509.52.00	6%	4.5%	1.5%	Free
5509.53.00	6%	4.5%	1.5%	Free
5509.59.00	6%	4.5%	1.5%	Free
5509.61.00	6%	4.5%	1.5%	Free
5509.62.00	6%	4.5%	1.5%	Free
5509.69.40	4.8%	3.6%	1.2%	Free
5509.69.60	6%	4.5%	1.5%	Free
5509.91.00	6%	4.5%	1.5%	Free
5509.92.00	6%	4.5%	1.5%	Free
5509.99.20	4.4%	3.3%	1.1%	Free
5509.99.40	4.8%	3.6%	1.2%	Free
5509.99.60	6%	4.5%	1.5%	Free
5510.12.00	4.8%	3.6%	1.2%	Free
5510.20.00	6%	4.5%	1.5%	Free
5510.30.00	6%	4.5%	1.5%	Free
5510.90.40	4.8%	3.6%	1.2%	Free
5510.90.60	6%	4.5%	1.5%	Free
5512.11.00	6.8%	5.1%	1.7%	Free
5512.19.00	6.8%	5.1%	1.7%	Free
5512.21.00	6.8%	5.1%	1.7%	Free
5512.29.00	6.8%	5.1%	1.7%	Free
5512.91.00	6.8%	5.1%	1.7%	Free
5512.99.00	6.8%	5.1%	1.7%	Free
5513.11.00	6.8%	5.1%	1.7%	Free
5513.12.00	6.8%	5.1%	1.7%	Free
5513.13.00	6.8%	5.1%	1.7%	Free
5513.19.00	6.8%	5.1%	1.7%	Free
5513.21.00	6.8%	5.1%	1.7%	Free
5513.22.00	6.8%	5.1%	1.7%	Free
5513.23.00	6.8%	5.1%	1.7%	Free
5513.29.00	6.8%	5.1%	1.7%	Free
5513.31.00	6.8%	5.1%	1.7%	Free
5513.32.00	6.8%	5.1%	1.7%	Free
5513.33.00	6.8%	5.1%	1.7%	Free
5513.39.00	6.8%	5.1%	1.7%	Free
5513.41.00	6.8%	5.1%	1.7%	Free
5513.42.00	6.8%	5.1%	1.7%	Free
5513.43.00	6.8%	5.1%	1.7%	Free
5513.49.00	6.8%	5.1%	1.7%	Free
5514.11.00	6.8%	5.1%	1.7%	Free
5514.12.00	6.8%	5.1%	1.7%	Free
5514.13.00	6.8%	5.1%	1.7%	Free

II-17
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
5514.19.00	6.8%	5.1%	1.7%	Free
5514.21.00	6.8%	5.1%	1.7%	Free
5514.22.00	6.8%	5.1%	1.7%	Free
5514.23.00	6.8%	5.1%	1.7%	Free
5514.29.00	6.8%	5.1%	1.7%	Free
5514.31.00	6.8%	5.1%	1.7%	Free
5514.32.00	6.8%	5.1%	1.7%	Free
5514.33.00	6.8%	5.1%	1.7%	Free
5514.39 00	6.8%	5.1%	1.7%	Free
5514.41.00	6.8%	5.1%	1.7%	Free
5514.42.00	6.8%	5.1%	1.7%	Free
5514.43.00	6.8%	5.1%	1.7%	Free
5514.49.00	6.8%	5.1%	1.7%	Free
5515.11.00	6.8%	5.1%	1.7%	Free
5515.12.00	6.8%	5.1%	1.7%	Free
5515.13.05	19.4¢/kg + 15.2%	14.6¢/kg + 11.4%	4.9¢/kg + 3.8%	Free
5515.19.00	6.8%	5.1%	1.7%	Free
5515.21.00	6.8%	5.1%	1.7%	Free
5515.22.05	19.4¢/kg + 15.2%	14.6¢/kg + 11.4%	4.9¢/kg + 3.8%	Free
5515.22.10	5.8%	4.3%	1.4%	Free
5515.29.00	6.8%	5.1%	1.7%	Free
5515.91.00	6.8%	5.1%	1.7%	Free
5515.92.05	19.4¢/kg + 15.2%	14.6¢/kg + 11.4%	4.9¢/kg + 3.8%	Free
5515.92.10	5.8%	4.3%	1.4%	Free
5515.99.00	6.8%	5.1%	1.7%	Free
5516.11.00	6.8%	5.1%	1.7%	Free
5516.12.00	6.8%	5.1%	1.7%	Free
5516.13.00	6.8%	5.1%	1.7%	Free
5516.14.00	6.8%	5.1%	1.7%	Free
5516.21.00	6.8%	5.1%	1.7%	Free
5516.22.00	6.8%	5.1%	1.7%	Free
5516.23.00	6.8%	5.1%	1.7%	Free
5516.24.00	6.8%	5.1%	1.7%	Free
5516.31.05	19.4¢/kg + 15.2%	14.6¢/kg + 11.4%	4.9¢/kg + 3.8%	Free
5516.31.10	5.8%	4.3%	1.4%	Free
5516.32.05	19.4¢/kg + 15.2%	14.6¢/kg + 11.4%	4.9¢/kg + 3.8%	Free
5516.32.10	6%	4.5%	1.5%	Free
5516.33.05	19.4¢/kg + 15.2%	14.6¢/kg + 11.4%	4.9¢/kg + 3.8%	Free
5516.33.10	5.8%	4.3%	1.4%	Free
5516 34.05	19.4¢/kg + 15.2%	14.6¢/kg + 11.4%	4.9¢/kg + 3.8%	Free
5516.34.10	5.8%	4.3%	1.4%	Free
5516.41.00	6.8%	5.1%	1.7%	Free
5516.42.00	6.8%	5.1%	1.7%	Free
5516.43.00	6.8%	5.1%	1.7%	Free
5516.44.00	6.8%	5.1%	1.7%	Free
5516.91.00	6.8%	5.1%	1.7%	Free
5516.92.00	6.8%	5.1%	1.7%	Free
5516.93.00	6.8%	5.1%	1.7%	Free
5516.94.00	6.8%	5.1%	1.7%	Free
5601.10.10	2.9%	2.2%	0.7%	Free

II-18
Table 2- Continued

Heading/sub heading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
5601.21.00	2.9%	2.2%	0.7%	Free
5601.29.00	3.2%	2.4%	0.8%	Free
5601.30.00	2%	1.5%	0.5%	Free
5602.10.10	2.9%	2.2%	0.7%	Free
5602.21.00	12¢/kg + 4%	9¢/kg + 3%	3¢/kg + 1%	Free
5602.90.30	6.4%	4.8%	1.6%	Free
5603.00.10	1.4%	1%	0.3%	Free
5603.00.30	6.4%	4.8%	1.6%	Free
5604.10.00	2.9%	2.2%	0.7%	Free
5606.00.00	2.3%	1.7%	0.6%	Free
5607.10.00	1.6%	1.2%	0.4%	Free
5607.29.00	2.8%	2.1%	0.7%	Free
5607.30.20	2.7%	2%	0.7%	Free
5607.41.30	3.2%	2.4%	0.8%	Free
5607 49.15	3.2%	2.4%	0.8%	Free
5607.49.25	11¢/kg + 6%	8.3¢/kg + 4.5%	2.8¢/kg + 1.5%	Free
5607.49.30	2.9%	2.2%	0.7%	Free
5607.50.20	11¢/kg + 6%	8.3¢/kg + 4.5%	2.8¢/kg + 1.5%	Free
5607.50.40	2.9%	2.2%	0.7%	Free
5607.90.20	2.9%	2.2%	0.7%	Free
5608.11.00	6.8%	5.1%	1.7%	Free
5608.19.10	6.8%	5.1%	1.7%	Free
5608.90.10	2.5%	1.9%	0.6%	Free
5608 90.20	6.4%	4.8%	1.6%	Free
5609.00.10	2.3%	1.7%	0.6%	Free
5609 00.20	1.6%	1.2%	0.4%	Free
5609 00.40	3%	2.3%	0.8%	Free
5701 10.13	1.6%	1.2%	0.4%	Free
5701 10.16	1.6%	1.2%	0.4%	Free
5701 90 10	2.1%	1.6%	0.5%	Free
5701 90 20	2.6%	2%	0.7%	Free
5702 10 10	2%	1.5%	0.5%	Free
5702 10 90	2%	1.5%	0.5%	Free
5702 20 10	2.8¢/sq meter	2.1¢/sq meter	0.7¢/sq meter	Free
5702 39 10	1.4%	1.1%	0.4%	Free
5702 39 20	2.3%	1.7%	0.6%	Free
5702 49 10	1.7%	1.3%	0.4%	Free
5702 49 15	1.4%	1.1%	0.4%	Free
5702 51 20	2%	1.5%	0.5%	Free
5702 51 40	2.9%	2.2%	0.7%	Free
5702 59.10	3.1%	2.3%	0.8%	Free
5702.59.20	1.9%	1.4%	0.5%	Free
5702.91.20	2%	1.5%	0.5%	Free
5702.91.30	2%	1.5%	0.5%	Free
5702.91.40	2.9%	2.2%	0.7%	Free
5702.99.10	3.1%	2.3%	0.8%	Free
5702.99 20	2.2%	1.6%	0.5%	Free
5703.10.00	2.8%	2.1%	0.7%	Free
5703.20.10	2.6%	2%	0.7%	Free
5703.90.00	2%	1.5%	0.5%	Free
5704.10.00	2.2%	1.6%	0.5%	Free
5705.00.20	2.6%	2%	0.7%	Free
5801.10 00	2 2%	1.6%	0.5%	Free

II-19
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
5801.21.00	9.2%	6.9%	2.3%	Free
5801.22.00	9.2%	6.9%	2.3%	Free
5801.23.00	8%	6%	2%	Free
5801.24.00	4.5%	3.4%	1.1%	Free
5801.26.00	5%	3.8%	1.3%	Free
5801.31.00	7.8%	5.9%	2%	Free
5801.32.00	7.8%	5.9%	2%	Free
5801.33.00	7.9%	5.9%	2%	Free
5801.34.00	7.9%	5.9%	2%	Free
5801.36.00	7.8%	5.9%	2%	Free
5801.90.10	1.7%	1.3%	0.4%	Free
5801.90.20	2.2%	1.7%	0.6%	Free
5802.11.00	4.5%	3.4%	1.1%	Free
5802.19.00	4.5%	3.4%	1.1%	Free
5802.20.00	7.9%	5.9%	2%	Free
5802.30.00	2.8%	2.1%	0.7%	Free
5803.10.00	4.6%	3.4%	1.1%	Free
5803.90.10	13.2%	9.9%	3.3%	Free
5803.90.20	1.2%	0.9%	0.3%	Free
5803.90.30	6.8%	5.1%	1.7%	Free
5804.10.00	4.8%	3.6%	1.2%	Free
5804.21.00	6.4%	4.8%	1.6%	Free
5804.29.00	4%	3%	1%	Free
5804.30.00	6%	4.5%	1.5%	Free
5805.00.20	1.4%	1.1%	0.4%	Free
5805.00.30	2.9%	2.2%	0.7%	Free
5806.10.10	3.3%	2.5%	0.8%	Free
5806.10.20	3.8%	2.9%	1%	Free
5806.10.30	2.2%	1.6%	0.5%	Free
5806.31.00	3.3%	2.5%	0.8%	Free
5806.32.10	3.6%	2.7%	0.9%	Free
5806.39.10	3%	2.3%	0.8%	Free
5806.39.20	1.9%	1.4%	0.5%	Free
5806.39.30	1.2%	0.9%	0.3%	Free
5806.40.00	6.4%	4.8%	1.6%	Free
5807.10.10	2.8%	2.1%	0.7%	Free
5807.90.10	2.8%	2.1%	0.7%	Free
5808.10.20	1.4%	1.1%	0.4%	Free
5808.10.30	3.4%	2.5%	0.8%	Free
5809.00.00	6.8%	5.1%	1.7%	Free
5810.10.00	6.4%	4.8%	1.6%	Free
5810.91.00	3.4%	2.5%	0.8%	Free
5810.99.00	2.8%	2.1%	0.7%	Free
5811.00.10	6%	4.5%	1.5%	Free
5811.00.20	2.9%	2.2%	0.7%	Free
5811.00.30	6.4%	4.8%	1.6%	Free
5811.00.40	1.8%	1.3%	0.4%	Free
5902.10.00	2.6%	2%	0.7%	Free
5902.20.00	2.6%	2%	0.7%	Free
5902.90.00	2.6%	2%	0.7%	Free
5903.10.10	2.2%	1.6%	0.5%	Free
5903.10.15	1.4%	1%	0.3%	Free
5903.10.18	6.4%	4.8%	1.6%	Free
5903.10.20	1.7%	1.3%	0.4%	Free
5903.10.25	3.4%	2.6%	0.9%	Free

II-20
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
5903.10.30	2.2%	1.6%	0.5%	Free
5903.20.10	2.2%	1.6%	0.5%	Free
5903.20.15	1.4%	1%	0.3%	Free
5903.20.18	6.4%	4.8%	1.6%	Free
5903.20.20	1.7%	1.3%	0.4%	Free
5903.20.25	3.4%	2.6%	0.9%	Free
5903.20.30	2.2%	1.6%	0.5%	Free
5903.90.10	2.2%	1.6%	0.5%	Free
5903.90.15	1.4%	1%	0.3%	Free
5903.90.18	6.4%	4.8%	1.6%	Free
5903.90.20	1.7%	1.3%	0.4%	Free
5903.90.25	3.4%	2.6%	0.9%	Free
5903.90.30	2.2%	1.6%	0.5%	Free
5906.91.10	2.2%	1.6%	0.5%	Free
5906.91.20	1.7%	1.3%	0.4%	Free
5906.91.25	3.4%	2.6%	0.9%	Free
5906.91.30	2.2%	1.6%	0.5%	Free
5906.99.10	2.2%	1.6%	0.5%	Free
5906.99.20	1.7%	1.3%	0.4%	Free
5906.99.25	3.4%	2.6%	0.9%	Free
5906.99.30	2.2%	1.6%	0.5%	Free
5907.00.10	6.4%	4.8%	1.6%	Free
5908.00.00	2.7%	2%	0.7%	Free
5909.00.10	1.8%	1.4%	0.5%	Free
5909.00.20	2.6%	2%	0.7%	Free
5910.00.10	3.2%	2.4%	0.8%	Free
5910.00.90	2.1%	1.6%	0.5%	Free
5911.10.10	2.3%	1.7%	0.6%	Free
5911.10.20	1.7%	1.3%	0.4%	Free
5911.20.10	2.4%	1.8%	0.6%	Free
5911.20.30	2.6%	2%	0.7%	Free
5911.31.00	2.4%	1.8%	0.6%	Free
5911.32.00	2.4%	1.8%	0.6%	Free
6001.10.20	7.9%	5.9%	2%	Free
6001.10.60	3.2%	2.4%	0.8%	Free
6001.21.00	4.5%	3.4%	1.1%	Free
6001.22.00	7.8%	5.9%	2%	Free
6001.29.00	3.2%	2.4%	0.8%	Free
6001.92.00	7.8%	5.9%	2%	Free
6001.99.00	3.2%	2.4%	0.8%	Free
6002.10.40	4%	3%	1%	Free
6002.20.10	7.6%	5.7%	1.9%	Free
6002.20.30	4%	3%	1%	Free
6002.20.60	3.4%	2.6%	0.9%	Free
6002.20.90	3%	2.3%	0.8%	Free
6002.30.20	5.6%	4.2%	1.4%	Free
6002.30.90	3.2%	2.4%	0.8%	Free
6002.41.00	2.2%	1.6%	0.5%	Free
6002.91.00	2.2%	1.6%	0.5%	Free
6002.93.00	3.4%	2.5%	0.8%	Free
6002.99.00	2.2%	1.6%	0.5%	Free
6101.10.00	30.9¢/kg + 8%	23.2¢/kg + 6%	7.7¢/kg + 2%	Free
6101.20.00	3.4%	2.6%	0.9%	Free
6101.30.10	2.4%	1.8%	0.6%	Free
6101.30.15	30.9¢/kg + 8%	23.2¢/kg + 6%	7.7¢/kg + 2%	Free

II-21
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
6101.30.20	2%	1.5%	0.5%	Free
6102.10.00	27.4¢/kg + 8%	20.5¢/kg + 6%	6.8¢/kg + 2%	Free
6102.30.10	27.4¢/kg + 8%	20.5¢/kg + 6%	6.8¢/kg + 2%	Free
6102.90.00	2%	1.5%	0.5%	Free
6103.11.00	30.9¢/kg + 8%	23.2¢/kg + 6%	7.7¢/kg + 2%	Free
6103.12.10	30.9¢/kg + 8%	23.2¢/kg + 6%	7.7¢/kg + 2%	Free
6103.12.20	12%	9%	3%	Free
6103.19.10	30.9¢/kg + 8%	23.2¢/kg + 6%	7.7¢/kg + 2%	Free
6103.19.15	9.6%	7.2%	2.4%	Free
6103.19.20	2%	1.5%	0.5%	Free
6103.21.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6103.22.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6103.23.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6103.29.10	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6103.29.20	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6103.31.00	9.2%	6.9%	2.3%	Free
6103.33.10	30.9¢/kg + 8%	23.2¢/kg + 6%	7.7¢/kg + 2%	Free
6103.33.20	12%	9%	3%	Free

II-22
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
6103.39.10	12%	9%	3%	Free
6103.39.20	2.4%	1.8%	0.6%	Free
6103.41.10	9.2%	6.9%	2.3%	Free
6103.41.20	6.8%	5.1%	1.7%	Free
6103.43.10	2%	1.5%	0.5%	Free
6103.43.15	2%	1.5%	0.5%	Free
6103.49.10	12%	9%	3%	Free
6103.49.30	2.4%	1.8%	0.6%	Free
6104.11.00	6.8%	5.1%	1.7%	Free
6104.13.10	6.8%	5.1%	1.7%	Free
6104.19.10	6.8%	5.1%	1.7%	Free
6104.19.20	2.4%	1.8%	0.6%	Free
6104.21.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6104.22.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6104.23.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6104.29.10	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6104.29.20	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6104.31.00	27.4¢/kg + 8%	20.5¢/kg + 6%	6.8¢/kg + 2%	Free
6104.32.00	6.6%	5%	1.7%	Free
6104.33.10	27.4¢/kg + 8%	20.5¢/kg + 6%	6.8¢/kg + 2%	Free

II-23
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
6104.39.20	2.4%	1.8%	0.6%	Free
6104.41.00	6.8%	5.1%	1.7%	Free
6104.43.10	6.8%	5.1%	1.7%	Free
6104.44.10	6.8%	5.1%	1.7%	Free
6104.49.00	2.4%	1.8%	0.6%	Free
6104.51.00	6.8%	5.1%	1.7%	Free
6104.53.10	6.8%	5.1%	1.7%	Free
6104.59.20	2.4%	1.8%	0.6%	Free
6104.61.00	1.6%	1.2%	0.4%	Free
6104.63.15	6.8%	5.1%	1.7%	Free
6104.69.30	2%	1.5%	0.5%	Free
6105.10.00	5.4%	4%	1.3%	Free
6105.20.10	6.8%	5.1%	1.7%	Free
6105.90.10	6.8%	5.1%	1.7%	Free
6105.90.30	2.4%	1.8%	0.6%	Free
6106.20.10	6.8%	5.1%	1.7%	Free
6106.20.20	9.6%	7.2%	2.4%	Free
6106.90.10	6.8%	5.1%	1.7%	Free
6106.90.20	2.4%	1.8%	0.6%	Free
6106.90.30	2%	1.5%	0.5%	Free
6107.29.20	6.8%	5.1%	1.7%	Free
6107.92.00	6.8%	5.1%	1.7%	Free
6107.99.20	6.8%	5.1%	1.7%	Free
6107.99.40	2.1%	1.6%	0.5%	Free
6108.39.10	6.8%	5.1%	1.7%	Free
6108.39.20	1.6%	1.2%	0.4%	Free
6108.99.20	6.8%	5.1%	1.7%	Free
6108.99.40	1.6%	1.2%	0.4%	Free
6109.90.10	5.4%	4.1%	1.4%	Free
6110.10.10	3.1%	2.3%	0.8%	Free
6110.10.20	6.8%	5.1%	1.7%	Free
6110.20.20	5.3%	4%	1.3%	Free
6110.30.10	2.4%	1.8%	0.6%	Free
6110.30.15	6.8%	5.1%	1.7%	Free
6110.30.30	5.4%	4.1%	1.4%	Free
6110.90.00	2.4%	1.8%	0.6%	Free
6111.10.00	6.8%	5.1%	1.7%	Free
6111.30.30	13.8%	10.4%	3.5%	Free
6111.90.30	13.8%	10.4%	3.5%	Free
6112.19.20	9.2%	6.9%	2.3%	Free
6112.31.00	10%	7.5%	2.5%	Free
6114.10.00	6.8%	5.1%	1.7%	Free
6114.30.20	13.8%	10.3%	3.4%	Free
6114.90.00	2.4%	1.8%	0.6%	Free
6116.10.15	10%	7.5%	2.5%	Free
6116.10.25	7.9%	5.9%	2%	Free
6116.10.35	5.6%	4.2%	1.4%	Free
6116.10.45	5.6%	4.2%	1.4%	Free
6116.91.00	13.3¢/kg + 3%	10¢/kg + 2.2%	3.3¢/kg + 0.7%	Free
6116.92.20	8%	6%	2%	Free
6116.92.30	4%	3%	1%	Free
6116.93.15	13.3¢/kg + 3%	10¢/kg + 2.2%	3.3¢/kg + 0.7%	Free
6116.93.20	7.9%	5.9%	2%	Free
6116.99.60	1.5%	1.1%	0.4%	Free
6116.99.90	1.6%	1.2%	0.4%	Free

II-24
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
6117.10.10	4.1%	3.1%	1%	Free
6117.10.20	4.8%	3.6%	1.2%	Free
6117.10.40	4.1%	3.1%	1%	Free
6117.10.60	4.1%	3.1%	1%	Free
6117.20.00	3.2%	2.4%	0.8%	Free
6117.90.00	3.2%	2.4%	0.8%	Free
6201.11.00	21.2¢/kg + 8.4%	15.9¢/kg + 6.3%	5.3¢/kg + 2.1%	Free
6201.12.10	1.9%	1.4%	0.5%	Free
6201.13.10	1.9%	1.4%	0.5%	Free
6201.13.30	21.2¢/kg + 8.4%	15.9¢/kg + 6.3%	5.3¢/kg + 2.1%	Free
6201.13.40	9.1%	6.8%	2.3%	Free
6201.19.00	1.2%	0.9%	0.3%	Free
6201.91.10	6.8%	5.1%	1.7%	Free
6201.91.20	9.1%	6.8%	2.3%	Free
6201.92.10	1.9%	1.4%	0.5%	Free
6201.93.10	1.9%	1.4%	0.5%	Free
6201.93.25	21.2¢/kg + 8.4%	15.9¢/kg + 6.3%	5.3¢/kg + 2.1%	Free
6201.93.35	11.8%	8.9%	3%	Free
6201.99.00	1.8%	1.4%	0.5%	Free
6202.11.00	18.6¢/kg + 8.4%	13.9¢/kg + 6.3%	4.6¢/kg + 2.1%	Free
6202.12.10	1.9%	1.4%	0.5%	Free
6202.13.10	1.9%	1.4%	0.5%	Free
6202.13.30	18.5¢/kg + 8.4%	13.9¢/kg + 6.3%	4.6¢/kg + 2.1%	Free
6202.13.40	5.4%	4.1%	1.4%	Free
6202.91.10	6.8%	5.1%	1.7%	Free
6202.92.10	1.9%	1.4%	0.5%	Free
6202.93.10	1.9%	1.4%	0.5%	Free
6202.93.40	21.2¢/kg + 8.4%	15.9¢/kg + 6.3%	5.3¢/kg + 2.1%	Free
6202.93.50	5.4%	4.1%	1.4%	Free
6203.11.10	3%	2.3%	0.8%	Free
6203.11.20	21.2¢/kg + 8.4%	15.9¢/kg + 6.3%	5.3¢/kg + 2.1%	Free
6203.12.10	21.2¢/kg + 8.4%	15.9¢/kg + 6.3%	5.3¢/kg + 2.1%	Free
6203.12.20	11.6%	8.7%	2.9%	Free
6203.19.10	6.6%	5%	1.7%	Free
6203.19.20	21.2¢/kg + 8.4%	15.9¢/kg + 6.3%	5.3¢/kg + 2.1%	Free
6203.19.30	11.6%	8.7%	2.9%	Free
6203.19.40	3%	2.3%	0.8%	Free
6203.21.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free

II-25
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
6203.22.30	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6203.29.20	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6203.29.30	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6203.31.00	8.8%	6.6%	2.2%	Free
6203.32.10	1.2%	0.9%	0.3%	Free
6203.33.10	8.8%	6.6%	2.2%	Free
6203.33.20	3%	2.3%	0.8%	Free
6203.39.10	8.8%	6.6%	2.2%	Free
6203.39.20	8%	6%	2%	Free
6203.39.40	2.8%	2.1%	0.7%	Free
6203.41.10	3.5¢/kg + 8.4%	2.6¢/kg + 6.3%	0.9¢/kg + 2.1%	Free
6203.41.20	9.1%	6.8%	2.3%	Free
6203.42.10	1.9%	1.4%	0.5%	Free
6203.42.40	4.2%	3.2%	1.1%	Free
6203.43.10	1.9%	1.4%	0.5%	Free
6203.43.25	5.2%	3.9%	1.3%	Free
6203.43.30	21.2¢/kg + 8.4%	15.9¢/kg + 6.3%	5.3¢/kg + 2.1%	Free
6203.43.40	5.2%	3.9%	1.3%	Free
6203.49.15	5.2%	3.9%	1.3%	Free
6203.49.20	3%	2.3%	0.8%	Free
6203.49.30	1.2%	0.9%	0.3%	Free
6204.11.00	6.8%	5.1%	1.7%	Free
6204.13.10	6.8%	5.1%	1.7%	Free
6204.19.10	6.8%	5.1%	1.7%	Free
6204.21.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free

II-26
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
6204.22.30	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6204.23.00	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6204.29.20	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6204.29.40	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	The rate applicable to each garment in the ensemble if separately entered	Free
6204.31.20	18.6¢/kg + 8.4%	13.9¢/kg + 6.3%	4.6¢/kg + 2.1%	Free
6204.32.10	1.2%	0.9%	0.3%	Free
6204.33.20	1.2%	0.9%	0.3%	Free
6204.33.40	18.5¢/kg + 8.4%	13.9¢/kg + 6.3%	4.6¢/kg + 2.1%	Free
6204.33.50	1.2%	0.9%	0.3%	Free
6204.39.20	18.5¢/kg + 8.4%	13.9¢/kg + 6.3%	4.6¢/kg + 2.1%	Free
6204.39.30	1.2%	0.9%	0.3%	Free
6204.41.20	6.8%	5.1%	1.7%	Free
6204.42.10	4.8%	3.6%	1.2%	Free
6204.43.10	4.8%	3.6%	1.2%	Free
6204.43.30	6.8%	5.1%	1.7%	Free
6204.44.20	4.8%	3.6%	1.2%	Free
6204.44.30	6.8%	5.1%	1.7%	Free
6204.51.00	6.8%	5.1%	1.7%	Free
6204.52.10	3.4%	2.6%	0.9%	Free
6204.53.10	4.8%	3.6%	1.2%	Free
6204.53.20	6.8%	5.1%	1.7%	Free
6204.59.10	4.8%	3.6%	1.2%	Free
6204.59.20	6.8%	5.1%	1.7%	Free
6204.61.00	6.8%	5.1%	1.7%	Free
6204.62.10	1.9%	1.4%	0.5%	Free
6204.62.30	3%	2.3%	0.8%	Free
6204.63.10	1.9%	1.4%	0.5%	Free

II-27
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
6204.63.12	2.4%	1.8%	0.6%	Free
6204.63.15	6.8%	5.1%	1.7%	Free
6204.63.20	4.8%	3.6%	1.2%	Free
6204.63.25	6.8%	5.1%	1.7%	Free
6204.69.10	6.8%	5.1%	1.7%	Free
6205.10.10	3.8%	2.9%	1%	Free
6205.10.20	3.8%	2.9%	1%	Free
6205.20.10	3.4%	2.5%	0.8%	Free
6205.20.20	3.4%	2.5%	0.8%	Free
6205.30.10	5.2%	3.9%	1.3%	Free
6205.30.15	21.2¢/kg + 8.4%	15.9¢/kg + 6.3%	5.3¢/kg + 2.1%	Free
6205.90.20	3%	2.3%	0.8%	Free
6205.90.40	1.2%	0.9%	0.3%	Free
6206.20.10	6.8%	5.1%	1.7%	Free
6206.20.30	6.8%	5.1%	1.7%	Free
6206.30.10	3%	2.3%	0.8%	Free
6206.30.20	1.2%	0.9%	0.3%	Free
6206.40.10	4.8%	3.6%	1.2%	Free
6206.40.25	4.2¢/kg + 6.7%	3.2¢/kg + 5%	1.1¢/kg + 1.7%	Free
6206.40.30	11.4%	8.6%	2.9%	Free
6207.19.00	2.6%	2%	0.7%	Free
6207.21.00	3.2%	2.4%	0.8%	Free
6207.29.00	3%	2.3%	0.8%	Free
6207.91.10	3.2%	2.4%	0.8%	Free
6207.92.20	1.2%	0.9%	0.3%	Free
6207.99.20	6.8%	5.1%	1.7%	Free
6207.99.60	3%	2.3%	0.8%	Free
6208.99.20	6.8%	5.1%	1.7%	Free
6209.10.00	18.6¢/kg + 8.4%	13.9¢/kg + 6.3%	4.6¢/kg + 2.1%	Free
6209.20.20	6.6%	5%	1.7%	Free
6209.30.10	11.4%	8.6%	2.9%	Free
6209.30.20	12%	9%	3%	Free
6209.30.30	5.4%	4.1%	1.4%	Free
6209.90.10	11.4%	8.6%	2.9%	Free
6209.90.30	6.8%	5.1%	1.7%	Free
6210.10.40	6.8%	5.1%	1.7%	Free
6211.11.10	11.8%	8.9%	3%	Free
6211.12.10	6.8%	5.1%	1.7%	Free
6211.20.10	1.9%	1.4%	0.5%	Free
6211.20.15	2.4%	1.8%	0.6%	Free
6211.20.20	11.8%	8.9%	3%	Free
6211.20.30	12%	9%	3%	Free
6211.20.50	11.9%	8.9%	3%	Free
6211.20.70	6.8%	5.1%	1.7%	Free
6211.31.00	6.8%	5.1%	1.7%	Free
6211.39.00	1.2%	0.9%	0.3%	Free
6211.41.00	6.8%	5.1%	1.7%	Free
6212.10.10	12.8%	9.6%	3.2%	Free
6212.10.20	7.2%	5.4%	1.8%	Free
6212.20.00	10%	7.5%	2.5%	Free
6212.30.00	10%	7.5%	2.5%	Free
6212.90.00	2.3%	1.7%	0.6%	Free
6213.10.10	3%	2.3%	0.8%	Free
6213.10.20	3%	2.3%	0.8%	Free

II-28
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
6213.20.10	5.6%	4.2%	1.4%	Free
6213.20.20	2.6%	2%	0.7%	Free
6213.90.10	4.6%	3.5%	1.2%	Free
6213.90.20	4.3%	3.2%	1.1%	Free
6214.10.10	3.1%	2.3%	0.8%	Free
6214.10.20	3.1%	2.3%	0.8%	Free
6214.20.00	5.4%	4%	1.3%	Free
6214.30.00	4%	3%	1%	Free
6214.40.00	4%	3%	1%	Free
6214.90.00	4.8%	3.6%	1.2%	Free
6215.10.00	3.2%	2.4%	0.8%	Free
6215.20.00	10.6¢/kg + 5.4%	8¢/kg + 4%	2.7¢/kg + 1.3%	Free
6215.90.00	3.2%	2.4%	0.8%	Free
6216.00.15	10%	7.5%	2.5%	Free
6216.00.20	8.8¢/kg + 4.4%	6.6¢/kg + 3.3%	2.2¢/kg + 1.1%	Free
6216.00.25	5.6%	4.2%	1.4%	Free
6216.00.30	5.6%	4.2%	1.4%	Free
6216.00.38	5.6%	4.2%	1.4%	Free
6216.00.48	8.8¢/kg + 4.4%	6.6¢/kg + 3.3%	2.2¢/kg + 1.1%	Free
6216.00.50	1.5%	1.1%	0.4%	Free
6216.00.60	1.6%	1.2%	0.4%	Free
6217.90.00	3.2%	2.4%	0.8%	Free
6301.20.00	1.8¢/kg + 6%	1.3¢/kg + 4.5%	0.4¢/kg + 1.5%	Free
6301.90.00	2.2%	1.6%	0.5%	Free
6302.22.10	9.1%	6.8%	2.3%	Free
6302.29.00	1.3%	1%	0.3%	Free
6302.32.10	9.1%	6.8%	2.3%	Free
6302.39.00	2.4%	1.8%	0.6%	Free
6302.40.10	5.1%	3.8%	1.3%	Free
6302.40.20	3.1%	2.3%	0.8%	Free
6302.51.10	2.8%	2.1%	0.7%	Free
6302.51.20	2.2%	1.7%	0.6%	Free
6302.51.30	2.6%	2%	0.7%	Free
6302.51.40	2.9%	2.2%	0.7%	Free
6302.52.10	4.1%	3.1%	1%	Free
6302.52.20	1%	0.8%	0.3%	Free
6302.53.00	5.1%	3.8%	1.3%	Free
6302.59.00	3.2%	2.4%	0.8%	Free
6302.92.00	1%	0.8%	0.3%	Free
6302.93.10	2.8%	2.1%	0.7%	Free
6302.93.20	3.2%	2.4%	0.8%	Free
6302.99.10	3.2%	2.4%	0.8%	Free
6302.99.20	3.2%	2.4%	0.8%	Free
6303.11.00	2.9%	2.2%	0.7%	Free
6303.12.00	2.3%	1.7%	0.6%	Free
6303.19.00	3.2%	2.4%	0.8%	Free
6303.91.00	4.7%	3.5%	1.2%	Free
6303.99.00	3.2%	2.4%	0.8%	Free
6304.11.30	4.7%	3.5%	1.2%	Free
6304.19.10	2%	1.5%	0.5%	Free
6304.19.15	6.8%	5.1%	1.7%	Free
6304.19.30	5%	3.8%	1.3%	Free
6304.91.00	2.2%	1.6%	0.5%	Free

II-29
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
6304.92.00	2.9%	2.2%	0.7%	Free
6304.99.10	3%	2.3%	0.8%	Free
6304.99.15	5.1%	3.8%	1.3%	Free
6304.99.20	2.9%	2.2%	0.7%	Free
6304.99.40	3%	2.3%	0.8%	Free
6304.99.60	2.6%	1.9%	0.6%	Free
6305.20.00	2.8%	2.1%	0.7%	Free
6305.31.00	3.8%	2.9%	1%	Free
6305.39.00	3.8%	2.9%	1%	Free
6306.19.00	2.3%	1.7%	0.6%	Free
6306.29.00	2.3%	1.7%	0.6%	Free
6306.31.00	1.7%	1.3%	0.4%	Free
6306.39.00	1.7%	1.3%	0.4%	Free
6307.10.10	1.9%	1.4%	0.5%	Free
6307.90.30	3.6%	2.7%	0.9%	Free
6307.90.40	2 9%	2.2%	0.7%	Free
6307.90.50	3.2%	2.4%	0.8%	Free
6406.10.75	4.5%	3.4%	1.1%	Free
6406.10.80	3.6%	2.7%	0.9%	Free
6406.99.15	6.8%	5.1%	1.7%	Free
6501.00.90	4.4¢/kg + 4.4%	3.3¢/kg + 3.3%	1.1¢/kg + 1.1%	Free
6502.00.90	2.9%	2.2%	0.7%	Free
6503.00.90	5.8¢/kg + 2.7% + 0.8¢/article	4.3¢/kg + 2% + 0.6¢/article	1.4¢/kg + 0.7% + 0.2¢/article	Free
6504.00.90	2.9%	2.2%	0.7%	Free
6505.90.15	3.4%	2.5%	0.8%	Free
6505.90.20	3.2%	2.4%	0.8%	Free
6505.90.25	3.2%	2.4%	0.8%	Free
6505.90.30	20.3¢/kg + 6.2%	15.2¢/kg + 4.6%	5.1¢/kg + 1.5%	Free
6505.90.40	13.3¢/kg + 3.4%	10¢/kg + 2.5%	3.3¢/kg + 0.8%	Free
6505.90.50	2.9%	2.2%	0.7%	Free
6505.90.60	15.9¢/kg + 5.6%	11.9¢/kg + 4.2%	4¢/kg + 1.4%	Free
6505.90.70	2.9%	2.2%	0.7%	Free
6505.90.80	8.8¢/kg + 3.2%	6.6¢/kg + 2.4%	2.2¢/kg + 0.8%	Free
6505.90.90	8.8¢/kg + 3.2%	6.6¢/kg + 2.4%	2.2¢/kg + 0.8%	Free
6506.10.60	1%	0.7%	0.2%	Free
6506.91.00	1%	0.7%	0.2%	Free
6506.99.00	3.4%	2.6%	0.9%	Free
6702.90.40	3.6%	2.7%	0.9%	Free
7019.10.10	3%	2.2%	0.7%	Free
7019.10.20	3.8%	2.9%	1%	Free
7019.10.40	2.4%	1.8%	0.6%	Free
7019.10.60	2.4%	1.8%	0.6%	Free
7019.20.10	2.4%	1.8%	0.6%	Free
7019.20.20	3.4%	2.5%	0.8%	Free
7019.20.50	4.5%	3.4%	1.1%	Free
7019.90.10	2.8%	2.1%	0.7%	Free
8482.10.50	4.4%	3.3%	1.1%	Free
8482.99.10	4.4%	3.3%	1.1%	Free
8906.00.10	1.7%	1.3%	0.4%	Free
9404.21.00	2.4%	1.8%	0.6%	Free

II-30
Table 2--Continued

Heading/subheading in HTS as modified by Annex III and Annex IV	Rates of duty, effective with respect to goods which are products of Israel and entered, or withdrawn from warehouse for consumption, on and after--			
	January 1, 1989	January 1, 1990	January 1, 1992	January 1, 1995
9404.29.90	2.4%	1.8%	0.6%	Free
9404.90.10	2.4%	1.8%	0.6%	Free
9404.90.20	2.4%	1.8%	0.6%	Free
9404.90.80	2%	1.5%	0.5%	Free
9502.91.00	3.2%	2.4%	0.8%	Free
9506.21.80	1.7%	1.3%	0.4%	Free

ANNEX III

MODIFICATIONS TO IMPLEMENT DECISIONS TAKEN UNDER THE GENERALIZED SYSTEM OF PREFERENCES PROGRAM

Section 1

1. General note 3(c)(ii)(A) of the Harmonized Tariff Schedule of the United States (HTS) is modified--

(a) by deleting "Bahrain", "Brunei Darussalam", "Korea, Republic of", "Nauru", "Panama", "Singapore", and "Taiwan" from the enumeration of independent countries.

(b) by deleting "Bermuda" and "Hong Kong" from the enumeration of non-indepentent countries and territories.

(c) by deleting "Brunei Darussalam" and "Singapore" from the enumeration of members of the Association of South East Asian Nations (ASEAN) and by modifying "Association of South East Asian Nations (ASEAN)" to read "Members of the Association of South East Asian Nations (ASEAN) Eligible for GSP".

2. General note 3(c)(ii)(D) of the HTS is modified by deleting such note and substituting therefor the following new general note 3(c)(ii)(D)--

"(D) Articles provided for in a subheading for which a rate of duty "Free" appears in the "Special" subcolumn of rate of duty column 1 followed by the symbol "A*" in parentheses, if imported from a beneficiary developing country set out opposite the subheading numbers listed below, are not eligible for the duty-free treatment provided in subdivision (c)(v)(C) of this note:

0603.10.70	Colombia	2005.10.00	Mexico	3004.90.60	Bahamas; Turkey
0702.00.60	Mexico	2005.90.55	Mexico		
0703.20.00	Mexico	2005.90.90	Mexico		
0704.10.40	Mexico	2007.99.50	Brazil	3201.90.50	Mexico
0704.10.60	Mexico	2203.00.00	Mexico	3203.00.50	Mexico
0704.20.00	Mexico	2208.90.45	Mexico	3207.40.10	Mexico
0705.11.40	Mexico	2401.20.40	Brazil	3301.12.00	Brazil
0705.19.40	Mexico	2529.22.00	Mexico	3703.10.30	Brazil
0707.00.20	Mexico	2620.19.60	Mexico	3703.20.30	Brazil
0707.00.40	Mexico	2620.20.00	Mexico	3703.90.30	Brazil
0708.10.40	Mexico	2620.30.00	Mexico	3823.90.40	Brazil
0709.30.20	Mexico	2804.69.10	Brazil	3904.10.00	Mexico
0709.30.40	Mexico	2824.10.00	Mexico	3904.21.00	Mexico
0709.60.00	Mexico	2824.20.00	Mexico	3904.22.00	Mexico
0709.90.13	Mexico	2825.90.15	Brazil	3909.10.00	Israel
0709.90.20	Mexico	2827.59.05	Israel	3921.13.50	Mexico
0710.21.40	Mexico	2843.21.00	Mexico	3921.90.50	Mexico
0710.80.50	Mexico	2843.29.00	Mexico	3922.10.00	Mexico
0710.80.70	Mexico	2903.59.40	Israel	3922.20.00	Mexico
0711.40.00	Mexico	2905.19.00	Brazil	3922.90.00	Mexico
0711.90.60	Mexico	2906.11.00	Brazil	4011.10.00	Brazil
0804.50.40	Mexico	2909.19.10	Brazil	4011.20.00	Brazil
0807.10.20	Mexico	2915.31.00	Brazil	4011.40.00	Brazil
0807.10.70	Mexico	2915.39.10	Mexico	4011.91.50	Brazil
0810.90.40	Mexico	2915.70.00	Brazil	4011.99.50	Brazil
0811.10.00	Mexico	2916.15.50	Brazil	4012.10.50	Brazil
0813.10.00	Turkey	2916.19.50	Brazil	4104.21.00	Argentina
0813.30.00	Argentina	2916.39.15	Bahamas	4104.22.00	Argentina
1005.90.40	Argentina	2917.13.00	Brazil	4104.29.60	Argentina
1006.30.10	Mexico	2917.14.10	Brazil	4104.31.60	Argentina
1007.00.00	Argentina	2917.19.50	Brazil	4104.31.80	Argentina
1515.30.00	Brazil	2918.11.10	Brazil	4104.39.60	Argentina
1701.11.00	Brazil	2918.22.10	Turkey	4104.39.80	Argentina
1701.12.00	Brazil	2918.22.50	Bahamas	4105.20.60	Argentina
1701.91.20	Brazil	2918.90.30	Bahamas	4106.12.00	India
1701.99.00	Brazil	2924.29.39	Bahamas	4106.19.00	India
1806.10.40	Brazil	2933.19.35	Bahamas	4106.20.30	India
1904.90.00	Mexico	2933.40.10	Israel	4107.29.60	Argentina
2001.10.00	Mexico	2933.90.31	Bahamas	4107.90.60	Argentina
2001.90.40	Mexico			4109.00.70	Argentina

III-2

4409.10.40	Mexico	7403.12.00	Peru; Zambia	8415.90.00	Mexico
4411.11.00	Brazil			8419.11.00	Israel
4411.19.20	Brazil			8419.19.00	Israel
4411.19.40	Brazil	7403.13.00	Peru; Zambia	8419.90.10	Israel
4411.21.00	Brazil				
4411.29.60	Brazil			8421.23.00	Brazil; Mexico
4411.29.90	Brazil	7403.19.00	Peru; Zambia		
4412.19.40	Indonesia				
4412.99.40	Indonesia			8421.31.00	Brazil; Mexico
4818.10.00	Mexico	7403.21.00	Peru; Zambia		
4818.20.00	Mexico				
4818.30.00	Mexico			8424.20.10	Mexico
4818.50.00	Mexico	7403.22.00	Peru; Zambia	8424.90.10	Mexico
4823.20.10	Brazil			8425.20.00	Mexico
4823.90.65	Mexico			8425.31.00	Mexico
5208.31.20	India	7403.23.00	Peru; Zambia	8425.41.00	Mexico
5208.32.10	India			8425.42.00	Mexico
5208.41.20	India			8426.11.00	Mexico
5208.42.10	India	7403.29.00	Peru; Zambia	8426.12.00	Mexico
5208.51.20	India			8426.19.00	Mexico
5208.52.10	India			8426.20.00	Mexico
5607.30.20	Mexico	7604.10.30	Venezuela	8426.30.00	Mexico
6210.10.20	Mexico	7604.29.30	Venezuela	8426.41.00	Mexico
6307.90.60	Mexico	7605.11.00	Venezuela	8426.49.00	Mexico
6405.90.20	Mexico	7605.21.00	Venezuela	8426.91.00	Mexico
6406.10.65	Brazil	7608.10.00	Brazil	8426.99.00	Mexico
6406.99.60	Argentina	7608.20.00	Brazil	8428.10.00	Mexico
6810.11.00	Mexico	7609.00.00	Brazil	8428.20.00	Mexico
6905.10.00	Mexico	7903.10.00	Mexico	8428.31.00	Mexico
6909.19.10	Mexico	7903.90.30	Mexico	8428.32.00	Mexico
		8406.11.90	Israel	8428.33.00	Mexico
6910.10.00	Brazil; Mexico	8406.19.90	Israel	8428.39.00	Mexico
		8406.90.90	Israel	8428.40.00	Mexico
				8428.50.00	Mexico
6910.90.00	Brazil; Mexico	8407.32.20	Brazil; Mexico	8428.60.00	Mexico
				8428.90.00	Mexico
				8429.11.00	Brazil
6911.90.00	Brazil; Mexico	8407.33.20	Brazil; Mexico	8429.19.00	Brazil
				8429.20.00	Brazil
				8429.30.00	Brazil
6912.00.44	Brazil	8407.34.20	Brazil; Mexico	8429.40.00	Brazil
7004.10.20	Mexico			8429.51.50	Brazil
7113.11.50	Thailand			8429.52.50	Brazil
7113.19.21	Israel	8408.10.00	Brazil	8429.59.50	Brazil
7113.19.50	Thailand	8408.20.20	Brazil	8430.10.00	Brazil
7113.20.21	Israel	8408.20.90	Brazil	8430.20.00	Brazil
7113.20.50	Thailand	8408.90.90	Brazil	8430.31.00	Brazil
7114.11.70	Mexico			8430.39.00	Brazil
7114.20.00	Mexico	8409.91.91	Brazil; Mexico	8430.41.00	Brazil
7115.90.20	Mexico			8430.49.80	Brazil
7116.10.10	Thailand			8430.50.50	Brazil
7116.20.10	Thailand	8409.91.92	Brazil; Mexico	8430.61.00	Brazil
7202.11.10	Mexico			8430.62.00	Brazil
7202.19.50	Mexico			8430.69.00	Brazil
7202.21.10	Brazil	8409.91.99	Brazil; Mexico	8431.10.00	Mexico
7202.21.50	Brazil			8431.31.00	Mexico
7202.30.00	Brazil			8431.39.00	Mexico
7307.21.50	Brazil	8409.99.91	Brazil	8431.41.00	Brazil
7307.91.50	Brazil	8409.99.92	Brazil	8431.42.00	Brazil
7314.19.00	Mexico	8409.99.99	Brazil	8431.43.80	Brazil
7320.10.00	Mexico	8411.91.90	Brazil	8431.49.10	Mexico
7320.20.10	Mexico	8411.99.90	Brazil	8431.49.90	Brazil
7323.94.00	Mexico	8414.51.00	Mexico		
7401.10.00	Mexico	8414.59.80	Mexico	8465.94.00	Brazil; Mexico
7402.00.00	Mexico	8414.60.00	Mexico		
		8414.90.10	Mexico		
7403.11.00	Peru; Zambia	8415.10.00	Mexico	8470.40.00	Mexico
		8415.81.00	Mexico	8471.20.00	Mexico
		8415.82.00	Mexico	8471.91.00	Mexico
		8415.83.00	Mexico	8471.99.30	Mexico

III-3

8473.21.00	Mexico	8512.90.70	Mexico	8708.10.00	Brazil; Mexico
8473.29.00	Mexico				
8473.30.80	Mexico	8512.90.90	Brazil; Mexico	8708.21.00	Brazil; Mexico
8473.40.00	Mexico				
8479.10.00	Brazil; Mexico	8516.90.60	Mexico	8708.29.00	Brazil; Mexico
		8519.91.00	Brazil; Mexico		
8479.30.00	Brazil; Mexico			8708.31.50	Brazil; Mexico
		8519.99.00	Brazil		
8479.81.00	Brazil; Mexico	8523.11.00	Mexico		
		8523.12.00	Mexico	8708.39.50	Brazil; Mexico
		8523.13.00	Mexico		
8479.82.00	Brazil; Mexico	8523.20.00	Mexico		
		8523.90.00	Mexico	8708.40.10	Brazil; Mexico
8479.89.90	Brazil; Mexico	8527.11.11	Brazil; Mexico		
				8708.40.20	Brazil; Mexico
8479.90.00	Brazil	8527.21.10	Brazil; Mexico		
				8708.40.50	Brazil; Mexico
8483.10.10	Brazil; Mexico	8527.31.40	Brazil; Mexico		
				8708.50.50	Brazil; Mexico
8483.10.30	Brazil				
8501.20.40	Mexico	8534.00.00	Mexico		
8501.20.50	Mexico	8535.10.00	Mexico	8708.50.80	Brazil; Mexico
8501.31.40	Mexico	8535.21.00	Mexico		
8501.31.50	Mexico	8535.29.00	Mexico		
8501.31.80	Mexico	8535.30.00	Mexico	8708.60.50	Brazil; Mexico
8501.32.60	Mexico	8535.40.00	Mexico		
8501.33.60	Mexico	8535.90.00	Mexico		
8501.34.60	Mexico	8536.10.00	Mexico	8708.60.80	Brazil; Mexico
8501.40.40	Mexico	8536.20.00	Mexico		
8501.40.50	Mexico	8536.30.00	Mexico		
8501.51.40	Mexico	8536.41.00	Mexico	8708.70.80	Brazil; Mexico
8501.51.50	Mexico	8536.49.00	Mexico		
8501.61.00	Mexico	8536.50.00	Mexico		
8501.62.00	Mexico	8536.61.00	Mexico	8708.80.50	Brazil; Mexico
8501.63.00	Mexico	8536.69.00	Mexico		
8501.64.00	Mexico	8536.90.00	Mexico		
8502.11.00	Mexico	8537.10.00	Mexico	8708.91.50	Brazil; Mexico
8502.12.00	Mexico	8537.20.00	Mexico		
8502.13.00	Mexico	8538.10.00	Mexico		
8502.20.00	Mexico	8538.90.00	Mexico	8708.93.50	Brazil; Mexico
8502.30.00	Mexico	8539.10.00	Mexico		
8502.40.00	Mexico	8539.90.00	Mexico		
8503.00.60	Mexico	8543.10.00	Mexico	8708.99.50	Brazil; Mexico
8504.10.00	Mexico	8543.20.00	Mexico		
8504.40.00	Mexico	8543.30.00	Mexico		
8504.50.00	Mexico	8543.80.90	Mexico	8716.90.50	Brazil; Mexico
8504.90.00	Mexico	8543.90.80	Mexico		
8505.19.00	Mexico	8544.20.00	Mexico		
8507.30.00	Mexico	8544.30.00	Mexico	8802.30.00	Brazil
8507.40.00	Mexico	8544.41.00	Mexico	9008.90.40	Mexico
8507.80.00	Mexico	8544.51.40	Mexico	9009.90.00	Mexico
8507.90.80	Mexico	8544.51.80	Mexico	9013.20.00	Mexico
8509.90.20	Mexico	8544.60.20	Mexico	9018.39.00	Mexico
8511.10.00	Mexico	8547.90.00	Brazil	9021.90.80	Mexico
8511.20.00	Mexico	8548.00.00	Mexico	9025.11.20	Brazil
8511.30.00	Mexico	8605.00.00	Mexico	9025.19.00	Mexico
8511.40.00	Mexico	8606.10.00	Mexico	9028.90.00	Mexico
8511.50.00	Mexico	8606.20.00	Mexico	9113.10.00	Thailand
8511.80.60	Mexico	8606.30.00	Mexico	9303.30.40	Brazil
8511.90.60	Mexico	8606.91.00	Mexico	9401.20.00	Mexico
		8606.92.00	Mexico	9401.30.40	Yugoslavia
8512.40.40	Brazil; Mexico	8606.99.00	Mexico	9401.61.40	Yugoslavia
				9401.69.60	Yugoslavia
				9401.90.10	Mexico

9403.40.60	Mexico	9405.40.80	Mexico	9508.00.00	Brazil; Mexico
9403.50.60	Mexico	9405.91.20	Mexico		
9403.90.10	Mexico	9504.20.60	Brazil		
9405.10.80	Mexico			9613.80.20	Mexico
9405.20.80	Mexico			9613.90.40	Mexico"

Section 2

Notes:

1. Bracketed matter is included to assist in the understanding of the proclaimed modifications.

2. The following supersedes matter now in the HTS. The subheadings and superior descriptions are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special", and "Rates of Duty 2", respectively.

1. Subheading 2825.90.50 is superseded by:

	[Hydrazine...:]			
	[Other:]			
"2825.90.15	Niobium oxide.....	3.7%	Free (A*,E,IL)	25%
2825.90.60	Other.....	3.7%	Free (A,E,IL)	25%"

2. Subheadings 2903.40.10 and 2903.40.50 are superseded by:

	[Halogenated...:]			
"2903.40.00	Halogenated derivatives of acyclic hydrocarbons containing two or more different halogens.....	3.7%	Free (A,E,IL)	25%"

3. Subheading 6117.10.30 is superseded by:

	[Other made...:]			
	[Shawls,...:]			
"6117.10.40	Containing 70 percent or more by weight of silk or silk waste.....	10.1%	Free (A,E) 4.1% (IL)	90%
6117.10.60	Other.....	10.1%	Free (E*) 4.1% (IL)	90%"

4. Subheading 6213.10.00 is superseded by:

	[Handkerchiefs:]			
	"Of silk or silk waste:			
6213.10.10	Containing 70 percent or more by weight of silk or silk waste.....	7.5%	Free (A,E) 3% (IL)	60%
621..10.20	Other.....	7.5%	Free (E*) 3% (IL)	60%"

III-5

5. Subheading 9502.10.30 is superseded by:

	[Dolls...:]				
	[Dolls,...:]				
	"Other:				
9502.10.40	Not over 33 cm in height.....	12%	Free (E,IL)	70%	
	Other:				
9502.10.60	Capable of electro-mechanical movement of body parts activated by, and synchronized with, an integral or accompanying cassette tape player or micro-processor.....	12%	Free (A,E,IL)	70%	
9502.10.80	Other.....	12%	Free (E,IL)	70%"	

Section 3

1. For the following HTS subheadings the "Special" subcolumn of rate of duty column 1 is modified by inserting in the parentheses the symbol "A," immediately before "E" in each such subheading:

0305.63.20	1104.12.00	2001.90.30	2934.90.25	7013.10.10
1103.12.00	1604.16.40	2005.80.00	3604.10.00	

2. For the following HTS subheadings the "Special" subcolumn of rate of duty column 1 is modified by inserting the rate of "Free (A)" for each such subheading:

5404.90.00
5405.00.60

3. For HTS subheading 7307.19.90 the "Special" subcolumn of rate of duty column 1 is modified by deleting the symbol "A*" for such subheading.

4. For the following HTS subheadings the "Special" subcolumn of rate of duty column 1 is modified by deleting the symbol "A*" and inserting an "A" in lieu thereof for each such subheading:

0804.50.80	3918.10.10	3921.90.11	3926.90.75	4203.30.00
2831.10.00	3918.10.31	3921.90.40	3926.90.83	4206.90.00
2906.13.50	3919.10.20	3923.10.00	3926.90.87	4303.10.00
2918.30.50	3919.90.50	3923.21.00	3926.90.90	4409.10.50
2925.11.00	3920.10.00	3923.29.00	4013.10.00	4409.20.50
2930.90.50	3920.20.00	3923.30.00	4013.90.50	4412.11.10
2933.29.45	3920.42.50	3923.90.00	4015.11.00	4412.12.10
2933.59.30	3920.51.10	3924.10.20	4016.95.00	4412.29.10
2933.90.48	3920.51.50	3924.90.10	4016.99.03	4418.20.00
2934.90.47	3920.63.10	3924.90.50	4016.99.10	4419.00.80
3406.00.00	3920.69.00	3925.30.10	4016.99.20	4420.90.40
3903.30.00	3920.99.10	3926.30.10	4201.00.30	4420.90.80
3905.20.00	3920.99.20	3926.40.00	4202.32.20	4601.20.90
3916.90.10	3921.12.11	3926.90.25	4203.21.20	4811.21.00
3916.90.20	3921.13.11	3926.90.35	4203.21.80	4816.10.00

III-6

4820.50.00	7321.13.00	8302.41.90	8463.10.00	8518.40.10
4821.90.20	7321.81.10	8302.42.30	8463.20.00	8518.40.20
4823.11.00	7321.82.10	8302.42.60	8463.30.00	8518.50.00
5607.29.00	7321.90.00	8302.49.40	8463.90.00	8518.90.10
5903.10.20	7323.91.50	8302.49.60	8464.10.00	8518.90.30
5903.20.20	7323.93.00	8302.49.80	8464.20.00	8519.40.00
5903.90.20	7323.99.50	8302.60.30	8464.90.00	8520.10.00
5906.10.00	7323.99.90	8302.60.90	8465.10.00	8520.20.00
5906.91.20	7324.10.00	8305.10.00	8465.91.00	8520.31.00
5906.99.20	7324.21.50	8305.90.30	8465.92.00	8520.39.00
6306.22.10	7324.29.00	8306.10.00	8465.93.00	8520.90.00
6306.31.00	7325.91.00	8306.29.00	8465.95.00	8521.10.00
6306.49.00	7325.99.50	8308.90.60	8465.96.00	8522.90.60
6406.10.60	7326.19.00	8403.90.00	8465.99.00	8522.90.90
6406.20.00	7326.20.00	8414.30.40	8470.10.00	8525.20.05
6406.99.30	7326.90.90	8418.10.00	8470.21.00	8525.20.20
6506.10.60	7407.21.70	8418.21.00	8470.29.00	8525.20.50
6506.91.00	7408.19.00	8418.22.00	8470.30.00	8527.11.60
6601.10.00	7412.20.00	8418.29.00	8471.10.00	8527.19.00
6601.91.00	7413.00.50	8418.30.00	8471.92.10	8527.32.00
6601.99.00	7418.10.20	8418.99.00	8471.92.40	8527.39.00
6603.20.90	7418.10.50	8419.81.10	8471.92.65	8527.90.80
6701.00.00	7418.20.10	8419.89.50	8471.92.90	8528.10.40
6702.10.40	7418.20.50	8421.39.00	8471.93.20	8539.21.40
6702.90.10	7419.91.00	8425.11.00	8471.93.40	8539.22.40
6702.90.40	7419.99.50	8425.19.00	8471.93.60	8539.22.80
6704.11.00	7615.10.30	8425.39.00	8471.99.90	8539.29.10
6704.19.00	7615.10.50	8425.49.00	8472.30.00	8539.29.40
6704.20.00	7615.10.70	8435.10.00	8472.90.80	8543.80.60
6704.90.00	7615.10.90	8435.90.00	8479.89.60	8608.00.00
6908.10.20	7615.20.00	8438.80.00	8481.30.10	8708.94.50
6913.10.10	7616.90.00	8438.90.90	8481.30.90	8713.10.00
6913.10.20	7907.90.30	8452.10.00	8481.80.10	8715.00.00
6913.90.10	7907.90.60	8456.10.10	8481.80.50	8716.10.00
7009.10.00	8203.20.60	8456.20.10	8481.80.90	8716.20.00
7009.91.10	8203.30.00	8456.30.10	8481.90.10	8716.31.00
7009.92.10	8203.40.60	8456.30.50	8481.90.50	8716.39.00
7011.10.50	8204.11.00	8456.90.10	8483.10.50	8716.40.00
7011.20.00	8204.12.00	8456.90.50	8507.10.00	8716.80.50
7011.90.00	8204.20.00	8457.10.00	8507.20.00	8716.90.30
7014.00.50	8205.20.30	8458.11.00	8509.30.00	8903.10.00
7018.90.50	8205.30.60	8458.19.00	8509.40.00	8903.91.00
7113.19.25	8205.40.00	8458.91.50	8509.80.00	8903.92.00
7113.19.29	8205.51.30	8458.99.50	8509.90.40	8903.99.15
7113.20.25	8205.51.45	8459.29.00	8511.80.20	8903.99.20
7113.20.29	8205.51.75	8459.31.00	8511.90.20	8903.99.90
7114.19.00	8205.59.10	8459.39.00	8512.10.20	8905.90.10
7115.90.10	8205.59.45	8459.40.00	8512.40.20	9003.11.00
7117.19.50	8205.59.55	8459.51.00	8512.90.40	9003.19.00
7117.90.50	8205.59.60	8459.59.00	8513.10.20	9003.90.00
7305.31.20	8205.59.80	8459.61.00	8513.10.40	9004.10.00
7306.30.30	8205.70.00	8459.69.00	8513.90.20	9004.90.00
7306.50.30	8207.12.30	8459.70.00	8513.90.40	9006.30.00
7307.19.30	8211.91.60	8460.11.00	8516.31.00	9006.52.10
7307.22.10	8211.92.80	8460.19.00	8516.32.00	9006.52.30
7307.92.30	8213.00.30	8460.29.00	8516.40.20	9006.59.40
7307.93.30	8214.10.00	8460.39.00	8516.50.00	9007.91.80
7308.10.00	8214.90.60	8460.40.00	8516.80.40	9008.20.40
7308.20.00	8215.91.90	8460.90.00	8516.80.80	9009.12.00
7308.40.00	8215.99.50	8461.10.00	8517.10.00	9009.21.00
7308.90.90	8301.20.00	8461.20.00	8517.40.40	9009.22.00
7312.10.60	8301.30.00	8461.30.00	8517.81.00	9009.30.00
7312.10.90	8301.40.60	8461.40.50	8517.90.30	9010.90.80
7315.89.10	8301.60.00	8461.50.00	8517.90.40	9017.80.00
7316.00.00	8301.70.00	8461.90.00	8518.10.00	9019.10.20
7317.00.65	8302.10.60	8462.29.00	8518.21.00	9022.29.40
7317.00.75	8302.10.90	8462.39.00	8518.22.00	9032.89.20
7318.21.00	8302.20.00	8462.49.00	8518.29.00	9032.90.20
7321.11.10	8302.41.30	8462.91.00	8518.30.10	9113.20.60
7321.12.00	8302.41.60	8462.99.00	8518.30.20	9113.20.90

III-7

9201.10.00	9401.90.35	9405.20.40	9503.90.60	9506.69.60
9201.20.00	9401.90.40	9405.20.60	9503.90.70	9506.70.40
9201.90.00	9401.90.50	9405.30.00	9504.10.00	9506.91.00
9206.00.20	9403.10.00	9405.40.40	9504.30.00	9506.99.15
9207.90.00	9403.20.00	9405.40.60	9504.40.00	9506.99.30
9208.10.00	9403.30.80	9405.50.30	9504.90.40	9506.99.60
9209.92.20	9403.40.90	9405.50.40	9504.90.60	9507.90.80
9209.94.40	9403.50.90	9405.60.20	9504.90.90	9601.10.00
9209.99.10	9403.60.80	9405.60.40	9505.10.10	9603.21.00
9306.30.40	9403.70.80	9405.99.20	9505.10.25	9603.29.40
9401.10.40	9403.80.30	9405.99.40	9505.10.30	9603.29.80
9401.10.80	9403.80.60	9406.00.80	9505.90.20	9603.40.20
9401.30.80	9403.90.25	9501.00.40	9505.90.60	9603.40.40
9401.40.00	9403.90.50	9502.10.20	9506.29.00	9603.90.80
9401.50.00	9403.90.70	9503.41.10	9506.31.00	9604.00.00
9401.61.60	9403.90.80	9503.50.00	9506.39.00	9613.90.80
9401.69.80	9404.10.00	9503.60.00	9506.51.20	9615.11.40
9401.71.00	9404.21.00	9503.80.20	9506.51.40	9615.90.40
9401.79.00	9404.29.90	9503.80.40	9506.51.60	9616.10.00
9401.80.40	9404.90.20	9503.80.60	9506.59.80	9617.00.10
9401.80.60	9405.10.40	9503.80.80	9506.62.80	
9401.90.25	9405.10.60	9503.90.50	9506.69.40	

5. For the following HTS subheadings the "Special" subcolumn of rate of duty column 1 is modified by deleting the symbol "A" and inserting an "A*" in lieu thereof for each such subheading:

0711.40.00	2915.70.00	7403.29.00	8430.31.00	8502.20.00
1006.30.10	2916.19.50	8406.11.90	8430.39.00	8507.40.00
1007.00.00	2916.39.15	8406.19.90	8501.20.50	8512.40.40
1701.12.00	2918.22.50	8406.90.90	8501.31.80	8512.90.90
1806.10.40	3909.10.00	8408.10.00	8501.32.60	8535.29.00
1904.90.00	4412.19.40	8409.91.91	8501.33.60	8543.10.00
2005.10.00	4412.99.40	8409.99.91	8501.34.60	8605.00.00
2005.90.55	7114.11.70	8411.91.90	8501.62.00	8802.30.00
2005.90.90	7114.20.00	8426.11.00	8501.63.00	9013.20.00
2401.20.40	7401.10.00	8428.32.00	8501.64.00	9021.90.80
2620.19.60	7403.21.00	8428.33.00	8502.11.00	9113.10.00
2620.20.00	7403.22.00	8428.39.00	8502.12.00	9403.40.60
2620.30.00	7403.23.00	8429.51.50	8502.13.00	9403.50.60

ANNEX IV

OTHER MODIFICATIONS

Note:

The following headings/subheadings, article descriptions, with or without preceding superior descriptions, and rates of duty supersede matter now in the Harmonized Tariff Schedule of the United States (HTS). The headings/subheadings, article descriptions, with or without preceding superior descriptions, corresponding rates of duty, and effective period (where applicable) are set forth in columnar format. The material set forth in such format is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special", "Rates of Duty 2", and "Effective Period", respectively.

1. General note 3(a)(i) is modified by striking out "most-favored-nation (MFN)"; and general note 3(a)(ii) is modified by striking out "MFN" and inserting "most-favored-nation (MFN)" in lieu thereof.

2. General note 3(b) is modified by inserting in alphabetical sequence "Romania".

3. General note 3(c)(v)(A) is modified by striking out "Panama".

4. General note 3(c)(v)(B)(l) is modified by striking out "column" and inserting "subcolumn" in lieu thereof.

5. General note 7 is modified by inserting "Definitions." at the beginning thereof, and by striking out "4-digit or" in subdivision (f) thereof.

6. General note 9 is modified by inserting "Methods of Ascertainment." at the beginning thereof.

7. Paragraph (a) of rule 5 of the General Rules of Interpretation is modified by striking out "The rule" and inserting "This rule" in lieu thereof.

8. Heading 0403 is modified by inserting ", nuts" after "fruit".

9. Subheading 0602.20.00 is modified by striking out the article description and inserting "Trees, shrubs and bushes, grafted or not, of kinds which bear edible fruit or nuts" in lieu thereof.

10. Subheadings 0713.31.40, 0713.39.40, and 0713.90.80 are each modified by striking out "above-stated" in the respective article descriptions and inserting "above stated" in lieu thereof.

11. Heading 0812 is modified by inserting a comma after "nuts".

12. Subheading 0813.20.00 is deleted and the following new subheadings are inserted in lieu therof:

"0813.20	Prunes:		
0813.20.10		Soaked in brine and dried.....4.4¢/kg	Free (E,IL) 4.4¢/kg
0813.20.20		Other.....17.5%	Free (E,IL) 35%".

13. Note 3 of chapter 15 is modified by inserting a comma after "fractions".

14. Heading 1512 is modified by striking out "their fractions" and inserting "fractions thereof" in lieu thereof.

15. The superior heading immediately preceding subheading 1512.11.00 is modified by striking out "their fractions" and inserting "fractions thereof" in lieu thereof.

16. Heading 1513 is modified by striking out "their fractions" and inserting "fractions thereof" in lieu thereof.

17. The superior heading immediately preceding subheading 1513.21.00 is modified by striking out "their fractions" and inserting "fractions thereof" in lieu thereof.

18. Heading 1514 is modified by striking out "their fractions" and inserting "fractions thereof" in lieu thereof.

19. Subheading note 1 of chapter 17 is modified by striking out "polarimetric" and inserting "polarimeter" in lieu thereof.

20. Chapter 17 is modified--

(a) by striking out additional U.S. note 3(a) and inserting the following new additional U.S. notes 3(a)(i) and (ii) in lieu thereof:

"3. (a)(i) The total amount of sugars, syrups and molasses described in subheadings 1701.11, 1701.12, 1701.91.20, 1701.99, 1702.90.30, 1702.90.40, 1806.10.40 and 2106.90.10, the products of all foreign countries, entered, or withdrawn from warehouse for consumption, during the period January 1, 1988 through December 31, 1988, shall not exceed in the aggregate 919,772 metric tons, raw value. Of this amount, the total amount permitted to be imported for purposes of paragraph (c)(i) of this note (the total base quota amount) shall be 884,505 metric tons, raw value; 1,814 metric tons, raw value, may only be used for the importation of "specialty sugars" as defined by the United States Trade Representative in accordance with paragraph (c)(ii) of this note; and the remaining 33,453 metric tons, raw value, may only be imported for the purposes specified in paragraph (c)(v) of this note (the quota adjustment amount).

(ii) Sugar entering the United States during a quota period may be charged to the previous quota period with the approval of the Secretary of Agriculture. The Secretary may only grant such approval if (A) the sugar was shipped in time to enter the United States during the previous quota period and (B) the sugar would have successfully entered the United States during the previous quota period but for forces beyond the control of the importer, including but not limited to engine failure of the transporting ocean carrier, unexpectedly severe weather conditions, and acts of God.";

(b) by changing the "Percentage Distribution" for the Philippines in additional U.S. note 3(c)(i) from "13.5" to "15.8";

(c) by deleting the line "23. Rep. S. Africa 2.3" in additional U.S. note 3(c)(i) and renumbering lines 24 to 32 as 23 to 31, respectively; and

(d) by inserting the following new additional U.S. note 3(c)(iii) in numerical sequence:

"(iii) Notwithstanding any authority given to the United States Trade Representative under paragraphs (e) and (g) of this note, in allocating any limitation imposed under any paragraph of this note on the quantity of sugars, syrups, and molasses described in the subheadings cited under paragraph (a) of this note which may be entered --

(A) the percentage allocation made to the Philippines under this paragraph may not be reduced, and

(B) no allocation may be made to the Republic of South Africa.".

21. The article description for subheading 2009.20.20 is modified by inserting after "concentrated" the following:

"and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree)".

22. The article description for subheading 2009.20.40 is modified to read "Other".

23. Subheading 2106.90.50 is modified by striking out "proclaimed" and inserting "established" in lieu thereof.

24. Heading 2620 is modified by striking out "metallic compounds" and inserting "metal compounds" in lieu thereof.

25. Chapter 27 is modified--

(a) by striking additional U.S. note 4, inserting new additional U.S. notes 4 and 5 as follows, and renumbering additional U.S. notes 5 and 6 as additional U.S. notes 6 and 7, respectively:

"4. For the purposes of subheading 2710.00.18, "motor fuel blending stock" means any product (except naphthas of subheading 2710.00.25) derived primarily from petroleum, shale oil or natural gas, whether or not containing additives, to be used for direct blending in the manufacture of motor fuel.

5. In determining the relative weights of components of the mixtures provided for in subheading 2710.00.45, naphtha and other petroleum derivatives which may be present in such mixtures as solvents shall be disregarded.";

(b) by inserting in numerical sequence the following new subheading with an article description having the same degree of indentation as the article description for subheading 2710.00.15:

"2710.00.18 Motor fuel blending stock.....52.5¢/bbl Free (IL) $1.05/bbl";

(c) by modifying subheading 2710.00.20 by striking out "fuel)" and inserting "fuel or motor fuel blending stock)"; and

(d) by modifying subheading 2710.00.25 by striking out "fuel)" and inserting in lieu thereof "fuel or motor fuel blending stock)".

26. Note 2(e) of chapter 28 is modified by striking out "metallic derivatives" and inserting "metal derivatives" in lieu thereof.

27. Note 4 of chapter 28 is modified by striking out "a metallic acid" and inserting "a metal acid" in lieu thereof.

28. Note 5 of chapter 28 is modified by striking out "metallic" and inserting "metal" in lieu thereof.

29. Note 6 of chapter 28 is modified by striking out "isotope" and inserting "isotopes" in lieu thereof.

30. Note 7 of chapter 29 is modified by striking out the second "and" and inserting ", or" in lieu thereof.

31. Subheading 3004.32.00 is modified by striking out "cortex" and inserting "cortical" in lieu thereof.

32. Note 3 of chapter 32 is modified by striking out "matters" and inserting "matter" in lieu thereof.

33. Heading 3203 is modified by striking out the text following the semicolon and inserting "preparations as specified in note 3 to this chapter based on coloring matter of vegetable or animal origin:" in lieu thereof.

34. Heading 3204 is modified by striking out the text between the first and second semicolons and inserting "preparations as specified in note 3 to this chapter based on synthetic organic coloring matter" in lieu thereof.

35. Heading 3205 is modified by striking out the text following the semicolon and inserting "preparations as specified in note 3 to this chapter based on color lakes:" in lieu thereof.

36. Subheading 3301.22.00 is modified by striking out "of jasmin" in the article description and inserting "of jasmine" in lieu thereof.

37. Note 5(d) of chapter 34 is modified by inserting "in" following "dispersed".

38. Heading 3604 is modified by striking out "signalling" in the article description and inserting "signaling" in lieu thereof.

39. Note 9 of chapter 39 is modified by striking out "plastic layer" and inserting "layer of plastics" in lieu thereof.

40. Note 10 of chapter 39 is modified by striking out the comma following "(even if when so cut".

41. Chapter 39 is modified by striking out subheadings 3910.00.10 through 3910.00.50, including the superior heading thereto, and inserting the following in lieu thereof:

"3910.00.00 Silicones in primary forms....3% Free (A,E,IL) 25%".

42. Note 2(a) of chapter 42 is modified by striking out "plastic sheeting" and inserting "sheeting of plastics" in lieu thereof.

43. Chapter 43 is modified by striking out additional U.S. note 1 thereto.

44. (a) Subheading 4301.60.30 is modified by adding ",E" after "A" in the "Special" subcolumn of rate of duty column 1.

(b) Subheading 4302.30.00 is modified by striking out "cuttings," in the article description and inserting "cuttings" in lieu thereof.

45. Chapter 44 is modified by striking out subheadings:

(a) 4412.11.05, 4412.12.05, 4412.19.05, 4412.29.05 and 4412.99.05, and "Other:" immediately following these subheadings;

(b) 4412.21, 4412.21.05 and 4412.21.10 and replacing the foregoing with the following:

"4412.21.00 Containing at least one layer of particle board.....4% Free (A,E,IL) 40%"; and

(c) 4412.91, 4412.91.05 and 4412.91.10 and replacing the foregoing with the following:

"4412.91.00 Containing at least one layer of particle board.....4% Free (A,E,IL) 40%".

46. Note 1(f) of chapter 48 is modified by striking out "plastic sheeting" and inserting "sheeting of plastics" in lieu thereof.

47. Note 8(a)(iii) of chapter 48 is modified by striking out "plastic layer" and inserting "layer of plastics" in lieu thereof.

48. Heading 4905 is modified by inserting a comma before "including".

49. Heading 4907 is modified by striking out "check forms; banknotes," and inserting "banknotes; check forms;" in lieu thereof.

50. Note 7(c) of section XI is modified by striking out the comma after "fabrics".

51. Subheading 5102.10.80 is modified by striking out the rate set forth in the Rates of Duty 1-General subcolumn and inserting "Free" in lieu thereof, and by striking out the rates set forth in the Rates of Duty 1-Special subcolumn.

52. The superior heading immediately preceding subheading 5111.11 is modified by inserting "of" after the second "or".

53. The superior heading immediately preceding subheading 5112.11.00 is modified by inserting "of" after the second "or".

54. Subheading 5407.10.00 is modified by striking out the comma.

55. Note 3(c) of chapter 56 is modified by striking out "strips" and inserting "strip" in lieu thereof.

56. Note 3(c) of chapter 56 is modified by inserting "material" after "textile".

57. Heading 5607 is modified by striking out "rope" and inserting "ropes" in lieu thereof.

58. Note 3 of chapter 58 is modified by striking out "purpose" and inserting "purposes" in lieu thereof.

59. Note 6(a) of chapter 59 is modified by striking out the present text and inserting "(a) Transmission or conveyor belting, of textile material, of a thickness of less than 3 mm; or" in lieu thereof.

60. Note 3(a) of chapter 61 is modified by striking out "black fabric" and inserting "black fabric," in lieu thereof.

61. Note 8 of chapter 61 is modified by striking out "concerning" and inserting "covering" in lieu thereof.

62. Chapter 61 is modified by striking out subheading 6116.10.20 and inserting the following, at the same level of indentation, in lieu thereof:

	"Other:			
	Without fourchettes:			
	Cut and sewn from pre-existing machine-knit fabric that is impregnated, coated or covered with plastics or rubber:			
6116.10.15	Of vegetable fibers	25%	Free (E*) 10% (IL)	61%
6116.10.25	Other	19.8%	7.9% (IL)	90%
6116.10.35	Other	14%	Free (E*) 5.6% (IL)	75%
6116.10.45	With fourchettes	14%	Free (E*) 5.6% (IL)	25%".

63. Note 8 of chapter 62 is modified by striking out "concerning" and inserting "covering" in lieu thereof.

64. Chapter 62 is modified--

(a) by adding "Free (E)" in the "Special" subcolumn of rate of duty column 1 for subheading 6204.53.10;

(b) by adding "*" after "E" in the "Special" subcolumn of rate of duty column 1 for subheading 6214.10.10; and

(c) by striking out subheading 6216.00.25 and inserting the following, at the same level of indentation, in lieu thereof:

	"Other:			
	Without fourchettes:			
	Cut and sewn from pre-existing machine-woven fabric that is impregnated, coated or covered with plastics or rubber:			
6216.00.15	Of vegetable fibers.....25%		Free (E*) 10% (IL)	25%
6216.00.20	Other.....22¢/kg + 11%		8.8¢/kg + 4.4% (IL)	99.2¢/kg + 65%
6216.00.25	Other.....14%		Free (E*) 5.6% (IL)	75%
6216.00.30	With fourchettes.....14%		Free (E*) 5.6% (IL)	25%".

65. (a) Heading 6306 is modified by striking out the article description and inserting "Tarpaulins, awnings and sunblinds; tents; sails for boats, sailboards or landcraft; camping goods:" in lieu thereof.

(b) Heading 6308.00.00 is modified by adding "E*," before "IL" in the "Special subcolumn of rate of duty column 1.

66. The rate in the Rates of Duty 2 column for subheading 6501.00.90 is modified by inserting "+" after "88.2¢/kg".

67. Note 1(c) of chapter 70 is modified by striking out "(heading 8547)" and inserting "of heading 8547" in lieu thereof.

68. Subheading 7013.10.10 is modified by striking out "sollution" in the article description and inserting "solution" in lieu thereof.

69. Note 10 of chapter 71 is modified by striking out "and" and inserting "or" in lieu thereof.

70. Note 1(k) of chapter 72 is modified by inserting a comma after "size".

71. Subheading note 1(a) of chapter 72 is modified by striking out "Pig iron containing by weight separately or together:" and inserting "Pig iron containing, by weight, one or more of the following elements in the specified proportions:" in lieu thereof.

72. Additional U.S. note 2 of chapter 72 is modified by striking out "phosphatising" and inserting "phosphatizing" in lieu thereof.

73. The rates in the Rates of Duty 2 column for subheadings 7208.33.10, 7208.34.10, and 7208.35.10, respectively, are each modified by striking out "20%" and inserting "0.4¢/kg + 20%" in lieu thereof.

74. Subheading 7210.70 is modified by striking out "plastic coated" and inserting "coated with plastics" in lieu thereof.

75. (a) Subheadings 7212.40, 7217.19.10, 7217.29.10 and 7217.39.10 are each modified by striking out "plastic coated" and inserting "coated with plastics" in lieu thereof.

(b) Subheadings 7217.39.10 and 7217.39.50 are modified by adding ",IL" after "E" in the "Special" subcolumn of rate of duty column 1.

76. Subheading 7304.20 is modified by striking out "the".

77. Subheading 7305.20 is modified by striking out "the".

78. Subheading 7306.20 is modified by striking out "the".

79. Subheading 7314.42.00 is modified by striking out the article description and inserting "Coated with plastics" in lieu thereof.

80. Note 1(b)(i) of chapter 74 is modified by striking out "shall be" and inserting "is" in lieu thereof.

81. Note 1(g) of chapter 74 is modified by inserting a comma after "size".

82. Subheading 7414.90.00 is modified by striking out "Free (A,B,E,I))" in the Rates of Duty 1-Special subcolumn and inserting "Free (A,B,E,IL)" in lieu thereof.

83. Subheading note 1(b)(ii) of chapter 75 is modified by striking out "shall be" and inserting "is" in lieu thereof.

84. Note 1(d) of chapter 76 is modified by inserting a comma after "size".

85. Subheading note 1(b)(i) of chapter 76 is modified by striking out "shall be" and inserting "is" in lieu thereof.

86. Note 1(d) of chapter 78 is modified by inserting a comma after "size".

87. Note 1(d) of chapter 79 is modified by inserting a comma after "size".

88. Note 1(d) of chapter 80 is modified by inserting a comma after "size".

89. Subheading note 1(b)(ii) of chapter 80 is modified by striking out "shall be" and inserting "is" in lieu thereof.

90. Subheading note 1 of chapter 81 is modified by striking out "shall apply" and inserting "applies" in lieu thereof.

91. Heading 8201 is modified by inserting "and pruners" after "secateurs".

92. Subheading 8201.50.00 is modified by striking out the article description and inserting "Secateurs and similar one-handed pruners and shears (including poultry shears), and parts thereof" in lieu thereof.

93. Note 1(a) of section XVI is modified by striking out "unhardened vulcanized rubber" and inserting "vulcanized rubber other than hard rubber" in lieu thereof.

94. Subheading 8418.50.00 is modified by striking out the article description and inserting "Other refrigerating or freezing chests, cabinets, display counters, showcases and similar refrigerating or freezing furniture" in lieu thereof.

95. Subheading 8419.60.00 is modified by striking out "gas" and inserting "other gases" in lieu thereof.

96. Subheading 8428.10.00 is modified by striking out "action and" in the article description and inserting "action;" in lieu thereof.

97. Subheading 8429.52 is modified by striking out "360 degree" in the article description and inserting "360°" in lieu thereof.

98. Subheading 8485.10.00 is modified by inserting "or boats'" after "Ships'".

99. Note 1 of chapter 85 is modified by striking out "This Chapter" and inserting "This chapter" in lieu thereof.

100. Note 5(b)(iii) of chapter 85 is modified by inserting a comma after "passive".

101. The following new notes are inserted as additional U.S. notes 5 and 6 of chapter 85--

"5. Picture tubes imported in combination with, or incorporated into, other articles are to be classified in subheadings 8540.11 through 8540.12, inclusive, unless they are--

(a) incorporated into complete television receivers, as defined in additional U.S. note 6 below;

(b) incorporated into fully assembled units such as word processors, ADP terminals, or similar articles;

(c) put up in kits containing all the parts necessary for assembly into complete television receivers, as defined in additional U.S. note 6 below; or

(d) put up in kits containing all the parts necessary for assembly into fully assembled units such as word processors, ADP terminals, or similar articles.

6. For the purposes of additional U.S. note 5 above the term "complete television receivers" means television receivers, fully assembled in their cabinets, whether or not packaged or tested for distribution to the ultimate purchaser(s).".

102. Subheadings 8501.40.20, 8501.40.40 and 8501.40.50 are modified by striking out "Exceeding" and inserting "Of an output exceeding" in lieu thereof.

103. Heading 8907 is modified by striking out "landing stages" and inserting "landing-stages" in lieu thereof.

104. Heading 9011 is modified by striking out "microphotography, microcinematography" and inserting "photomicrography, cinemicrography" in lieu thereof.

105. Subheading 9011.20 is modified by striking out "microphotography, microcinematography" and inserting "photomicrography, cinemicrography" in lieu thereof.

106. Subheading 9018.90.60 is modified by deleting "and parts and accessories thereof" and inserting ",other than extracorporeal shock wave lithotripters; all the foregoing and parts and accessories thereof" in lieu thereof.

107. Additional U.S. note 4 of chapter 91 is modified to read as follows:

"4. Special Marking Requirements: With the following exceptions, any movement or case provided for in this chapter, whether imported separately or attached to any article provided for in this chapter, shall not be permitted to be entered unless conspicuously and indelibly marked by cutting, die-sinking, engraving, stamping, or mold-marking (either indented or raised), as specified below. Movements with opto-electronic display only and cases designed for use therewith, whether entered as separate articles or as components of assembled watches or clocks, are excepted from the marking requirements set forth in this note. The special marking requirements are as follows:

(a) Watch movements shall be marked on one or more of the bridges or top plates to show--

(i) the name of the country of manufacture;
(ii) the name of the manufacturer or purchaser; and
(iii) in words, the number of jewels, if any, serving a mechanical purpose as frictional bearings.

(b) Clock movements shall be marked on the most visible part of the front or back plate to show--

(i) the name of the country of manufacture;
(ii) the name of the manufacturer or purchaser; and
(iii) the number of jewels, if any.

(c) Watch cases shall be marked on the inside or outside of the back to show--

(i) the name of the country of manufacture; and
(ii) the name of the manufacturer or purchaser.

(d) Clock cases provided for in this chapter shall be marked on the most visible part of the outside of the back to show the name of the country of manufacture.".

108. Subheadings 9209.92.80, 9209.94.80, 9209.99.40, and 9209.99.80 are modified by deleting the asterisk following the "E" designation in the "Special" subcolumn of rate of duty column 1 for each of these items.

109. Subheading 9301.00 is modified by striking out the article description and inserting "Military weapons, other than revolvers, pistols and the arms of heading 9307:" in lieu thereof.

110. Note 1(e) of chapter 94 is modified by striking out "Furniture specially designed as parts of refrigerators of heading 8418;" and inserting "Furniture specially designed as parts of refrigerating or freezing equipment of heading 8418;" in lieu thereof.

111. Subheadings 9603.30.20 through 9603.30.60, 9606.10.40 and 9606.10.80 are each modified by striking out "cents" each place it occurs in the respective article descriptions and inserting "¢" in lieu thereof.

112. Heading 9608 is modified by striking out "stylos" in the article description and inserting "styli" in lieu thereof.

113. Subheading 9616.20.00 is modified by striking the asterisk following the "E" designation in the "Special" subcolumn of rate of duty column 1.

114. Subheading 9705.00.00 is modified by striking out "archaeological, palaeontological," in the article description and inserting "archeological, paleontological," in lieu thereof.

115. U.S. note 2(ij) to subchapter XVII of chapter 98 is modified by striking out "7308.50" and inserting "7308.90" in lieu thereof.

116. U.S. note 2 to subchapter II of chapter 99 is modified by striking out "9903.84.30 or 9903.84.40" and inserting "9903.41.20 or 9903.41.25" in lieu thereof.

117. Subchapter II of chapter 99 is modified by adding after U.S. note 2 the following notes:

"3. (a) For so long as subheading 9902.51.01 is in effect, additional U.S. notes 2(d)(ii), 2(d)(iii), and 2(d)(iv) of chapter 51 shall be suspended.

(b) For the purposes of subheading 9902.51.01, a tolerance of not more than 10 percent of wools not finer than 48s may be allowed in each bale or package of wools imported as not finer than 46s.

4. For the purposes of the superior heading to subheadings 9902.57.01 and 9902.57.02, the term "mass-produced kits" includes only those which are designed to be sold in the customs territory of the United States exclusively in kit form.

5. For the purposes of subheading 9902.85.27, the term "entertainment broadcast band receivers" means receivers designed principally to receive signals in the AM (530-1710 kHz) and FM (88-108 MHz) entertainment broadcast bands, whether or not capable of receiving signals on other bands such as aviation, television, marine, public safety, industrial and citizens bands.

6. For the purposes of subheading 9902.95.03 --

(a) The term "toy figures of inanimate objects" refers only to imaginary creatures that either:

(i) do not possess features of human or other earthly creatures;
(ii) possess both earthly and non-earthly features but are predominantly non-earthly in nature; or
(iii) possess features which are a hybrid of features of more than one animate object.

This definition does not cover toy figures of objects which are readily recognizable as vegetables, minerals, robots or machines, whether or not such figures possess humanoid or earthly features.

(b) The term "filled" includes toy figures which are not completely filled or are filled with materials such as plastic beads or crushed nutshells but which otherwise possess the characteristics of toy figures classifiable as "stuffed".

7. For purposes of subheading 9902.61.00, the term "duty-free quantity" means--

(a) for the 12-month period ending October 31, 1986, 161,600 dozen; and

(b) for any 12-month period thereafter, an amount equal to 101 percent of the duty-free quantity for the preceding 12-month period.".

118. Subchapter II of chapter 99 is further modified by adding in numerical sequence the following new provisions:

	Feathers and down, whether or not on the skin, crude, sorted (including feathers simply strung for convenience in handling or transportation), treated, or both sorted and treated, but not otherwise processed (provided for in heading 0505):				
9902.05.10	Meeting both test methods 4 and 10.1 of Federal Standard 148a promulgated by the General Services Administration.....	Free	No change	No change	On or before 12/31/90
9902.05.11	Other.....	Free	No change	Free	On or before 12/31/90
9902.08.07	Cantaloupes, fresh, if entered during the period from January 1 to May 15, inclusive of any year (provided for in subheading 0807.10.20).....	Free	No change	No change	On or before 12/31/90
9902.08.11	Cranberries, frozen (provided for in subheading 0811.90.35).....	Free	No change	No change	On or before 12/31/90
9902.09.04	Mixtures of mashed or macerated hot red peppers and salt (provided for in subheading 0904.20.70).....	Free	No change	No change	On or before 12/31/90
9902.25.04	Graphite, crude and refined, natural (provided for in subheading 2504.10.10).....	Free	No change	No change	On or before 12/31/90
9902.26.11	Tungsten ores (provided for in subheading 2611.00.00).....	Free	No change	No change	On or before 12/31/90
9902.26.14	Synthetic rutile (provided for in subheading 2614.00.30).....	Free	No change	No change	On or before 12/31/90

119. Subheading 9902.26.22 is modified by striking out ", 2805.30" in the article description.

120. Subchapter II of chapter 99 is further modified by adding in numerical sequence the following new provisions:

9902.29.01	Cyclic organic chemical products in any physical form having an aromatic or modified aromatic structure, however provided for in chapter 29 (but excluding 6,7-dihydroxy-2-naphthalenesulfonic acid, sodium salt), to be used in the manufacture of photographic color couplers.....	Free	No change	No change	On or before 12/31/90
9902.29.02	Mixtures of 3-ethylbiphenyl (m-ethylbiphenyl) and 4-ethylbiphenyl (p-ethylbiphenyl) (provided for in subheading 2902.90.50).....	Free	No change	No change	On or before 12/31/90
9902.29.03	sec-Butyl chloride (provided for in subheading 2903.19.50).....	Free	No change	No change	On or before 12/31/90
9902.29.04	p-Toluenesulfonyl chloride (provided for in subheading 2904.10.10).....	Free	No change	No change	On or before 12/31/90
9902.29.05	Mixtures containing not less than 90 percent by weight of stereoisomers of 2-isopropyl-5-methylcyclohexanol, but containing not more than 20 percent by weight of any one such stereoisomer (provided for in subheading 2906.19.00).....	Free	No change	No change	On or before 12/31/90
9902.29.06	1,1-Bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol) (provided for in subheading 2906.29.50).....	Free	No change	No change	On or before 12/31/90
9902.29 07	2-[(3-Nitrophenyl)-sulfonyl]ethanol (CAS No. 41687-30-3) (provided for in subheading 2906.29.50)	Free	No change	No change	On or before 12/31/90

9902.29.08	β-Naphthol (provided for in subheading 2907.15.50)	Free	No change	No change	On or before 12/31/90
9902.29.09	o-Benzyl-p-chlorophenol (provided for in subheading 2908.10.50)	Free	No change	No change	On or before 12/31/90
9902.29.10	6-Hydroxy-2-naphthalenesulfonic acid, and its sodium, potassium, and ammonium salts (provided for in subheading 2908.20.50)	Free	No change	No change	On or before 12/31/90
9902.29.11	Triethylene glycol dichloride (provided for in subheading 2909.49.50)	Free	No change	No change	On or before 12/31/90
9902.29.13	2,6-Dichlorobenzaldehyde (provided for in subheading 2913.00.10)	Free	No change	No change	On or before 12/31/90
9902.29.14	Dinocap (provided for in subheading 2916.19.50)	Free	No change	No change	On or before 12/31/90
9902.29.15	p-Sulfobenzoic acid, potassium salt (provided for in subheading 2916.31.10)	Free	No change	No change	On or before 12/31/90
9902.29.20	m-Toluic acid (provided for in subheading 2916.39.50)	Free	No change	No change	On or before 12/31/90
9902.29.21	m-Hydroxybenzoic acid (provided for in subheading 2918.29.10)	Free	No change	No change	On or before 12/31/90
9902.29.22	d-6-Methoxy-α-methyl-2-naphthaleneacetic acid and its sodium salt (provided for in subheading 2918.90.30)	Free	No change	No change	On or before 12/31/90

9902.29.23	Triphenyl phosphate (provided for in subheading 2919.00.10).....	Free	No change	No change	On or before 12/31/90
9902.29.24	3-Amino-3-methyl-1-butyne (provided for in subheading 2921.19.50).....	Free	No change	No change	On or before 12/31/90
9902.29.25	4-Chloro-2-nitroaniline (CAS No. 89-63-4)(provided for in subheading 2921.42.25).....	Free	No change	No change	On or before 12/31/90
9902.29.26	p-Nitro-o-toluidine (provided for in subheading 2921.43.20).....	Free	No change	No change	On or before 12/31/90

121. Subheading 9902.29.27 is modified by striking out "3,3-Diaminobenzidine" in the article description and inserting "3,3'-Diaminobenzidine" in lieu thereof, and by striking out "12/31/88" in the Effective Period column and inserting "12/31/90" in lieu thereof.

122. Subchapter II of chapter 99 is further modified by adding in numerical sequence the following new provisions:

9902.29.28	α,α,α-Trifluoro-o-toluidine (provided for in subheading 2921.43.50).....	Free	No change	No change	On or before 12/31/90
9902.29.29	2-Amino-5-chloro-4-methylbenzenesulfonic acid; and 2-Amino-5-chloro-4-ethylbenzenesulfonic acid (provided for in subheadings 2921.43.50 and 2921.49.50, respectively).....	Free	No change	No change	On or before 12/31/90
9902.29.30	8-Amino-1-naphthalenesulfonic acid and its salts (provided for in subheading 2921.45.10).....	Free	No change	No change	On or before 12/31/90
9902.29.31	5-Amino-2-(p-aminoanilino) benzenesulfonic acid (provided for in subheading 2921.59.10).....	Free	No change	No change	On or before 12/31/90

IV-15

9902.29.32	N1,N4,N4-Tris(2-hydroxyethyl)-2-nitro-1,4-phenylenediamine; N1,N4-Dimethyl-N1-(2-hydroxyethyl)-3-nitro-1,4-phenylenediamine; N1,N4-Dimethyl-N1-(2,3-dihydroxypropyl)-3-nitro-1,4-phenylenediamine; and N1-(2-Hydroxyethyl)-3-nitro-1,4-phenylenediamine (provided for in subheading 2922.19.30)	Free	No change	No change	On or before 12/31/90
9902.29.33	1-Amino-8-hydroxy-3,6-naphthalenedisulfonic acid; and 4-Amino-5-hydroxy-2,7-naphthalenedisulfonic acid, monosodium salt (H acid, monosodium salt) (provided for in subheading 2922.21.10)	Free	No change	No change	On or before 12/31/90
9902.29.34	6-Amino-1-naphthol-3-sulfonic acid (provided for in subheading 2922.21.10)	Free	No change	No change	On or before 12/31/90
9902.29.35	6-Amino-4-hydroxy-2-naphthalenesulfonic acid (Gamma acid) (provided for in subheading 2922.21.50)	Free	No change	No change	On or before 12/31/90
9902.29.36	m-Nitro-p-anisidine (provided for in subheading 2922.29.35)	Free	No change	No change	On or before 12/31/90
9902.29.37	m-Nitro-o-anisidine (provided for in subheading 2922.29.50)	Free	No change	No change	On or before 12/31/90
9902.29.38	3,3'-Dimethoxybenzidine (o-Dianisidine) and its dihydrochloride (provided for in subheading 2922.29.50)	Free	No change	No change	On or before 12/31/90
9902.29.39	p-Nitro-o-anisidine (provided for in subheading 2922.22.50)	Free	No change	No change	On or before 12/31/90

IV-16

9902.29.40	2-Amino-5-nitrophenol (provided for in subheading 2922.29.10)	Free	No change	No change	On or before 12/31/90
9902.29.41	3-Ethylamino-p-cresol (provided for in subheading 2922.29.15)	Free	No change	No change	On or before 12/31/90
9902.29.42	4-Chloro-2,5-dimethoxyaniline (CAS No. 6358-64-1) (provided for in subheading 2922.29.20)	Free	No change	No change	On or before 12/31/90
9902.29.43	1-Amino-2,4-dibromoanthraquinone (provided for in subheading 2922.30.30)	Free	No change	No change	On or before 12/31/90
9902.29.44	1-Amino-4-bromo-2-anthraquinonesulfonic acid (Bromamine acid) and its sodium salt (provided for in subheading 2922.30.30)	Free	No change	No change	On or before 12/31/90
9902.29.45	3,4-Diaminophenetole dihydrogen sulfate (CAS No. 85137-09-3) (provided for in subheading 2922.50.30)	Free	No change	No change	On or before 12/31/90
9902.29.46	2-Nitro-5-[(2,3-dihydroxy)-propoxy]-N-methylaniline; 2-Nitro-5-(2-hydroxyethoxy)-N-methylaniline; 4-[(2-Hydroxyethyl)amino]-3-nitrophenol; 4-(2-Hydroxyethoxy)-1,3-phenylenediamine dihydrochloride; and 3-Methoxy-4-[(2-hydroxyethyl)amino]nitrobenzene (provided for in subheading 2922.50.30)	Free	No change	No change	On or before 12/31/90
9902.29.47	4-Methoxyaniline-2-sulfonic acid (provided for in subheading 2922.50.40)	Free	No change	No change	On or before 12/31/90

9902.29.48	1-Amino-2-chloro-4-hydroxyanthraquinone (provided for in subheading 2922.50.40)	Free	No change	No change	On or before 12/31/90
9902.29.49	Benzethonium chloride (provided for in subheading 2923.90.00)	Free	No change	No change	On or before 12/31/90
9902.29.51	N-(7-Hydroxy-1-naphthyl)-acetamide (provided for in subheading 2924.29.09)	Free	No change	No change	On or before 12/31/90
9902.29.52	2,5-Dimethoxyacetanilide (CAS No. 3467-59-2) (provided for in subheading 2924.29.09)	Free	No change	No change	On or before 12/31/90
9902.29.53	3,5-Dinitro-o-toluamide (provided for in subheading 2924.29.39)	Free	No change	No change	On or before 12/31/90
9902.29.54	2,2'-Oxamidobis[ethyl-3-(3,5-di-tert-butyl-4-hydroxyphenyl)propionate] (provided for in subheading 2924.29.40)	Free	No change	No change	On or before 12/31/90
9902.29.55	Bis(o-tolyl)carbodiimide; 2,2',6,6'-Tetraisopropyldiphenylcarbodiimide; Poly[nitrilomethanetetrarylnitrilo[2,4,6-tris(1-methylethyl)-1,3-phenylene]], [2,6-bis(1-methylethyl)phenyl]-omega-[[[[2,6-bis(1-methylethyl)phenyl]amino]methylene]amino]; and diisocyanato-1,3,5-tris(1-methylethyl) homopolymer (provided for in subheading 2925.19.20)	Free	No change	No change	On or before 12/31/90
9902.29.56	Diphenylguanidine and di-o-tolylguanidine (provided for in subheading 2925.20.30)	Free	No change	No change	On or before 12/31/90

9902.29.57	N,N-Bis(2-cyanoethyl) aniline (provided for in subheading 2926.90.40).....	Free	No change	No change	On or before 12/31/90
9902.29.58	N1-(2-Hydroxyethyl)-2-nitro-1,4-phenylene-diamine (provided for in subheading 2922.19.40).....	Free	No change	No change	On or before 12/31/90
9902.29.59	2,2-Bis(4-cyanatophenyl) (provided for in sub-heading 2929.10.40).....	Free	No change	No change	On or before 12/31/90
9902.29.60	S-(2,3,3'-trichloroallyl)-diisopropylthiocarbamate (provided for in sub-heading 2930.20.50).....	Free	No change	No change	On or before 12/31/90
9902.29.61	3-(4'-Aminobenzamido)-phenyl-ß-hydroxy-ethylsulfone (CAS No. 20241-68-3) (provided for in subheading 2930.90.20).....	Free	No change	No change	On or before 12/31/90
9902.29.62	Paraldehyde, USP grade (provided for in sub-heading 2932.90.50).....	Free	No change	No change	On or before 12/31/90
9902.29.63	Aminomethylphenylpyrazole (Phenylmethylamino-pyrazole) (provided for in subheading 2933.19.10).....	Free	No change	No change	On or before 12/31/90
9902.29.64	6-(3-Methyl-5-oxo-1-pyrazolyl)-1,3-naphthalenedisulfonic acid (Amino-J-pyrazolone) (CAS No. 7277-87-4); and 3-Methyl-1-phenyl-5-pyrazolone (Methylphenyl-pyrazolone) (provided for in subheading 2933.19.10).....	Free	No change	No change	On or before 12/31/90

9902.29.65	1,2-Dimethyl-3,5-diphenylpyrazolium methyl sulfate (Difenzoquat methyl sulfate) (provided for in subheading 2933.19.25)	Free	No change	No change	On or before 12/31/90
9902.29.66	m-Sulfaminopyrazolone (m-Sulfamidophenylmethyl-pyrazolone) (provided for in subheading 2933.19.40)	Free	No change	No change	On or before 12/31/90
9902.29.67	3-Methyl-1-(p-tolyl)-2-pyrazolin-5-one (p-Tolylmethylpyrazolone) (provided for in sub-heading 2933.19.40)	Free	No change	No change	On or before 12/31/90
9902.29.68	Phenylcarbethoxypyrazolone (provided for in sub-heading 2933.19.42)	Free	No change	No change	On or before 12/31/90
9902.29.69	3-Methyl-5-pyrazolone (provided for in sub-heading 2933.19.50)	Free	No change	No change	On or before 12/31/90
9902.29.70	Flecainide acetate (provided for in sub-heading 2933.39.35)	Free	No change	No change	On or before 12/31/90
9902.29.71	Barbituric acid (provided for in subheading 2933.51.10)	Free	No change	No change	On or before 12/31/90
9902.29.72	Butyl 2-[4-(5-trifluoro-methyl-2-pyridinyloxy)-phenoxy]propanoate (provided for in sub-heading 2933.90.20)	Free	No change	No change	On or before 12/31/90
9902.29.73	4,11-Diamino-1H-naphth-[2,3-f]isoindole-1,3,5, 10(2H)-tetrone (CAS No. 128-81-4) (provided for in subheading 2925.19.20)	Free	No change	No change	On or before 12/31/90

9902.29.74	1-[4-(1,1-Dimethylethyl)-phenyl]-4-(hydroxydiphenyl-methyl)-1-piperidinyl-1 butanone (Terfenadone) (provided for in subheading 2933.90.37)	Free	No change	No change	On or before 12/31/90
9902.29.75	1-(3-Sulfopropyl)-pyridinium hydroxide (provided for in sub-heading 2933.39.50)	Free	No change	No change	On or before 12/31/90
9902.29.76	2-n-Octyl-4-isothiazolin-3-one, and mixtures of 2-n-octyl-4-isothiazolin-3-one and application adjuvants (provided for in subheadings 2934.10.50, 3808.90.20 and 3808.90.50 respectively)	Free	No change	No change	On or before 12/31/90
9902.29.77	Dicyclohexylbenzothiazyl-sulfenamide (provided for in subheading 2934.20.50)	Free	No change	No change	On or before 12/31/90
9902.29.78	2-(4-Aminophenyl)-6-methyl-benzothiazole-7-sulfonic acid (provided for in subheading 2934.20.50)	Free	No change	No change	On or before 12/31/90
9902.29.79	2-Amino-N-ethyl-benzenesulfonanilide (provided for in sub-heading 2935.00.10)	Free	No change	No change	On or before 12/31/90
9902.29.80	Sulfamethazine (provided for in subheading 2935.00.30)	Free	No change	No change	On or before 12/31/90
9902.29.81	Sulfaquinoxaline and sulfanilamide (provided for in subheading 2935.00.31)	Free	No change	No change	On or before 12/31/90
9902.29.82	Sulfathiazole (provided for in subheading 2935.00.33 or 3004.90.60)	Free	No change	Free	On or before 12/31/90

9902.29.83	Sulfaguanidine (provided for in subheading 2935.00.35)	Free	No change	No change	On or before 12/31/90
9902.29.84	Sulfapyridine (provided for in subheading 2935.00.35)	Free	No change	Free	On or before 12/31/90
9902.29.85	Acetylsulfaguanidine (provided for in subheading 2935.00.39)	Free	No change	No change	On or before 12/31/90
9902.29.86	2,4-Dichloro-5-sulfamoyl-benzoic acid (provided for in subheading 2935.00.45)	Free	No change	No change	On or before 12/31/90
9902.29.87	N-Ethyl-o-toluene-sulfonamide and N-Ethyl-p-toluenesulfonamide (provided for in subheading 2935.00.47)	Free	No change	No change	On or before 12/31/90
9902.29.88	Cyclosporine (provided for in subheading 2941.90.10 or 3004.20.00)	Free	No change	No change	On or before 12/31/90
9902.30.04	Nicotine resin complex put in measured doses in chewing gum form (provided for in subheading 3004.40.00	Free	No change	No change	On or before 12/31/90
9902.30.05	Iron-dextran complex (provided for in subheading 3004.90.60)	Free	No change	No change	On or before 12/31/90
9902.32.04	3,7-Bis(dimethylamino)-phenazathionium chloride (Methylene blue) (provided for in subheading 3204.13.50)	Free	No change	No change	On or before 12/31/90
9902.36.06	Metaldehyde (provided for in subheading 3606.90.60 or 3808.90.50)	Free	No change	No change	On or before 12/31/90

9902.37.07	Photographic color couplers (provided for in subheading 3707.90.30 or 3707.90.60)	Free	No change	No change	On or before 12/31/90
9902.38.06	Mixtures of dinocap and application adjuvants (provided for in sub-heading 3808.20.10)	Free	No change	No change	On or before 12/31/90
9902.38.07	Mixtures of mancozeb and dinocap (provided for in subheading 3808.20.10)	Free	No change	No change	On or before 12/31/90
9902.38.08	Maneb, zineb, mancozeb, and metiram (provided for in subheading 3808.20.20)	Free	No change	No change	On or before 12/31/90
9902.38.09	Mixtures of 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one (Sethoxydim) and application adjuvants (provided for in sub-heading 3808.30.10)	Free	No change	No change	On or before 12/31/90
9902.38.10	Mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and stabilizers, whether or not containing application adjuvants (provided for in sub-heading 3808.90.20)	Free	No change	No change	On or before 12/31/90
9902.38.11	Mixtures of 1,1-bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol) and application adjuvants (provided for in subheading 3808.90.10)	Free	No change	No change	On or before 12/31/90
9902.38.23	Mixtures containing derivatives of N-[4-(2-hydroxy-3-phenoxypro-poxy)phenyl]acetamide (provided for in sub-heading 3823.90.29)	Free	No change	No change	On or before 12/31/90

9902.39.01	Vinyl acetate-vinyl chloride ethylene terpolymers, containing by weight less than 50 percent derivatives of vinyl acetate, except those polymerized from aromatic or modified aromatic monomers (provided for in subheading 3901.30.00 or 3904.30.00)	Free	No change	No change	On or before 12/31/90
9902.39.14	Cross-linked polyvinyl-benzyltrimethylammonium chloride (Cholestyramine resin USP) (provided for in subheading 3914.00.00)	Free	No change	No change	On or before 12/31/90
9902.39.26	Transparent sheeting of plastics containing 30 percent or more by weight of lead (provided for in subheading 3926.90.90)	Free	No change	No change	On or before 12/31/90
9902.40.08	Plates, sheets, and strip of natural rubber combined with woven fabrics of man-made fibers, for use in the manufacture of skirts for hovercraft (provided for in subheading 4008.21.00)	Free	No change	No change	On or before 12/31/90
9902.40.11	Bicycle tires and tubes and rim strips, the foregoing of rubber or plastics (provided for in subheading 4011.40.00, 4012.90.20, 4012.90.30, or 4013.20.00)	Free	No change	No change	On or before 12/31/90
9902.48.23	Jacquard cards and jacquard heads for power-driven weaving machines, and parts thereof (provided for in subheading 4823.90.85 or 8448.59.50)	Free	No change	No change	On or before 12/31/90
9902.50.05	Yarns, containing 85 percent or more by weight of silk waste, multiple (folded) or cabled (except unbleached or bleached yarns measuring more than 59,267 m/kg) (provided for in subheading 5005.00.00)	Free	No change	No change	On or before 12/31/90

9902.51.01	Unimproved wool; other wool not finer than 46s (all the foregoing provided for in subheadings 5101.11.10 through 5101.11.50, 5101.19.10 through 5101.19.50, 5101.21.10 through 5101.21.35, 5101.29.10 through 5101.29.35 or 5101.30.10 through 5101.30.30).....	Free	No change	Free	On or before 12/31/90
9902.54.02	Colored, multifilament yarns, untwisted or with a twist of less than 5 turns per meter, of not less than 22 decitex per filament, of nylon or modacrylic, to be used in the manufacture of wigs for dolls (provided for in subheadings 5402.41.00 or 5402.49.00)	Free	No change	No change	On or before 12/31/90
	Needle-craft display models, primarily hand stitched, of completed mass-produced kits:				
9902.57.01	Provided for in subheading 5701.10.20, 5701.90.20, 5805.00.25, 5805.00.40, 6302.91.00, 6302.92.00, 6302.93.10, 6302.93.20, 6302.99.20, 6303.19.00, 6303.92.00, 6303.99.00, 6304.92.00, 6304.93.00, 6304.99.15, 6304.99.20, 6304.99.60, 6307.90.85 or 6307.90.90.....	Free	No change	No change	On or before 12/31/90
9902.57.02	Aprons and babies' bibs (provided for in subheading 6111.20.60, 6111.30.50, 6111.90.50, 6114.20.00, 6114.30.30, 6209.20.50, or 6211.42.00).....	Free	No change	No change	On or before 12/31/90

9902.61.00	Sweaters that-- (i) do not contain foreign materials in excess of the percentage of total value limitation contained in general note 3(a)(iv), and (ii) are assembled in Guam, exclusively by United States citizens, nationals, or resident aliens, by joining together (by completely sewing, looping, linking, or other means of attaching) at least 5 otherwise completed major knit-to-shape component parts of foreign origin; and if entered before the aggregate quantity of such sweaters that is entered during any 12-month period after October 31, 1985, exceeds the duty-free quantity for that period	Free	No change	No change	On or before 10/31/92

123. Subheading 9902.62.10 is modified by striking out "12/31/88" and inserting "12/31/90" in lieu thereof.

124. Subchapter II of chapter 99 is further modified by inserting in numerical sequence the following new provisions:

9902.66.03	Frames for hand-held umbrellas chiefly used for protection against rain (provided for in subheading 6603.20.30)	Free	No change	No change	On or before 12/31/90
9902.70.12	Glass inners for vacuum flasks or for other vacuum vessels (provided for in subheading 7012.00.00)	9%	Free (A,E) 3.6% (IL)	55%	On or before 12/31/90

9902.70.13	Kitchenware of glass-ceramics, nonglazed, greater than 75 percent by volume crystalline, of lithium aluminosilicate, having a linear coefficient of expansion not exceeding 10 x 10^{-7} per Kelvin within a temperature range of 0°C to 300°C, transparent, haze-free, exhibiting transmittances of infrared radiations in excess of 75 percent at a wavelength of 2.5 microns when measured on a sample 3 mm in thickness, and containing ß-quartz solid solution as the predominant crystal phase (provided for in subheading 7013.10.10).....	Free	No change	No change	On or before 12/31/90
9902.71.13	Jewelry provided for in subheading 7117.19.10, 7117.19.50 or 7117.90.40 (except parts) valued not over 1.6¢ per piece; and articles provided for in heading 9502, 9503 or 9504 or subheading 9505.90.00 (except balloons, marbles, dice, and diecast vehicles), valued not over five cents per unit.....	Free	No change	No change	On or before 12/31/90
9902.73.12	Cable or inner wire for caliper brakes and casing therefor, whether or not cut to length (provided for in subheading 3917.32.00, 7312.10.05, 7312.10.10, 7312.10.20, 7312.10.30, 7312.10.50, 7312.10.60, 7312.10.70, 7312.10.90 or 7326.90.90).....	Free	No change	No change	On or before 12/31/90
9902.73.15	Bicycle chains (provided for in subheading 7315.11.00).....	Free	No change	No change	On or before 12/31/90
9902.84.42	Power-driven weaving machines for weaving fabrics of a width not exceeding 30 cm (provided for in subheading 8446.10.00).....	Free	No change	No change	On or before 12/31/90

9902.84.43	Offset printing presses of the sheet-fed type weighing 1600 kg or more (provided for in subheading 8443.19.90)...	No change	No change	10%	On or before 12/31/90
9902.84.44	Machines designed for heat-set, stretch texturing of continuous man-made fibers (provided for in subheading 8444.00.00).	Free	No change	No change	On or before 12/31/90
9902.84.45	Carding and spinning machines specially designed for wool, other than machines specially designed for the manufacture of combed wool (worsted) yarns (provided for in subheading 8445.11.00 or 8445.20.00).....	Free	No change	No change	On or before 12/31/90
9902.84.46	Power-driven weaving machines for weaving fabrics more than 4.9 m in width, parts thereof, and auxiliary machinery for use therewith (provided for in subheading 8446.21.00, 8446.30.00, 8448.19.00, 8448.41.00, 8448.42.00, or 8448.49.00).....	Free	No change	No change	On or before 12/31/90
9902.84.47	Hosiery knitting machines, single cylinder fine gauge and all double cylinder (provided for in subheading 8447.11.10, 8447.12.10 or 8447.20.60).....	Free	No change	No change	On or before 12/31/90
9902.84.50	Decorative lace-braiding machines using the jacquard system, parts thereof, and auxiliary machinery for use therewith (provided for in subheading 8447.90.10, 8448.11.00, 8448.19.00 or 8448.59.50).....	Free	No change	No change	On or before 12/31/90

9902.84.51	Needles for knitting machines (provided for in subheading 8448.51.10 or 8448.51.30)	Free	No change	No change	On or before 12/31/90
9902.85.12	Generator lighting sets for bicycles, and parts thereof (provided for in subheading 8512.10.20 or 8512.90.40)	Free	No change	No change	On or before 12/31/90
9902.85.27	Entertainment broadcast band receivers valued not over $40 each (provided for in subheading 8527.19.00 or 8527.32.00) incorporating timekeeping or time display devices, not in combination with any other article, and not designed for motor vehicle installation	Free	No change	No change	On or before 12/31/90
9902.85.40	Television picture tubes, color, having a video display diagonal of less than 29 cm (provided for in subheading 8540.11.00)	Free	No change	No change	On or before 12/31/90
9902.87.14	Caliper brakes, drum brakes, front and rear derailleurs, shift levers, cables and casings for derailleurs, coaster brakes, two-speed hubs with internal gear-changing mechanisms, three-speed hubs, whether or not incorporating coaster brakes, click twist grips, trigger and twist grip controls for three-speed hubs, free wheel sprockets, cotterless type crank sets, frame lugs, and parts of all the foregoing (provided for in subheading 3917.32.00 or heading 7312 or 8714)	Free	No change	No change	On or before 12/31/90

9902.90.90	Parts, not including photoreceptors or assemblies containing photoreceptors, of electrostatic copying machines, which machines operate by reproducing the original image via an intermediate (provided for in subheading 9009.90.00)	Free	No change	No change	On or before 12/31/90
9902.95.01	Stuffed dolls, whether or not dressed, and doll skins for stuffed dolls (provided for in subheading 9502.10.20 or 9502.99.10)	Free	No change	No change	On or before 12/31/90
9902.95.02	Stuffed or filled toy figures of animate objects (except dolls), not having a spring mechanism and not exceeding 63.5 cm in either length, width, or height (provided for in subheading 9503.41.10 or 9503.49.00)	Free	No change	No change	On or before 12/31/90
9902.95.03	Stuffed or filled toy figures of inanimate objects not having a spring mechanism (provided for in subheading 9503.41.10 or 9503.49.00)	Free	No change	No change	On or before 12/31/90
9902.95.04	Skins for stuffed toy figures of animate or inanimate objects (provided for in subheading 9503.41.30)	Free	No change	No change	On or before 12/31/90

125. U.S. note 3 to subchapter III of chapter 99 is modified by striking out "9903.41 and 9903.64" and inserting "9903.41.05 and 9903.41.10" in lieu thereof.

126. U.S. note 4(h)(i)(B) to subchapter III of chapter 99 is modified by striking out "and not less than 0.20 percent nor more than 0.030 percent sulphur;".

127. U.S. note 6 to subchapter III of chapter 99 is modified by striking out "9903.04.55, inclusive," and inserting "9903.04.55, inclusive, subheadings 9903.19.10 and 9903.19.90," in lieu thereof.

128. Subheadings 9903.28.10, 9903.28.15, and 9903.28.20 are each modified by striking out "429,761", "645,208", and "773,374" in the Specified Limit column and inserting "390,856", "621,886", and "757,812", respectively, in lieu thereof.

129. Subheading 9903.72.22 is modified by striking out "24" and "154" in the Quota Quantity column and inserting "48" and "129", respectively, in lieu thereof.

130. U.S. note 4(d) to subchapter IV of chapter 99 is modified by striking out "subheading 9904.40.40" and inserting "subheadings 9904.20.10 and 9904.40.40" in lieu thereof.

131. Subheading 9904.10.54 is modified by striking out "Portugal .. 456 000" in the Quota Quantity column.

132. Subheading 9904.30.70 is delered

[FR Doc. 88-27176

Filed 11-21-88; 11:23 am]

Billing code 3190-01-

federal register

Tuesday
November 22, 1988

Part IX

The President

Federal Register
Vol. 53, No. 225
Tuesday, November 22, 1988

Presidential Documents

Title 3—

The President

Proclamation 5908 of November 18, 1988

To Amend the Quantitative Limitations on Imports of Certain Cheeses

By the President of the United States of America

A Proclamation

1. Import limitations have been imposed on certain cheeses pursuant to the provisions of Section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624). Section 701 of the Trade Agreements Act of 1979, P.L. 96–39 (the "Act"), requires that the President by proclamation limit the quantity of cheese of the types specified therein that may enter the United States in any calendar year after 1979 to not more than 111,000 metric tons.

2. Proclamation No. 4708 of December 11, 1979, established quantitative limitations on imports of such cheeses as required by the Act. Proclamations No. 4811 of December 30, 1980, No. 5425 of January 6, 1986, and No. 5618 of March 16, 1987, modified those quantitative limitations. Such quantitative limitations and allocations for enumerated countries appear in part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) and subchapter IV of chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

3. In order to permit an increase in imports of certain cheeses from Uruguay, the provisions set forth in item 950.10 in part 3 of the Appendix to the TSUS and subheading 9904.10.42 of the HTS must be modified. This modification does not affect any existing quota allocations other than the allocation for Uruguay. This modification increases the annual aggregate quantity of quota cheese allocated to 111,000 metric tons.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States of America, including Section 701 of the Trade Agreements Act of 1979, Section 604 of the Trade Act of 1974, and Section 1204(b) of the Omnibus Trade and Competitiveness Act of 1988, do hereby proclaim that:

A. Item 950.10 in part 3 of the Appendix to the Tariff Schedules of the United States is modified as follows:

The line beginning with "Uruguay" is changed to read as follows:

"Uruguay.....943,569 482,000";

B. Subheading 9904.10.42 of the Harmonized Tariff Schedule of the United States is modified as follows:

The line beginning with "Uruguay" is changed to read as follows:

"Uruguay.....428,000".

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

Ronald Reagan

[FR Doc. 88-27189
Filed 11-21-88; 12:24 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5909 of November 18, 1988

To Designate Guyana as a Beneficiary Country for Purposes of the Caribbean Basin Economic Recovery Act

By the President of the United States of America

A Proclamation

1. Section 212 of the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2702) authorizes the President to designate the countries, territories, or successor political entities thereto that will be beneficiary countries for purposes of the CBERA (19 U.S.C. 2701 *et seq.*). Such countries are entitled to duty-free entry of eligible articles imported directly therefrom into the customs territory of the United States. I am now adding Guyana to the list of beneficiary countries. I have notified the House of Representatives and the Senate of my intention to designate this country and communicated to them the considerations entering into my decision.

2. Section 604 of the Trade Act of 1974 (19 U.S.C. 2483) confers authority upon the President to embody in the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) the substance of the relevant provisions of that Act, of other acts affecting import treatment, and of actions taken thereunder. Section 1204(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. No. 100–418) directs the President to proclaim such modifications to the Harmonized Tariff Schedule of the United States (HTS), as enacted by section 1204 of that Act, as are necessary or appropriate to implement the applicable provisions of Executive actions taken after January 1, 1988, and before the effective date of the HTS.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including but not limited to sections 211 through 213 of the Caribbean Basin Economic Recovery Act, section 604 of the Trade Act of 1974, and section 1204 of the Omnibus Trade and Competitiveness Act of 1988, do proclaim that:

(1) General headnote 3(e)(vii)(A) to the TSUS, listing those countries designated as beneficiary countries for purposes of the CBERA, is modified by inserting in alphabetical sequence "Guyana".

(2) General note 3(c)(v)(A) to the HTS, listing those countries designated as beneficiary countries for purposes of the CBERA, is modified by inserting in alphabetical sequence "Guyana".

(3)(a) The amendment made by paragraph (1) of this Proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after November 24, 1988.

(b) The amendment made by paragraph (2) of this Proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 1989.

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

Ronald Reagan

[FR Doc. 88-27190
Filed 11-21-88; 12:25 pm]
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Presidential Documents

Proclamation 5910 of November 18, 1988

National Adoption Week, 1988

By the President of the United States of America

A Proclamation

The family, society's most fundamental unit, is part of God's design for human happiness. Belonging to a family is a natural and vital component of life, and every child deserves to be a member of a loving and nurturing family. For many children, this becomes possible through life in an adoptive family. That is good reason for all Americans to celebrate adoption and to commend and cooperate with those in the private sector and public service who work to find loving, lasting homes for waiting youngsters.

For some children, the waiting is much too long. More than 30,000 children now in foster care are in need of permanent homes. Most of these fine youngsters have special needs; some are of school age, in sibling groups, members of minorities, or affected by physical, mental, or emotional disabilities. But all of them have two things in common—they need families of their own, and they have great love to offer new parents. We can all learn much from the wonderful experiences of adoptive families already blessed with special-needs adoptive children.

We know, however, that the waiting is long for many prospective parents as well. Thousands of marriages in our country are childless, and many families are anxious to adopt. Many single people also desire to know the happiness of adoption. Adoption brings immeasurable joy to adopted children and adoptive parents alike. It also gives us cause for hope—that more youngsters will find lasting homes and that ever more Americans will find within themselves the generosity, courage, and love to make adoption their personal alternative to the cruelty of abortion. Prolife pregnancy counseling centers exist in cities and towns across our land to help mothers choose life for their unborn infants. These mothers give their babies not only the gift of birth but also the gift of a bright future with a loving adoptive family. These brave women, and those who decide to raise their babies themselves, deserve our admiration, friendship, and help while they are expecting and after.

There is more each of us can do to encourage adoption, from making our neighbors and communities aware of this option to making room in our own homes for special-needs children and adoptive infants. As a Nation, we must continue to promote adoption and to eliminate barriers to it. We must also offer our appreciation and encouragement to the millions of our fellow citizens—such as adoption caseworkers, foster care supervisors, judges, lawyers, clergy and religious, physicians, teachers, pregnancy counselors, and countless volunteers—who help children and families with adoption. In this way we can aid more and more Americans in discovering the special joy of building a family through adoption.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of November 20 through November 26, 1988, as National Adoption Week. I call upon all Americans to observe this week with appropriate programs, ceremonies, and activities.

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

Ronald Reagan

[FR Doc. 88-27191
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Reader Aids

Federal Register

Vol. 53, No. 225

Tuesday, November 22, 1988

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-5237

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

43999-44166.....1
44167-44372.....2
44373-44584.....3
44585-44852.....4
44853-45058.....7
45059-45248.....8
45249-45442.....9
45443-45750.....10
45751-45880.....14
45881-46078.....15
46079-46426.....16
46427-46600.....17
46601-46842.....18
46843-47178.....21
47179-47490.....22

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.

3 CFR

Proclamations:
5892.....44167
5893.....44169
5894.....45059
5895.....45061
5896.....45063
5897.....45239
5898.....45241
5899.....45243
5900.....45251
5901.....45253
5902.....45255
5903.....45439
5904.....45441
5905.....45443
5906.....45881
5907.....45883
5908.....47485
5909.....47487
5910.....47489
5911.....47413

Executive Orders:
12655.....45445
1557 (Revoked by PLO 6688).....46871
7127 (Revoked in part by PLO 6688).....46871

Administrative Orders:
Memorandums:
Oct. 26, 1988.....43999
Notices:
Nov. 8, 1988.....45750
Presidential Determinations:
No. 89-1 of Oct. 3, 1988.....44373
No. 89-2 of Oct. 5, 1988.....45249
No. 89-3 of Oct. 13, 1988.....44375
No. 89-4 of Oct. 20, 1988.....44377
No. 89-5 of Oct. 24, 1988.....46601
No. 89-6 of Oct. 31, 1988.....46427

5 CFR

330.....45065
351.....45065
550.....45885
630.....45886
890.....45069
1200.....46843

7 CFR

2.....45257, 46429
250.....46079
272.....44171
275.....44171
301.....44172, 45071, 46844
405.....46845
440.....46847
441.....46847
451.....46848, 46849
454.....46850
760.....44001
780.....45073
910.....44002, 44585, 45751, 45753, 46603
928.....44551
984.....45754
1099.....44853
1430.....45887
1610.....44173
1736.....44174
1944.....44176
1951.....44177, 45755
1956.....45887
1980.....45257

Proposed Rules:
Ch. III.....45484
1c.....45661, 46745
34.....44591
52.....45908
300.....44199
301.....45274
907.....44925
908.....44925
919.....44407
948.....44591
971.....45767
989.....45100
1076.....46875
1106.....44593
1709.....44594
1718.....44887
1750.....47394
1751.....47394
1951.....44013
3015.....44716
3016.....44716

8 CFR

214.....46850
274a.....46850

9 CFR

11.....44585, 45854
77.....46080
78.....44179
307.....46429
308.....46429
310.....45888
381.....46855

Proposed Rules:
54.....44200
301.....44818
302.....44818
303.....44818
305.....44818
306.....44818
307.....44818
308.....44818

312.....44818
314.....44818
316.....44818
317.....44818
318.....44818
320.....44818
322.....44818
325.....44818
327.....44818
331.....44818
335.....44818
381.....44818

10 CFR

2.....45447
50.....45890
55.....46603
70.....45447
73.....45447
1013.....44379

Proposed Rules:

2.....44411
19.....45768
20.....44014
21.....44594
50.....44594
600.....44716
745.....45661, 46745
785.....44602

12 CFR

202.....45756
229.....44324, 44325
552.....44394
571.....45454
614.....45076
615.....45076
618.....45076

Proposed Rules:

Ch. V.....44436
229.....44335, 44343, 44352, 46976
522.....44437
563.....45484
613.....44438
614.....44438, 45101
615.....44438
616.....44438
618.....44438
619.....44438

13 CFR

Proposed Rules:

143.....44716

14 CFR

21.....47394
36.....47394
39.....44156, 44160, 44180, 45892–45897, 46333–46444, 46605, 46862–46867, 47179, 47180
61.....47024
63.....47024
65.....47024
67.....44166
71.....44145, 44586, 44587, 45076, 45186, 45757, 46605, 46868, 47181, 47182
73.....45258, 45758
97.....45077, 47183
99.....44182
121.....44182, 47024
135.....47024, 47362
139.....44588
145.....47362
150.....44554
156.....46869
217.....46284
241.....46284
1203.....45259

Proposed Rules:

Ch. I.....44202, 45771
21.....45771, 46622
25.....45771, 46622
39.....44163, 44610, 44612, 45911, 46460–46473, 46876, 46877
71.....44613, 45274, 47222, 47223
73.....45187
1230.....45661, 46745
1270.....44716

15 CFR

771.....45899
773.....45899
774.....45899
775.....44002
779.....44855

Proposed Rules:

Ch. VII.....45912
24.....44716
27.....45661, 46745
774.....46878

16 CFR

429.....45455
1306.....46828
1500.....46828

Proposed Rules:

13.....44014, 44888
303.....45913
433.....44456
1028.....45661, 46745
1031.....44892
1032.....44892

17 CFR

30.....44856

Proposed Rules:

1.....46089
230.....44016
270.....45275

18 CFR

11.....45758
154.....44004, 45758
157.....44004, 45758
260.....44004, 45758, 45899
271.....44007
284.....44004, 45758
381.....44182
382.....46445
385.....44004, 45758
388.....44004, 45758
410.....45260
420.....45260

Proposed Rules:

292.....44458

19 CFR

4.....46081
111.....44186
113.....44186, 45901

Proposed Rules:

4.....44459
10.....45485
101.....44459, 46623
113.....45917
123.....44459
141.....45485
148.....44459
152.....46625, 46626
177.....46474
210.....44463, 44900

20 CFR

361.....45261
365.....44976
404.....44551

Proposed Rules:

218.....44477
404.....45186, 46628
410.....46628
416.....45186, 46628
422.....46628
655.....46093, 46187

21 CFR

Ch. I.....44861
177.....44009, 47184
178.....44397, 47185
182.....44862
184.....44862
312.....44144
314.....44144
520.....45759
522.....45759
558.....44009
872.....46040
874.....46040
878.....46040
884.....46040
886.....46040
888.....46040
892.....46040

Proposed Rules:

50.....45678, 46746
56.....45678, 46746
103.....45854
182.....44904
184.....44904
310.....46204
331.....46190
341.....45774
343.....46204
357.....46194
369.....46204
510.....46976
801.....44551

22 CFR

502.....45079

Proposed Rules:

34.....46880
135.....44716
225.....45661, 46745
226.....44716
518.....44716

24 CFR

24.....45903
235.....46084
570.....44186
885.....45265
904.....44876
905.....44876
913.....44876
960.....44876
966.....44876

Proposed Rules:

14.....44992
60.....45661, 46745
85.....44716
100.....44992
103.....44992
104.....44992
105.....44992
106.....44992
109.....44992
110.....44992
115.....44992
121.....44992
280.....45216
813.....44288
885.....44288
888.....44616

25 CFR

102.....44010

26 CFR

Proposed Rules:

1.....45917, 45942
601.....44716

27 CFR

250.....45266
275.....45266

Proposed Rules:

5.....47224

28 CFR

2.....45903, 46869, 47186, 47187
31.....44366, 44370

Proposed Rules:

2.....48950
46.....45661, 46745
66.....44716

29 CFR

516.....45706, 46530
530.....45706, 46530
1910.....45080, 47188
2610.....45904
2676.....45906

Proposed Rules:

97.....44716
524.....45657
525.....45657
529.....45657
1470.....44716
1926.....45102

30 CFR

15.....46748
56.....44588
57.....44588
75.....46768
206.....45082, 45760
700.....44356
701.....45190, 46976, 47378
773.....44144, 44694
780.....45190, 46976
784.....45190, 46976
785.....47384
815.....45190, 46976
816.....45190, 46976
817.....45190, 46976
827.....47384
914.....45459

Proposed Rules:

50.....45878
56.....45487
57.....45487
914.....47224
931.....44202
935.....47225

31 CFR

500 44397
515 44398

Proposed Rules:

103 ..... 45774, 46634

32 CFR

95 45085
159 44877
199 45461
356 46446
651 46322
706 45269
1293 45462

Proposed Rules:

199 44909
219 ..... 45661, 46745
279 44716
806b 45776
863 45777

33 CFR

110 44399
117 ..... 46448, 46870
165 44878

Proposed Rules:

117 ..... 44038, 46885
151 44617
155 44617
158 ..... 44617, 46977
334 47226

34 CFR

316 45730
318 45730

Proposed Rules:

74 44716
80 44716
97 ..... 45661, 46745
237 46072
250 46404
251 46411
252 46404
253 46404
254 46404
255 46404
256 46404
257 46404
258 46404
280 45874
307 47466
659 46416
757 44578
758 44578

36 CFR

Proposed Rules:

251 44144
1206 44716
1207 44716
1250 44203
1254 44203

38 CFR

3 ..... 45906, 46606
17 46606
36 44400

Proposed Rules:

1 45944
3 ..... 46634, 46635
16 ..... 45661, 46745
43 44716

39 CFR

111 44187

40 CFR

52 ..... 44189, 44191, 45763, 46608, 47188, 47189
60 ..... 45764, 46614
61 ..... 45764, 46614, 46976
180 ..... 44401, 46085
185 44401
186 44401
228 44976
253 46558
262 45089
280 44976
281 44976
704 46745
712 46262
716 ..... 45656, 46262, 46746

Proposed Rules:

26 ..... 45661, 46745
30 44716
33 44716
52 ..... 44485, 44487, 44491, 44494, 44495, 44911, 45103, 45285, 46093–46096, 46636
81 44912
180 46098
185 45946
186 45946
228 ..... 44617, 44620, 45519
261 ..... 45106, 45112, 45523, 45948
270 46474
721 47228
761 45288
795 45289
799 ..... 45289, 47228

41 CFR

101–40 47191
101–44 47197
201–1 47198
201–2 47198
201–23 47198
201–24 47198

42 CFR

57 ..... 46546, 46552
405 47199
406 47199
407 47199

Proposed Rules:

50 45781
57 44496
60 44913

43 CFR

3160 46798

Proposed Rules:

12 44716
2200 45782

Public Land Orders:

6688 46871

44 CFR

8 47210
11 47210
63 44193
64 ..... 44193, 46449

Proposed Rules:

13 44716
67 ..... 44915, 46478
221 47232

45 CFR

801 45247

Proposed Rules:

3 46886
46 ..... 45661, 46745
74 44716
92 44716
603 44716
670 45119
690 ..... 45661, 46745
1157 44716
1174 44716
1184 44716
1234 44716
1304 47235
1305 47235
1308 47235
2015 44716

46 CFR

Ch. I 46871
4 47064
5 47064
16 47064
31 44010
70 44010
90 44010
107 44010
188 44010
581 44879

Proposed Rules:

25 44617
221 44206
390 ..... 45783, 46977
585 44039
587 44039
588 44039

47 CFR

1 ..... 44195, 44196
13 46454
15 46615
22 47212
43 44196
73 ..... 44197, 44198, 44404, 44405, 45094, 45095, 45479–45482, 46085–46087, 47213
76 46615
80 46454
90 44144
95 44144

Proposed Rules:

22 44207
73 ..... 44208–44210, 44502–44504, 45127, 45523, 45524, 45948, 46099, 47235
80 44210
90 45128

48 CFR

201 46455
215 46455
216 46455
227 44975
242 46455
245 46455
247 46455
252 44975
253 46455
307 44551
332 44551
852 46872
1828 45095
1852 45095
2401 46532
2402 46532
2406 46532
2409 46532
2412 46532
2413 46532
2414 46532
2415 46532
2416 46532
2419 46532
2422 46532
2424 46532
2426 46532
2427 46532
2432 46532
2434 46532
2437 46532
2442 46532
2446 46532
2451 46532
2452 46532
2453 46532

Proposed Rules:

14 46792
15 46792
28 44564
47 45742
52 ..... 44564, 45742, 46792
53 44564
552 45293
932 45294
952 45294

49 CFR

40 47002
199 47084
217 47102
219 47102
391 47134
394 47134
395 44588
653 47156
1004 47219
1041 47219
1042 47219
1140 46087
1152 45765
1201 46619

Proposed Rules:

11 ..... 45661, 46745
18 44716
171 45868
172 ..... 45525, 45868
173 ..... 45525, 45868
174 45868
175 45868
176 45868
177 45868
178 45868
179 45868
571 ..... 44211, 44623, 44627, 45128
574 44632
575 45527

50 CFR

17 ..... 45858, 45861
20 ..... 44589, 44695
380 46872
642 45097
644 45098
655 45784
658 ..... 45270, 46745
672 44011

Proposed Rules:

16 45788
17 ..... 45788, 46479
18 45788
20 45296

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List November 21, 1988