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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 959 and 980

[FV-89-010]

Onions Grown in South Texas and Onions Imported Into the United States; Change in Effective Period of Handling Regulation and Import Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes the effective period of the handling regulation for onions grown in South Texas to March 1 through May 20. The current period is from March 10 through June 15 of each season with all but container requirements terminating on May 31. Earlier maturing varieties have enabled producers and handlers to harvest and ship earlier to take advantage of generally higher prices in early spring. The committee believes changing the effective period of quality requirements will help to maintain the quality of such early shipments. Terminating the handling regulation on May 20 will relieve restrictions on handlers during the latter part of the season. The onion import regulation also will be amended to make appropriate conforming changes.

EFFECTIVE DATE: March 1, 1989.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone: (202) 447–2431.

SUPPLEMENTARY INFORMATION: This rule is effective under Marketing Agreement No. 143 and Marketing Order No. 959 (7 CFR Part 959), both as amended, regulating the handling of onions grown in designated counties of South Texas. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

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

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

There are approximately 35 handlers of South Texas onions subject to regulation under the marketing order, and approximately 75 onion producers in the South Texas production area. Also, there are about 25 onion importers subject to the requirements of the onion import regulation. The Small Business Administration (13 CFR 121.2) has defined small agricultural producers as those having annual gross revenue for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of South Texas onions and importers of onions may be classified as small entities.

The South Texas Onion Committee met on October 19, 1988, and unanimously recommended a change in the effective period of the handling regulation. The regulation currently begins March 10 and ends June 15 of each season, with all but container requirements terminating on May 31.

The committee proposed beginning the effective period 10 days earlier, on March 1 of each season. In recent years, several new varieties of onions have been developed that mature slightly earlier than older varieties in general use. The Texas spring crop provides the first new-crop onions for each season, previous shipments being drawn from storage stocks. Because of this, prices at the beginning of the spring season tend to be higher than later in the season. Thus, earlier maturing varieties can give shippers a competitive advantage by providing them with a product to ship when prices are the highest.

Moreover, because of a university-conducted selective onion breeding program that has been carried on for over a decade, even earlier varieties may soon be developed. Although early March shipments are not usually heavy relative to mid-season volume, they are, nevertheless, significant. The committee believes that the marketing order standards of quality should apply especially to early onions to forestall shipments of poorer quality produce.

The committee also recommended changing the termination date of all provisions of the regulation from June 15 to May 20. This will be of particular benefit to the late shippers, principally those from the Laredo and Winter Garden districts. The early and mid-season crop is produced in the Lower Rio Grande Valley, which generally accounts for about 85 percent of the total. Shipments in the 1987–88 season totaled 5,731,267 fifty-pound equivalent bags. The remaining crop, generally 15 percent, is produced in the Laredo and the Winter Garden districts. Shipments in the 1987–88 season from those districts totaled 915,278 fifty-pound equivalent bags. These are the last regulated shipments to leave the production area each season. Shipments made towards the end of the season tend to bring lower, and sometimes much lower, prices, hence lower returns to growers. Moreover, inspection costs tend to be higher due to the distance of the Laredo and Winter Garden district handlers from Federal-State inspection facilities. Relieving handling restrictions during the latter part of the season when prices are generally low will be of benefit to late producers and handlers and is not expected to adversely affect the overall objectives of the program.

Section 8e of the Agricultural Marketing Agreement Act of 1937 requires that when certain domestically produced commodities, including onions, are regulated under a Federal marketing order, imports of that

commodity must meet the same or comparable grade, size, quality, or maturity requirements. Section 8e also provides that whenever two or more marketing orders regulating a commodity produced in different areas of the United States are concurrently in effect, the Secretary shall determine which of the areas produces the commodity in most direct competition with the imported commodity. Imports then must meet the quality standards set for that particular area.

In the case of onions, the current onion import regulation (7 CFR 980.117) specifies that import requirements be based on those in effect for onions produced in designated counties in Idaho and Malheur County, Oregon (7 CFR Part 958) during the period June 1 through March 9 and on those produced in South Texas (7 CFR Part 959) during the period March 10 through May 31 of each year.

Changing the beginning date of the South Texas onion handling regulation will have no effect on the import regulation. Although the South Texas handling regulation will begin March 1, it is found that onions from Idaho and Eastern Oregon will continue to be predominant in the marketplace and in direct competition with imported onions, primarily from Mexico, from March 1 through March 9 each season. Accordingly, no change to the import regulation is necessary based upon the earlier beginning of the South Texas handling regulation.

However, the termination of the South Texas handling regulation on May 20 rather than June 1 does affect the import regulation. Since there will be no Texas onion handling regulation in effect during the period May 21 through May 31, the requirements of the Idaho-Oregon program will prevail. Therefore, it is found that imports are in most direct competition with Idaho and Eastern Oregon onions for the period May 21 through March 9 and South Texas onions for the period March 10 through May 20. Accordingly, onion import requirements will change to those grade and size requirements established under the marketing order regulating certain designated counties in Idaho and Malheur County, Oregon, for the period May 21 through March 9 each year, and to those grade and size requirements established under the marketing order regulating onions grown in South Texas for the period March 10 through May 20 each year.

A change is therefore made in the language of § 980.117 and paragraph (h) *Applicability to imports* of § 959.322.

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

Notice of these actions was given in the January 31, 1989, **Federal Register** [54 FR 4828] providing interested persons until February 15, 1989, to file written comments.

Two comments were filed pertaining to the proposed change in the onion import regulation. The comment received from the Idaho-Oregon Fruit and Vegetable Association was in favor of the proposed change.

The other comment, filed on behalf of the South Texas Onion Committee, opposed the proposal that onion import requirements continue to be based on those in effect for onions grown in Idaho and Oregon through March 9. The committee expressed the view that the import requirements should be based on those established for South Texas onions beginning March 1 because onion imports from Mexico are in most direct competition with onions produced in Texas and are intermingled with Texas onions in distribution channels.

An analysis of USDA Market News data reveals that few, if any, South Texas onions are shipped during the first nine days of March. On the other hand, movement of Idaho-Eastern Oregon onions during this period is significant, and onions from this source are prevalent in most major markets including Dallas, Los Angeles, St. Louis, Denver, and Atlanta. These are important markets for Mexican onions as well. Shipments of South Texas onions typically do not begin in volume until mid-March. It is therefore concluded that imported onions are currently in most direct competition with Idaho-Eastern Oregon onions through March 9. However, it is recognized that shipments from South Texas may begin earlier in future seasons, and a change in the import requirements could become necessary.

After consideration of all relevant information, including the proposal set forth in the notice and comments filed with respect thereto, it is hereby found that the rule as hereinafter set forth will tend to effectuate the declared policy of the Act.

It is hereby further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of onions grown in the production area are expected to begin about March 1, (2) to maximize benefits to the industry this regulation should apply to as many shipments as possible during the marketing season, (3) the action was proposed at an open meeting of onion producers and handlers in the production area, and (4) compliance with this regulation requires no special preparation on the part of handlers.

List of Subjects

7 CFR Part 959

Marketing agreements and orders, Onions, South Texas.

7 CFR Part 980

Vegetables, Import regulations, Onions.

For the reasons set forth in the preamble, 7 CFR Parts 959 and 980 are hereby amended as follows:

1. The authority citation for 7 CFR Parts 959 and 980 continues to read as follows:

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

PART 959—ONIONS GROWN IN SOUTH TEXAS

2. Section 959.322 is amended by revising the introductory paragraph and the first sentence of paragraph (i) up through the second comma to read as follows:

§ 959.322 Handling regulation.

During the period beginning March 1 and ending May 20, no handler shall package or load onions on Sunday, or handle any onions, except red varieties, unless they comply with paragraphs (a) through (d) or (e) or (f) of this section.

* * * * *

(i) *Applicability to imports.* During the period beginning March 10 and ending May 20, of each year, * * *

PART 980—VEGETABLES; IMPORT REGULATIONS

3. Section 980.117 is amended by revising paragraphs (a)(2) and (b)(1) and (2) to read as follows:

§ 980.117 Import regulations; onions.

(a) * * *

(2) Therefore, it is hereby determined that: Imports of onions during the May 21 through March 9 period are in most direct competition with the marketing of onions produced in designated counties of Idaho and Malheur County, Oregon, covered by Marketing Order No. 958, as amended (7 CFR Part 958), and during the March 10 through May 20 period the marketing of imported onions is in most direct competition with onions produced in designated counties in South Texas covered by Marketing Order No. 959, as amended (7 CFR Part 959).

(b) * * *

(1) During the period May 21 through March 9 of each marketing year,

whenever onions grown in designated counties in Idaho and Malheur County, Oregon, are regulated under Marketing Order No. 958, imported onions shall comply with the grade, size, quality, and maturity requirements imposed under that order.

(2) During the period March 10 through May 20 of each marketing year, whenever onions grown in designated counties in South Texas are regulated under Marketing Order No. 959, imported onions shall comply with the grade, size, quality, and maturity requirements imposed under that order.

* * * * *

Dated: February 24, 1989.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-4731 Filed 2-28-89; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1809, 1922, 1944, 1945 and 1965

Appraisal of Single Family Residential Property

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its appraisal regulations to reflect minor changes in appraisal regulation content. The changes enhance and strengthen the Agency's internal appraisal process and improve the overall quality of single family housing appraisals. The intended effect of this action is to improve FmHA appraisal regulations regarding the use of comparable sales data and to adopt a new appraisal format common to the real estate lending industry, including other federal government agencies.

EFFECTIVE DATE: March 31, 1989.

FOR FURTHER INFORMATION CONTACT: Neal A. Hayes, Jr., Senior Loan Specialist, Home Ownership Branch, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5344, South Agriculture Building, 14th Street and Independence Avenue SW., Washington, DC 20250, telephone (202) 382-1474.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Department Regulation 1512-1 which implements Executive Order 12291, and has been classified as "nonmajor." This action will result in an annual effect on the economy of less than $100 million and will neither result in a major increase in cost or prices, nor adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. There is no impact on proposed budget levels, and funding allocations will not be affected because of this action.

In accordance with the Regulatory Flexibility Act (Pub. L. 96-354), Neal Sox Johnson, Acting Administrator, FmHA, has determined that this action will not have a significant economic impact on a substantial number of small entities because the proposed regulation changes primarily affect residential appraisal processing by FmHA staff appraisers.

Subpart C of Part 1922 is amended to incorporate internal management changes which affect the use of comparable sales data, Marshall and Swift "Square Foot Appraisal Form" form number changed from AP 1007 to 1007, changes incorporated in Form FmHA 1922-8, currently titled "Residential Appraisal Report" and renamed to "Uniform Residential Appraisal Report", and including minor changes in appraisal regulation content.

Background

A proposed rule published in the **Federal Register** (53 FR 23406) on June 22, 1988, invited the public to submit written comments for the Agency to consider with regard to the development of the final rule. Eight (8) sets of comments were received from interested persons representing Professional Real Estate Appraiser Organizations, Professional Surveyors and FmHA employees.

Discussion of Comments

1. One respondent suggested changes to the provisions of § 1922.101 concerning employee appraisal authorizations versus employee demonstration of skills and training, prior to a State Director review and delegation of appraisal authority to the employee.

The Agency believes that § 1922.101 provides State Directors with the necessary administrative controls and flexibility to institute and establish an on-going appraisal review and training program which meets the overall objectives of the regulation. Therefore, the suggested changes were not adopted by the Agency at this time.

2. One respondent recommended modification to § 1922.101(c) relative to providing photographs of the subject property. Section 1922.101(c) was modified and deletes reference to photographs.

Section 1922.105(c)(6) sets forth the photographic requirements for the completion of all residential appraisals.

3. One respondent expressed concern over dwelling repair policy contained in Subpart C of Part 1965 of this chapter versus § 1922.101(c) requirements on the completion of residential appraisals on an "as developed" basis.

The respondent's concern is a loan processing issue under Subpart A of Part 1944 of this chapter. The comment is appreciated but is beyond the scope of the changes proposed at this time. It is suggested that the respondent provide comment in accordance with the pending major revisions to Subpart A of Part 1944, which will be published in the **Federal Register** as a proposed rule at later date.

4. One respondent suggested changes to the definitions of appraisal terms contained in § 1922.102.

The Agency adopted the suggested change for the definition of depreciated replacement cost and modified § 1922.102(f) by inserting the words "less deductions for depreciation" between the words "cost" and "of" in the text. Suggested definition changes on final reconciliation/estimated value, program definition of dwelling size, highest and best use of the site, including additional definitions presently not contained in § 1922.102, were not adopted by the Agency. The provisions of § 1922.102 will adequately serve the Agency's residential appraisal process and additional modification is not necessary at this time.

5. Two respondents suggested changes to § 1922.105 concerning photographs, inspection and property information gathered in evaluating the subject property.

Photographs of the subject property are adequately addressed in § 1922.105(c)(6) of the regulation. The necessity to require photographs which provide front, rear and side views of the property will enhance the overall quality of the residential appraisal process, including off-site appraisal reviews conducted by the Agency.

Realignment and/or consolidation of § 1922.105(c)(4) with § 1922.105(c)(2) and § 1922.105(c)(3) versus § 1922.105(b)(3), was not adopted by the Agency. These suggestions will be evaluated and considered in the next major rewrite of the regulation.

6. One respondent suggested that § 1922.105(a) be revised to stipulate that information gathered by an appraiser, as defined in § 1922.101(a) for the completion of an appraisal assignment in accordance with the provisions of § 1922.104(a)(10), § 1922.105(1)(ii) and

§ 1922.105(3)(i–vii), be provided by a licensed or registered professional surveyor in accordance with applicable State law.

Our Agency believes that § 1922.105(a) does not require additional revision at this time. Information required to perform an appropriate evaluation of a residential appraisal assignment is usually provided by the realtor, contractor, seller and/or purchaser involved in the real estate transaction. Expense and procurement of such information is the burden of the parties associated with the real estate transaction who are seeking financial assistance from our Agency.

Legal descriptions (deeds), professional property surveys and additional site information is obtained from official Court House records and or other State and Federal Agencies, to validate the authenticity of the information which is incorporated into the residential appraisal.

FmHA appraisers are not authorized to perform professional property surveys in conjunction with their assigned duties while employed by the Agency. In addition, a potential conflict of interest situation would exist in the event FmHA appraisers were licensed in accordance with applicable State law and permitted to conduct a professional property survey in conjunction with a residential appraisal assignment. Therefore, our Agency believes that the intent of § 1922.105(a) is clear and adequate training has been provided to all FmHA appraisers regarding the compilation of documentation needed to complete residential appraisal assignments.

7. Six respondents recommended changes to § 1922.107(a)(1) concerning short-lived and long-lived depreciation on residential properties.

The Agency has modified its regulation in response to these recommendations to require physical depreciation estimates in structures with an effective age of 5 years in lieu of the proposed effective age of 1 year. In addition, the Agency modified the last sentence in § 1922.107(a)(1) to read as follows:

"Short-lived and long-lived depreciation schedules will be completed on comparable properties, provided the effective age is over 5 years and the appraiser gains access into the property to validate the condition and actual age of the short-lived components. If access to the property cannot be obtained, document accessibility on Form FmHA 1922–12. (Refer to Form FmHA 1922–12, reverse side.)".

8. One respondent recommended changes to § 1922.107(b), relative to depreciation entries in the sales comparison section of Form FmHA 1922–8 and Form 1007.

The Agency adopts the recommendation and modifies all references in § 1922.107(b) which currently read as "will be" to read as "is also".

9. Four respondents recommended that § 1922.109(a) retain the District Director exception authority to grant the use of FmHA comparable sales data. In addition, one respondent expressed concern that the Agency utilize FmHA financed comparable sales provided appropriate adjustments were made to reflect financing terms.

The Agency decision to grant exception authority at the National Office level, as proposed in the regulation, will strengthen the overall internal management of residential appraisals and promote improvement in the management of the comparable sale data base. FmHA financed comparable sales may be authorized in accordance with the provisions of the regulations set forth in the proposed rule.

10. One respondent recommended changes in § 1922.109(a) concerning the sequence of adjustments to comparable sales data.

The Agency adopts the recommendation to reflect initial adjustments for financing concessions, time of sale, location and physical characteristics, in accordance with the chronological order of adjustment categories identified on Form FmHA 1922–8.

11. One respondent expressed concern regarding § 1922.109(c), which introduces the Income Approach used in conjunction with FmHA inventory properties classified as "non-program."

FmHA inventory properties classified as "non-program' are typically sold to investors for rental purposes. Therefore, the Income Approach which is incorporated into the FmHA residential appraisal process, will enable the appraiser to make necessary adjustments for real estate market trends attributed to income producing properties.

12. Two respondents suggested that § 1922.110 accommodate flexibility in the utilizaiton of the income approach to value, including the final reconciliation/estimated market value section, when completing non-program residential appraisals.

The Agency believes that Exhibit B, of this subpart, provides adequate guidance and flexibility on the income approach to value on non-program residential property. § 1922.110(d) was changed to accommodate the reconciliation of the three approaches to value for non-program residential appraisals. Additional language was added to this section which reads as follows:

"Non-program property appraisals, utilizing the income approach to value in accordance with Exhibit B, of this subpart, will have the estimated market value documented in the reconciliation section of Form FmHA 1922–8. Non-program property appraisals which do not utilize the income approach to value due to a lack of comparable sales data will have the final reconciliation/estimated market value derived from the sales comparison and cost approaches to value".

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.410, "Low Income Housing Loans (Section 502 Rural Housing Loans)." For the reasons set forth in the Final Rule related Notice to 7 CFR Part 3015, Subpart V, 48 FR29115, June 24, 1983, this program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the qualifty of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Parts 1809, 1922, 1944, 1945, and 1965

Loan programs—Agriculture, Real property—Appraisals, Rural areas, Loan programs—Housing and community development, Low and moderate income housing, Rural housing, Home improvement, Low and moderate income housing—Rental, Mobile homes, Mortgages, Subsidies, Agriculture, Disaster assistance, Administrative practice and procedure and Foreclosure.

Therefore, Chapter XVIII, Title 7 of the Code of Federal Regulations is amended as follows:

1. The authority citations for the Parts 1809, 1944, 1945, and 1965 continue to read as follows:

PART 1809—[AMENDED]

Authority: 7 U.S.C. 1989; 42 U.S.C. 1460; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

PART 1944—[AMENDED]

Authority: 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

PART 1945—[AMENDED]

Authority: 7 U.S.C. 1989; 42 U.S.C. 1980; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

PART 1965—[AMENDED]

Authority: 7 U.S.C. 1989; 42 U.S.C. 1980; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

CHAPTER XVIII—[AMENDED]

2. 7 CFR Chapter XVIII is amended by changing the title of Form FmHA 1922–8 from "Residential Appraisal Report" to read "Uniform Residential Appraisal Report" in the following places:

§ 1809.1 [Amended]

(a) Part 1809, Subpart A, § 1809.1(b).

§ 1944.30 [Amended]

(b) Part 1944, Subpart A, § 1944.30(a).

§ 1945.175 [Amended]

(c) Part 1945, Subpart D, § 1945.175(c)(1).

§ 1965.12 [Amended]

(d) Part 1965, Subpart A, § 1965.12(f).

§ 1965.65 [Amended]

(e) Part 1965, Subpart B, § 1965.65(f)(12).

§ 1965.110 [Amended]

(f) Part 1965, Subpart C, § 1965.110(c).

PART 1922—GENERAL

3. The authority citation for Part 1922 is revised to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

4. Subpart C of Part 1922 is revised to read as follows:

Subpart C—Appraisal of Single Family Residential Property

Sec.

1922.101 General.
1922.102 Definition of appraisal terms.
1922.103 [Reserved]
1922.104 Influences on value.
1922.105 Steps preliminary to writing the appraisal.
1922.106 [Reserved]
1922.107 Depreciation.
1922.108 Appraisal of leasehold estate.
1922.109 Writing the appraisal.
1922.110 Final Reconciliation/estimated value.
1922.111 Abbreviated appraisal and revising existing appraisals.
1922.112–1922.150 [Reserved]
Exhibit A—Single Family Residential Appraisal Manual [Note]
Exhibit A–1—Single Family Residential Appraisal Sequential Analysis [Note]
Exhibit B—Single Family Housing Income Approach [Note]

Supart C—Appraisal of Single Family Residential Property

§ 1922.101 General.

This subpart prescribes the policies and procedure for appraisals in connection with making and servicing Single Family Rural Housing (RH) loans on fee simple owned nonfarm and small farm real properties, and on leaseholds on nonfarm and small farm real properties. Property will be appraised for market value. In no case will an appraisal be made without inspecting the property and, when applicable, reviewing all plans and specifications for proposed improvements to the site.

(a) *Appraiser.* Only an employee designated by the State Director or contract appraiser selected by the State Director as authorized by the National Office may appraise a single family housing property.

(b) *Employees authorized to appraise under this subpart.* Employees whose job descriptions contain appraisal responsibilities, after receiving the required training and written delegation from the State Director, are authorized to make appraisals. The employee's immediate supervisor will recommend the employee designated to make appraisals after determining he or she has:

(1) Inspected at least two properties not previously used by Farmers Home Administration (FmHA) for sales comparison and completed corresponding Forms FmHA 1922–12, "Nonfarm Tract Comparable Sales Data," for those comparables; and

(2) Satisfactorily prepared at least two appraisals on Form FmHA 1922–8, "Uniform Residential Appraisal Report," and Form 1007, "Square Food Appraisal Form."

(c) *Appraisal report.* An appraisal report is a supportable, defensible, written report as of a specific date by an appraiser setting forth an estimate of the value of a property, along with documentation supporting the value estimate. The basic principles and methods of appraising real estate outlined in this subpart, Exhibits A, A–1 and B to this subpart (all available in any FmHA office) will be followed in making appraisals. Use Form FmHA 1922–8 for all appraisals made under this subpart. Attach a cost calculation sheet, Form 1007, to Form FmHA 1922–8. The appraisal report will include market data on comparable sales of similar properties in the sales comparison analysis section. Use three comparable sales if available. A cost calculation based on a residential cost handbook or building valuation manual approved by the National Office is required for all appraisals. Appraisals for loan making purposes will be made on an "as developed" basis. Appraisals for foreclosures, voluntary conveyance, partial release, recapture, etc., will be made on an "as is" basis. Appraisals made in connection with voluntary conveyance and foreclosure may also contain an additional "as developed" value documented in the reconciliation section of Form FmHA 1922–8 if repairs are planned prior to or in connection with sale of the property. When an "as developed" value is documented in the reconciliation section of Form FmHA 1922–8, a list of the repairs and estimated cost of the repairs must be included.

§ 1922.102 Definition of appraisal terms.

(a) *Depreciation*—A decline in market value of dwelling and related facilities from the time improvements were constructed to the time an appraisal is made. Depreciation may result from:

(1) Physical deterioration, such as wear and tear, etc., to a structure and other site improvements that are subject to deterioration.

(2) Functional obsolescence, such as inadequacies or overadequacy due to size, design, style, age; changes in taste of the general public; the high cost of heating and cooling dwellings that cannot economically be made energy efficient, etc.

(3) Location/Economic obsolescence is caused by forces external to the property; such as changes in use, or poorly maintained properties in the neighborhood, decline in area employment, noise or other pollution, a decline in the purchasing power of potential buyers, etc.

(b) *Economic life*—When applied to single family dwellings, the normal time a dwelling is expected to remain suitable as a residence, taking into consideration a normal depreciation rate. This may vary significantly from the remaining physical life of the structure. Economic life minus effective age equals remaining economic life.

(c) *Effective age*—The age of the dwelling taking into account any remodeling or refurbishment that has been accomplished or is planned to take place immediately and deterioration or abuse of the property that will not be included in any planned improvements.

Effective age usually will be less than actual age when significant refurbishment has taken place, or greater than actual age if the property has deteriorated more than typical properties of the same age.

(d) *Final reconciliation/estimated value*—The final estimate of market value after weighing the relative significance, supportability, and reliability of the market data and cost approaches; the most probable price a property should bring, as of a specific date, in a competitive and open market, assuming the buyer and seller are prudent, knowledgeable and the price is not affected by undue stimulus such as forced sale or loan interest subsidy.

(e) *Reproduction cost*—The estimated cost of reproducing an exact duplicate or replica of a structure using the same materials, construction standards, quality of workmanship, layout, design, and incorporating all the deficiencies and superadequacies (functional obsolescence) of the subject structure. Reproduction cost less the sum of physical depreciation, functional and economic/locational absolescence equals depreciated replacement cost.

(f) *Depreciated replacement cost*—The calculated cost less deductions for depreciation of replacing a structure of equal utility that conforms to present day standards. Replacement cost may be significantly less than the cost of reproducing an older outdated structure or a new structure that is overbuilt or does not conform to current market standards.

(g) *Living area.* (1) For appraisal purposes, living area will include only finished area as determined by the exterior dimensions of the dwelling.

(2) For dwelling size eligibility determinations, living area is defined differently and is calculated as prescribed in § 1944.16, Subpart A of Part 1944, of this chapter.

(h) *Leased fee value*—This is the value of the landlord's rights to the property being leased.

(i) *Leasehold value*—This is the value of the tenant's rights under the lease that can be tranferred or sold to another party.

(j) *Residential property*—The site and all improvements to the site, including the dwelling.

(k) *Cost calculation manual*—A manual or handbook published on a national basis, approved by the National Office, that is used to estimate the depreciated replacement cost of single family residential structures and other site improvements.

§ 1922.103 [Reserved]

§ 1922.104 Influences on value.

(a) *Factors to be considered.* (1) *Location.* Location is one of the greatest influences on real property value. A location near railroads, commercial or industrial plants, landfills, cemeteries, airports, etc., or too distant from employment opportunities may adversely affect a residential property value, whereas a location in a quiet residential area near good employment, schools, shopping, public services, etc., may enhance property value.

(2) *Supply and demand.* If the market area has an oversupply of residential properties and/or building sites for sale or depressed economic conditions exist, a negative effect on property value will normally be observed. When the supply of residential properties or suitable building sites is short and/or the general economy is good, a positive effect on residential property values may be observed.

(3) *Replacement cost.* Cost does not directly create or maintain value; however, cost does have an influence on value and will be considered when estimating value of improvements to a site.

(4) *Highest and best use of the site.* The site and the improvements to the site will be valued separately. However, for loan making purposes, the value estimate of the site will not exceed its value as a residential site, based on market data on actual sales of similar residential sites in the area. For other than loan making purposes, when an alternate use of the site indicates a site value greater than the value of the improved site, the higher value will be used.

(5) *Accrued depreciation.* This is a combination of physical deterioration, functional and economic/locational obsolescence.

(6) *Use restrictions.* Easements, rights-of-ways, subdivision covenants, zoning, and deed restrictions, etc., affect value.

(7) *Utilities.* Availability, reliability, quality of utility service and cost to obtain suitable water supply, sewer, gas, electrical and other utility services affect value.

(8) *Taxes and assessments.* Tax rates and other public assessments as compared to rates in other similar neighborhoods in the market area affect value.

(9) *Homogeneity.* Similarities to other properties in the neighborhood; for example, a property overbuilt for the neighborhood in an older or deteriorating neighborhood may have a value less than its replacement cost.

(10) *Site.* Topography, size, shape, drainage, general suitability of the site and site view for residential purposes and site development in addition to the dwelling must be considered in estimating the value of the site.

(11) *Financing.* Terms, availability of funds, interest rates and cost of obtaining long-term loans, including but not limited to FmHA RH loans, have an influence on the value of property.

(12) *Construction.* Living area, room arrangement, garages, porches, built-in equipment, storage, parking facilities, basement, quality of construction, and "value in use" of certain energy efficient and/or solar items affect value. Exhibit A of FmHA Instruction 1922–B (available in any FmHA office) will be used when estimating value in use of any component described in § 1944.16(g)(2) of Subpart A, Part 1944 of this chapter.

(13) *Street improvements.* Street improvements adjacent to the property and the type of roads leading to the neighborhood affect value.

(b) *Factors not to be considered.* (1) Amount of existing liens or debts secured by the property;

(2) Proposed sale price or bid amount to build the structure;

(3) Amount of FmHA loan requested;

(4) Sex, age, race, national origin, color, religion or handicap(s) of residents of the neighborhood or community; and

(5) Appraisals for voluntary conveyances and foreclosure will not reflect any consideration of a forced sale, unpaid balance of FmHA loan(s), other liens against the property, or cost of acquisition.

§ 1922.105 Steps preliminary to writing the appraisal.

The appraisal will be made only when sufficient information has been developed to enable the appraiser to properly evaluate the property.

(a) *Basic information on property.* As a minimum, the property legal description, address, plat, subdivision and/or neighborhood map, tax information, recording information, and complete plans and specifications of any planned improvements should be obtained by the appraiser prior to beginning the appraisal.

(b) *Analysis information.* The appraiser will consider general economic conditions of the market area and obtain additional information which he or she considers pertinent to the appraisal. The appraiser should examine the community and the neighborhood before inspecting the site.

(1) *Community analysis.* The appraiser needs pertinent information about the history and growth of the community. The collection, analysis and interpretation of community data helps the appraiser to determine the relative competitive positon of a property in the total market. A knowledge of how and why the community grew and an understanding of its economic trends enables the appraiser to better understand the factors influencing the value of real property. The community factors to consider include:

(i) Population—increase or decrease;

(ii) Geography—i.e., topography, etc.;

(iii) Roads and public transportation service;

(iv) Employment wages and other income sources;

(v) Medical facilities;

(vi) Schools;

(vii) Volume of new construction;

(viii) Number of homes (new and old) being offered for sale in the market area;

(ix) Fire and police protection;

(x) Availability of suitable building sites;

(xi) Shopping facilities; and

(xii) Other financing available in the area.

(2) *Neighborhood analysis.* Neighborhoods are divisions or sections of a community or city which are usually homogeneous in some respect. Neighborhoods customarily pass four stages of life: building, static, declining, and rebuilding. In measuring the desirability of neighborhoods, features such as the number of unoccupied homes, age and condition of nearby properties, etc., should be studied and compared.

(3) *Site analysis.* The importance of location cannot be overemphasized. The location of a community, city, or neighborhood to available job opportunities, places of worship, school, medical care, shopping, etc., is as important as the location of the property within its own neighborhood. Other factors to consider about the site are:

(i) Frontage;

(ii) Width;

(iii) Depth;

(iv) Shape;

(v) Total usable area;

(vi) Topography;

(vii) Hazards, such as being located in a flood plain, subject to localized flooding, etc.;

(viii) View from the site; and

(ix) Utilities available.

(c) *Inspection of the property.* An inspection of the site and all improvements to the site will be made at such time and under such conditions that the appraiser can adequately evaluate the entire property. In the case of planned improvements, a thorough evaluation of the plans and specifications of the improvements to be made should be completed to determine if the improvements are suitable for the site and any existing improvements.

(1) The appraiser, after locating and identifying the property, must check boundary lines against the plat and legal description. This is essential in order to be certain the improvements to the site are totally on the site and do not encroach on adjoining property.

(2) When inspecting an existing structure, the appraiser will determine the condition of the structure, and estimate depreciation and cost to repair individual items he or she determines need repair or replacement in order for the structure to meet minimum property requirements and FmHA thermal standards. The appraiser will determine the total living area, storage, basement, and parking area by actual measurements made during the inspection of an existing structure; for proposed construction, measurements will be made from the building plans.

(3) If the house is under construction or less than one year old and an individual water or sewage system is involved, include a certification by the builder that the house and any water and waste disposal systems have been or will be built or installed in accordance with the local building codes, plans and specifications. Evidence of approval by health authorities having jurisdiction in the area also will be included. If the house is one year or more old, the appraiser will require approval of individual water and/or sewage systems by health authorities or, in a case where no State or local health authority exists, by a person or firm qualified to determine the adequacy and safety of such systems.

(4) If the inspection reveals the property cannot be made suitable for the FmHA program, an appraisal will not be made.

(5) The date the real property is inspected will be the date placed in the reconciliation section of Form FmHA 1922–8.

(6) Photographs of the property will be attached to Form FmHA 1922–8. Photographs will provide front, rear and side views of the property, including the "street appeal" aspects of the property.

§ 1922.106 [Reserved]

§ 1922.107 Depreciation.

Adjustments to reproduction cost and the sales comparison analysis that reflect a decrease in value of a structure or other improvements to the site due to physical deterioration and/or functional and economic obsolescence will be determined. Land and improvements to the site such as wells, etc., do not depreciate but may change in value.

(a) *Adjustments for depreciation.* (1) *Physical deterioration.* Any deterioration to a structure or other improvement to a site which adversely affects the value of the property is physical depreciation. Since all parts of a structure are not expected to have the same life expectancy, it is necessary to determine the age, suitability and condition of certain major components of the existing structure. Physical depreciation estimates in structures with an effective age over 5 years, will be made by estimating depreciation of the short-lived components of the property seperately from the long-lived components of the property. The appraiser, as a minimum, will consider the heating and/or cooling system(s), roof covering, floor covering, and built-in or easily removable appliances as short-lived components and estimate depreciation based on the percent of total economic life which has passed since the component was installed. The appraiser will subtract the replacement cost new of these component items from the replacement cost new of the entire structure; then estimate the physical depreciation of the long lived items in accordance with the depreciation section of the residential cost calculation manual and Exhibit A to this subpart (available in any FmHA office). The total short-lived and long-lived depreciation equals total physical depreciation. Short-lived and long-lived depreciation schedules will be completed on all comparable properties, provided the effective age is over 5 years and the appraiser gains access into the property to validate the condition and actual age of the short-lived components. If access to the property cannot be obtained, document accessibility on Form FmHA 1922–12. (Refer to Form FmHA 1922–12, reverse side.)

(2) *Functional obsolescence.* Any design or feature of a dwelling that is not acceptable to the typical buyer in the market area will be identified by the appraiser on the inspection visit to an existing dwelling or in the review of plans and specifications of a dwelling to be built. All items affecting the livability and marketability of the property will be recorded in the appraisal report. The appraiser will measure the value difference in the subject property caused by functional obsolescence by comparing properties that have sold that do meet the livability and marketability demands of the typical purchaser. The

appraiser must be familiar with the taste and desires of the typical purchaser in the market area in order to support the estimate of value loss due to functional obsolescence of a property. Exhibit A to this subpart (available in any FmHA Office) outlines the parts of a property and design items to consider when estimating functional obsolescence.

(3) *Economic obsolescence.* Any factor outside the property boundary that causes real property to be worth less because of its location is an economic obsolescence factor. The community, neighborhood and site analysis will form the basis for making this estimate. The actual dollar adjustment estimate for economic obsolescence will be based on a comparison of sales prices of similar properties in similar and nonsimilar locations. Exhibit A to this subpart (available in any FmHA Office) explains market data extraction of economic obsolescence and sources of economic trend data.

(b) *Accrued depreciation.* The sum of physical depreciation, and functional and economic obsolescence equals accrued depreciation. Accrued depreciation is also entered on Line 29 of Form 1007 and is also documented on the reverse of Form 1007. Accrued depreciation is also reflected in the sales comparison section of Form FmHA 1922–8.

§ 1922.108 Appraisal of leasehold estate.

Prior to making an appraisal for loan making purposes involving a leasehold, the appraiser must determine if the lease complies with the requirements of § 1944.15(a)(5) of Subpart A of Part 1944 of this chapter. The value of the leased fee will not be estimated under this subpart.

(a) *Property as improved.* Estimate the market value of the property "as improved" as though the property was owned under a good and marketable fee title. Estimate the market value of the site on an "as is" basis as if no improvements exist or are to be made or placed on the site and subtract from "as improved" property value.

(b) *Rent.* Estimate the amount of rent that customarily is paid in the area for similar sites leased under similar terms.

(c) *Lease acquisition cost.* Where a lease acquisition cost is involved, determine the total annual leasehold cost of the site as if vacant. In making this determination the appraiser will consider the amount of annual rent to be paid under the lease plus the annual loan payment required on the portion of the RH loan used to acquire the leasehold site. The sum of these should not exceed the amount an applicant would need to pay on a loan to buy a similar site with fee simple title.

Example: Present market value of the site as if owned with fee simple title is $5000.
Amortization factor for 33-year loan at 12% interest with monthly payments is .0102 per $1.00 of loan.
$5000×.0102=$51/month
$51×12 mos.=$612 (annual payment on the site if owned with fee simple title)
Lease acquisition cost is $2000. Amount of annual rent is $300
$2000×.0102=$21/mo. (rounded up to nearest dollar)
$21×12=$252 annual payment on leasehold acquisition fee.
$252 plus $300 (annual rent) equals an annual leasehold cost of $552.

Since the total annual cost of the leasehold interest in the site in this example is less than what the annual payment would be on the site as if owned with fee simple title, the $2,000 lease acquisition fee would be reasonable. The lease acquisition "value" will be documented on Form 1007 and would be adjusted downward if the total annual cost of the leasehold exceeded the annual cost of an identical fee simple owned site.

(d) *Security value of leasehold.* The maximum security value of a leasehold interest (recommended market value of the leasehold) which will be documented on Form 1007, including improvements to be made to the leasehold site, will not exceed the market value of the improved property less the "as is" value of the site as if owned with fee simple title, plus the market value of the leasehold site.

Example:

Market value of the property "as improved" as if owned with fee title	$40,000
Less market value fee title owned site "as is"	5,000
Market value of improvements	35,000
Acquisition Cost of leasehold site (unimproved)	2,000
Maximum security value of leasehold property "as improved"	37,000

Complete Form FmHA 1922–8 with a full explanation as to how the value estimates were arrived at and what factors were considered in estimating the maximum security value for a loan being made on the leasehold.

§ 1922.109 Writing the appraisal.

In order to analyze and evaluate the influence on the value of a property by the factors outlined in this subpart and Exhibit A of this subpart (available in any FmHA office), the following steps, as a minimum, will be followed by the appraiser.

(a) *Sales comparison approach.* Collecting, verifying and analyzing sales of comparable properties in the market area will provide a basis for completing the sales comparison section on the residential appraisal resort of Form FmHA 1922–8. Information on each comparable sale will be recorded on Form FmHA 1922–12, after inspecting the property. A photograph of the comparable sale will be attached to Form FmHA 1922–12. Comparable sales less than one year old with nonsubsidized financing from lenders other than FmHA should be used in the market data analysis. A National Office exception may be granted on a quarterly basis, to permit the use of comparable sales financed by FmHA, provided, the State Director certifies in writing that nonsubsidized financed comparable sales are not available within a specific geographic location within the State. Documentation to support a National Office exception request will include a detailed analysis of the real estate market situation from the County Supervisor, District Director and the State Office Single Family Housing Appraisal Trainer. Only "arms length" sales will be used. Market value of the site should be obtained by using comparable sales data for other building sites sold in the area. Dollar adjustments for differences in financing concessions, time of sale, location and physical characteristics will be made in accordance with the chronological order of adjustment categories identified on Form FmHA 1922–8. All adjustments to comparables will be based on paired sales extraction, cost estimates and market surveys of value differences. Written documentation used to support adjustments will be attached to Form FmHA 1922–8. The cost estimates and market survey methods of making adjustments to comparables will be used only when data extracted from paired sales cannot be obtained. Comparable sales closest to the subject are the most desireable and the best indicator of value, but if comparable sales in the immediate area are nonexistent, the distance may be increased to the nearest similar communities where comparable sales have occurred.

(b) *Cost approach.* A residential cost calculation manual approved by the National Office will be used in estimating the replacement cost of the dwelling and improvements to the site. The cost calculation will be made in accordance with instructions furnished in the handbook or manual and recorded on a Form furnished by the cost manual supplier or Form 1007. The cost manual contains basic cost adjustment tables for different qualities of houses. The quality description which best describes the house being appraised will be used. Accrued depreciation will be established in accordance with Exhibit A (available in any FmHA office) and

1922.107 of this subpart. Lot or land value will be estimated and added to depreciated replacement cost of improvements.

(c) *Income approach.* To be used in conjunction with inventory property non-program appraisals only. See Exhibit B (available in any FmHA office).

§ 1922.110 Final reconciliation/estimated value.

(a) *Indicated value by the sales comparison approach.* The appraiser will make an estimate of value by the sales comparison approach after reviewing the similarity of each comparable sale to the subject. The final indicated value by sales comparison approach on Form FmHA 1922–8, will be tempered by the degree of similarity and reliance placed on each of the different comparable sales and will not be an average of the three indicated values.

(b) *Indicated value by cost approach.* The appraiser will enter the value indicated by the cost approach in the cost approach section of Form 1922–8.

(c) *Indicated value by the income approach.* The appraiser will enter the value indicated by the income approach in the income approach section of Form 1922–8. This approach is to be used in conjunction with inventory property non-program appraisals only. See Exhibit B (available in any FmHA office).

(d) *Final reconciliation/estimated market value.* The estimated market value in the reconciliation section of Form FmHA 1922–8 will never exceed the higher of the values indicated by the sales comparison approach or the cost approach and may exceed the lower of the two indicated values only when the appraiser includes justifying and supporting documentation in the appraisal report. Non-program property appraisals, utilizing the income approach to value in accordance with Exhibit B, of this subpart, will have the estimated market value documented in the reconciliation section of Form FmHA 1922–8. Non-program property appraisals which do not utilize the income approach to value due to the lack of comparable sales data, will have the final reconciliation/estimated market value derived from the sales comparison and cost approaches to value.

(e) *Valuation of buildings for insurance purposes.* The value of buildings for insurance purposes will be the amount indicated on Line 30, Form 1007.

§ 1922.111 Abbreviated appraisal and revising existing appraisals.

A complete new appraisal will be made for each property requiring an appraisal except:

(a) *Abbreviated appraisal.* An abbreviated appraisal may be made for property to be built when:

(1) The property being appraised is identical, except for minor differences, with a property appraised not more than 90 days prior to the date of the abbreviated appraisal and is located on an equally desirable site within the same subdivision. A copy of all appraisal documents from the first appraisal, "the master appraisal," will be attached to, and will become a part of Form FmHA 1922–8, for the abbreviated appraisal.

(2) All items on the abbreviated appraisal that differ from the property being appraised, such as property address, legal description, applicant's name and reconciliation/estimated value will be completed along with a narrative explanation of any adjustments made and any differences in final value estimate.

(b) *Revised appraisal.* An existing appraisal may be revised when an accurate estimate of present market value can be determined without making a complete new appraisal and the following conditions exist:

(1) The appraisal being revised is not more than 2 years old;

(2) Adequate narrative documentation is attached to support the revised estimate; and

(3) The appraisal being revised was made using Form FmHA 1922–8 and Form 1007.

§§ 1922.112–1922.150 [Reserved]

Exhibit A—Single Family Residential Appraisal Manual

Note: The Exhibit is not published in the Code of Federal Regulations. It is available in any FmHA office.

Exhibit A–1—Single Family Residential Appraisal Sequential Analysis

Note: The Exhibit is not published in the Code of Federal Regulations. It is available in any FmHA office.

Exhibit B—Single Family Housing Income Approach

Note: The Exhibit is not published in the Code of Federal Regulations. It is available in any FmHA office.

Date: January 18, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89–4771 Filed 2–28–89; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88–NM–136–AD; Amdt. 39–6149]

Airworthiness Directives; McDonnell Douglas Model DC–10 and KC–10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive, applicable to DC–10 and KC–10A (Military) series airplanes, which currently requires inspection and repair, if necessary, of the horizontal stabilizer rear upper spar cap and/or upper rear skin panel for fatigue cracking. This action would add a requirement to repeat the inspections at intervals not to exceed 2,000 landings. This amendment is necessary to detect cracks that may progress until the spar cap or skin panel is severed, which could result in structural failure.

DATES: Effective March 27, 1989.

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

FOR FURTHER INFORMATION CONTACT: Mr. Kyle L. Olsen, DC–10/MD–11 Program Manager, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (213) 988–5227.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to amend Airworthiness Directive (AD) 87–06–53–R1, Amendment 39–5694 (52 FR 28133; July 28, 1987), applicable to McDonnell Douglas Model DC–10 and KC–10A (Military) series airplanes, to require repetitive inspections of the horizontal stabilizer rear spar cap and/or upper rear skin panel for fatigue cracking at intervals not to exceed 2,000 landings, was published in the **Federal Register** on November 21, 1988 (53 FR 46877).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due

consideration has been given to the single comment received.

The Air Transport Association (ATA) of America requested that the proposed repetitive inspection interval be increased from 2,000 landings to 3,000 landings so that all inspections could be accomplished during a main base visit ("C-check"). The FAA does not concur. With the information available at this time, the FAA has determined that repetitive inspection at 2,000 landings represents the maximum interval of time allowable in order to adequately detect fatigue cracking in the horizontal stabilizer, without compromising safety. McDonnell Douglas is currently conducting a fatigue test to verify the appropriateness of the 2,000 landing inspection interval. Once that test is completed and the results analyzed along with the flight test data and actual fleet inspections, the FAA may have sufficient information to adjust the repetitive inspection interval, if necessary.

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

There are approximately 423 Model DC–10 series airplanes in the worldwide fleet. It is estimated that 153 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 manhour per airplane to accomplish the required actions, and that average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $6,120 per year.

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

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By amending Airworthiness Directive (AD) 87–06–53 R1, Amendment 39.5694 (52 FR 28133: July 28, 1987), as follows:

McDonnell Douglas: Applies to Model DC–10–10, –10F, –15, –30, –30F, –40 and KC–10A (Military) series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent failure of the horizontal stabilizer rear upper spar cap and/or upper rear skin panel due to fatigue cracking, accomplish the following:

A. Prior to the accumulation of 30,000 flight hours or 7,500 landings, whichever occurs earlier, or within 15 days after August 14, 1987 (the effective date of Amendment 39–5694), whichever occurs later, unless already accomplished within the last 120 days since August 14, 1987, (the effective date of Amendment 39–5694), conduct a dye penetrant or eddy current inspection of horizontal stabilizer upper outer section rear spar cap and a visual inspection of the horizontal stabilizer upper outer rear skin panel, in accordance with McDonnell Douglas Alert Service Bulletin A55–18, dated March 23, 1987, or Revision 1, dated May 21, 1987, or Revision 2, dated February 8, 1988.

B. Prior to the accumulation of 2,000 landings aftter the inspection required by paragraph A., above, or within 100 landings after the effective date of this amendment, whichever occurs later, and thereafter at intervals not to exceed 2,000 landings, repeat the inspection required by paragraph A., above.

C. If a crack is found as a result of the inspections required by paragraphs A. or B., above, repair before further flight, in a manner approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

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

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

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

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

This amendment becomes effective March 27, 1989.

Issued in Seattle, Washington, on February 17, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–4656 Filed 2–28–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 88–ASO–22]

Revision of Control Zone, Anderson, S.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the Anderson, South Carolina, Control Zone by changing the hours of operation from part-time to full-time. This action is a result of around-the-clock weather observations now being taken at the Anderson County Airport. Also, this revision corrects the geographic position coordinates of the airport and corrects the arrival area extensions based on the Electric City Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) and the Anderson County Radio Beacon (RBN).

EFFECTIVE DATE: 0901 u.t.c., April 6, 1989.

FOR FURTHER INFORMATION CONTACT: Melvin Brock, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On December 22, 1988, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the Anderson, South Carolina, Control Zone (53 FR 51567). The proposed revision would change the control zone hours of operation from part-time to full-time due to availability of 24-hour weather observations at the Anderson County Airport. Also, the proposed action would correct the geographic position coordinates of the airport and correct the arrival area extensions based on the Electric City VORTAC and the Anderson County RBN. 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. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6D dated January 4, 1988.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revises the Anderson, South Carolina, Control Zone by changing the hours of operation from part-time to full-time due to the availability of 24-hour weather observations at the Anderson County Airport. This action also corrects the geographic position coordinates of the Anderson County Airport and corrects the arrival area extensions based on the Electric City VORTAC and the Anderson County RBN.

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 area.

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 Public Law 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Anderson, SC [Amended]

By deleting the existing description and adding the following: "Within a 5-mile radius of Anderson County Airport (Lat. 34°29'42" N., Long. 82°42'33" W.); within 1.5 miles each side of Electric City VORTAC 035° radial, extending from the 5-mile radius zone to 1.5 miles NE. of the VORTAC and within 3 miles each side of the 172° bearing from the Anderson County RBN (Lat. 34°29'53" N., Long. 82°42'31" W.), extending from the 5-mile radius zone to 8.5 miles south of the RBN."

Issued in East Point, Georgia, on February 14, 1989.

William D. Wood,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 89-4665 Filed 2-28-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 141, 260 and 357

[Docket No. RM88-18-000]

Statement of Cash Flows To Replace Statement of Changes in Financial Position in FERC Annual Report Forms

February 23, 1989.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; notice of OMB control numbers.

SUMMARY: The Federal Energy Regulatory Commission, on October 13, 1988, issued a final rule (Order No. 505 in Docket No. RM88-18-000, FR 40,875 (Oct. 19, 1988)). The rule amended the Commission's annual report forms for electric utilities, natural gas companies and oil pipeline companies. This notice states that the Office of Management and Budget has approved the information collection requirements in Order No. 505.

EFFECTIVE DATE: February 23, 1989.

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

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act, 44 U.S.C. 3501-3520 (1982) and the Office of Management and Budget's (OMB) regulations, 5 CFR Part 1320 (1988), require that OMB approve certain information collection requirements imposed by agency rules. On November 18, 1988, OMB approved the revisions to the information collection requirements in 18 CFR Parts 141, 260 and 357. The OMB Control Numbers are: 1902-0021—FERC Form No. 1 (Annual Report for Major Public Utilities and Licensees); 1902-0029—FERC Form No. 1-F (Annual Report of Nonmajor Electric Utilities and Licensees); 1902-0028—FERC Form No. 2 (Annual Report of Major Natural Gas Companies); 1902-0030—FERC Form No. 2-A (Annual Report of Nonmajor Natural Gas Companies); and 1902-0022 FERC Form No. 6 (Annual Report of Oil Pipeline Companies). It is not necessary to amend Part 369 of the Commission's regulations, since these OMB control numbers appear on the forms. The final rule in Docket No. RM88-18-000 is effective as of November 18, 1988.

Lois D. Cashell,

Secretary.

[FR Doc. 89-4757 Filed 2-28-89; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 277

[Docket No. RM89-8-000; Order No. 512]

Removal of Contract Duration and Right of First Refusal Regulations for Certain OCS Gas

Issued February 23, 1989.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is deleting Part 277 of its regulations in its entirety (18 CFR Part 277 (1988)). Part 277 implemented certain provisions of section 315 of the Natural Gas Policy Act of 1978 (NGPA) that have been repealed by Congress in Pub. L. No. 100-439. Pub. L. No. 100-439 repealed two nonprice marketing restrictions on sales of certain OCS gas in NGPA section 315.

EFFECTIVE DATE: This final rule is effective February 23, 1989.

FOR FURTHER INFORMATION CONTACT: Julia Lake White, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357–8530.

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

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357–8997. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this final rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

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

I. Introduction

The Federal Energy Regulatory Commission (Commission) is deleting Part 277 of its regulations in its entirety.[1] Part 277 implemented certain provisions of section 315 of the Natural Gas Policy Act of 1978 (NGPA) that have been repealed by Congress in Pub. L. No. 100–439.[2]

II. Background and Discussion

On September 22, 1988, Congress enacted Pub. L. No. 100–439, repealing two nonprice marketing restrictions on sales of certain OCS gas in NGPA section 315. Specifically, Congress repealed NGPA section 315(a)(3), which required certain OCS gas to be sold under long-term contracts of up to 15 years, and section 315(b), which provided a right of first refusal for interstate buyers of certain categories of natural gas after the existing contracts run out.

Part 277 of the Commission's regulations implemented the provisions of NGPA section 315 that have been repealed by Pub. L. No. 100–439. Specifically, Subpart A implemented section 315(a)(3) and provides that any new contract for the first sale of OCS gas that is new natural gas or high cost natural gas as defined in NGPA section 107(c) (1)–(4) must be for a duration of not less than 15 years or, if less, the commercially producible life of the reservoir.[3] Subpart B implemented section 315(b) and requires a first seller of gas sold under NGPA sections 102(c), 103(c), and 107(c) (1)–(4) to make a bona fide offer to the original purchaser for the continued sale of the gas before the expiration or termination of the contract covering the gas.[4]

Part 277 is being deleted in its entirety because that part of the regulations applies to the provisions of section 315 of the NGPA repealed by Pub. L. No. 100–439 and is no longer needed.

III. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement must be prepared for any Commission action that may have a significant adverse effect on the human environment.[5] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[6] No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural or that does not substantially change the effect of legislation or regulation being amended.[7] This final rule is corrective in nature. The rule simply deletes provisions from the Commission's regulations in response to a Congressional mandate.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) [8] requires rulemakings to either contain a description and analysis of the impact the rule will have on small entities or certify that the rule will not have a significant economic impact on a substantial number of small entities. This final rule may have a significant impact on a substantial number of small entities. In effect, the Commission's rule will make interstate natural gas prices more market responsive by increasing competition and permit producers greater flexibility in selling natural gas supplies. The Commission believes this rule will have a beneficial impact on small entities, rather than a negative impact. The Commission concludes, therefore, that this impact will not be "significant" within the meaning of the RFA. Accordingly, the Commission certifies that this rule will not have a "significant economic impact on a substantial number of small entities."

V. Paperwork Reduction Act

The Paperwork Reduction Act [9] and the Office of Management and Budget's (OMB) regulations [10] require that OMB approve certain information collection requirements imposed by agency rule. This final rule deletes certain information collection requirements no longer required in light of the Congressional mandate. The Commission is notifying the Office of Management and Budget that this information collection provision is no longer required.

VI. Administrative Findings and Effective Date

The Administrative Procedure Act (APA) [11] requires rulemakings to be published in the **Federal Register**. The APA also mandates that an opportunity for comment be provided when an agency promulgates regulations. Notice and comment are not required under the APA when the "agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interests."[12] The Commission finds that notice and comment are unnecessary for this rulemaking. The Commission is merely deleting regulations that apply to provisions of the NGPA that have been repealed.

This final rule is procedural in nature. It deletes regulations no longer valid in light of recent Congressional action. The Commission, therefore, finds good cause to make this rule effective immediately

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[1] 18 CFR Part 277 (1988).

[2] Act approved September 22, 1988, Pub. L. No. 100–439, 102 Stat. 1720.

[3] *See* Regulation of Natural Gas Sales Under the Natural Gas Policy Act of 1978; High Cost Natural Gas or New Natural Gas Produced from any Reservoir on the Outer Continental Shelf, Order No. 4, 44 FR 46,454 (Aug. 8, 1979); FERC Stats. & Regs. [Regulations Preambles 1977–1981] ¶ 30,070 (Aug. 2, 1979).

[4] *See* Bona Fide Offers; Right of First Refusal, Order No. 95, 45 FR 53,116 (Aug. 11, 1980); FERC Stats. & Regs. [Regulations Preambles 1977–1981] ¶ 30,179 (July 28, 1980) and Order No. 95–A, 51 Fed. Reg. 7923 (Mar. 7, 1986); III FERC Stats. & Regs. ¶ 30,690 (Feb. 28, 1986).

[5] Regulations Implementing National Environmental Policy Act, 52 FR 47,897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (Dec. 10, 1987).

[6] 18 CFR 380.4 (1988).

[7] 18 CFR 380.4(a)(2)(ii) (1988).

[8] 5 U.S.C. 601–612 (1982).

[9] 44 U.S.C. 3501–3520 (1982).

[10] 5 CFR 1320.13 (1988).

[11] 5 U.S.C. 551–559 (1982).

[12] 5 U.S.C. 553(b)(3)(B) (1982).

upon issuance. This final rule is effective February 23, 1989.

List of Subjects in 18 CFR Part 277

Continental shelf, Natural gas, Price controls, Reporting and recordkeeping requirements.

PART 277—[REMOVED]

Accordingly, the Commission under its rulemaking authority in 15 U.S.C. 3411 (1982) and 15 U.S.C. 717(o) (1982) amends Title 18, Chapter I of the Code of Federal Regulations by removing Part 277.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 89-4756 Filed 2-28-89; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 51

[108.881]

Denial of Passports to Certain Convicted Drug Traffickers

AGENCY: Department of State.

ACTION: Interim rule with request for comments.

SUMMARY: The Department of State is issuing interim regulations to implement provisions of the Anti-Drug Abuse Act of 1988, Pub. L. 100-690. The interim regulations prescribe the conditions governing the issuance, denial or revocation of United States passports to individuals convicted of offenses violating Federal and state drug abuse laws where the individual used a U.S. passport or crossed an international border in committing the offense. The interim rule also makes technical, non-substantive conforming amendments to existing regulations governing the revocation and denial of passports in other cases.

EFFECTIVE DATE: March 1, 1989.

DATE: Comments must be submitted on or before May 1, 1989.

ADDRESS: Written comments may be sent to William B. Wharton, Director, Office of Citizenship Appeals and Legal Assistance, Passport Services, Department of State, Room 300, 1425 K Street, NW., Washington, DC 20524.

FOR FURTHER INFORMATION CONTACT: Bonnie Lea-Brown, Office of Citizenship Appeals and Legal Assistance, Telephone (202) 326-6213.

SUPPLEMENTARY INFORMATION: The Anti-Drug Abuse Act of 1988, Pub. L. 100-690, provides that a passport shall not be issued to or shall be revoked for an individual convicted of a Federal or state drug offense where the individual used a U.S. passport or crossed an international border in commiting the offense.

As reflected in the interim rule, it is contemplated that passport denial or revocation action shall be taken in all cases, except where the Secretary decides otherwise on emergency or humanitarian grounds, where the offense involved constitutes a felony as defined by section 4603(2)(e)(3) of the Act, and may be taken in all cases where the offense involved constitutes a misdemeanor as defined by state or Federal law. The Department recognizes that the use of a U.S. passport or crossing of an international border may not necessarily constitute an element of a Federal or state drug offense. Nonetheless, the Secretary must receive reliable information about one or both of these circumstances in order to take action under the interim rule. It should be noted, however, that the Department of State has regulations of general applicability that govern limitations on issuance or extension of passports. These existing regulations, which come into play when the Department receives a copy of a warrant or is otherwise informed of a warrant by a competent authority, apply to a broader range of criminal activity and do not require a showing that the criminal activity at issue involved the use of a U.S. passport or the crossing of an international border. As a result, denial or revocation of a passport of an individual contemplated by the interim rule may alternatively be taken under existing regulations.

The Department is also making non-substantive conforming amendments to 22 CFR Part 51 to reflect that, in keeping with established policy and procedure, passport denial or revocation action depends upon receipt by the Department from a competent authority of supporting information and documentation establishing to the satisfaction of the Department that an individual is subject to the regulations. This policy reflects the view of the Department that responsible judicial and law enforcement authorities are in the best position to identify individuals who should be subject to passport denial or revocation action. Finally, the interim rule provides that no administrative review shall be taken of a refusal on the part of the Secretary to grant a humanitarian or emergency exception. This approach is consistent with existing passport denial and revocation provisions, which provide for no emergency or humanitarian exceptions. As required by the Regulatory Flexibility Act (5 U.S.C. 301 et seq.), it is hereby certified that the iterim rule will not have a significant impact on small business entities. The provisions of the Paperwork Reduction Act (44 U.S.C. Ch. 35) apply.

List of Subjects in 22 CFR Part 51

Passports.

For the reasons set forth in the preamble, 22 CFR Part 51 is amended as follows:

PART 51—PASSPORTS

1. The authority citation for Part 51 is revised to read as follows:

AUTHORITY: 22 U.S.C. 2658 and 3926; sec. 1, 44 Stat. 887; sec. 1, 41 Stat. 750; sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 211a, as amended, 2658; sec. 122 (d)(3), Pub. L. 98-164, 97 Stat. 1017; E.O. 11295, 36 FR 10603; 3 CFR 1966-70 Comp. p. 507; Pub. L. 100-690.

2. Section 51.70 is revised to read as follows:

§ 51.70 Denial of passports.

(a) A passport, except for direct return to the United States, shall not be issued in any case in which the Secretary of State determines or is informed by competent authority that:

(1) The applicant is the subject of an outstanding Federal warrant of arrest for a felony, including a warrant issued under the Federal Fugitive Felon Act (18 U.S.C. 1073); or

(2) The applicant is subject to a criminal court order, condition of probation, or condition of parole, any of which forbids departure from the United States and the violation of which could result in the issuance of a Federal warrant of arrest, including a warrant issued under the Federal Fugitive Felon Act; or

(3) The applicant is subject to a court order committing him or her to a mental institution; or

(4) The applicant is the subject of a request for extradition or provisional arrest for extradition which has been presented to the government of a foreign country; or

(5) The applicant is the subject of a subpoena issued pursuant to section 1783 of Title 28, United States Code, in a matter involving Federal prosecution for, or grand jury investigation of, a felony; or

(6) The applicant has not repaid a loan received from the United States as prescribed under §§ 71.10 and 71.11 of this chapter; or

(7) The applicant is in default on a loan received from the United States to

effectuate his or her return from a foreign country in the course of travel abroad.

(b) A passport may be refused in any case in which the Secretary of State determines or is informed by competent authority that:

(1) The applicant has not repaid a loan received from the United States to effectuate his or her return from a foreign country in the course of travel abroad; or

(2) The applicant has been legally declared incompetent, unless accompanied on his or her travel abroad by the guardian or other person responsible for the national's custody and well being; or

(3) The applicant is under the age of 18 years, unmarried and not in the military service of the United States unless a person having legal custody of such national authorizes issuance of the passport and agrees to reimburse the United States for any monies advanced by the United States for the minor to return to the United States; or

(4) The Secretary determines that the national's activities abroad are causing or are likely to cause serious damage to the national security or the foreign policy of the United States; or

(5) The applicant has been the subject of a prior adverse action under this section or § 51.71 and has not shown that a change in circumstances since the adverse action warrants issuance of a passport; or

(6) The applicant is subject to an order of restraint or apprehension issued by an appropriate officer of the United States Armed Forces pursuant to Chapter 47 of Title 10 of the United States Code.

(Approved by the Office of Management and Budget under control number 1405–0077)

3. A new § 51.71 is inserted after section 51.70 and reads as follows:

§ 51.71 Denial of passports to certain convicted drug traffickers.

(a) A passport shall not be issued in any case in which the Secretary of State determines or is informed by competent authority that the applicant is subject to imprisonment or supervised release as the result of a felony conviction for a Federal or state drug offense if the individual used a U.S. passport or otherwise crossed an international border in committing the offense, including a felony conviction arising under:

(1) The Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.); or

(2) Any Federal law involving controlled substances as defined in section 802 of the Controlled Substances Act (21 U.S.C. 801 et seq.); or

(3) The Bank Secrecy Act (31 U.S.C. 5311 et seq.) or the Money Laundering Act (18 U.S.C. 1956 et seq.) if the Secretary of State is in receipt of information that supports the determination that the violation involved is related to illicit production of or trafficking in a controlled substance; or

(4) Any state law involving the manufacture, distribution, or possession of a controlled substance.

(b) A passport may be refused in any case in which the Secretary of State determines or is informed by competent authority that the applicant is subject to imprisonment or supervised release as the result of a misdemeanor conviction of a Federal or state drug offense if the individual used a U.S. passport or otherwise crossed an international border in committing the offense, other than a first conviction for possession of a controlled substance, including a misdemeanor conviction arising under:

(1) The federal statutes described in section 51.71 (a); or

(2) Any state law involving the manufacture, distribution, or possession of a controlled substance.

(c) Notwithstanding subsections (a) and (b), the Secretary of State may issue a passport when the competent authority confirms, or the Secretary of State otherwise finds, that emergency circumstances or humanitarian reasons exist.

(Approved by the Office of Management and Budget under control number 1405–0077)

§ 51.71 [Redesignated as § 51.72]

4. Current § 51.71 is redesignated as § 51.72 and is revised to read as follows:

§ 51.72 Revocation or restriction of passports.

A passport may be revoked or restricted or limited where:

(a) The national would not be entitled to issuance of a new passport under § 51.70 or § 51.71; or

(b) The passport has been obtained by fraud, or has been fraudulently altered, or has been fraudulently misused.

§ 51.72 [Redesignated as § 51.73]

5. Current section 51.72 is redesignated as section 51.73.

§ 51.73 [Redesignated as § 51.74]

6. Current section 51.73 is renumbered as section 51.74.

7. Current section 51.80 is revised to read as follows:

§ 51.80 Applicability of §§ 51.81 through 51.89.

The provisions of §§ 51.81 through 51.89 apply to any action of the Secretary taken on an individual basis in denying, restricting, revoking or invalidating a passport or in any other way adversely affecting the ability of a person to receive or use a passport except action taken by reason of noncitizenship, refusal to grant a discretionary exception under the emergency or humanitarian relief provisions of § 51.71(c) or refusal to grant a discretionary exception from geographical limitations of general applicability. The provisions of this subpart shall constitute the administrative remedies provided by the Department to persons who are the subject of adverse action under §§ 51.70, 51.71 or 51.72.

(The information collection implications contained in this rule have been approved by OMB (1405–0077, 6/90))

Joan M. Clark,

Assistant Secretary for Consular Affairs.

December 19, 1988.

[FR Doc. 89–4563 Filed 2–28–89; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 203 and 214

Treasury Tax and Loan Depositaries, Depositaries for Federal Taxes

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: This rule (1) amends the Treasury regulations on paying fees to financial institutions for maintaining Treasury Tax and Loan (TT&L) accounts and processing Federal tax deposit (FTD) payments by removing specific references to the FTD fee structure from 31 CFR Parts 203 and 214 and transferring the fee schedule to the "Treasury Financial Manual" and (2) revises Treasury procedures to reduce the fees paid to depositaries for processing FTD payments. Treasury is reducing the current per-item fee structure for large depositaries that process FTD dollar deposit volumes in excess of $10 million annually. The affected depositaries include depositaries in the remittance option Class 1 category and the note option Class B and Class C categories. Until further evaluation is completed, fee reductions will not be implemented for

depositaries that process the smaller FTD dollar deposit volumes (depositaries in the note option Class A category and remittance option Class 2 category) or any depositary that participates in the Federal Government's Minority Bank Deposit Program (MBDP).

Treasury finds, for good cause, that a delay in the rule's effective date would be contrary to the important public interest of meeting budgetary constraints imposed on the Financial Management Service. *See* S. Rep. No. 387, 100th Cong., 2d Sess. 16 (1988). Thus, this rule shall be effective upon publication as a final rule in the **Federal Register**. The fee reduction is effective with the Federal Reserve Banks' March reporting cycle which begins March 2, 1989.

EFFECTIVE DATE: March 2, 1989.

FOR FURTHER INFORMATION CONTACT: Michael C. Salapka at (202) 287–0590.

SUPPLEMENTARY INFORMATION: On January 3, 1989, Treasury published a notice of proposed rulemaking concerning the amendment in the **Federal Register** [54 FR 40]. In the notice of proposed rulemaking, interested persons were given until February 2, 1989, to submit comments.

Discussion of Final Rule and Comments

In order to achieve budget reductions in Fiscal Year 1989, Treasury is reducing the per-item fee paid to the large note option and remittance option depositaries from the current fifty ($0.50) cents per Federal tax deposit coupon processed to thirty ($0.30) centes for each Federal tax deposit coupon processed. Payment of fees for processing FTD payments is not required by statute. Therefore, Treasury is transferring these administrative procedures to the "Treasury Financial Manual." This manual may be obtained from any Federal Reserve Bank.

Four comments were timely received and a fifth comment was received after the comment period had expired. The first comment was from an association representing the interest of independent banks. The request regarded clarification on the effect of the fee reduction on the note option depositaries. Specifically, the association inquired as to the size of depositaries which would be affected. Treasury responded that fees would not be reduced for the depositaries processing less than $10 million annually in Federal tax deposit volume or any depositary participating in the MBDP.

The second comment was received from an association of banking institutions. It addressed the cost associated with accepting Federal tax deposits. The association suggested that depositaries processing the largest dollar deposit volumes incur increased processing risks. Furthermore, the association requested that depositaries be given the option of recovering their processing costs from their customers by charging a fee for handling Federal tax deposits. The association acknowledged that depositaries receive compensation for handling costs from the Treasury fee paid for each FTD coupon processed and the overnight use of deposited funds.

The intent of Treasury's policy is to reduce fees for the largest depositaries because they are in a more favorable position to accommodate the change in fee structure than the smaller depositaries. The larger depositaries process the largest dollar deposit volumes and generally benefit most from the overnight use of Federal funds. Regarding processing risks it should be noted that current regulations provide that depositaries may at their discretion accept checks drawn on another financial institution, but they do so purely on a voluntary basis. 31 CFR 214.6(a)(1).

Regarding processing costs, the association suggested that depositaries recover processing costs from their customers. This issue was not addressed in the proposed rule. Current regulations forbid depositaries to accept compensation from taxpayers for accepting deposits of Federal taxes and handling them. 31 CFR 214.6(a)(7). Treasury has determined, as a policy matter, that amending this regulation to allow depositaries to charge taxpayers for providing this service is not appropriate at this time: The proposed rule did not speak to this provision of concern to the association and it will be reviewed independently for consideration of its continued validity.

The third comment was from an association representing independent community banks opposing the removal of the fee schedule from the CFR. The association stated that Treasury should be required to consider the bookkeeping and maintenance costs of banks when establishing its fee structure. The association cited results of a survey among community banks with assets ranging from $10 million to $100 million and stated that the costs to process FTD payments ranged from $1.05 to $0.35 per item. The survey indicated that costs declined as the size of the institution increased. The association stressed that current fees do not fully compensate many community banks and that a reduction in fees would be a hardship for smaller institutions.

Treasury has determined, as a policy matter, to transfer the administrative procedures concerning payment of fees for processing FTD payments to the "Treasury Financial Manual." However, this change will not preclude public comment. It is the Department of the Treasury's intent to announce future rate changes prior to their effective date and allow opportunity for public comment.

There are three reasons for Treasury's policy regarding FTD payments. First, budget constraints imposed on the Financial Management Service preclude paying higher fees to depositaries. Second, depositaries that choose to participate in the Treasury Tax and Loan program earn interest on the overnight use of Federal funds deposited as Federal tax payments. Third, Treasury has determined that the larger depositaries are in a better position to accommodate the fee reduction.

The fourth comment was received from an association representing approximately 3,000 savings associations and savings bank businesses. The comment suggested that the Treasury and depositaries should work together to establish a systematic and unbiased method for deriving an annual fee and that a precise formula should be developed and approved through the public comment process. Furthermore, the association suggested that to arrive at an appropriate profit margin, the Treasury should convene a task force comprised of financial industry representatives and others to set the rate and publish it in the **Federal Register** for comment. As stated above, budget constraints preclude Treasury from paying higher fees. In addition, Treasury estimates the earning capacity of depositaries from the overnight use of Federal tax deposit funds during Fiscal Year 1988 was approximately $142 million. This estimate is based on the FY 1988 Federal tax deposit dollar volume cited in the "Daily Treasury Statement" dated September 30, 1988. Furthermore, Treasury estimates that implementing the new fee structure will save the Treasury $6 million in Fiscal Year 1989.

The fifth comment was received from a savings bank. The bank stated that the Treasury proposal to reduce fees ignores the cost of the processing risk associated with accepting Federal tax deposits and the fifth ($.50) cent fee does not cover the bank's actual processing cost. The bank suggested removing the restriction which prohibits depositaries from accepting compensation from taxpayers to allow

banks to cover their processing costs. These issues were addressed in Treasury's response to the second comment. *See* discussion above.

There are no substantive differences between the proposed rule and final rule. Subsequent to the publication of the proposed rule, Treasury increased the threshold between the note option Class A and Class B categories to $10 million in annual Federal tax deposit dollar volume. As a consequence of this policy decision, fewer note option depositaries are affected by the fee reduction than originally estimated. The threshold between the remittance option Class 1 and Class 2 categories is also increased to $10 million.

Treasury is reducing fees paid to all depositaries that process over $10 million in Federal tax deposit dollar volume annually, regardless of classification as note option or remittance option depositaries. However, there is an exception for the MBDP participants. MBDP participants are not affected by the fee reduction. Fee reductions for depositaries that process the smaller FTD dollar deposit volumes and depositaries that participate in the MBDP are under review. Treasury will decide at a later date when fee reductions, if any, will be implemented for the smaller depositaries and MBDP depositaries. The new and any subsequent fee schedules will be published in the "Treasury Financial Manual" and an opportunity will be afforded for public comment prior to further reductions becoming final.

Economic Assessment and Certification

Approximately 3,400 financial institutions participate as note option depositaries while greater than 11,600 financial institutions participate as remittance option depositaries. Treasury estimates that approximately 4,000 financial institutions will be affected by the fee reduction. The larger financial institutions process the largest dollar deposit volumes and generally benefit most from the overnight use of Federal funds. Therefore, Treasury has determined that the initial fee reduction will be limited to those depositaries that process over $10 million in FTD deposits annually.

Distribution of the revised "Treasury Financial Manual" to the Federal Reserve banks and TT&L depositaries will be coordinated with the regulation revisions.

Treasury has determined that this is not a major rule as defined by Executive Order 12291. Accordingly, a regulatory impact analysis is not required. It is hereby certified pursuant to the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a Regulatory Flexibility Act analysis is not required.

List of Subjects

31 CFR Part 203

Banks, Banking, Taxes.

31 CFR Part 214

Banks, Banking, Taxes.

For the reasons set out in the preamble, Title 31, Part 203 and Part 214 of the Code of Federal Regulations, is amended as set forth below.

PART 203—[AMENDED]

1. The authority citation for Part 203 is revised to read as follows:

Authority: 31 U.S.C. 3122 and 31 U.S.C. 323.

2. Section 203.10(b)(2)(ii) is revised to read as follows:

§ 203.10 [Amended]

* * * * *

(b) * * *

(2) * * *

(ii) Analysis credit. All tax and loan balances which are in excess of a current day's credits will be subject to an analysis credit, as explained in the Procedural Instructions for Treasury Tax and Loan Depositaries.

3. Section 203.14 is revised to read as follows:

§ 203.14 Compensation for services rendered.

Except as provided in the Procedural Instructions for Treasury Tax and Loan Depositaries, Depositaries will not be compensated for servicing the tax and loan account or for the bookkeeping costs of maintaining that account.

PART 214—[AMENDED]

1. The authority citation for Part 214 is revised to read as follows:

Authority: 12 U.S.C. § 265; 12 U.S.C. 391; 31 U.S.C. 3122; 31 U.S.C. 323.

§ 214.6 [Amended]

2. Section 214.6 is amended by revising paragraph (b) as follows:

* * * * *

(b) Compensation for services. Except as provided in the Procedural Instructions for Treasury Tax and Loan Depositaries, Depositaries will not be compensated for servicing the tax and loan account or for the bookkeeping costs of maintaining that account.

W. E. Douglas,

Commissioner.

[FR Doc. 89-4612 Filed 2-28-89; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 383

[DoD Directive 5128.1]

Assistant Secretary of Defense (Production and Logistics); Establishment

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This part documents the establishment of the Assistant Secretary of Defense (Production and Logistics) and identifies the responsibilities, functions, relationships, and authorities of the Assistant Secretary of Defense (Production and Logistics).

EFFECTIVE DATE: February 1, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. H. Becker, Office of the Director for Administration and Management, Washington, DC 20301-1155, telephone 202-697-0709.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 383

Organization and management.

Accordingly, Title 32, Chapter I, Subchapter R, is amended to add Part 383 as follows:

PART 383—ASSISTANT SECRETARY OF DEFENSE (PRODUCTION AND LOGISTICS)

Sec.

383.1 Purpose.
383.2 Definition.
383.3 Responsibilities.
383.4 Functions.
383.5 Relationships.
383.6 Authorities.
Appendix—Delegations of Authority.

Authority: 10 U.S.C. 136.

§ 383.1 Purpose.

This part is issued pursuant to the authority vested in the Secretary of Defense under 10 U.S.C.

(a) Designates one of the positions of Assistant Secretary of Defense as the Assistant Secretary of Defense (Production and Logistics) (ASD(P&L)) under the direction, authority, and control of the Under Secretary of Defense (Acquisition) (USD(A)).

(b) Assigns responsibilities, functions, relationships, and authorities, as prescribed herein, to the ASD(P&L).

§ 383.2 Definition.

DoD Components. The Office of the Secretary of Defense (OSD), the Military Departments, the Joints Chiefs of Staff (JCS), the Joint Staff, the Unified and Specified Commands, the Office of the Inspector General of the Department of Defense (OIG, DoD), and the Defense Agencies, and the DoD Field Activities.

§ 383.3 Responsibilities.

The *Assistant Secretary of Defense (Production and Logistics)* (ASD(P&L)) is the Principal Staff Assistant and advisor to the USD(A) for management of DoD procurement, production, the National Defense Stockpile, logistics, installations, environmental programs, Total Quality Management, and other related matters. In this capacity, the ASD(P&L) shall:

(a) Develop policies, conduct analyses, provide advice, make recommendations, and issue guidance on DoD plans, programs, and requirements determinations.

(b) Develop systems and standards for the administration and management of approved DoD plans, programs, and policies.

(c) Develop and promulgate plans, programs, actions, and taskings to ensure adherence to DoD policies and national security objectives.

(d) Review and evaluate DoD Component plans and programs to ensure adherence to approved policies and standards.

(e) Participate in all aspects of the Defense Acquisition System.

(f) Participate in planning, programming, budgeting, and followup activities.

(g) Develop functional requirements, plans, and programs to achieve interoperability among modernized DoD production and logistics information systems.

(h) Participate in all aspects of production and logistics automated information system (AIS) life-cycle management, major AIS reviews, and major AIS approval processes.

(i) Promote coordination, cooperation, and mutual understanding, both inside and outside of the Department of Defense, including oversight and policy information for, and implementation of, agreements with allied and other friendly nations in coordination with the Under Secretary of Defense (Policy) (USD(P)).

(j) Serve as primary focal point and principal DoD spokesman for, and serve on, boards, committees, and other groups pertaining to assigned functional areas.

(k) Develop, coordinate, and maintain regulations as necessary and appropriate to implement the acquisition regulatory responsibilities of the Secretary of Defense and the USD(A).

(l) Perform other duties as the Secretary of Defense and the USD(A) prescribe.

§ 383.4 Functions.

The ASD(P&L) shall carry out the responsibilities described in § 383.3 for the following functional areas:

(a) Maintenance and administration of the Federal Acquisition Regulation (FAR) and the Defense FAR Supplement (DFARS) and other implementations thereto within the Department of Defense.

(b) Contract policy, administration, cost, pricing, and finance.

(c) Transition to production planning and production management.

(d) Materiel and facilities readiness and sustainability.

(e) Management of the National Defense Stockpile.

(f) Total Quality Management.

(g) Defense Standardization and Specification Program.

(h) Technical data management.

(i) Acquisition logistics, including Integrated Logistics Support, post production support, and weapon support assessment.

(j) Support systems acquisition and technology requirements.

(k) Computer-aided Acquisition and Logistics Support.

(l) International logistics and military construction agreements, in coordination with the USD(P).

(m) Supply, warehousing, and distribution management.

(n) Materiel maintenance management, including repair, overhaul, modification installation, and preventive maintenance of weapon systems, equipment, secondary items, and munitions.

(o) Transportation (including airlift and sealift) and traffic management.

(p) Energy management and petroleum logistics.

(q) Host-nation support.

(r) Mobilization planning guidance for military installations and logistics.

(s) Installation management and real property planning, design, acquisition, maintenance, and disposal.

(t) Military base structure and utilization.

(u) Construction, including construction funded by host nations under the North Atlantic Treaty Organization (NATO) Infrastructure Program.

(v) Commercial activities and Defense Regional Inter-Service Support Programs.

(w) Environmental quality and natural resources management.

(x) Postal services and customs inspection.

(y) Planning and life-cycle management of all technological aspects of modernization within the Department of Defense of automated information systems associated with the preceding functions.

§ 383.5 Relationships.

(a) In the performance of assigned functions, the ASD(P&L) shall:

(1) Coordinate and exchange information with other officials in the Department of Defense exercising collateral or related functions.

(2) Use existing systems, facilities, and services of the Department of Defense and other Federal agencies, whenever practicable, to achieve maximum efficiency and economy.

(b) Other OSD officials and heads of DoD Components shall coordinate with the ASD(P&L) on all matters related to the functions cited in § 383.4.

§ 383.6 Authorities.

The ASD(P&L) is hereby delegated authority to:

(a) Issue DoD Instructions, DoD publications, and one-time directive-type memoranda, consistent with DoD Directive 5025.1–M, that implement policies approved by the Secretary of Defense in the functions assigned to the ASD(P&L). Instructions to the Military Departments shall be issued through the Secretaries of those Departments, or their designees. Instructions to Unified and Specified Commands shall be issued through the Chairman, JCS (CJCS).

(b) Obtain reports, information, advice, and assistance, consistent with DoD Directive 7750.5, as necessary in carrying out assigned functions.

(c) Communicate directly with the heads of DoD Components. Communications to Commanders of the Unified and Specified Commands shall be coordinated with the CJCS.

(d) Establish arrangements for DoD participation in nondefense governmental programs for which the ASD(P&L) is assigned primary DoD cognizance.

(e) Communicate with other Government Agencies, representatives of the legislative branch, and members of the public, as appropriate, in carrying out assigned functions.

(f) Exercise authorities contained in the Appendix to this part.

Appendix—Delegations of Authority

Pursuant to the authority vested in the Secretary of Defense, and subject to his direction, authority, and control of the USD(A), and in accordance with DoD policies, Directives, and Instructions, the ASD(P&L) or, in the absence of the ASD(P&L), the person acting for the ASD(P&L), is hereby delegated authority to:

1. Make determinations and decisions regarding contracts, leases, and sales agreements, and take other appropriate actions in the maintenance and monitoring of DoD procurement regulations as delegated by the Defense Acquisition Executive and/or Procurement Executive.

2. Act for the Secretary of Defense on delegations of authority to him by the U.S. Trade Representative to waive the prohibition against procurement from certain countries, pursuant to Title 3 U.S.C., Pub. L. 96–39, Trade Agreements Act of 1979 (19 U.S.C. 2511 *et seq.*), and E.O. 12260, July 26, 1979.

3. Act for the Secretary of Defense in the establishment and granting of waivers under the Buy American Act (41 U.S.C. 10a–b).

4. Act for the Secretary of Defense in the exercise of extraordinary contractual action authority under Pub. L. 85–804, an act to authorize the making, amendment, and modification of contracts to facilitate the national defense, August 28, 1958, in accordance with E.O. 10789, November 14, 1958, as amended, and Part 50 of the Federal Acquisition Regulation.

5. Act for the Secretary of Defense in managing the Competition Advocate Program throughout the Department of Defense (Pub. L. 98–191, the Office of Federal Procurement Policy Act, December 1, 1983, as amended by Pub. L. 98–369, the Competition in Contracting Act, July 18, 1984).

6. Exercise all responsibilities and authority of the Secretary of Defense under Title 10, Under States Code, section 2404, with respect to the acquisition of petroleum (DoD Instruction 4220.8, December 20, 1985).

7. Exercise all responsibilities and authority of the Secretary of Defense under Title 10, United States Code, section 2394, with respect to geothermal resources or contracts for the provision and operation of energy production facilities in accordance with Secretary of Defense Memorandum, December 4, 1982.

8. Exercise all authorities delegated to the Secretary of Defense by E.O. 12626, February 25, 1988, concerning management of the National Defense Stockpile.

9. Act for the Secretary of Defense as the DoD claimant to other designated executive departments and agencies for petroleum requirements and allocations in an emergency (DoD Directive 4140.25, May 15, 1980).

10. Act for the Secretary of Defense regarding implementing the provision of 10 U.S.C. 2325 concerning preference for non-developmental items (DoD Directive 5000.37, September 29, 1978).

11. Establish uniform policies and procedures relating to cataloging and standardization of equipment and supplies under Title 10, United States Code, Chapter 145, and other statutes.

12. Implement the agreement between the General Services Administration and the Department of Defense on supply management relationships under the national supply system (DoD Directive 5030.47, May 27, 1971).

13. Act for the Secretary of Defense in establishing and administering policy guidance for DoD Components concerning the efficient and effective use of DoD storage and warehousing resources (DoD Directive 4145.19, August 13, 1975).

14. Act for the Secretary of Defense in the exercise of authority delegated by the Administrator of General Services to dispose of surplus personal property and to waive prescribed demilitarization requirements under DoD Directive 4160.21 December 5, 1980.

15. Make determinations regarding the donation of suplus personal property to educational activities of special interest to the Armed Forces of the United States, as prescribed in DoD Directive 4160.25, April 30, 1984.

16. Act for the Secretary of Defense to approve the disposal of foreign excess property for substantial benefits or the discharge of claims when it is determined to be in the interest of the United States (DoD Instruction 4160.24, July 24, 1981).

17. Act for the Secretary of Defense in the establishment and administration of policy and guidance governing emergency requirements allocations, priorities, and permits for the use of civil transportation within the continental United States (DoD Directive 3005.7, May 30, 1985).

18. Act for, and exercise the powers of, the Secretary of Defense concerning requests for waiver of the navigation and vessel inspection laws of the United States under Pub. L. 81–891, December 27, 1950 (64 Stat. 1120), except on those matters that have been delegated by the Secretary of Defense to the Secretary of the Army, as prescribed in DoD Directive 5100.21, October 30, 1980.

19. Act for the Secretary of Defense in the field of transportation and traffic management under Title II, section 201(a) of the Federal Property and Administrative Services Act of 1949, June 30, 1949, as amended (40 U.S.C. 481(a)) (DoD Directive 5126.9, June 18, 1979).

20. Act of the Secretary of Defense in establishing policies and providing guidance to DoD Components concerning the efficient and effective use of DoD and commercial transportation resources and the establishment and operation of Transportation Single Manager Agencies (DoD Directive 4500.9, June 28, 1976).

21. Act for the Secretary of Defense regarding DoD participation in, or initiation of, proceedings before transportation regulatory bodies (DoD Instruction 4500.17, January 16, 1969).

22. Serve for the Secretary of Defense as the primary DoD focal point for energy matters and establish an office to discharge this responsibility in accordance with Deputy Secretary of Defense Memorandum, November 17, 1973, as amended by Deputy Secretary of Defense Memorandum, January 21, 1974, as amended by Secretary of Defense Memorandum, August 26, 1974.

23. Make recommendations to the Department of Energy in connection with facilities for transmission of electric energy and natural gas across borders of the United States, pursuant to the authority given the Secretary of Defense in E.O. 10485, September 5, 1953, as amended by E.O. 12038, February 3, 1978.

24. Pursuant to pertinent provisions of Title 10, United States Code, establish and grant waivers to uniform policies and procedures and review and approve programs and specific projects of DoD Components relating to the design, acquisition, construction, operation, maintenance, and disposal of DoD facilities, and the protection of the natural environment in and around DoD facilities.

25. Act for the Secretary of Defense in managing the execution of all overseas military construction, including the provision of guidance and coordination regarding DoD participation in the NATO Infrastructure Program, as prescribed in DoD Directive 2010.5, March 19, 1985. Establish and chair (a) a permanent European Steering Group whose function is the coordination of all long-range facilities planning and interface of U.S.-funded construction in Europe with the NATO Infrastructure Program, and (b) a Southwest Asia Steering Group in order to resolve major Southwest Asia military construction program planning and execution issues in a rapid and coordinated manner.

26. Act of the Secretary of Defense in the implementation of OMB Circular No. A–76, "Performance of Commercial Activities," as revised, August 4, 1983 (DoD Directive 4100.15, August 12, 1985).

27. Act for, and exercise the powers of, the Secretary of Defense concerning requests for waiver of statutory restrictions on core logistics activities (Section 307, Pub. L. 98–525, October 19, 1984; as amended by section 1231, Pub. L. 99–145, November 8, 1985).

28. Exercise all authorities delegated to the Secretary of Defense by E.O. 12580, January 23, 1987, concerning responses to releases of hazardous substances for DoD facilities and vessels under the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9601, *et seq.*), as amended by the Superfund Amendments and Reauthorization Act (Pub. L. 99–499, October 17, 1986).

29. Exercise all responsibilities and authority of the Secretary of Defense under Title 10, United States Codes, section 2701, *et seq.*, regarding conduct of the Defense Environmental Restoration Program. The ASD(P&L) may redelegate these authorities, as appropriate, and in writing, except as otherwise specifically indicated above or prohibited by law or regulation.

February 23, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–4707 Filed 2–28–89; 8:45am]

BILLING CODE 3810–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3529-2]

Approval and Promulgation of State Implementation Plans; Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: By this notice, EPA is approving revisions to the State of Alaska Department of Environmental Conservation (ADEC) rules for stack heights and dispersion techniques which were submitted on June 26, 1987, as a revision to the Alaska state implementation plan (SIP). These revisions were submitted to satisfy the requirements of section 123 (Stack Heights) of the Clean Air Act (hereinafter referred to as the Act).

EFFECTIVE DATE: May 1, 1989.

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

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

Air Programs Branch, Docket #10A-87-12, Environmental Protection Agency, 1200 Sixth Avenue AT-082, Seattle, Washington 98101.

State of Alaska, Department of Environmental Conservation, 3220 Hospital Drive, Juneau, Alaska 99811.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch AT-082, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442-4253, FTS: 399-4253.

SUPPLEMENTARY INFORMATION:

I. Background

On July 5, 1983 (48 FR 30623), EPA approved Alaska Department of Environmental Conservation (ADEC) rules which restricted the use of stack heights and dispersion techniques in accordance with section 123 of the Act. EPA determined that these rules satisfied the requirements of its stack height regulations as promulgated on February 8, 1982 (47 FR 5864). On July 8, 1985 (50 FR 27892) EPA promulgated revisions to its 1983 stack height regulations.

In response to the revised regulations, on June 26, 1987, ADEC submitted revised rules regulating the use of stack heights and dispersion techniques as a revision to the State of Alaska implementation plan (SIP).

On December 28, 1987 (52 FR 48837) and corrected on January 15, 1988 (53 FR 1043), EPA proposed to approve the revisions to ADEC's rules and provided a 30-day public comment period on this proposed approval. No comments were received.

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. Court of Appeals for the D.C. Circuit issued its decision affirming the regulations in large part, but remanding three provisions of EPA for reconsideration. These 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(hh)(2)(ii)(A)]; and

3. Grandfathering pre-1979 use of the refined H + 1.5L formula [40 CFR 51.100(ii)(2)].

II. Final Rulemaking Action

Today, EPA is approving revisions to the ADEC rules regulating the height of stacks and the use of dispersion techniques as a revision to the Alaska SIP.

Although EPA is generally approving ADEC's stack height rules on the grounds that they satisfy 40 CFR Part 51, EPA is also providing 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 EPA's response to the *NRDC* remand modifies the July 8, 1985 regulations, EPA will notify the ADEC that its rules must be changed to comport with EPA's modified requirements. This may result in revised emission limitations or may affect other actions taken by ADEC and source owners or operators.

III. Administrative Review

The Office of Management and Budget 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 May 1, 1989. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects 40 CFR Part 52

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

Date: February 21, 1989.

William K. Reilly,

Administrator.

Note: Incorporation by reference of the State Implementation Plan for the State of Alaska 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 C—Alaska

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.70 is amended by adding paragraph (c)(14) to read as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *

(14) On June 26, 1987, the Commissioner of the Alaska Department of Environmental Conservation submitted revised rules regulating the height of stacks and the use of dispersion techniques, specifically revisions to 18 AAC 50.400(a), 18 AAC 50.530(c), 18 AAC 50.900(16), 18 AAC 50.900(20), 18 AAC 50.900(23), and 18 AAC 50.900.(29), and the deletion of 18 AAC 50.900(17).

(i) Incorporation by Reference.

(A) June 26, 1987 letter from the State of Alaska Department of Environmental Conservation to EPA, Region 10.

(B) August 11, 1987 letter from the State of Alaska Department of Environmental Conservation to EPA, Region 10.

(C) 18 AAC 50.400(a) and 18 AAC 50.900 (16), (20), (23), and (29) as adopted by the State of Alaska Department of Environmental Conservation on December 31, 1986.

3. Section 52.75 is revised to read as follows:

§ 52.75 Contents of the approved State-submitted implementation plan.

The following sections of the State air quality control plan (as amended on the dates indicated) have been approved and are part of the current State Implementation Plan:

Volume II: Analysis of Problems, Control Actions

Section I—Background

A. Introduction (7/1/82)
B. Air Quality Control Regions (7/1/82)
C. Attainment/Nonattainment Designations (7/1/83)
D. Prevention of Significant Deterioration Designations (7/1/83)

Section II—State Air Quality Control Program (11/1/83)

Section III—Areawide Pollutant Control Program

A. Statewide Transportation Control Program (6/1/85)
B. Anchorage Transportation Control Program (6/1/85), except B.10–1 through 10.6 Anchorage Air Pollution Curtailment Actions (6/26/87)
C. Fairbanks Transportation Control Program (6/26/87), except C.10.1 through 10.9 Fairbanks Emergency Episode Prevention Plan (6/26/87)
D. Total Suspended Particulate Matter (7/1/82)
E. Ice Fog (7/1/82)
F. Open Burning (10/30/83)
G. Wood Smoke Pollution Control (7/1/83)
H. Lead Pollution Control (7/1/83)

Section IV—Point Source Control Program

A. Summary (10/30/83)
1. Annual Review Report (10/30/83)
B. State Air Quality Regulations (10/30/83)
C. Local Programs (10/30/83)
D. Description of Source Categories and Pollutants
1. Typical Point Sources (10/30/83)
2. Summary of Major Emitting Facilities (10/30/83)
E. Point Source Control
1. Introduction (10/30/83)
F. Facility Review Procedures
1. Who needs a permit? (10/30/83)
2. Standard Application Procedures (10/30/83)
3. PSD Application Procedures (10/30/83)
Preliminary report and meeting (10/30/83)
Pre-construction monitoring (10/30/83)
PSD application format (10/30/83)
4. Nonattainment Application Procedures (10/30/83)
G. Application Review and Permit Development (10/30/83)
1. Application Review (10/30/83)
2. Permit Development Requirements (10/30/83)
Monitoring and Testing Requirements (10/30/83)
Ambient Monitoring (10/30/83)
Continuous Emissions Monitoring (10/30/83)
Source Testing (10/30/83)
3. Prevention of Significant Deterioration Review (10/30/83)
Basis of Program (10/30/83)
PSD Regulations (10/30/83)
PSD Analysis Procedure (10/30/83)
4. Nonattainment Area Review (10/30/83)
5. New Source Performance Standards Source Review (10/30/83)
6. Visibility Review (10/30/83)
7. Sources under EPA Review (10/30/83)
H. Permit Issuance Requirements (10/30/83)

Section V—Ambient Air Monitoring

A. Purpose (7/1/82)
B. Completed Air Monitoring Projects (7/1/82)
1. Carbon Monoxide (7/1/82)
2. Nitrogen Oxides (7/1/82)
3. Sulfur Dioxide (7/1/82)
4. Ozone (7/1/82)
5. Total Suspended Particulates (TSP) (7/1/82)
6. Lead (7/1/82)
C. Air Monitoring Network (7/1/82)
1. Network Description (7/1/82)
2. Station Designations (7/1/82)
3. Air Quality Monitoring Procedures (7/1/82)
4. Ambient Sampling for Specific Pollutants (7/1/82)
E. Annual Review (7/1/82)

Volume III: Appendices

Section II—State Air Quality Control Program

II.A. State Air Statutes, except section 46.03.170 (11/15/83)
State Attorney General Opinions on Legal Authority—(2/29/72, 2/29/80)
Title 18 Environmental Conservation, Chapter 52 Emissions Inspection and Maintenance Requirements for Motor Vehicles (5/19/85)
Title 18. Environmental Conservation, Chapter 50 Air Quality Control (6/07/87)
II.B. Municipality of Anchorage/Cook Inlet/ADEC Agreements (11/15/83)
II.C. Fairbanks North Star Borough Ordinances, except section 8.04.070/FNSB & ADEC Agreements (11/15/83)

Section III—Areawide Pollutant Control Program

III.B.3–a Anchorage Graphs of Highest and Second Highest CO Readings for Each Site (11/15/83)
III.B.5–a Anchorage Traffic Improvements (11/15/83)
III.B.5–b Anchorage Contingency Plan (11/15/83)
III.B.5–c Anchorage Transit Ridership (11/15/83)
III.B.8–a Anchorage Graphs of Projected CO Concentrations for Each Site (11/15/83)
III.G. Ordinance of the City and Borough of Juneau (10/6/83)
III.H. Support Documents for Lead Plan (11/15/83)

Section IV—Point Source Control Program

IV.1. PSD Area Classification and Reclassifications (11/15/83)
A. Class I Area Boundaries (11/15/83)
B. Areas Protected from Visibility Degradation (11/15/83)
C. Reclassification (11/15/83)
1. Limitations on PSD Reclassification (11/15/83)
2. PSD Reclassification Procedures (11/15/83)
IV.2. Compliance Assurance (11/15/83)
IV.3 Testing Procedures (11/15/83)

Section V—Ambient Air Monitoring

ADEC Ambient Analysis Procedures (11/15/83)

[FR Doc. 89–4450 Filed 2–28–89; 8:45 am]
BILLING CODE 6560–50–M

40 CFR Part 52

[FRL 3527–6]

Approval and Promulgation of Implementation Plans; Oregon

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today approves a new section 025 "Conflict of Interest" in Title 12 "Duties and Powers of Board and Director" of the Lane Regional Air Pollution Authority (LRAPA) rules, as a revision to the Oregon state implementation plan (SIP). This revision was adopted by LRAPA and submitted to the Oregon Department of Environmental Quality (ODEQ), which in turn adopted the new section as a revision to the Oregon Administrative Rules, Chapter 340, Division 20, section 047. On September 28, 1988, the ODEQ submitted the new section to EPA as a revision to the Oregon SIP in order to comply with the requirements of section 128 (State Boards) of the federal Clean Air Act (hereinafter the Act).

EFFECTIVE DATE: This action will be effective on May 1, 1989 unless notice is received before March 31, 1989 that someone wishes to submit adverse or critical comments. If such notice is received, EPA will open a formal 30-day comment period on this action.

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

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.
Air Programs Branch, Environmental Protection Agency, Docket 10A–88–9, 1200 Sixth Avenue AT–082, Seattle, Washington 98101.
State of Oregon, Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon 97204–1390.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch AT–082, Environmental Protection Agency, 1200 Sixth Avenue (Docket #10A–88–9), Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch AT–082, Environmental Protection Agency, 1200 Sixth Avenue, Seattle,

Washington 98101, Telephone: (206) 442-4253, FTS: 399-4253.

SUPPLEMENTARY INFORMATION:

I. Background

The August 7, 1977, amendments to the Clean Air Act included a new section 128 "State Boards," which requires each SIP to contain provisions which ensure that (1) any board or body which approves permits or enforcement orders under the Act shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under the Act, and (2) any potential conflicts of interest by members of such board or body, or the head of executive agency with similar powers, be adequately disclosed.

On August 25, 1987 (52 FR 32009), EPA approved State of Oregon rules for conflict of interest of state boards with respect to the ODEQ and the Environmental Quality Commission (EQC). However, on that date, EPA disapproved the Oregon SIP for failing to contain provisions for LRAPA which satisfy the requirements of section 128 of the Act.

On October 23, 1987, the Oregon Environmental Council (OEC) and Kathy Williams, a private citizen, filed suit in the United States Court of Appeals for the Ninth Circuit for review of the August 25, 1987, rulemaking, alleging that EPA had failed to perform a nondiscretionary duty under the Act by not promulgating section 128 provisions applicable to LRAPA.

On August 22, 1988, EPA entered into a stipulated agreement with the OEC et al., for resolution of the civil suit. Specifically, EPA and OEC et al., agreed to allow the State of Oregon an opportunity to prepare and submit a revision to the Oregon SIP addressing the application of section 128 to LRAPA, agreed to a schedule for EPA action on such submittal, and agreed to a schedule for EPA action if the State of Oregon failed to submit a SIP revision. If Oregon submitted its revision to EPA on or before September 30, 1988, EPA agreed to commence review of the submittal and, on or before February 28, 1989, propose approval, disapproval, or other action, and on or before September 30, 1989, take final action on the submittal.

II. Discussion

On September 28, 1988, ODEQ submitted a new section 025 "Conflict of Interest" in LRAPA Title 12, "Duties and Powers of Board and Director" (incorporated into Oregon Administrative Rules, Chapter 340, Division 20, Section 047) as a revision to the Oregon SIP. This new section incorporates the language of section 128 of the Act into LRAPA Title 12, requiring the Director of LRAPA and the LRAPA Board of Directors to comply with its provisions. After a review of this revision, EPA finds that the new section 025 satisfies the requirements of section 128 of the Act with respect to LRAPA.

Under the terms of the stipulated agreement, EPA is today approving this revision to the Oregon SIP. EPA has chosen to proceed directly to final approval under its new SIP processing procedures (see 54 FR 2214, January 19, 1989) because EPA expects this to be non-controversial action. Such a direct final approval satisfies the terms of the stipulated agreement to propose an action on the submittal before February 28, 1989, and to take final action before September 30, 1989.

III. EPA Action

EPA is today approving the new section 025 "Conflict of Interest" in LRAPA rule Title 12 "Duties and Powers of Board and Director" (incorporated into OAR 340-20-047) as a revision the Oregon SIP. Additionally, EPA is rescinding its previous disapproval of the Oregon SIP with respect to the requirements of section 128 and LRAPA.

IV. Administrative Review

The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments on any or all of these revisions approve herein, the action on these revisions will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action on those revisions and another will begin a new rulemaking by announcing a proposal of the action on these revisions and establish a comment period.

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

Under 5 U.S.C. section 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) 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 May 1, 1989. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Date: February 15, 1989.

Robie G. Russell,

Regional Administrator.

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

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

PART 52—[AMENDED]

Subpart MM—Oregon

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.1970 is amended by adding paragraph (c)(84) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(84) On September 28, 1988, the Director of the Department of Environmental Quality submitted the Lane Regional Air Pollution Authority Section 12-025 "Conflict of Interest," of Title 12, "Duties and Powers of Board and Director," adopted as Oregon Administrative Rules, Chapter 340, Division 20, Section 047, as a revision to the State implementation plan.

(1) Incorporation By Reference.

(i) September 28, 1988, letter from the Director of the Department of Environmetal Quality to EPA Region 10.

(ii) Lane Regional Air Pollution Authority Section 12-025 "Conflict of Interest," of Title 12, "Duties and Powers of Board and Director," as adopted as Oregon Administrative Rules, Chapter 340, Division 20, Section 047. This rule was adopted by the Environmental Quality Commission on September 9, 1988.

§ 52.1985 [Amended]

3. Section 52.1985(b) is removed.

[FR Doc. 89-4451 Filed 2-28-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 8E3661/R1009; RFL-3530-4]

Pesticide Tolerance for Fluazifop-Butyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide fluazifop-butyl in or on the raw agricultural commodity coffee. The Interregional Research Project No. 4 (IR-4) petitioned for this tolerance.

EFFECTIVE DATE: March 1, 1989.

ADDRESS: Written objections, identified by the document control number [PP 8E3661/R1009], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (TS-767C), Registration Division (TS-767C), Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2310.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of December 30, 1988 (53 FR 53017), in which it was announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 8E3661 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the Agricultural Experiment Station of Hawaii.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the residues of the herbicide (R)-2-[4[[5-(trifluoromethyl)-2-pyridinyl] oxy]phenoxy]-propanoic acid (resolved isomer of fluazifop), both free and conjugated, and of butyl [R]-2-[4[[5-(trifluoromethyl)-2-pyridinyl]-oxy]phenoxy]propanoate (resolved isomer of fluazifop-butyl), all expressed as fluazifop, in or on the raw agricultural commodity coffee at 0.10 part per million (ppm).

The petitioner proposed that this use of the commodity be limited to Hawaii based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 15, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. In § 180.411, by adding and alphabetically inserting the raw agricultural commodity coffee, to read as follows:

§ 180.411 Fluazifop-butyl; tolerances for residues.

* * * * *

(d) * * *

Commodity	Parts per million
* * * * *	
Coffee	0.1
* * * * *	

[FR Doc. 89-4720 Filed 2-28-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA-6950]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Administrator reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the FIRM(s) make it administratively

infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

These elevations, together with the floodplain management measures required by 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains.

1. The authority citation for Part 65 continues to read as follows:

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

2. Section 65.4 is amended by adding in alphabetical sequence new entries to the table.

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
South Carolina	Orangeburg	City of Orangeburg	February 9, 1989, February 16, 1989, *The Orangeburg Times and Democrat.*	The Hon. E.O. Pendarvis, mayor, city of Orangeburg, P.O. Box 387, Orangeburg, SC 29115.	January 31, 1989.	450164
Texas	Dallas	City of Garland	February 10, 1989, February 17, 1989, *Garland Daily News.*	The Hon. Ruth Nicholson, mayor of the city of Garland, Dallas County, P.O. Box 469002, Garland, TX 75046–9002.	January 31, 1989.	485471
Texas	Tarrant and Denton	City of Fort Worth	February 2, 1989, February 9, 1989, *Fort Worth Star Telegram.*	The Hon. Bob Bolen, mayor of the city of Fort Worth, Tarrant and Denton Counties, 1000 Throckmorton Street, Fort Worth, TX 76102.	January 26, 1989.	480596

Harold T. Duryee,

Administrator, Federal Insurance Administration.

Issued: February 21, 1989.

[FR Doc. 89–4712 Filed 2–28–89; 8:45 am]

BILLING CODE 6718–03–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 80

[PR Docket No. 88–350; FCC 89–39]

Amendment of the Maritime Services Rules to Permit Noncommercial Communications on VHF Channels 79 and 80

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the maritime services rules concerning the use of marine VHF frequencies on the Great Lakes. The new rules will relieve congestion on VHF maritime frequencies now assigned for noncommercial use on the Great Lakes by permitting noncommercial vessels to share the use of channels 79 and 80 with commercial vessels on the Great Lakes. The intended effect is to improve marine VHF communications on the Great Lakes.

EFFECTIVE DATE: April 3, 1989.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, PR Docket No. 88–350, adopted February 1, 1989 and released February 17, 1989.

The full text of this Commission decision is available for inspection and copying during normal hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The full text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

These rule amendments are in response to a request from the Michigan Steelhead and Salmon Fisherman's Association to provide additional VHF frequencies for use by noncommercial or recreational vessels on the Great Lakes. These rule amendments will relieve congestion on the Great Lakes on VHF

frequencies currently assigned for use by noncommercial or recreational vessels. Congestion on those frequencies will be alleviated by permitting noncommercial vessels to share use of VHF channels 79 and 80 with commercial vessels on the Great Lakes.

In accordance with section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 5 U.S.C. 605(b)), the Commission certifies that these rules will not have a significant economic impact on a substantial number of small entities. The rules allow noncommercial vessels to use these frequencies voluntarily. The effect on existing users will not be substantial. The use of the frequencies is limited to the Great Lakes where monitoring and licensing data indicate the least potential impact nationwide. The rule amendments herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase burden hours imposed on the public. The authority for this action is contained in 47 U.S.C. 154(i) and 303 (l) and (r).

Ordering Clauses

Accordingly, *it is ordered* that Part 80 is amended as shown at the end of this document.

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

It is further ordered that this proceeding is terminated.

A copy of the *Report and Order* will be served on the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 80

Maritime Radio Services, Great Lakes, Ship stations, Coast stations.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Final Rules

Part 80 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

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

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

2. In § 80.373, paragraph (f) is amended by revising the "Noncommercial" portion of the frequency table to read as follows:

§ 80.373 Private communications frequencies.

* * * * *

(f) * * *

* * * * *

NONCOMMERCIAL

68	156.425	156.425	
09	156.450	156.450	
69	156.475	156.475	
71	156.575	156.575	
72	156.625	.....	Intership only.
78	156.925	156.925	
79	156.975	156.975	Great Lakes only.
80	157.025	157.025	Do.

* * * * *

[FR Doc. 89-4507 Filed 2-28-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 81270-9036]

Pacific Halibut Fisheries

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

ACTION: Notice of approval of a Pacific halibut catch sharing plan.

SUMMARY: NOAA announces approval by the Secretary of Commerce (Secretary) of a Catch Sharing Plan developed and adopted by the Pacific Fishery Management Council (Council) to allocate the catch of Pacific halibut in 1989 between treaty Indian and non-Indian commercial and recreational fishermen in International Pacific Halibut Commission (IPHC) statistical Area 2A.

The approved 1989 Catch Sharing Plan (Plan) allocates the total allowable catch of Pacific halibut in Area 2A as established by the IPHC between domestic users in accordance with the Northern Pacific Halibut Act of 1982. The intended effect of the Plan is to ensure the conservation and management of Pacific halibut stocks by limiting the total harvest to the level determined by the IPHC to be biologically acceptable while equitably distributing the allowable harvest among affected user groups in Area 2A. The Plan is for 1989 only and has been forwarded by the Council to the IPHC for adoption and implementation by regulations.

DATE: Effective February 28, 1989.

ADDRESSES: Copies of the Plan are available from Rolland A. Schmitten, Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115, or Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW. First Ave., Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140 or Lawrence D. Six at 503-221-6352.

SUPPLEMENTARY INFORMATION: The Northern Pacific Halibut Act, Pub. L. 97-176, 16 USC 773c(c) authorizes the Regional Fishery Management Council having authority for the geographic area concerned to develop regulations governing the allocation of Pacific halibut catch in U.S. Convention waters which are in addition to, but not in conflict with, the regulations of the IPHC. The geographic area involved is all U.S. marine waters lying south of the U.S./Canadian border including Puget Sound, known as IPHC statistical Area 2A. The Council's process for developing its proposed and final Plan in Area 2A involved State, Federal and treaty Indian fishery managers, user group representatives and the general public.

The Council adopted a proposed Plan for public review at its November 16-18, 1988 public meeting in Portland, Oregon. The Council distributed the proposed Plan to user groups on the West Coast and submitted it to the Secretary for review and publication in the **Federal Register** for public comment. The proposed Plan, a description of the need for the Plan, and a description of the Council's process for developing the proposed Plan were published in the **Federal Register** with a request for public comments on January 10, 1989 (54 FR 834). No written comments on the proposed plan were received by the Secretary or the Council. However, the Council received eleven written comments on its proposed recommendations to the IPHC on seasons and size/bag limits for the non-Indian recreational fisheries. These comments were considered by the Council separately from the Plan.

At its January 12, 1989 public meeting, the Council reviewed and considered the recommendations of its Halibut Select Group (HSG) and public comments made on the Plan. In addition, the Council considered the written and

public comments made at the meeting on its proposed recommendations to the IPHC on recreational seasons and size/bag limits. The Council subsequently adopted a final Plan and final recommendations to the IPHC on non-Indian recreational fisheries. The final Plan was subsequently forwarded to the Secretary for review and approval and to the IPHC for implementation by regulations. In addition, the Council submission to the IPHC included its final recommendations for harvest goals, proposed seasons, and size and bag limits for the non-Indian recreational fisheries in Area 2A.

The final Plan is essentially the same as proposed except for proportionate reductions in the allocations due to an anticipated reduction in the total allowable catch (TAC) in Area 2A from 750,000 to 650,000 pounds. The Council was advised by IPHC staff at the January 12, 1989 public meeting that Pacific halibut stocks had declined coast-wide and therefore the IPHC staff would be recommending a reduced TAC in Area 2A of 650,000 pounds rather than the 750,000 pounds upon which the proposed Plan was based. In addition, in response to HSG recommendations and public comments, the Council made some minor changes to the proposed recreational seasons and bag limits that were recommended to the IPHC.

1989 Catch Sharing Plan for Area 2A

The 1989 Plan as approved by the Secretary is for 1989 only and distributes the anticipated TAC in Area 2A as subquotas between the three user groups as follows:

	Pounds
Treaty Indian subquota	130,000
Reserve	22,000
Non-Indian commercial subquota	274,000
Non-Indian recreational subquota	224,000
Total	650,000

The Plan is based on the 650,000 pound TAC as determined at the IPHC's January 24–27, 1989 annual meeting in Vancouver, B.C., Canada. The approved Plan provides that the subquotas and the reserve will be adjusted upward or downward proportionately with any change in the TAC.

The reserve is set aside for treaty Indian use, although parts or all of the reserve may be released to non-Indian recreational users during the season if it is determined that all or parts of the reserve are surplus to tribal needs. The reserve release would occur no later than July. Further, if it is determined at that time that some portion of the treaty Indian subquota of 130,000 pounds is surplus to tribal needs, then that portion may be released to the non-Indian fisheries. Additional details of the approved Plan are as follows:

1. The treaty Indian subquota will include both commercial and ceremonial and subsistence (C&S) fishing. The treaty Indian commercial fishing season will extend from March 1 through October 31, 1989 and C&S fishing will be permitted all year. The IPHC commercial 32 inch size limit will apply to fish sold by tribal commercial fishermen; however, no size limits will apply to C&S-caught halibut, including C&S fish retained during commercial fishing. Other IPHC regulations on commercial fishing gear and C&S daily bag limits before and after the commercial fishing season will remain the same as in 1988.

2. The allocation of Pacific halibut among non-Indian fisheries will continue to be divided 55 percent to commercial users and 45 percent to recreational users in accordance with the two-year catch sharing plan approved by the Secretary in 1988 (53 FR 7528, March 9, 1988). The 1989 Plan also provides for possible release of unharvested portions of the non-Indian commercial subquota to non-Indian recreational users. The non-Indian recreational fisheries are divided into four geographic areas within Area 2A as follows: (1) Inside waters of Washington State eastward of the Bonilla-Tatoosh line; (2) North coastal Washington waters from the U.S./Canada border to the Queets River; (3) Southern Washington and northern Oregon waters from the Queets River to Cape Falcon; and (4) Oregon and California waters south of Cape Falcon.

Separate from the Plan, the Council developed recommendations for non-Indian recreational seasons and size/bag limits for the non-Indian recreational catch which are designed to achieve the non-Indian recreational allocation. Seasons and size/bag limits recommended by the Council were divided into the four recreational areas described in the Plan.

Classification

The approved 1989 Plan is a general statement of agency policy which does not require notice and comment rulemaking under the Administrative Procedure Act at 5 U.S.C. 553(b)(A). Consequently, the Regulatory Flexibility Act does not apply.

Based on the findings of a regulatory impact review prepared for the proposed Plan to fulfill the requirements of E.O. 12291, the Under Secretary for Oceans and Atmosphere has concluded that actions taken under the Plan are not major and a Regulatory Impact Analysis is not required. An Environmental Assessment (EA) was prepared for the 1988 Plan in accordance with the National Environmental Policy Act (NEPA) and the Assistant Administrator for Fisheries, NOAA, determined that any action taken under the Plan would not have any significant adverse impact on the human environment. Because the alternatives and environmental impacts of the 1989 Plan are no different than those evaluated in the EA for the 1988 Plan, the Assistant Administrator for Fisheries, NOAA, has determined that this action is categorically excluded from NEPA requirements to prepare an EA in accordance with paragraph 5a(3) of the NOAA Directives Manual 02–10. Copies of the 1989 regulatory impact review and the 1988 EA and 1989 NEPA analysis are available from the addresses above.

The approved Plan does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612, nor does it contain any collection of information requirement subject to the Paperwork Reduction Act.

As required by Section 307 of the Coastal Zone Management Act, the coastal States of Washington, Oregon and California have been notified of the determination that this action is consistent to the maximum extent practicable with applicable State coastal zone management programs as required.

List of Subjects in 50 CFR Part 301

Fisheries, Treaties, Reporting and recordkeeping requirements.

Authority: 5 U.S.T. 5; T.I.A.S. 2900; 16 U.S.C. 773–773k.

Dated: February 23, 1989.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 89–4748 Filed 2–28–89; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 54, No. 39
Wednesday, March 1, 1989

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 927

[Docket No. FV-89-024]

Winter Pears Grown in Oregon, Washington and California; Proposed Increase in Expenses for 1988-89 Fiscal Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize an increase in expenditures for the Winter Pear Control Committee (committee) established under Marketing Order 927 for the 1988-89 fiscal year. The expenses would be increased from $3,354,351 to $3,802,846. The increase is needed to cover additional market promotion and advertising activities needed to market the record large 1988-89 winter pear crop.

DATE: Comments must be received by March 13, 1989.

ADDRESS: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456. Three copies of all written materials shall be submittted, and they will be available for public inspection in the Office of the Docket Clerk during regular business hours. All comments should reference the docket number and date and page number of this issue of the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-So., Washington, DC 20090-6456, telephone (202) 475-3862.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 927 (7 CFR Part 927) regulating the handling of winter pears grown in Oregon, Washington and California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

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

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

A final rule establishing expenses in the amount of $3,354,351 for the committee for the fiscal period ending June 30, 1989, was published in the **Federal Register** on August 5, 1988 [53 FR 29441]. Such expenses included $2,774,857 for "paid advertising" as a "contingency" fund of $209,499. The final rule also fixed an assessment rate to be levied on winter pear handlers during the 1988-89 fiscal period.

In a recently conducted mail ballot, the committee voted unanimously to increase its budget of expenses from $3,354,351 to $3,802,846. Of the $448,495 increase in expenditures, $337,803 would be for additional "paid advertising" deemed necessary to market the record large 1988-89 crop. These additional funds are to be allocated among the existing promotional projects which appear to be achieving the best results. The remainder of the proposed increase, $110,692, would be added to the "contingency" expenditures. Contingency funds may be used for emergency spending in any budget category, including promotion and paid advertising.

Because of the unexpected record large crop, additional assessment funds are available to cover the proposed increase in expenses. Hence, no increase in the assessment rate was recommended by the committee.

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

Based on the foregoing, it is found and determined that a comment period of less than 30 days is appropriate because the budget increase approval needs to be expedited. The committee needs to have authority to pay its expenses which are incurred on the continuous basis and to conduct the additional promotion activities deemed necessary to market the record large crop.

List of Subjects in 7 CFR Part 927

Marketing agreement and order, Winter pears, Oregon, Washington, California.

For reasons set forth in the preamble, it is proposed that § 927.228 be amended as follows:

PART 927—WINTER PEARS GROWN IN OREGON, WASHINGTON AND CALIFORNIA

1. The authority citation for 7 CFR Part 927 continues to read as follows:

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

2. Section 927.228 is amended as follows:

§ 927.228 [Amended]

Section 927.228 is amended by changing "$3,354,351" to "$3,802,846".

Dated: February 24, 1989.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-4732 Filed 2-28-89; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-NM-202-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9-81, -82, and -87 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC-9-81, -82, and -87 series airplanes equipped with certain Loral Aircraft Braking Systems main landing gear wheels, which would require inspection of the main landing gear wheels, and modification or replacement of cracked wheels. This proposal is prompted by

reports of cracks found in wheels. This condition, if not corrected, could result in wheel failure and potential damage to adjacent tires, engines, or the airplane.

DATE: Comments must be received no later than April 24, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-202-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Loral Aircraft Braking Systems, 1210 Massillon Road, Akron, Ohio 44315-0001. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Stacho, Aerospace Engineer, Systems and Equipment Branch, ANM-131L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; telephone (213) 988-5338.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-202-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion: Approximately forty instances of cracked wheels have been reported by operators of Model DC-9-80 series airplanes equipped with Loral Aircraft Braking Systems main landing gear wheels, part numbers 5004320-2, -3, -4, -5, -6, and -7. The reported cracked wheels had accumulated between 3200 and 8000 landings when discovered. Investigation revealed that the cracking initiates at the inboard wheel subassembly key boss screw holes. (This key boss screw hole area has not been previously inspected by all operators because this area was not specifically addressed in the wheel manufacturer's maintenance manual.) Analyses by the wheel and airframe manufacturers have determined that the cracks are due to fatigue and are attributed to damaged key boss screw threads and/or corrosion. This condition, if not corrected, could result in wheel failure and potential damage to adjacent tires, engines, or the airplane.

The FAA has reviewed and approved Loral Aircraft Braking Systems Service Bulletin MD81-32-1/MD82-32-1/MD87-32-1, dated July 7, 1988, which describes ultrasonic and eddy current inspections of the Loral Aircraft Braking Systems main landing gear wheels, Part Numbers 5004320-2, -3, -4, -5, -6, and -7, for cracks, and replacement of the key boss screws if no cracks are found.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require inspection of the wheel, replacement of the key boss screws, and removal of cracked wheels, if found, in accordance with the service bulletin previously mentioned. Also, this AD proposes to revise the FAA-approved maintenance program to include repetitive inspections of the wheel.

There are approximately 170 Model DC-9-81, -82, and -87 series airplanes in the worldwide fleet that are equipped with this Loral wheel. It is estimated that 32 airplanes of U.S. registry would be affected by this AD, that it would take approximately 10 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $12,800.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 21612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model DC-9-80 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to Model DC-9-81, -82, and -87 series airplanes, equipped with Loral Aircraft Braking Systems main landing gear wheels, Part Number 5004320-2, -3, -4, -5, -6, and -7, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent wheel failure, accomplish the following:

A. Prior to the accumulation of 2,000 landings on the wheel or within the next 350 landings after the effective date of this AD, whichever occurs later, unless the wheel was inspected within the last 700 landings, inspect the wheel assembly for cracks in accordance with Loral Service Bulletin MD 81-32-1, MD-82-32-1, and MD-87-32-1, dated July 7, 1988.

1. If no cracks are found, replace the key boss screws in accordance with the previous Loral Service Bulletin.

2. If crack(s) are found, replace the wheel before further flight.

B. Within 90 days after the effective date of this AD, revise the FAA-approved

maintenance program to include inspection of the wheel assembly, and replacement, if necessary, as specified in paragraph A., above, at every fourth tire change or every 1,500 landings, whichever occurs first.

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

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Loral Aircraft Braking Systems, 1210 Massillon Road, Akron, Ohio 44315–0001, Attention: Manager of Product Integrity. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

Issued in Seattle, Washington, on February 17, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–4658 Filed 2–28–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 88–ASW–37]

Airworthiness Directives; Schweizer Aircraft Corporation Model 269A, 269A–1, 269B, and 269C Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspection of all throttle cable assemblies for type of construction, removal of throttle cables that incorporate aluminum end fittings, and replacement within 25 hours' time in service of such cable assemblies with swaged steel end fittings on Schweizer Aircraft Corporation Model 269A, 269A–1, 269B, and 269C helicopters. A daily check also would be required on all remaining cable assemblies with threaded steel end fittings until they are replaced by cable assemblies with swaged steel end fittings within 400 hours' time in service or 12 months from the effective date of this AD, whichever occurs first. The proposed AD is needed to prevent throttle cable end fitting separation in flight which could result in loss of throttle control and subsequent damage or loss of the rotorcraft.

DATES: Comments must be received on or before April 17, 1989.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Regional Rules Docket, Office of the Assistant Chief Counsel, FAA, Fort Worth, Texas 76193–0007, or delivered in duplicate to: Office of the Assistant Chief Counsel, FAA, Room 158, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas. Comments must be marked: Docket No. 88–ASW–37. Comments may be inspected in Room 158, Building 3B, Office of the Assistant Chief Counsel, between 8 a.m. and 4 p.m. weekdays, except Federal holidays

The applicable service bulletin (Schweizer Service Information Notice (SIN) N–210, dated April 15, 1988) may be obtained from Schweizer Aircraft Corporation, P.O. Box 147, Elmira, New York 14902.

A copy of SIN N–210, dated April 15, 1988, is contained in the Rules Docket, Office of the Assistant Chief Counsel, FAA, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond J. O'Neill, ANE–174, New York Aircraft Certification Office, FAA, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, telephone (516) 791–7421.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, Office of Assistant Chief Counsel, 4400 Blue Mound Road, Fort Worth, Texas, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: Comment to Docket No. 88–ASW–37. The postcard will be date/time stamped and returned to the commenter.

The FAA has received a report of an end fitting separating from the throttle cable assembly, resulting in loss of throttle control which prevented an increase of power during the final flare prior to landing. A hard landing ensued, causing damage to the helicopter.

Subsequent investigations revealed that if aluminum fittings (either threaded or swaged) or threaded steel end fittings are installed on throttle cable assemblies, they may loosen in service due to the effects of vibration and improper maintenance and eventually may separate and result in loss of throttle control in flight. Threaded fittings are secured to the cable with locking compound and are not intended to be disassembled or loosened after initial installation. Looseness in the assembly can permit relative motion and consequent thread wear, resulting in cable separation, and loss of throttle control. All aluminum fittings (swaged or threaded) because of their relative softness, are particularly vulnerable to wear, galling, and subsequent failure and require more rapid replacement than their threaded steel counterparts. Nearly one-half of the currently installed cable assemblies are fabricated with either aluminum end fittings or with threaded steel end fittings. Fitting failure can occur during any phase of flight and may lead to subsequent loss of the rotorcraft.

Schweizer issued SIN No. N–210 on April 15, 1988, addressing identification, inspection, and replacement, if necessary, of throttle cable end fittings. Service experience has shown that cable assemblies using swaged steel end fittings correct the problem of end fitting loosening and failure. The Schweizer SIN N–210 specifies replacement end fittings to be swaged steel end fittings.

Since this condition is likely to exist or develop in other helicopters of the same type design, an AD is being issued which requires inspection of throttle cable assemblies and replacement of end fittings, as necessary, on Schweizer Model 269A, 269A–1, 269B, and 269C helicopters.

The regulations proposed herein would not have substantial direct effects

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

The FAA has determined that this proposed regulation involves a total of 1,000 helicopters; it requires a one-time, 1-hour inspection at a cost of $40 per helicopter. It is estimated that five hundred of the helicopters will require daily inspections and throttle cable replacement at a cost of $2,300 per helicopter. The total fleet cost to comply with the AD is estimated as $1,190,000. Therefore, I certify that this action (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; (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) if promulgated, 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.

List of Subjects 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed 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—AIRWORTHINESS DIRECTIVES

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 11.85.

§ 39.13 [Amended]

2. By adding the following new AD:

Schweizer Aircraft Corporation: Applies to all Schweizer Model 269A, 269A-1, 269B, and 269C helicopters, certificated in any category, with Serial Numbers 0004 through 1347 which have had throttle cables replaced in the field. (Docket No. 88-ASW-37)

Compliance is required as indicated, unless already accomplished.

To prevent loss of throttle control, accomplish the following:

(a) Within the next 25 hours' time in service or within 30 days, whichever occurs first after the effective date of this AD, identify, inspect, and replace as indicated, the throttle cable assembly as follows:

(1) Determine if aluminum fittings are installed as follows:

(i) Check both end fittings of the cable assembly with a magnet to determine whether they are magnetic.

Note.—Cables which incorporate magnetic fittings (magnet adheres to fitting) do not require the hardness test specified by step (a)(1)(ii) below. For these cable assemblies, omit step (a)(1)(ii) and continue inspection with step (2) below.

(ii) If the magnet does not adhere to the fitting, perform a hardness test on the fitting. If Rockwell hardness is less than B-85, remove and replace the cable assembly with a swaged steel cable assembly in accordance with paragraph (c) of this AD before further flight.

Note.—Performance of the hardness test will require removal of the throttle cable assembly from the helicopter in accordance with standard maintenance instructions.

(2) Visually check both ends of the cable to determine whether the cable incorporates swaged or threaded steel and fittings.

Note.—Throttle cables which incorporate swaged end fittings may be identified by six evenly spaced flat spots around the barrel of the fitting just behind the lug. Threaded end fittings incorporate a cylindrical barrel (no flat spots).

(3) If cable incorporates swaged steel end fittings (as determined from steps (a) (1) and (2) above), further compliance is not required. For these cable assemblies, record compliance in the helicopter log book as "THROTTLE CABLE WITH SWAGED STEEL END FITTINGS INSTALLED."

(4) If cable incorporates a threaded steel end fitting (as determined from steps (a) (1) and (2) above), perform an inspection before further flight and perform repetitive daily inspections in accordance with paragraph (b) of this AD until cable is replaced in accordance with paragraph (c) of this AD.

(5) Record compliance with paragraph (a) of this AD in the compliance record of the helicopter log book.

(b) Prior to the first flight of each day, conduct a visual check of throttle cable assemblies with threaded steel end fittings as follows:

(1) Inspect cable end fittings for general condition and security of attachment. If any abnormality or damage is noted, replace cable assembly in accordance with paragraph (c) of this AD.

(2) Using a flashlight, visually inspect cable push rod for exposed threads adjacent to end fitting (both ends of cable assembly).

Note.—The cable push rod is the movable rod that is attached directly to the cable end fitting (lug).

(3) If threads are visible, replace cable assembly before further flight, in accordance with paragraph (c) of this AD.

(4) Record compliance with paragraph (b) of this AD in the compliance record of the helicopter log book.

(c) Within the next 400 hours' time in service from the effective date of this AD, or within 12 months, whichever occurs first, replace with swaged steel end fittings all threaded steel end fittings which were not replaced during the inspections and rework required by paragraphs (a) and (b) of this AD. Replacement parts applicability is as follows:

Model	Swaged Steel Cable Assembly Part Numbers (P/N)
269A	269A4683-9
269A-1	269A4683-9
269B	269A4683-7
269C	269A4683-7

(1) Remove throttle control cable in accordance with Basic Helicopter Maintenance Instructions (HMI), paragraph 4-11.

Caution: Do not bend throttle cable support tubes more than 8 degrees from centerline of cable. Doing so could cause deformation of the support tubes, premature failure of the cable, and loss of throttle control.

Note.—The cable support tube is the stationary cylinder on the end of the cable through which the cable push rod slides.

(2) Install P/N 269A4683-7 or -9 throttle control cable assembly in accordance with Basic HMI, paragraph 4-11.

(3) Rig throttle control in accordance with Basic HMI.

(4) Check idle speed and idle mixture in accordance with appropriate maintenance instructions. (Adjust as required.)

Note.—Installation of the upgraded cable assembly, P/N 269A4683-7 or -9, cancels the repetitive inspection required by paragraph (b) of this AD.

(5) Record compliance with paragraph (c) of this AD in the compliance record and in the maintenance record of the helicopter log book.

Note.—The instructions in this AD are similar to those contained in Schweizer SIN N-210, dated April 15, 1988.

(d) Upon the submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, New York Aircraft Certification Office, FAA, New England Region, may adjust the compliance times specified in this AD.

(e) An alternate method of compliance which provides an equivalent level of safety with this AD may be used when approved by the Manager, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York 11581.

(f) In accordance with FAR §§ 21.197 and 21.199, flight is permitted to a base where the requirements of this AD may be accomplished.

Issued in Fort Worth, Texas, on February 14, 1989.

L.B. Andriesen,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 89-4657 Filed 2-28-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-203-AD]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to all Boeing Model 737 series airplanes through line number 1581 with a second observer's seat installed, which would require installation of a placard, inspection of the second observer's seat for missing fasteners that may have been omitted during installation, and repair, if necessary. This proposal is prompted by reports of two missing fasteners that were inadvertently omitted on some airplanes during the installation of the second observer's seat, and are required to secure that seat to the forward lavatory. This condition, if not corrected, could result in failure of the attaching hardware to provide adequate strength for the lavatory mounted second observer's seat.

DATE: Comments must be received no later than April 24, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-203-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Pliny Brestel, Airframe Branch, ANM-120S; telephone (206) 431-1931. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-203-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion:

The manufacturer has reported that two fasteners may have been omitted on some Boeing Model 737 series airplanes when installing the second observer's seat on the forward wall of the forward lavatory. The seat installation requires that those fasteners be in place in order to provide adequate strength when the seat is occupied during flight or emergency landing conditions.

The FAA has reviewed and approved Boeing Service Letter 737-SL-25-41, dated October 14, 1988, which describes procedures for inspection of the second observer's seat installation for missing fasteners, and repair, if necessary.

Since this condition is likely to exist on other airplanes of this same type design, an AD is proposed which would require installation of a placard, inspection of the second observer's seat installation, and repair, if necessary, in accordance with the service letter previously mentioned.

There are approximately 1,554 Model 737 series airplanes of the affected design in the worldwide fleet. It is estimated that 722 airplanes of U.S. registry would be affected by this AD, that it would take approximately two manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The placard may be manufactured locally and the cost is expected to be negligible. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $57,760.

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

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 737 series airplanes through line number 1581, equipped with a second observer's seat, certificated in any category. Compliance required as indicated, unless previously accomplished.

To ensure structural integrity of the second observer's seat, accomplish the following:

A. Within 30 days after the effective date of this AD, install a placard above the second observer's seat, stating: "NO OCCUPANCY." This placard may be removed once the terminating action of paragraph B., below, has been accomplished.

B. Within 6 months after the effective date of this AD, inspect the second observer's seat installation for missing fasteners, in accordance with Boeing Service Letter 737–SL–25–41, dated October 14, 1988. If fasteners are found to be missing, repair prior to further flight, in accordance with the service bulletin.

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

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

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

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

Issued in Seattle, Washington, on February 17, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–4660 Filed 2–28–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 88–NM–218–AD]

Airworthiness Directives; British Aerospace Model BAC 1–11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to British Aerospace Model BAC 1–11 200 and 400 series airplanes, which would require repetitive visual inspections of the fuselage station 178 frame splice joint, skin, stringers, and connecting structure in the crown area for cracks, and repair of all cracks prior to further flight. This proposal is prompted by reports of fatigue cracks found in the fuselage crown area of the frame joint at Station 178. This condition, if not corrected, could compromise the structural capability of the fuselage.

DATES: Comments must be received no later than April 24, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 88–NM–218–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Service Bulletin Librarian, P.O. Box 17414, Dulles International Airport, Washington, D.C. 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM–113; telephone (206) 431–1565. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 88–NM–218–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The United Kingdom (UK) Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain British Aerospace BAC 1–11 series airplanes. There have been numerous reports of cracks found in the frame splice joint at fuselage Station 178 and associated structure in the fuselage crown area between stringers 2 left and 2 right. The cracking has initiated due to fatigue occurring in areas of stress concentration. This condition, if not corrected, could compromise the structural capability of the fuselage.

British Aerospace has issued Alert Service Bulletin 53–A–PM5964, Issue 2, dated June 1, 1988, which describes procedures for repetitive visual inspections for cracking of the fuselage frame splice joint, skin, stringers, and connecting structure at fuselage station 178 between stringers 2 left and 2 right, and repair, if necessary. The United Kingdom CAA has classified this service bulletin as mandatory.

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

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require repetitive visual inspection for fatigue cracking in the area of fuselage joint station 178, and repair, if necessary, in accordance with the service bulletin previously described.

Although the British Aerospace Service Bulletin recommends conducting continued operations with cracks that do not exceed specified limits, the FAA has determined that continued operation of airplanes with damage is unacceptable when undetected multiple site damage may be involved. Therefore, the proposed AD would require repair of damaged parts prior to further flight.

It is estimated that 70 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $2,800.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and

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

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, British Aerospace Model BAC 1–11 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

2. By adding the following new airworthiness directive:

British Aerospace: Applies to all Model BAC 1–11 200 and 400 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent structural failure of the fuselage accomplish the following:

A. Prior to the accumulation of 30,000 landings or within 1,600 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 1,600 landings, perform visual inspections of the fuselage frame splice joint, skin, stringers, and connecting structure at fuselage station 178 between stringers 2 left and 2 right, in accordance with British Aerospace Alert Service Bulletin 53–A–PM5964, Issue 2, dated June 1, 1988. Any cracks found must be repaired prior to further flight, in accordance with the service bulletin.

B. If cracks are found during inspections required by paragraph A., perform additional inspections in accordance with paragraph 2.2. of the Accomplishment Instructions, of British Aerospace Alert Service Bulletin 53–A–PM5964, Issue 2, dated June 1, 1988, and repair all cracks, prior to further flight, in accordance with the service bulletin.

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

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Inc., Service Bulletin Librarian, P.O. Box 17414, Dulles International Airport, Washington, D.C. 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on February 17, 1989.

Leroy A Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–4661 Filed 2–28–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 89–NM–01–AD]

Airworthiness Directives; Lockheed Model 382 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to Lockheed Model 382 series airplanes, which would require periodic inspections of the nose landing gear (NLG) strut assemblies to detect corrosion and cracking in the steering collar area. This proposal is prompted by a report of failure of a NLG strut assembly, which resulted in the separation of the NLG from the airplane during landing. This condition, if not corrected, could lead to loss of controllability of the airplane upon landing.

DATE: Comments must be received no later than April 24, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 89–NM–01–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Lockheed Aeronautical Systems Company, 86 South Cobb Drive, Marietta, Georgia 30063. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Atlanta Aircraft Certification Office, FAA, Central Region, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Bentley, Aerospace Engineer, Airframe Branch (ACE–120A), Atlanta Aircraft Certification Office, FAA, Central Region, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; telephone (404) 991–2910.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 89–NM–01–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The FAA has received a report that a Lockheed Model 382G series airplane experienced a separation of the nose landing gear (NLG) during landing of the airplane. The separation occurred as a result of the failure of the NLG strut assembly due to stress corrosion cracking in the steering collar area. This condition, if not corrected, could lead to failure of the NLG, and resulting loss of controllability of the airplane upon landing.

The FAA has reviewed and approved Lockheed Service Bulletin 382–32–21, dated September 5, 1979, which describes procedures for inspection for corrosion and cracking in the NLG strut assembly, part number 388071–3, and rework, if necessary; and Lockheed Service Bulletin 382–32–23, dated March 17, 1978, which describes procedures for installation of an improved NLG strut assembly, part number 3303591–1.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require repetitive inspections and rework or replacement, if necessary, of the NLG strut assembly, in accordance with Lockheed Service Bulletin 382–32–21. Additionally, this proposed AD provides for terminating action for the repetitive inspections by installing the improved NLG strut assembly in accordance with Lockheed Service Bulletin 382–32–23. The improved NLG strut assembly, was installed in production on Model 382 series airplanes beginning with serial number 4638; therefore, those airplanes are not subject to the requirements of this proposed AD.

There are approximately 691 Lockheed Model 382 series airplanes of the affected design in the worldwide fleet. It is estimated that 18 airplanes of U.S. registry would be affected by this AD, that it would take approximately 74 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $53,280.

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

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because Lockheed Model 382 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Lockheed: Applies to Model 382 series airplanes, serial numbers 3946 through 4637, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent failure of the nose landing gear strut assembly, accomplish the following:

A. Within the next 250 hours time-in-service after the effective date of this AD, and thereafter at intervals not to exceed 3,000 hours time-in-service, perform an inspection for corrosion of the nose landing gear strut assembly, part number 388071–3, in accordance with Lockheed Service Bulletin 382–32–31, dated September 5, 1979.

1. If corrosion is detected which is within the limits specified in the service bulletin, rework in accordance with the service bulletin prior to further flight.

2. If corrosion is detected which is outside the limits specified in the service bulletin, prior to further flight, accomplish one of the following:

a. Replace the defective cylinder assembly, part number 371675–1 with a serviceable cylinder assembly; or

b. Modify the nose landing gear strut and components in accordance with Lockheed Service Bulletin 382–32–23, dated March 17, 1978.

B. Modification of the nose landing gear strut and components in accordance with Lockheed Service Bulletin 382–32–23, dated March 17, 1978, constitutes terminating action for the inspection requirements of this AD.

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, Atlanta Aircraft Certification Office, FAA, Central Region.

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Lockheed Aeronautical Systems Company, 86 South Cobb Drive, Marietta, Georgia 30063. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Atlanta Aircraft Certification Office, FAA, Central Region, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia.

Issued in Seattle, Washington, on February 17, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–4659 Filed 2–28–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 89–ASO–6]

Proposed Revision of Control Zone, Covington, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the Covington, KY, Control Zone. This action will delete the arrival area extension based on the Runway 36 ILS localizer south course which is no longer required for airspace protection. Also, the geographic position coordinates of the Greater Cincinnati International Airport will be corrected.

DATE: Comments must be received on or before: March 30, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, ASO–530, Manager, Airspace and Procedures

Branch, Docket No. 89–ASO–6, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

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, aeronautical, economic, environmental, and energy aspects of that 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. 89–ASO–6." 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 Assistant Chief Counsel for Southern Region, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, 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 Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. 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. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the Covington, KY, Control Zone by deleting the arrival area extension predicated on the Runway 36 ILS localizer south course and correcting the geographic position coordinates of the Greater Cincinnati International Airport. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6D dated January 4, 1988.

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 zone.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) 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; E.O. 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:

Covington, KY [Revised]

Within a 5-mile radius of Greater Cincinnati International Airport (Lat. 39°02'52" N; Long. 84°40'00" W).

Issued in East Point, Georgia, on February 14, 1989.

William D. Wood,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 89–4464 Filed 2–28–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 89–ASO–10]

Proposed Amendment to Transition Area, Springfield, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Springfield, KY, transition area. An arrival area extension is being added to accommodate a planned Nondirectional Radio Beacon (NDB) Standard Instrument Approach Procedure (SIAP) to Runway 11 at the Lebanon-Springfield Airport. Also, a minor correction is being made to the geographic position coordinates of the airport.

DATE: Comments must be received on or before: April 10, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, ASO–530, Manager, Airspace and Procedures Branch, Docket No. 89–ASO–10, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

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, aeronautical, 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. 89–ASO–10." 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 Assistant Chief Counsel for Southern Region, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, 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 Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. 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. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Springfield, KY, transition area. An arrival area extension is necessary to provide additional controlled airspace for protection of aircraft executing a NDB instrument approach procedure planned for Runway 11 at the Lebanon-Springfield Airport. Also, this action would make a minor correction to the latitude/longitude coordinates for the geographic position of the airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6D dated January 4, 1988.

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, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) 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; 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:

Springfield, KY [Amended]

By amending the Lebanon-Springfield Airport coordinates to read, "(Lat. 37°38'01" N, Long. 85°14'32" W)" and by adding the following statement to the end of the existing description: "and within three miles each side of the 280° bearing from the Springfield NDB (Lat. 37°38'22" N, Long. 85°14'10" W), extending from the 6.5-mile radius area to 9 miles west of the NDB."

Issued in East Point, Georgia, on February 17, 1989.

William D. Wood,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 89–4663 Filed 2–28–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 89–ASO–4]

Proposed Designation of Transition Area, Huntingdon, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate the Huntingdon, Tennessee, transition area to accommodate Instrument Flight Rule (IFR) operations at the Carroll County Airport. This action will lower the base of controlled airspace from 1,200 feet to 700 feet above the surface in the vicinity of the airport. A Standard Instrument Approach Procedure (SIAP) is being developed to serve the airport and the controlled airspace is required for protection of IFR aeronautical operations. Concurrent with the publication of the SIAP, the operating status of the airport will change from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR).

DATE: Comments must be received on or before: April 21, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, ASO–530, Manager, Airspace and Procedures Branch, Docket No. 89–ASO–4, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

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, aeronautical, 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. 89–ASO–4." 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 Assistant Chief Counsel for Southern Region, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, 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 Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. 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. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Huntingdon, Tennessee, transition area. This action will provide controlled airspace for aircraft executing a new Standard Instrument Approach Procedure to the Carroll County Airport. If the proposed designation of the transition area is found acceptable, the operating status of the airport will be changed to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6D dated January 4, 1988.

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, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) 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; 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:

Huntingdon, TN [New]

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Carroll County Airport (Lat. 36°05'23" N, Long. 88°27'45" W); within 3.5 miles each side of the 186° bearing from the Huntingdon RBN. (Lat. 36°05'17" N, Long. 88°28'10" W), extending from the 7-mile radius area to 10 miles south of the RBN."

Issued in East Point, Georgia, on February 14, 1989.

William D Wood,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 89–4662 Filed 2–28–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 88–ASW–63]

Proposed Revision of Transition Area; Morrilton, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the transition area located at Morrilton, AR. The development of a new standard instrument approach procedure (SIAP) to Runway 27 at the Morrilton Municipal Airport, utilizing the Bridge Nondirectional Radio Beacon (NDB), has made this proposed revision necessary. The intended effect of the proposal is to provide adequate controlled airspace for aircraft executing the new NDB RWY 27 SIAP to the Morrilton Municipal Airport. Coincident with this action, the status of the Morrilton Municipal Airport will change from visual flight rules (VFR) to instrument flight rules (IFR).

DATES: Comments must be received on or before April 7, 1989.

ADDRESSES: Send comments on the proposal in triplicate to:

Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 88–ASW–63, 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 Transportaion, 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–63." 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. 11–2A 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 Morrilton, AR. The development of a new SIAP to Runway 27 at the Morrilton Municipal Airport, utilizing the Bridge NDB, has necessitated this proposed revision. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the new NDB RWY 27 SIAP. Coincident with this action is the changing of the status of the Morrilton Municipal Aiport from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 1, 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 no 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 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:

Morrilton, AR [Amended]

By adding to the end of the existing legal description: "and within a 10.0–mile radius of the Morrilton Municipal Airport (latitude 35 °08' 10"N., longitude 92 °42'48"W.); excluding that portion that overlies the Little Rock AR, Transition Area."

Issued in Fort Worth, TX on February 15, 1989.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 89–4667 Filed 2–28–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 88–ASW–54]

Proposed Revision of Control Zone; Hood Army Airfield (AAF), TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the control zone located at Hood Army Airfield (AAF), TX. The existing Hood AAF Control Zone became effective on November 19, 1987, and was described as "within a 3-mile radius of the Hood AAF * * *." This 3-mile radius around the Hood AAF was to be large enough to touch the Robert Gray AAF Control Zone. However, it has been determined that the 3-mile radius is too small to do this and must be enlarged to a 3.5-mile radius around the Hood AAF. This will be the only change to the existing Hood AAF Control Zone. The Robert Gray AAF Control Zone will not be affected by the proposed revision.

DATE: Comments must be received on or before April 7, 1989.

ADDRESSES: Send comments on the proposed in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 88–ASW–54, 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–54." 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. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of the Federal Aviation Regulations (14 CFR Part 71) by revising the control zone located at Hood AAF, TX. The existing part-time Hood AAF Control Zone became effective on November 19, 1987. The

control zone was described as "within a 3-mile radius of the Hood AAF * * *." This 3-mile radius was to be large enough to touch the Robert Gray AAF Control Zone; however, it has been determined that the 3-mile radius is too small to do this and must be enlarged to a 3.5-mile radius of the Hood AAF. This will be the only change to the Hood AAF Control Zone. The Robert Gray AAF Control Zone will not be affected by this proposed revision. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 1, 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 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.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Hood Army Airfield (AAF), TX [Amended]

By changing the first sentence of the existing legal description to read: "Within a 3.5-mile radius of the Hood AAF (latitude 31°08'13" N., longitude 97°42'49" W.) . . ." The remainder of the legal description remains unchanged.

Issued in Fort Worth, TX on February 15, 1989.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 89-4668 Filed 2-28-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ASW-01]

Proposed Establishment of Transition Area; Spearman, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a new transition area at Spearman, TX. There is an existing standard instrument approach procedure (SIAP) to Runway 2 at the Spearman Municipal Airport, utilizing the Borger Very High Frequency Omnidirectional Radio Range/Tactical Air Navigation (VORTAC), which has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the existing VOR/DME RWY 2 SIAP to the airport.

DATE: Comments must be received on or before April 7, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 89-ASW-01, 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-01." 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. 11-2A 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 new transition area at Spearman, TX. There is an existing VOR/DME RWY 2 SIAP to the Spearman Municipal Airport, utilizing the Borger VORTAC, which has necessitated the proposal. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the existing VOR/DME RWY 2 SIAP. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 1, 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 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:

Spearman, TX [New]

That airspace extending upward from 700 feet above the surface within a 7.0-mile radius of the Spearman Municipal Airport (latitude 36°13'05" N., longitude 101°11'47" W.).

Issued in Fort Worth, TX on February 15, 1989.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 89-4666 Filed 2-28-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 270 and 271

[Docket No. RM89-6-000]

Establishment of Deadlines for First Sellers to Make and Report Refunds; Proposed Rulemaking

February 23, 1989.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to revise its regulations for carrying out wellhead pricing refund requirements under the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301-3432 (1982)). The proposed revisions are in response to an audit of the Commission's wellhead pricing refund program conducted at the Commission's request by the Office of Inspector General, United States Department of Energy.

In this order, the Commission establishes specific time limits by which first sellers must make refunds of overcollections or unauthorized collections of prices and file refund reports.

DATE: An original and 14 copies of the written comments on this proposed rule must be filed with the Commission by May 1, 1989.

ADDRESS: All filings should refer to Docket No. RM89-6-000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

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

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

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357-8997. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this proposed rulemaking will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to revise its regulations for carrying out wellhead pricing refund requirements under the Natural Gas Policy Act of 1978 (NGPA).[1] This action is being taken in response to an audit of the Commission's wellhead pricing refund program conducted at the Commission's request by the Office of Inspector General, United States Department of Energy.[2] The proposed revisions establish specific time limits by which first sellers must make refunds of over-collections or unauthorized collections of prices and file refund reports.

II. Public Reporting Burden

The Commission estimates that the public reporting burden for the collection of information in this notice of proposed rulemaking to be one hour per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Interested persons may send comments regarding this burden estimate or any other aspect of this collection of information, including sugestions for reducing this burden, to Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC (Attention: Michael Miller (202) 357-9205); and to the Office of Management and Budget, Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission).

III. Background and Discussion

The Commission oversees the maximum lawful price (MLP) for first sales of certain natural gas under the NGPA. The NGPA establishes eight pricing categories, each of which has a different maximum lawful price.[3]

A. The Refund Obligation

Producers and other first sellers must refund any collections in excess of the applicable MLP and report the refunds to the Commission. Refunds are made under two provisions of the Commission's regulations: [4] (1)

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[1] 15 U.S.C. 3301-3432 (1982)

[2] U.S. Dept. of Energy, Office of Inspector General, The Federal Energy Regulatory Commission's Wellhead Pricing Refund Program, No. 0259 (Sept. 29, 1988).

[3] 15 U.S.C. 3311-3319 (1982).

[4] First sellers are permitted to collect the NGPA section 108 MLP subject to refund provisions of § 271.805(f), but those refund provisions take ther refund authority from § 270.101(e).

§ 273.302, which applies to the obligation to refund interim collections; [5] and (2) § 270.101, which applies to all other refund obligations. Section 273.302 specifies the timing for making and reporting refunds.[6] Section 270.101(e) does not. It requires only that refunds be made "promptly," and therefore it is the focus of our proposal here.

Section 270.101(e) is a general provision that includes all refund obligations other than interim collection refunds that fall under § 272.302 of the regulations. Most of the refunds under § 270.101(e) involve wells previously determined to be stripper wells under NGPA section 108 but which were subsequently disqualified.[7] Section § 270.101(e) refunds obligations also arise in any sale of gas at a particular NGPA incentive price where the first seller was not eligible, even on an interim basis under Part 273 of the Commission's regulations, to collect a price in excess of the otherwise applicable MLP because the first seller has not yet filed an application with the appropriate jurisdictional agency for a determination of eligibility to charge the incentive price. Not having applied for the necessary NGPA category eligibility determination, the first seller has not interim collection authority under Part 273 to collect that NGPA incentive price and the seller is limited to the otherwise applicable maximum lawful price.

Refund obligations under the § 270.101(e) general refund requirements also include those arising as the result of sales of misvintaged gas. For example, factors such as the date that surface drilling of a well began affect the proper classification for "old" interstate gas (*i.e.*, gas subject to NGPA section 104). If the first seller misvintages gas, a § 270.101(e) refund obligation is triggered.

B. The Audit and the Need for Revisions to the Refund Regulations.

The Commission has been and continues to be committed to ensuring that refunds owed by first sellers to their customers are made as expiditiously as possible in order to hasten their ultimate pass-through to residential customers and other end users. To this end, the Inspector General's review was conducted to determine whether the Commission has adequate policies and purchasers and report refunds to the Commission in a timely manner as required by the NGPA.

The audit was performed in accordance with generally accepted government auditing standards. The 60-day and 90-day criteria established for refunds under § 273.302 [8] were applied to randomly selected cases. The audit report found that only six percent of the refunds were paid within 60 days, that only 24 percent of the required refund reports were submitted to the Commission within 90 days, and that, on average, first sellers took a year and a half to make refunds and submit reports. Based on these findings, the audit report concluded that, overall, first sellers did not refund overcharges or file reports in a timely manner, and that as a result an estimated $200 million (or approximately $22 million a year) was not refunded promptly.

The audit report attributed late refunds and reports primarily to, *inter alia*, the lack of specific time limits for first sellers to make refunds and reports for all types of refund actions, and the absence of penalty actions for late refunds or late reports. It recommended that corrective action be taken. The Commission concurs with the Inspector General's findings and conclusions and agrees that remedial action is necessary. Requiring timely refunds should help to ensure that residential customers and other end uses who pay the overcharges are not unreasonably deprived of the use of funds to be refunded.[9]

IV. The Proposed Rule

A. Section 270.101(e)

Section 270.101(e) now provides that refunds shall be made "promptly." The proposed revisions would specify that refunds must be paid within 60 days after a first seller is notified that a refund is due or becomes aware that a refund is due, unless the refund is recovered through a billing adjustment. New provisions would be added to specify that if a refund is made through a billing adjustment, the first seller and purchaser may agree to a reasonable period for completion of the billing adjustment not to exceed 120 days.

A purchaser would not be able to use a billing adjustment prior to expiration of the 60-day period without the first seller's prior approval. After the 60-day period expires, the purchaser would be able to use the billing adjustment to recover the refund without the first seller's prior approval. However, before the billing adjustment could be implemented, the purchaser would have to inform the seller of the amount of the refund and the time period during which the adjustment would be completed.

New provisions would also require the seller to file a refund report, consisting of an original and two copies with a purchaser concurrence, within 90 days of receiving notice of the refund obligation or becoming aware that the refund is due. This report would not be required if a refund is recovered by an interstate pipeline purchaser through a billing adjustment.

B. Section 271.805(f)

Under section 108(b) of the NGPA, a well that produces an average of 60 Mcf or less per production day of nonassociated natural gas for a 90-day production period (60 Mcf limit) can qualify as a stripper well. Under 271.805, once a well has been determined to be a stripper well, that status is not forfeited when production exceeds stripper well levels in any 90-day production period; however, the seller is limited to the otherwise applicable MLP, not the stripper well incentive price, until a new 90-day qualifying period is established.[10]

Under § 271.805(f), an operator who files either a petition for a determination under § 271.806, or a motion contesting

[5] The MLP in any first sale of natural gas depends on the applicable NGPA category of the gas. Sellers must apply to Federal and State jurisdictional agencies for a determination of eligibility to collect the MLP for certain categories of gas. Under section 503 of the NGPA and the Commission's implementing regulations in Part 273 [18 CFR Part 273 (1988)], once a first seller of natural gas has filed an application with a jurisdictional agency, it may collect, on an interim basis, prices up to the MLP for the applied for category of natural gas. However, a first seller must refund these interim collections upon denial or withdrawal of its application.

[6] Section 273.302 requires a seller to refund with interest, within sixty days after either withdrawing its application or receiving a negative determination, any portion of an interim collection that is in excess of the actual maximum lawful price for the correct NGPA category of the gas sold. Within ninety days of either a negative eligibility determination or an application withdrawal, a seller must file either a refund report or a statement with the Commission certifying that no refund is required. If the seller does not make such payment in 60 days, § 273.302 permits the pipeline to make a billing adjustment. If the pipeline makes a billing adjustment, the first seller is not obligated to file a refund report. *See* Purchased Gas Adjustments, Final rule, Order No. 423, 50 Fed. Reg. 23,669 (June 5, 1985); FERC Stats. & Regs. [Regulations Preambles 1982–1985] ¶ 30,645 (May 30, 1985).

[7] Disqualification occurs when production in a 90-day production period exceeds the stripper well qualification level.

[8] *See* note 5.

[9] Competitors that do not promptly refund overcharges have the use of these funds until refunds are made. Although they must may interest on the late refunds, the amount of interest they must pay may not be enough to achieve equity.

[10] *See* Reduction in Filing Requirements for Well Category Applications under Sections 102, 103, 107 and 108 of the Natural Gas Policy Act of 1978; Regulations for Temporary Pressure Buildup Determinations under Section 108 of the Natural Gas Policy Act, Order No. 336, 48 FR 44,508 (Sept. 29, 1983); FERC Stats. & Regs. [Regulations Preambles 1982–1985] ¶ 30,496 (Sept. 27, 1983).

the disqualification of the stripper well, may collect, subject to refund, the MLP provided in § 271.802. A new paragraph would be added to provide that when the petition for determination under § 271.806 or the motion contesting disqualification is denied or withdrawn, then the operator must comply with § 270.101(e), as it is proposed to be revised.

Now provisions also would require, in the case of refunds due to disqualification, that the seller refund all amounts collected in excess of the ceiling price, with interest, within 180 days after the last day of the disqualifying 90-day or 12-month period,[11] unless the seller files a petition under § 271.806 within 150 days after the last day of the disqualifying period or unless the refund is recovered through a billing adjustment in accordance § 270.101(e) (1) and (2). Compliance with the interim collection refund requirements under § 273.302 would not eliminate this obligation.

Other new provisions would require the seller to file a refund report or statement that no refunds are due, consisting of an original and two copies with a purchaser concurrence, within 210 days after the last day of the disqualifying 90-day or 12-month period.[12] This report would not be required if a refund is recovered by an interstate pipeline through a billing adjustment.

V. Additional Remedies

By our action in this proceeding, we are seeking to ensure that refunds owed by first sellers are made as quickly as possible and ultimately passed through to residential customers and other end users. There are two provisions presently available to the Commission that should also facilitate the refund and reporting process: (1) § 273.302 of the Commission's regulations, which permits recovery of interim collection refunds through billing adjustments by purchasers;[13] and (2) section 504 of the NGPA, which provides for the asssessment of civil penalties for late refunds and late reports.[14]

A. Order No. 423

In Order No. 423, the Commission was concerned about delays in refunds of interim collections under § 273.302. At that time, § 273.302 provided that interim collection refunds could be made only by lump sum payments. The Commission concluded that permitting interim collection refunds to be made through billing adjustments as well as through lump sum payments would ensure that refunds owed by producers and other first sellers would be made as quickly as possible. It reasoned that billing adjustments would provide pipeline companies and other first-sale purchasers a positive means of recovering refunds without waiting for producers to make their lump sum payments. It concluded that because many pipeline companies use billing adjustments to recoup most types of overcollections, pipelines would be in a position to use billing adjustments to take the initiative in recovering first sellers' interim collection refunds when sellers fail to make timely lump sum payments. In addition, the Commission stated that § 270.101(e) permits the use of billing adjustments to recover refunds and added § 270.101(f) to require interstate pipelines to report refunds collected through billing adjustments.

Prior to the issuance of Order No. 423, the Commission issued a policy statement on the duty of interstate pipelines to pursue refunds in Order No. 423's notice of proposed rulemaking.[15] The Commission emphasized that even though a seller continues to carry the primary responsibility for its refund obligations, the pipelines also have an obligation, as part of prudent management, to ensure that they recover and pass through refunds owed their customers. The commission notes that most interstate pipelines have not taken advantage of billing adjustments as a remedy to first sellers' almost chronic delays in making refunds. Therefore, the Commission advises interstate pipelines that it intends to pursue corrective action if the billing adjustment provisions continue to be ignored.

B. Civil penalties.

Under section 504(b)(6) of the NGPA, the Commission has the authority to assess civil penalties for knowing violations of its regulations. If the problem of delay in refunding persists, the Commission will consider the civil penalty remedy on a case-by-case basis.

VI. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement must be prepared for any Commission action that may have a significant adverse effect on the human environment.[16] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[17] No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural or that does not substantially change the effect of legislation or regulations being amended.[18] This rule is procedural in nature and merely sets time frames for existing refunds and reporting requirements. Consequently, since this rule falls within the categorical exemptions provided in the Commission's regulations, neither an environmental impact statement nor an environmental assessment are required.[19]

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) [20] requires certain statements, descriptions and analyses of proposed rules that will have "a significant economic impact on a substantial number of small entities." The Commission is not required to make an RFA analysis if it certifies that a proposed rule will not have a "significant economic impact on a substantial number of small entities."

The proposal would, first, revise § 270.101(e) by setting a time limit of 60 days for the seller to refund excess charges and report to the Commission within 90 days. Currently, overcharges must be refunded and reported promptly. Thus, this proposal simply provides time frames for the refund and reporting requirements which are already in place.

The proposal would, secondly, revise § 271.805(f) to specify that refunds due to the disqualification of stripper wells are due within 180 days after the last day of the disqualifying 90-day or 12-month period. A refund report or statement of no refund due for stripper wells would be due within 210 days after the last day of the disqualifying 90-day or 12-month period. The reports

[11] *See* § 271.805 (a) and (b) for explanation of the 90-day and 12-month period.

[12] When no petition is filed under section 271.806 within 150 days from the last day of the disqualifying period the first seller must make refunds within 30 days from that date and file a refund report within 60 days of that date.

[13] *See* note 6.

[14] 15 U.S.C. 3414 (1982).

[15] *See* Obligations of Sellers and Purchasers of First-Sale Natural Gas for Refunds Owed for Collections in Excess of Maximum Lawful Prices Under the Natural Gas Policy Act of 1978, Notice of proposed rulemaking and requests for comments on statement of policy, 49 FR 34233 (Aug. 29, 1984); FERC Stats. & Regs. [Proposed Regulations 1982–1987] ¶ 30,382 (Aug. 23, 1984).

[16] Regulations Implementing National Environmental Policy Act of 1969, 52 Fed. Reg. 47,897 (Dec. 17, 1987), FERC Stats. & Regs., ¶ 30,783 (Dec. 10, 1987).

[17] 18 CFR 380.4 (1988).

[18] 18 CFR 380.4(a)(2)(ii) (1988).

[19] *See* 18 CFR 380.4(a)(1) (1988).

[20] 5 U.S.C. 601–612 (1982).

required by § 270.101(e)(4) and § 271.805(g)(2) will not include any information regarding a refund recovered by a purchaser through a billing adjustment.

In view of these considerations, the Commission has determined, pursuant to section 605(a) of the RFA, that the proposed filing dates for refunds and reports will not have "a significant economic impact on a substantial number of small entities."

VIII. Paperwork Reduction Act

The Paperwork Reduction Act [21] and the Office of Management and Budget's (OMB) regulations [22] require that OMB approve certain information collection requirements imposed by agency rule. The information collection provisions in this NOPR are being submitted to OMB for its approval.

The Commission promulgated the information collection provisions of this rule in order to ensure that refunds owed by producers and other first sellers of natural gas are made as quickly as possible and ultimately passed through to residential customers and other end users. These proposals do not change the current requirement to report refunds to the Commission. The provisions clarify the current obligation under §§ 270.101(e) and 271.805 to report refunds, and establish deadlines for first sellers to comply with the existing reporting requirements.

Pursuant to OMB's regulations,[23] the Commission is providing the following information.

(1) The title of the collection of information in this Notice of Proposed Rulemaking is "Establishment of Deadlines for First Sellers to Make and Report Refunds."

(2) The Commission needs to collect this information to ensure that first sellers are making required refunds to their customers for overcollections or unauthorized collections of prices for first sales of natural gas, pursuant to NGPA and Commission regulations.

(3) Respondents that will provide the needed information will be first sellers of natural gas.

(4) The Commission estimates that: (a) The public reporting burden is one hour per response; (b) the frequency of responses is based upon the frequency of occurrence of the refunds per year and can not be projected; and (c) the total annual number of likely respondents is 4,000.

Interested persons can obtain information on the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 (Attention: Michael Miller at (202) 357-9205). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission).

IX. Written Comment Procedures

Interested persons are invited to submit written comments, data, views or arguments with respect to this proposal. An original and 14 copies should be filed with the Secretary of the Commission. All comments received on or before May 1, 1989, will be considered by the Commission prior to promulgation of any final regulation issued as a result of this proceeding. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street NE., Washington, DC, during regular business hours. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, and should refer to Docket No. RM89-6-000.

List of Subjects

18 CFR Part 270

Natural gas, Price controls, Reporting and recordkeeping requirements.

18 CFR Part 271

Continental Shelf, Natural Gas, Price controls, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission proposes to amend Parts 270 and 271, Chapter I, Title 18, Code of Federal Regulations as set forth below.

By direction of the Commission.

Lois D. Cashell,

Secretary.

PART 270—RULES GENERALLY APPLICABLE TO REGULATED SALES OF NATURAL GAS

1. The authority citation for Part 270 continues to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717-717w (1982); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982).

2. In § 270.101, paragraph (e) is revised to read as follows:

§ 270.101 Application of ceiling prices to first-sales of natural gas.

* * * * *

(e) *General refund obligation and filing requirements for first sellers.* (1) Any price collected with respect to a first sale of natural gas to which Subchapter H applies is collected subject to a general obligation to refund any portion of the price, together with interest determined in accordance with §§ 154.102 (c) and (d) of this chapter, which is in excess of the maximum lawful price or collection of which is not authorized by Subchapter H. The refund, including interest, must be paid within 60 days after the seller is notified that a refund is due or becomes aware that a refund is due unless the refund is recovered through a billing adjustment as provided in paragraph (e)(2) or (e)(3) of this section. Compliance with the specific refund requirements of § 273.302 of this chapter will not terminate the general refund obligation under Subchapter H.

(2) if a refund required by paragraph (e)(1) of this section is made through a billing adjustment, the seller and purchaser may agree that the billing adjustment will be completed in a reasonable period not to exceed one hundred and twenty (120) days.

(3) A purchaser may not use a billing adjustment to recover a refund required by paragraph (e)(1) of this section before the expiration of the 60-day period for the seller to make the refund unless the seller has previously agreed to the billing adjustment. If the seller fails to make a refund within the 60-day period, the purchaser may use a billing adjustment to recover the refund without agreement by the seller. Before making a billing adjustment, the purchaser must provide the seller written notice of the amount of the refund to be recovered and the time period during which the billing adjustment will be completed.

(4) Within 90 days after a seller has been notified that a refund is due or has become aware that a refund is due, the seller must file an original and two copies of a refund report, together with a purchaser concurrence, containing the information specified in § 273.302(f) of this chapter. A seller is not required to include in a report filed under this paragraph any information regarding a refund recovered by a purchaser through a billing adjustment.

* * * * *

PART 271—CEILING PRICES

3. The authority citation for Part 271 continues to read as follows:

[21] 44 U.S.C. 3501-3520 (1982).

[22] 5 CFR 1320-12 (1988).

[23] 5 CFR 1320.15(a) (1988).

Authority: Natural Gas Act, 15 U.S.C. 717–717w (1982); Department of energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982).

4. In § 271.805, paragraph (f) is revised, paragraph (g) is redesignated as paragraph (h) and a new paragraph (g) is added.

§ 271.805 Continuing qualification.

* * * * *

(f) *Collection subject to refund.* (1) An operator who files a petition or motion under paragraph (e) may collect, subject to refund, the maximum lawful price provided in § 271.802:

(i) From the last day of the 90-day or the 12-month disqualifying period if the petition or motion is filed within 150 days after the last day of the 90-day or the 12-month disqualifying period, or

(ii) In all other cases, after the date the petition is filed.

(2) When the petition or motion filed under paragraph (e) is denied or withdrawn, the operator or purchaser must comply with the provisions of § 270.101(e) of this chapter.

(g) *Refunds due to disqualification.* (1) Unless the seller files a petition under § 271.806 within 150 days after the last day of the disqualifying 90-day or 12-month period, and unless the refund is recovered through a billing adjustment as provided in § 270.101(e) (1) and (2) of this chapter, the seller must refund to the purchaser the amount collected in excess of the maximum lawful price, together with interest determined in accordance with §§ 154.102 (c) and (d) of this chapter, within 180 days after the last day of the disqualifiying 90-day or 12-month period. Compliance with the specific refund requirements of § 273.302 of this chapter will not terminate the general refund obligation under Subpart H.

(2) Within 210 days after the last day of the disqualifying 90-day or 12-month period, the seller must file either: an original and two copies of a refund report, together with a purchaser concurrence, containing the information specified in § 273.302(f) of this chapter; or a statement, including a purchaser concurrence, that no refunds are due. A seller is not required to include in a report filed under this paragraph any information regarding a refund recovered by a purchaser through a billing adjustment.

* * * * *

[FR Doc. 89–4758 Filed 2–28–89; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Ohio Permanent Regulatory Program; Liability for Subsidence Damage

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

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing the receipt of proposed Program Amendment Number 38 to amend 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 are intended to incorporate rule changes initiated by the State. The proposed amendments would delete an existing provision from the Ohio program under which underground mine operators are exempted from repairing or compensating for damage to structures caused by mine subsidence if the operator has been relieved of liability for the damage through an agreement with the owner of the affected structure.

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 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 March 31, 1989. If requested, a public hearing on the proposed amendments will be hald at 1:00 p.m. on March 27, 1989. Requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on March 16, 1989.

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 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 February 6, 1989 (Administrative Record No. OH–1142), the Ohio Department of Natural Resources, Division of Reclamation (Ohio) submitted proposed amendments to the Ohio program at Ohio Administrative Code (OAC) Section 1501:13–12–03 (B), (D)(2) (a) and (b), (D)(4)(a)(ii), and (D)(4)(b). The proposed amendments were initiated by the State.

The proposed changes to paragraphs (B), (D)(4)(a)(ii), and (D)(4)(b) are nonsubstantive changes to paragraph letter notations.

The proposed changes to OAC Section 1501:13–12–03(D)(2) (a) and (b) rewrite these paragraphs to delete an existing provision in the Ohio regulations concerning liability for subsidence damage. This existing provision exempts underground mine operators from the liability to repair or compensate for damage to structures from mine subsidence if the mine operator has an agreement with the owner of the affected structure relieving the mine operator of that liability. The proposed amendments would delete this exemption and provide that underground mine operators are relieved of the liability to repair or compensate for subsidence damage only

if the mine operator is the owner of the affected structure.

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 30 732.15. If the amendments are deemed adequate, they will bcome 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 commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Columbus Field Office will not necessary 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 MORE INFORMATION CONTACT**" by 4:00 p.m. on March 16, 1989. If no one requests 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 statments 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 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 the Administrative Record.

List of Subjects in 30 CFR Part 935

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

Date: February 14, 1989.

Carl C. Close,

Assistant Director Eastern Field Operations.

[FR Doc. 89–4772 Filed 2–28–89; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 935

Ohio Permanent Regulatory Program; Public Comment Period and Opportunity for Public Hearing on Amendments; Crop Yields and Standards for Tree and Shrub Plantings

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 are intended to revise the State program to be consistent with the corresponding Federal regulations and to clarify other provisions of the Ohio program rules. The proposed revisions concern the use of crop yield data in bond release; success standards for tree plantings; approval by other State agencies of tree, shrub, and herbaceous species selection and stocking levels; and the definition of "countable tree."

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 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 March 31, 1989. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m. on March 27, 1979. Requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on March 16, 1989.

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 May 6, 1987 (Administrative Record No. OH–937), the Ohio Department of Natural Resources, Division of Reclamation (Ohio), submitted a proposed amendment to the Ohio program at Ohio Administrative Code (OAC) Section 1501:13–9–15. The proposed revisions concerned revegetation standards and were initiated by Ohio. OSMRE announced receipt of the proposed amendment in the July 7, 1987 **Federal Register** (52 FR 25386), and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment.

On July 27, 1987 (52 FR 28012), OSMRE announced a proposed rule to revise the Federal regulations dealing with the same revegetation FCB standards as were proposed for revision

in Ohio's amendment of May 6, 1987. To avoid the need for Ohio to amend its revegetation regulations a second time following approval of the revised Federal rules, OSMRE and Ohio agreed to defer action on the proposed Ohio amendment until the corresponding Federal rules had been finalized. The final Federal rules were adopted by OSMRE on September 7, 1988 (53 FR 34636).

By letter dated January 26, 1989 (Administrative Record No. OH–1135), Ohio resubmitted the proposed amendment to the Ohio program at Ohio Administrative Code (OAC) Section 1501:13–9–15. The resubmitted revisions, along with accompanying administrative record documents, are intended to make the Ohio program consistent with the Federal revegetation rules adopted on September 7, 1988.

The revisions proposed by Ohio to OAC Section 1501:13–9–15 are briefly discussed below:

(1) *Paragraph (A)(1)(a):* This paragraph is being rewritten to reduce from five years to two years the time period for which a tree or shurb must be in place in order to be considered a "countable tree."

(2) *Paragraph (F):* Paragraph (F)(9) of the existing version of OAC Section 1501:13–9–15 is being moved to this new paragraph. The existing text is also being rewritten to require approval by the Ohio Department of Natural Resources, Division of Forestry, of Ohio's determinations of appropriate species of trees and shrubs, appropriate stocking levels of trees and shrubs, and appropriate herbaceous species for areas where the postmining land use is to be recreation, shelter belts, or non-commercial forest land.

(3) *Paragraph (G):* Paragraph (F)(10) of the existing version of OAC Section 1501:13–9–15 is being moved to this new paragraph. The existing text is also being rewritten to require approval by the Ohio Department of Natural Resources, Division of Forestry, of Ohio's determinations of appropriate species of trees and shrubs, appropriate stocking levels of trees and shrubs, and appropriate herbaceous species for areas where the postmining land use is to be commercial forest land.

(4) *Paragraph (H):* Paragraph (F)(11) of the existing version of OAC Section 1501:13–9–15 is being moved to this new paragraph. The existing text is also being rewritten to require approval by the Ohio Department of Natural Resources, Division of Wildlife, of Ohio's determinations of appropriate species of trees and shurbs, appropriate stocking levels of trees and shurbs, and appropriate herbaceous species for areas where the postmining land use is to be fish and wildlife habitat.

(5) *Paragraph (I)(2)(c):* Paragraph (F)(12) of the existing version of OAC Section 1501:13–9–15 is being moved to this new paragraph. The existing text is also being rewritten to specify that the following agronomic practices will not be considered augmentative when the practices and the rates of application are accepted local practices for comparable unmined land and can be expected to continue as postmining practices:

(a) For cropland or pasture land, seeding, fertilizing, irrigating, and other locally accepeted practices;

(b) For cropland or areas for which the approved postmining land use requires woody plants as the primary vegetation, the repair of rills and gullies; and

(c) For areas for which the approved postmining land use requires woody plants as the primary vegetation, the replanting of trees as a reinforcement measure.

(6) *Paragraph (I)(4)(c):* This paragraph is being rewritten to specify that revegetation shall be determined to be successful for Phase III bond release for row and hay crops when the five-year period of extended responsibility has expired and the yield data of crop harvest on the mined area for any two years of the period of extended responsibility, except the first year, equals or exceeds the average county yield for comparable crops.

(7) *Paragraph (I)(8):* This paragraph is being rewritten to delete the phrase "a cover of" from the requirement to establish trees and shrubs after mining where the approved postmining land use requires woody plants as the primary vegetation.

(8) *Paragraph (I)(8)(b):* This paragraph is being rewritten to reiterate that both consultation with and approval by the appropriate State agency must occur as part of Ohio's determination of tree and shrub species compatible with the postmining land use. The phrase "well-distributed acceptable trees" is also being changed to "properly distributed acceptable trees."

(9) *Paragraph (I)(8)(f)(i):* This paragraph is being rewritten to increase the minimum number of countable trees required for Phase III bond release from four hundred per acre to four hundred and fifty per acre, and to add the requirement that eighty percent of the trees must have been in place for at least three years. For areas where the postmining land use is fish and wildlife habitat, the areas must have a minimum of two hundred fifty countable trees per acre, of which eighty percent must have been in place for three years.

(10) *Paragraph (F)(9), (F)(10), (F)(11), and (F)(12):* These paragraphs are being rewritten and moved to paragraphs (F), (G), (H), and (I)(2)(c), respectively. Paragraph notations throughout OAC Section 1501:13–9–15 are being revised to reflect the relocation of these paragraphs.

(11) *Paragraph (I)(9):* This paragraph is being rewritten to specify that permitees shall file planting reports upon completion of planting rather than prior to, or simultaneously with, an application for Phase II bond release of the planted area.

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 commenter'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 comment at the public hearing should contact the person listed under "**FOR MORE INFORMATION CONTACT**" by 4:00 p.m. on March 16, 1989. If no one requests 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 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 shall be posted at locations listed under "**ADDRESSES.**" A written summary of each public meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 935

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

Date: February 10, 1989.

Carl C. Close,

Assistant Director, Eastern Field Operations.

[FR Doc. 89-4773 Filed 2-28-89; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3531-4]

Standards of Performance for New Stationary Sources; Dry Molecular Weight and Emission Rate Correction Factor or Excess Air

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This rule proposes to divide Method 3 into Method 3 and Method 3B and amend Subparts D, Da, E, Z, and BB in order to reduce the confusion associated with Method 3. A public hearing will be held, if requested, to provide interested parties an opportunity for oral presentations of data, views, or arguments concerning the proposed rule. Method 3 will be entitled "Gas Analysis for the Determination of Dry Molecular Weight," while Method 3B will be entitled "Gas Analysis for the Determination of Emission Rate Correction Factor or Excess Air."

DATES: *Comments.* Comments must be received on or before May 15, 1989.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by March 22, 1989, a public hearing will be held (April 17, 1989) beginning at 10:00 a.m. Persons interested in attending the hearing should call the contact mentioned under **ADDRESSES** to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by March 22, 1989.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention: Docket Number A-88-30, U.S. Environmental Protection Agency, South Conference Center, Room 4, 401 M Street, SW., Washington, DC 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Emission Measurement Laboratory, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Candace Sorrell, Emission Measurement Branch (MD-19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-1064.

Docket. Docket No. A-88-30, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 3:30 p.m., Monday through Friday, at EPA's Central Docket Section, South Conference Center, Room 4, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Candace Sorrell, Emission Measurement Branch (MD-19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-1064.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

At the present, Method 3 has two procedures—one for molecular weight and the other for emission rate and excess air calculations. The two procedures require different degrees of accuracy. This situation is awkward when making references in subparts; therefore, the method is being divided.

This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change any emission standard. Rather, this rulemaking amends test procedures to which the affected facilities are already subject.

II. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed rulemaking in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, DC (see **ADDRESSES** section of this preamble).

B. Docket.

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are to: (1) allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) serve as the record in case of judicial review except for interagency review materials (Section 307(d)(7)(A)).

C. Office of Management and Budget Review

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This rulemaking would not result in any of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a "major rule." It will not have an annual effect on the economy of $100 million or more, nor will it result in a major increase in costs or prices. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This rulemaking was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

D. Regulatory Flexibility Act Compliance

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this attached rule, if promulgated, will not have any economic impact on small entities because no additional costs will be incurred.

This rule does not contain any information collection requirements

subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference, Incinerators, Kraft pulp mills.

Date: February 22, 1989.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

It is proposed that 40 CFR Part 60 be amended as follows:

PART 60—[AMENDED]

1. The authority for 40 CFR Part 60 continues to read:

Authority: Sections 101, 111, 114, 116, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7411, 7414, 7416, and 7601).

§§ 60.46, 60.47a, 60.48a, 60.54, 60.266, and 60.285 [Amended]

2. In §§ 60.46(b)(2)(ii), 60.46(b)(4)(ii), 6046(b)(5)(ii), 60.46(d)(1)(ii), 60.47a (h)(3), 6048a(b)(2)(ii), 60.54(b)(3), 60.54(c)(1)(iii), 60.266(c)(5), 60.285(b)(2), and 60.285(d)(2), the words "Method 3" are revised to read "Method 3B".

3. In § 60.46(d)(6), the words "or 3B" is inserted between "Method 3A" and "may" to read " * * * Method 3A or 3B may * * *".

4. Section 60.46(d)(7) is added to read:

* * * * *

(d) * * *

(7) For Method 3B, Method 3A may be used.

5. In § 60.47a(j)(3) the words "or 3B" is inserted between "Method 3A" and "may" to read " * * * Method 3A or 3B may * * *."

6. Section 60.47a(j)(4) is added to read:

* * * * *

(j) * * *

(4) For Method 3B, Method 3A may be used.

7. In § 60.54(c)(2)(ii), the words "Equation 3–1 of Method 3" are revised to read "Equation 3B–3 of Method 3B".

8. Appendix A is amended by revising Method 3 to read as follows:

Appendix A to Part 60—[Amended]

Method 3—Gas Analysis for the Determination of Dry Molecular Weight

1. Applicability and Principle

1.1 Applicability. 1.1.1 This method is applicable for determining carbon dioxide (CO_2) and oxygen (O_2) concentrations and dry molecular weight of a sample from a gas stream of fossil-fuel combustion process. The method may also be applicable to other processes where it has been determined that compounds other than CO_2, O_2 carbon monoxide (CO), and nitrogen (N_2) are not present in concentrations sufficient to affect the results.

1.1.2 Other methods, as well as modifications to the procedure described herein, are also applicable for some or all of the above determinations. Examples of specific methods and modifications include: (1) a multi-point sampling method using an Orsat analyzer to analyze individual grab samples obtained at each point; (2) a method using CO_2 or O_2 and stoichiometric calculations to determine dry molecular weight; and (3) assigning a value of 30.0 for dry molecular weight, in lieu of actual measurements, for processes burning natural gas, coal, or oil. These methods and modifications may be used, but are subject to the approval of the Administrator, U.S. Environmental Protection Agency (EPA).

1.1.3 *Note:* Mention or trade names ro specific products does not constitute endorsement by EPA.

1.2 Principle. A gas sample is extracted from a stack by one of the following methods: (1) single-point, grab sampling; (2) single-point, integrated sampling; or (3) multi-point, integrated sampling. The gas sample is analyzed for percent CO_2, percent O_2, and if necessary, for percent CO. For dry molecular weight determination, either an Orsat or a Fyrite analyzer may be used for the analysis.

2. *Apparatus.* As an alternative to the sampling apparatus and systems described herein, other sampling systems (e.g., liquid displacement) may be used, provided such systems are capable of obtaining a representative sample and maintaining a constant sampling rate, and are, otherwise, capable of yielding acceptable results. Use of such systems is subject to the approval of the Administrator.

2.1 Grab Sampling (Figure 3–1).

2.1.1 Probe. Stainless steel or borosilicate glass tubing equipped with an in-stack or out-stack filter to remove particulate matter (a plug of glass wool is satisfactory for this purpose). Any other materials, inert to O_2, CO_2, CO and N_2 and resistant to temperature at sampling conditions, may be used for the probe. Examples of such materials are aluminum, copper, quartz glass, and Teflon.

2.1.2 Pump. A one-way squeeze bulb, or equivalent, to transport the gas sample to the analyzer.

2.2 Integrated Sampling (Figure 3–2).

2.2.1 Probe. Same as in Section 2.1.1.

2.2.2 Condenser. An air-cooled or water-cooled condenser, or other condenser no greater than 250 ml that will not remove O_2, CO_2, and N_2, to remove excess moisture which would interfere with the operation of the pump and flowmeter.

2.2.3 Valve. A needle valve, to adjust sample gas flow rate.

2.2.4 Pump. A leak-free, diaphragm-type pump, or equivalent, to transport sample gas to the flexible bag. Install a small surge tank between the pump and rate meter to eliminate the pulsation effect of the diaphragm pump on the rotameter.

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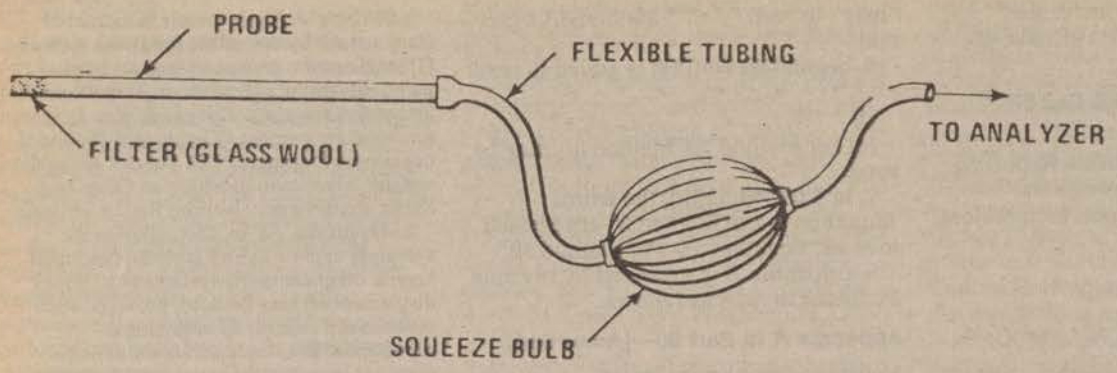

Figure 3-1. Grab sampling train.

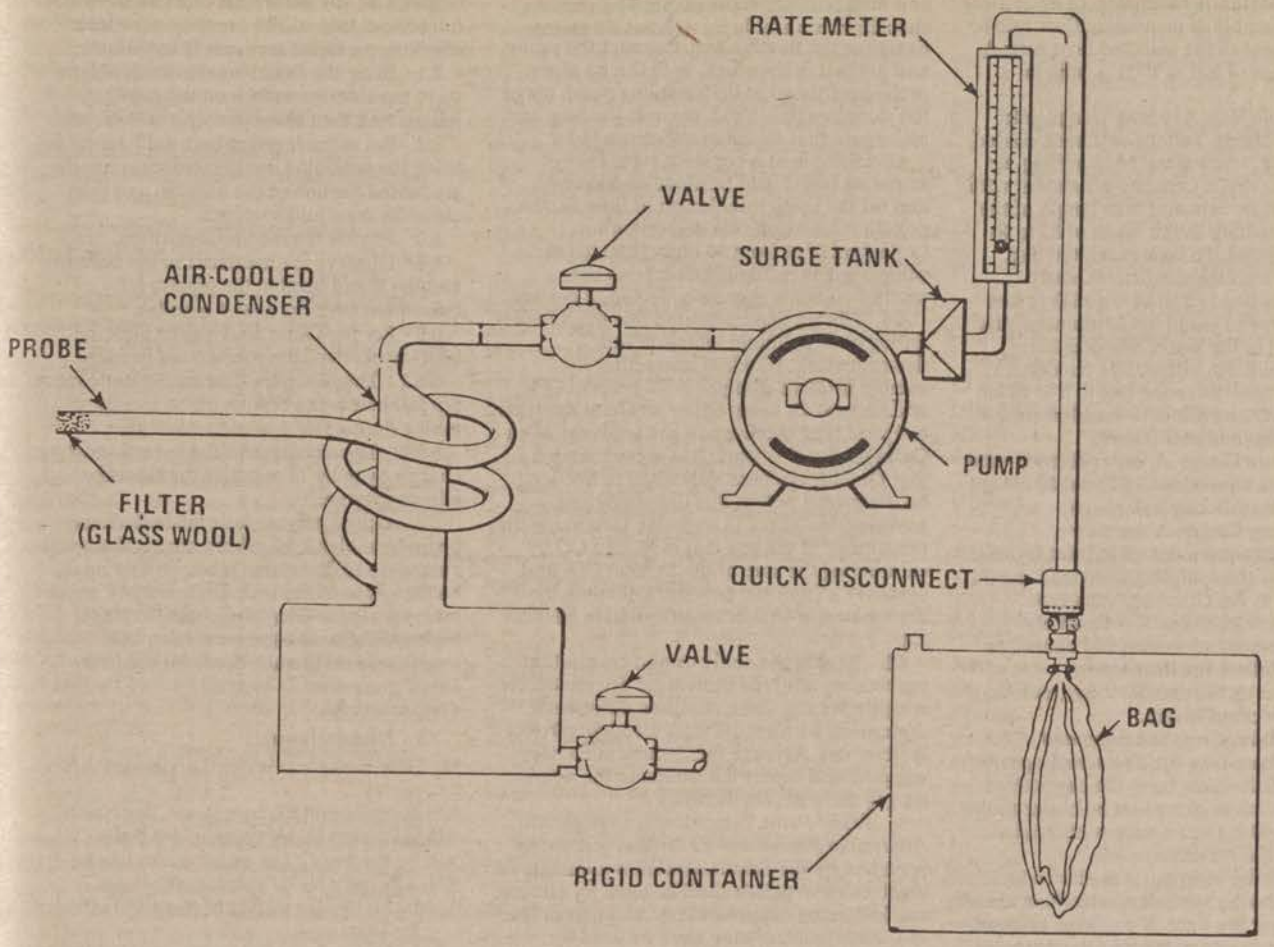

Figure 3-2. Integrated gas-sampling train.

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2.2.5 Rate Meter. A rotameter, or equivalent rate meter, capable of measuring flow rate to within 2 percent of the selected flow rate. A flow rate range of 500 to 1000 cc/min is suggested.

2.2.6 Flexible Bag. Any leak-free plastic (e.g., Tedlar, Mylar, Teflon) or plastic-coated aluminum (e.g., aluminized Maylar) bag, or equivalent, having a capacity consistent with the selected flow rate and time length of the test run. A capacity in the range of 55 to 90 liters is suggested. To leak check the bag, connect it to a water manometer, and pressurize the bag to 5 to 10 cm H_2O (2 to 4 in. H_2O). Allow to stand for 10 minutes. Any displacement in the water manometer indicates a leak. An alternative leak-check method is to pressurize the bag to 5 to 10 cm (2 to 4 in.) H_2O and allow to stand overnight. A deflated bag indicates a leak.

2.2.7 Pressure Gauge. A water-filled U-tube manometer, or equivalent, of about 30 cm (12 in.), for the flexible bag leak check.

2.2.8 Vacuum Gauge. A mercury manometer, or equivalent, of at least 760 mm (30 in.) Hg, for the sampling train leak check.

2.3 Analysis. An Orsat or Fyrite type combusiton gas analyzer. For Orsat and Fyrite analyzer maintenance and operation procedures, follow the instructions recommended by the manufacturer, unless otherwise specified herein.

3. *Single-Point, Grab Sampling and Analytical Procedure.* 3.1 The sampling point in the duct shall either be at the centroid of the cross section or at a point no closer to the walls than 1.00 m (3.3 ft), unless otherwise specified by the Administrator.

3.2 Set up the equipment as shown in Figure 3–1, making sure all connections ahead of the analyzer are tight. If an Orsat analyzer is used, it is recommended that the analyzer be leak checked by following the procedure in Section 6; however, the lead check is optional.

3.3 Place the probe in the stack, with the tip of the probe positioned at the sampling point; purge the sampling line long enough to allow at least five exchanges. Draw a sample into the analyzer, and immediately analyze it for percent CO_2 and percent O_2. Determine the percentage of the gas that is N_2 and CO by subtracting the sum of the percent CO_2 and percent O_2 from 100 percent. Calculate the dry molecular weight as indicated in Section 7.2.

3.4 Repeat the sampling, analysis, and calculation procedures until the dry molecular weights of any three grab samples differ from their mean by no more than 0.3 g/g-mole (0.3 lb/lb-mole). Average these three molecular weights, and report the results to the nearest 0.1 g/g-mole (0.1 lb/lb-mole).

4. *Single-Point, Integrated Sampling and Analytical Procedure.* 4.1 The sampling point in the duct shall be located as specified in Section 3.1.

4.2 Leak check (optional) the flexible bag as in Section 2.2.6. Set up the equipment as shown in Figure 3–2. Just before sampling, leak check (optional) the train by placing a vacuum gauge at the condenser inlet, pulling a vacuum of at least 250 mm Hg (10 in. Hg), plugging the outlet at the quick disconnect, and then turning off the pump. The vacuum should remain stable for at least 0.5 minute. Evacutae the flexible bag. Connect the probe, and place it in the stack, with the tip of the probe positioned at the sampling point; purge the sampling line. Next, connect the bag, and make sure that all connections are tight.

4.3 Sample at a constant rate. The sampling run should be simultaneous with, and for the same total length of time as, the pollutant emission rate determination. Collection of at least 30 liters (1.00 ft_3) of sample gas is recommended; however, smaller volumes may be collected, if desired.

4.4 Obtain one integrated flue gas sample during each pollutant emission rate determination. Within 8 hours after the sample is taken, analyze it for percent CO_2 and percent O_2 using either an Orsat analyzer or Fyrite type combustion gas analyzer. If an Orsat analyzer is used, it is recommended that Orsat leak check described in Section 6, be performed before this determination; however, the check is optional. Determine the percentage of the gas that is N_2 and CO by subtracting the sum of the percent CO_2 and percent O_2 from 100 percent. Calculate the dry molecular weight as indicated in Section 7.2.

4.5 Repeat the analysis and calculation procedures until the individual dry molecular weights for any three analyses differ from their mean by no more than 0.3 g/g-mole (0.3 lb/lb-mole). Average these three molecular weights, and report the results to the nearest 0.1 g/g-mole (0.1 lb/lb-mole).

5. *Multi-Point, Integrated Sampling and Analytical Procedure.* 5.1 Unless otherwise specified by the Administrator, a minimum of eight traverse points shall be used for circular stacks having diameters less than 0.61 m (24 in.), a minimum of nine shall be used for rectangular stacks having equivalent diameters less than 0.61 m (24 in.), and a minimum of 12 traverse points shall be used for all other cases. The traverse points shall be located according to Method 1. The use of fewer points is subject to approval of the Administrator.

5.2 Follow the procedures outlined in Sections 4.2 through 4.5, except for the following: Traverse all sampling points, and sample at each point for an equal length of time. Record sampling data as shown in Figure 3–3.

Time	Traverse pt.	Q, liter/min	Percent dev.*
	Average.....		-

* Percent dev. $= (Q\text{-}Q_{avg}/Q_{avg} \times 100$ (Must be $< 10\%$)

Figure 3–3. Sampling rate data.

6. *Leak-Check Procedure for Orsat Analyzer.* Moving an Orsat analyzer frequently causes it to leak. Therefore, an Orsat analyzer should be thorougly lead checked on site before the flue gas sample is introduced into it. The procedure for leak checking an Orsat analyzer is as follows:

6.1 Bring the liquid level in each pipette up to the reference mark on the capillary tubing, and then close the pipette stopcock.

6.2 Raise the leveling bulb sufficiently to bring the confining liquid meniscus onto the graduated portion of the burette, and then close the manifold stopcock.

6.3 Record the meniscus position.

6.4 Observe the meniscus in the burette and the liquid level in the pipette for movement over the next 4 minutes.

6.5 For the Orsat analyzer to pass the leak check, two conditions must be met:

6.5.1 The liquid level in each pipette must not fall below the bottom of the capillary tubing during this 4-minute interval.

6.5.2 The meniscus in the burette must not change by more than 0.2 ml during this 4-minute interval.

6.6 If the analyzer fails the leak-check procedure, check all rubber connections and stopcocks to determine whether they might be the cause of the leak. Disassemble, clean, and regrease leaking stopcocks. Replace leaking rubber connections. After the analyzer is reassembled, repeat the leak-check procedure.

7. *Calculations*

7.1 Nomenclature.

M_d = Dry molecluar weight, g/g-mole (1b/1b-mole).
$\%CO_2$ = Percent CO_2 by volume, dry basis.
$\%O_2$ = Percent O_2 by volume, dry basis.
%CO = Percent CO by volume, dry basis.
$\%N_2$ = Percent N_2 by volume, dry basis.
0.280 = Molecular weight of N_2 or CO, divided by 100.
0.320 = Molecular weight of O_2 divided by 100.
0.440 = Molecular weight of CO_2 divided by 100.

7.2 Dry Molecular Weight. Use Equation 3–1 to calculate the dry molecular weight of the stack gas.

$$M_d = 0.440(\%CO_2) + 0.320(\%O_2) + 0.280(\%N_2 + \%CO) \quad \text{Eq. 3–1}$$

Note: The above equation does not consider argon in air (about 0.9 percent, molecular weight of 39.9). A negative error of about 0.4 percent is introduced. The tester may choose to include argon in the analysis using procedures subject to approval of the Administrator.

8. *Bibliography*

1. Altshuller, A.P. Storage of Gases and Vapors in Plastic Bags. International Journal of Air and Water Pollution. *6*:75–81. 1963.

2. Conner, William D. and J.S. Nader. Air Sampling with Plastic Bags. Journal of the American Industrial Hygiene Association. *25*:291–297. 1964.

3. Burrell Manual for Gas Analysts, Seventh edition. Burrell Corporation, 2223 Fifth Avenue, Pittsburgh, PA. 15219. 1951.

4. Mitchell, W.J. and M.R. Midgett. Field Reliability of the Orsat Analyzer. Journal of Air Pollution Control Associaton. *26*:491–495. May 1976.

5. Shigehara, R.T., R.M. Neulicht, and W.S. Smith. Validating Orsat Analysis Data from Fossil Fuel-Fired Units. Stack Sampling News. 4(2):21–26. August 1976.

9. Appendix A is amended by adding Method 3B to read as follows:

Method 3B—Gas Analysis for the Determination of Emission Rate Correction Factor or Excess Air

1. *Applicability and Principle.* 1.1 Applicability.

1.1.1 This method is applicable for determining carbon dioxide (CO_2), oxygen (O_2), and carbon monoxide (CO) concentrations of a sample from a gas stream of a fossil-fuel combustion process for excess air or emission rate correction factor calculations.

1.1.2 Other methods, as well as modifications to the procedure described herein, are also applicable for all of the above determinations. Examples of specific methods and modifications include: (1) a multi-point sampling method using an Orsat analyzer to analyze individual grab samples obtained at each point, and (2) a method using CO_2 or O_2 and stoichiometric calculations to determine excess air. These methods and modifications may be used, but are subject to the approval of the Administrator, U.S. Environmental Protection Agency (EPA).

1.1.3 **Note:** Mention of trade names or specific products does not constitute endorsement by EPA.

1.2 Principle. A gas sample is extracted from a stack by one of the following methods: (1) Single-point, grab sampling; (2) single-point, integrated sampling; or (3) multi-point, integrated sampling. The gas sample is analyzed for percent CO_2, percent O_2, and, if necessary, percent CO. An Orsat analyzer must be used for excess air or emission rate correction factor determinations.

2. *Apparatus*

The alternative sampling systems are the same as those mentioned in Section 2 of Method 3.

2.1 Grab Sampling and Integrated Sampling. Same as in Sections 2.1 and 2.2, respectively, of Method 3.

2.2 Analysis.

An Orsat analyzer only. For low CO_2 (less than 4.0 percent) or high O_2 (greater 15.0 percent) concentrations, the measuring burette of the Orsat must have at least 0.1 percent subdivisions. For Orsat maintenance and operation procedures, follow the instructions recommended by the manufacturer, unless otherwise specified herein.

3. *Procedures*

Each of the three procedures below shall be used only when specified in an applicable subpart of the standards. The use of these procedures for other purposes must have specific prior approval of the Administrator.

Note.—A Fyrite-type combustion gas analyzer is not acceptable for excess air or emission rate correction factor determinations, unless approved by the Administrator. If both percent CO_2 and percent O_2 are measured, the analytical results of any of the three procedures given below may also be used for calculating the dry molecular weight (see Method 3).

3.1 Single-Point, Grab Sampling and Analytical Procedure.

3.1.1 The sampling point in the duct shall be as described in Section 3.1 of Method 3.

3.1.2 Set up the equipment as shown in Figure 3–1 of Method 3, making sure all concentrations ahead of the analyzer are tight. Leak check the Orsat analyzer according to the procedure described in Section 6 of Method 3. this leak check is mandatory.

3.1.3 Place the probe in the stack, with the tip of the probe positioned at the sampling point; purge the sampling line long enough to allow at least five exchanges. Draw a sample into the analyzer. For emission rate correction factor determinations, immediately analyze the sample, as outlined in Sections 3.1.4 and 3.1.5, for percent CO_2 or percent O_2. If excess air is desired, proceed as follows: (1) Immediately analyze the sample, as in Sections 3.1.4 and 3.1.5, for percent CO_2, O_2, and CO; (2) determine the percentage of the gas that is N_2 by subtracting the sum of the percent CO_2, percent O_2, and percent CO from 100 percent, and (3) calculate percent excess air as outlined in Section 4.2.

3.1.4 To ensure complete absorption of the CO_2, O_2, or if applicable, CO, make repeated passes through each absorbing solution until two consecutive readings are the same. Several passes (three or four) should be made between readings. (If constant readings cannot be obtained after three consecutive readings, replace the absorbing solution.)

Note.—Since this single-point, grab sampling and analytical procedure is normally conducted in conjunction with a single-point, grab sampling and analytical procedure for a pollutant, only one analysis is ordinarily conducted. Therefore, great care must be taken to obtain a valid sample and analysis. Although in most cases, only CO_2 or O_2 is required, it is recommended that both CO_2 and O_2 be measured, and that Section 3.4 be used to validate the analytical data.

3.1.5 After the analysis is completed, leak check (mandatory) the Orsat analyzer once again, as described in Section 6 of Method 3. For the results of the analysis to be valid, the Orsat anaylzer must pass this leak test before and after the analysis.

3.2 Single-Point, Integrated Sampling and Analytical Procedure.

3.2.1 The sampling point in the duct shall be located as specified in Section 3.1.1.

3.2.2 Leak check (mandatory) the flexible bag as in Section 2.2.6 of Method 3. Set up the equipment as shown in Figure 3–2 of Method 3. Just before sampling, leak check (mandatory) the train as described in Section 4.2 of Method 3.

3.2.3 Sample at a constant rate, or as specified by the Administrator. The sampling run must be simultaneous with, and for the same total length of time as, the pollutant emission rate determination. Collect at least 30 liters (1.00 ft^3) of sample gas. Smaller volumes may be collected, subject to approval of the Administrator.

3.2.4 Obtain one integrated flue gas sample during each pollutant emission rate determination. For emission rate correction factor determination, analyze the sample within 4 hours after it is taken for percent CO_2 or percent O_2 (as outlined in Sections 3.2.5 through 3.2.7). The Orsat analyzer must be leak checked (see Section 6 of Method 3) before the analysis. If excess air is desired, proceed as follows: (1) Within 4 hours after the sample is taken, analyze it (as in Sections 3.2.5 through 3.2.7) for percent CO_2, O_2, and CO; (2) determine the percentage of the gas that is N_2 by subtracting the sum of the percent CO_2, percent O_2, and percent CO from 100 percent; and (3) calculate percent excess air, as outlined in Section 4.2.

3.2.5 To ensure complete absorption of the CO_2, O_2, or if applicable, CO, follow the procedure described in Section 3.1.4.

Note.—Although in most instances only CO_2 or O_2 is required, it is recommended that both CO_2 and O_2 be measured, and that Section 3.4.1 be used to validate the analytical data.

3.2.6 Repeat the analysis until the following criteria are met:

3.2.6.1 For percent CO_2, repeat the analytical procedure until the results of any three analyses differ by no more than (a) 0.3 percent by volume when CO_2 is greater than 4.0 percent or (b) 0.2 percent by volume when CO_2 is less than or equal to 4.0 percent. Average three acceptable values of percent CO_2, and report the results to the nearest 0.1 percent.

3.2.6.2 For percent O_2, repeat the analytical procedure until the results of any three analyses differ by no more than (a) 0.3 percent by volume when O_2 is less than 15.0 percent or (b) 0.2 percent by volume when O_2 is greater than or equal to 15.0 percent. Average the three acceptable values of percent O_2, and report the results to the nearest 0.1 percent.

3.2.6.3 For percent CO, repeat the analytical procedure until the results of any three analyses differ by no more than 0.3 percent. Average the three acceptable values of percent CO, and report the results to the nearest 0.1 percent.

3.27 After the analysis is completed, leak check (mandatory) the Orsat analyzer once again, as described in Section 6 of Method 3. For the results of the analysis to be valid, the Orsat analyzer must pass this leak test before and after the analysis.

3.3 Multi-Point, Integrated Sampling and Analytical Procedure.

3.3.1 The sampling points shall be determined as specified in Section 5.3 of Method 3.

3.3.2 Follow the procedures outlined in Sections 3.2.2 through 3.2.7, except for the following: Traverse all sampling points, and sample at each point for an equal length of time. Record sampling data as shown in Figure 3–3 of Method 3.

3.4 Quality Control Procedures.

3.4.1 Data Validation When both CO_2 and O_2 Are Measures. Although in most instances, only CO_2 or O_2 measurement is required, it is recommended that both CO_2 and O_2 be measured to provide a check on the quality of the data. The following quality control procedure is suggested.

Note.—Since the method for validating the CO_2 and O_2 analyses is based on combustion of organic and fossil fuels and dilution of the gas stream with air, this method does not

apply to sources that: (1) Remove CO_2 or O_2 through processes other than combustion, (2) add O_2 (e.g., oxygen enrichment) and N_2 in proportions different from that of air, (3) add CO_2 (e.g., cement or lime kilns), or (4) have on fuel factor, F_o, values obtainable (e.g., extremely variable waste mixtures). This method validates the measured proportions of CO_2 and O_2 for fuel type, but the method does not detect sample dilution resulting from leaks during or after sample collection. The method is applicable for samples collected downstream of most lime or limestone flue-gas desulfurization units as the CO_2 added or removed from the gas stream is not significant in relation to the total CO_2 concentration. The CO_2 concentrations from other types of scrubbers using only water or basic slurry can be significantly affected and would render the F_o check minimally useful.

3.4.1.1 Calculate a fuel factor, F_o, using the following equation:

$$F_o = \frac{20.9 - \%O_2}{\%CO_2} \qquad \text{Eq. 3B-1}$$

where:

$\%O_2$ = Percent O_2 by volume, dry basis.
$\%CO_2$ = Percent CO_2 by volume, dry basis.
20.9 = Percent O_2 by volume in ambient air.

If CO is present in quantities measurable by this method, adjust the O_2 and CO_2 values before performing the calculation for F_o as follows:

$$\%CO_2 = (adj) = \%CO_2 + \%CO$$
$$\%O_2 = (adj) = \%O_2 - 0.5\ \%CO$$

where:

%CO = Percent CO by volume, dry basis.

3.4.1.2 Compare the calculated F_o factor with the expected F_o values. The following table may be used in establishing acceptable ranges for the expected F_o if the fuel being burned is known. When fuels are burned in combinations, calculate the combined fuel F_d and F_c factors (as defined in Method 19) according to the procedure in Method 19, Section 5.2.3. Then calcuate the F_o factor as follows:

$$F_o = \frac{0.209 F_d}{F_c} \qquad \text{Eq. 3B-2}$$

Fuel type	F_o range
Coal:	
Anthracite and lignite	1.016–1.130
Bituminous	1.083–1.230
Oil:	
Distillate	1.260–1.413
Residual	1.210–1.370
Gas:	
Natural	1,600–1.836
Propane	1.434–1586
Butane	1.405–1.553
Wood	1.000–1.120
Wood bark	1.003–1.130

3.4.1 Calculated F_o values, beyond the acceptable ranges shown in this table, should be investigated before accepting the test results. For example, the strength of the solutions in the gas analyzer and the analyzing technique should be checked by sampling and analyzing a known concentration, such as air; the fuel factor should be reviewed and verified. An acceptability range of ±12 percent is appropriate for the F_o factor of mixed fuels with variable fuel ratios. The level of the emission rate relative to the compliance level should be considered in determining if a retest is appropriate, i.e.; if the measured emissions are much lower or much greater than the compliance limit, repetition of the test would not significantly change the compliance status of the source and would be unnecessarily time consuming and costly.

4. Calculations

4.1 Nomenclature. Same as Section 5 of Method 3 with the addition of the following:

%EA = Percent excess air.
0.264 = Ratio of O_2 to N_2 in air, v/v.

4.2 Percent Excess Air. Calculate the present excess air (if applicable) by substituting the appropriate values of percent O_2, CO, and N_2 (obtained from Section 3.1.3 or 3.2.4) into Equation 3B-3.

$$\%EA = \left[\frac{\%O_2 - 0.5\ CO}{0.264\ \%N_2 - (\%O_2 - 0.5\ \%CO)} \right] \times 100 \qquad \text{Eq. 3B-3}$$

Note.—The equation above assumes that ambient air is used as the source of O_2 and that the fuel does not contain appreciable amounts of N_2 (as do coke oven or blast furance gases). For those cases when appreciable amounts of N_2 are present (coal, oil, and natural gas do not contain appreciable amounts of N_2) or when oxygen enrichment is used, alternative methods, subject to approval of the Administrator, are required.

4. *Bibliography*

Same as Method 3.

[FR Doc. 89-4722 Filed 2-28-89; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 60

[AD-FRL-3530-5]

Standards of Performance for New Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The purpose of this proposed rule is five-fold: (1) Require (as opposed to being an option) the monitoring of sulfur dioxide (SO_2) in gases discharged into the atmosphere from the combustion of fuel gases or, as an alternative, the monitoring of hydrogen sulfide H_2S) in fuel gases; (2) delete the mention of controlling SO_2 after combustion of fuel gases; (3) delete the monitoring requirement of H_2S in gases discharged into the atmosphere from Claus sulfur recovery plants, but require the monitoring of total reduced sulfur (TRS) compounds using TRS continuous emission monitoring systems (CEM's) or SO_2 CEMS's after oxidizing the TRS compounds to SO_2; (4) add Performance Specification (PS) 7 for H_2S CEMS's to Appendix B of this part; and (5) clarify ambiguities in the existing regulations. All affected fuel gas combustion devices and Claus plants in petroleum refineries subject to Subpart J of 40 CFR Part 60 will be required to install and operate CEMS's within 1 year of the promulgation date. These monitoring requirements are not new, but previous H_2S and TRS CEMS installations were contingent upon the Agency's promulgation of PS's.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed rule.

DATES: *Comments.* Comments must be received on or before May 15, 1989.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by March 22, 1989, a public hearing will be held on April 17, 1989, beginning at 10:00 a.m. Persons interested in attending the hearing should call Foston Curtis at (919) 541-1063 to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by March 22, 1989.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention: Docket Number A-88-24, U.S. Environmental Protection Agency, South Conference Center, Room

4, 401 M Street, SW., Washington, DC 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Emission Measurement Laboratory, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Foston Curtis, Emission Measurement Branch (MD–19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–1063.

Docket. Docket No. A–88–24, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 3:30 p.m., Monday through Friday, at EPA's Central Docket Section, South Conference Center, Room 4, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Foston Curtis or Roger T. Shigehara, Emission Measurement Branch (MD–19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–1063.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

The present monitoring requirements for fuel gas combustion devices under § 60.105(a) (3) and (4) allow the options of monitoring SO_2 after fuel gases are combusted or monitoring H_2S in the fuel gases. Since October 6, 1975 (40 FR 46250), affected facilities choosing to monitor H_2S in the fuel gases have been exempted from the monitoring requirements of § 60.105(a)(4) because PS's for H_2S CEMS's had not been established. This rulemaking proposes to amend the emission monitoring requirements to end this exemption. The effect of this rulemaking will be to require affected facilities to monitor SO_2 after fuel gas combustion or, as an alternative, H_2S in the fuel gas.

When fuel gases are burned in a combustion device, the H_2S is converted to SO_2. The resulting SO_2 concentration is substantially less than the corresponding H_2S in the fuel gas due to dilution from added combustion air. The amount of dilution air required for complete fuel gas combustion hinges upon the makeup of fuel gas components (primarily hydrogen and hydrocarbons) and their stochiometric need for oxygen. The EPA investigated a number of typical fuel gas compositions and their combustion products and determined that, at zero percent excess air, the concentration of SO_2 formed from combusting fuel gas containing H_2S at the standard level (162 ppm) ranged from 9 to 25 ppm with the majority of values between 15 and 20 ppm. This agrees with the 15- to 20-ppm SO_2 level noted in the Background Document to the proposed petroleum refineries standard.

Realizing the complexity of establishing the SO_2/H_2S equivalency on a case-by-case basis, EPA has selected 20 ppm to represent the compliance level for SO_2. In addition, rather than requiring monitoring of the effluent after each combustion device, EPA is allowing the monitoring of SO_2 after only one of the combustion devices as long as that one location accurately represents the fuel gas being burned by all of the combustion devices.

During 1978 and 1982, EPA conducted evaluations of H_2S CEMS's and concluded that acceptable H_2S CEMS's were not available (see Section 4 of PS 7). However, a State agency and a local agency reported that H_2S CEMS's have been installed under their jurisdiction that are operating satisfactorily. Certification test reports that have been submitted for Agency review indicate that, at least in these cases, acceptable CEMS accuracy and calibration drift are attainable. Other data from regulatory agencies have shown varying degrees of success in certifying and auditing H_2S CEMS's. Most of these data were taken from H_2S CEMS's of the same type, and instrument performance appears to be linked to operator and maintenance proficiency. Thus, EPA had decided to allow the use of H_2S CEMS's for fuel gases as an alternative to SO_2 CEMS's for combusted fuel gases. For this purpose, PS 7 is being proposed.

In reviewing the regulations, EPA determined that the option of controlling SO_2 after combusting the fuel gases was not being used. Also, this option does not appear to be an economically feasible alternative for future consideration. Therefore, mention of this control option is being deleted from the regulation. This action, however, does not prohibit the use of such control devices. In the future, sources that desire to burn fuel gases containing H_2S in excess of 230 mg/dscm and control the resulting SO_2 emissions may petition the Administration for an alternative compliance demonstration.

Hydrogen sulfide and TRS emitted from Claus plants are regulated by standards set at 10 and 300 ppm, respectively. Total reduced suflur compounds, though determined separately from TRS, are also inclusive of H_2S by definition. The Agency has determined that it is difficult to monitor the disproportionate concentrations of H_2S and TRS on a continual basis, especially at levels near the standards. A separate determination of H_2S apart from TRS will therefore not be required, but only the continuous monitoring of TRS. Performance Specification 5 and Method 15 of 15A are being proposed as the means to evaluate the TRS CEMS performance.

For greater flexibility, EPA is also proposing to allow the use of a CEMS that oxidizes the TRS compounds to SO_2 and analyzes the concentration of the resulting SO_2. Rather than trying to determine the concentration of SO_2 equivalent to the TRS concentration, EPA is proposing to use the level of 250 ppm SO_2 (dry basis, zero percent excess air) to represent the SO_2 compliance level. This concentration is consistent with the control option of combusting the effluent gases under § 60.102(a)(2)(i).

In addition to the above changes, EPA is proposing to clarify ambiguities in the existing regulations by correcting inconsistencies and by specifying pertinent testing procedures that originally were only implied.

This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change any emission standard or make it more stringent. Rather, the rulemaking will facilitate the use of acceptable CEMS's and allow affected facilities to comply with monitoring requirements to which they are already subject.

II. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed revisions in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contract EPA at the address given in the ADDRESSES section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, DC (see **ADDRESSES** section of this preamble).

B. Docket

The docket is an organized and complete file of all the information

submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are to: (1) allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) serve as the record in case of judicial review (except for interagency review materials) (Section 307(d)(7)(A)).

C. Office of Management and Budget Review

Executive Order 12291 Review. Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This rulemaking would not result in any of the adverse economic effects set forth in section 1 of the Order as grounds for finding a "major rule." It will not have an annual effect on the economy of $100 million or more, nor will it result in a major increase in costs or prices. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

D. Regulatory Flexibility Act Compliance

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this attached rule, if promulgated, will not have any economic impact on small entities because no additional costs will be incurred.

This rule does not change any information collection requirements currently approved by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Information requirements contained in 40 CFR Part 60, Subpart J are cleared under OMB control number 2060–0022.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference, and Petroleum refineries.

Date: February 19, 1989.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

It is proposed that 40 CFR Part 60 be amended as follows:

PART 60—[AMENDED]

1. The authority for 40 CFR Part 60 continues to read:

Authority: Sections 101, 111, 114, 116, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

§ 60.103 [Amended]

2. In § 60.103(a), the phrase "gases which contain carbon monoxide in excess of 0.050 percent by volume." is revised to read "gases that contain carbon monoxide (CO) in excess of 500 ppm by volume (dry basis)."

3. In § 60.104, paragraphs (a)(1), (2)(i), and (2)(ii) are revised to read as follows:

§ 60.104 Standard for sulfur dioxide.

(a) * * *

(1) Burn in any fuel gas combustion device any fuel gas that contains hydrogen sulfide (H_2S) in excess of 230 mg/dscm (0.10 gr/dscf). Under emergency malfunction situations, the combustion in a flare of process upset gases or fuel gas that is released to the flare as a result of relief valve leakage is exempt from this paragraph.

(2) * * *

(i) For an oxidation control system or a reduction control system followed by incineration, 250 ppm by volume (dry basis) of sulfur dioxide (SO_2) at zero percent excess air.

(ii) For a reduction control system not followed by incineration, 300 ppm by volume of total reduced sulfur (TRS) compounds and 10 ppm by volume of hydrogen sulfide (H_2S), each calculated as ppm SO_2 by volume (dry basis) at zero percent excess air.

4. In § 60.105, paragraphs (a), (d), and (e) are revised to read as follows:

§ 60.105 Emission monitoring.

(a) The owner or operator of the affected facility subject to the provisions of this subpart shall install, calibrate, maintain, and operate continuous emission monitoring systems (CEMS's) and continuous opacity monitoring systems (COMS's) as follows:

(1) For fluid catalytic cracking unit catalyst regenerators subject to § 60.102(a)(2), a COMS for continuously measuring and recording the opacity of emissions into the atmosphere. The COMS shall be spanned at 60, 70, or 80 percent opacity.

(2) For fluid catalytic cracking unit catalyst regenerators subject to § 60.103(a), a CEMS for continuously measuring and recording the concentration by volume (dry basis) of CO emissions into the atmosphere, except as provided in paragraph (ii) below.

(i) The span value for this CEMS is 1,000 ppm CO.

(ii) A CO CEMS need not be installed if the owner or operator demonstrates that the average CO emissions are less than 50 ppm (dry basis) and also files a written request for exemption to the Administrator and receives such an exemption. The demonstration shall consist of continuously monitoring CO emissions for 30 days using an instrument that shall meet the requirements of Performance Specification 4 of Appendix B of this part. The span value shall be 100 ppm CO instead of 1,000 ppm, and the relative accuracy limit shall be 10 percent of the average CO emissions or 5 ppm CO, whichever is greater. For CEMS's that are identical to Method 10 and employ the sample conditioning system of Method 10A, the alternative relative accuracy test procedure in Section 10.1 of Performance Specification 2 may be used in place of the relative accuracy test.

(3) For fuel gas combustion devices subject to § 60.104(a)(1), a CEMS for continuously measuring and recording the concentration by volume (dry basis, zero percent excess air) of SO_2 emissions into the atmosphere (except where an H_2S CEMS is installed under paragraph (a)(4) of this section). The CEMS shall include an oxygen monitor for correcting the data for excess air.

(i) The span values for this CEMS are 50 ppm SO_2 and 10 percent oxygen (O_2).

(ii) The SO_2 monitoring level equivalent to the H_2S standard under § 60.104(a)(1) shall be 20 ppm (dry basis, zero percent excess air).

(iii) The performance evaluations for this SO_2 CEMS under § 60.13(c) shall use Performance Specification 2. Methods 6 and 3 shall be used for conducting the relative accuracy evaluations. Method 6 samples shall be taken at a flow rate of 2 liters/min for at least 30 minutes. The relative accuracy limit shall be 20 percent or 4 ppm, whichever is greater, and the calibration drift limit shall be 5 percent of the established span value.

(iv) Fuel gas combustion devices having a common source of fuel gas may be monitored at only one location (i.e., after one of the combustion devices), if monitoring at this location accurately represents the SO_2 emissions into the atmosphere from each of the combustion devices.

(4) In place of the SO_2 CEMS in paragraph (a)(3) of this section, a CEMS for continuously measuring and recording the concentration (dry basis) of H_2S in fuel gases before being burned in any fuel gas combustion device.

(i) The span value for this CEMS is 425 mg/dscm H_2S.

(ii) Fuel gas combustion devices having a common source of fuel gas may be monitored at only one location, if monitoring at this location accurately represents the concentration of H_2S in the fuel gas being burned.

(iii) The performance evaluations for this H_2S CEMS under § 60.13(c) shall use Performance Specification 7. Method 11 shall be used for conducting the relative accuracy evaluations.

(5) For Claus sulfur recovery plants with oxidation control systems or reduction control systems followed by incineration subject to § 60.104(a)(2)(i), a CEMS for continuously measuring and recording the concentration (dry basis, zero percent excess air) of SO_2 emissions into the atmosphere. The CEMS shall include an oxygen monitor for correcting the data for excess air.

(i) The span values for this CEMS are 500 ppm SO_2 and 10 percent O_2.

(ii) The performance evaluations for this SO_2 CEMS under § 60.13(c) shall use Performance Specification 2. Methods 6 and 3 shall be used for conducting the relative accuracy evaluations.

(6) For Claus sulfur recovery plants with reduction control systems not followed by incineration subject to § 60.104(a)(2)(ii), a CEMS for continuously measuring and recording the concentration of TRS and O_2 emissions into the atmosphere. The TRS emissions shall be calculated as SO_2 (dry basis, zero percent excess air).

(i) The span values for this CEMS are 450 ppm TRS and 10 percent O_2.

(ii) The performance evaluations for this TRS (and O_2) CEMS under § 60.13(c) shall use Performance Specification 5, except the calibration drift specification is 2.5 percent of the span value rather than 5 percent. Methods 15 or 15A and Method 3 shall be used for conducting the relative accuracy evaluations. If Method 3 yields O_2 concentrations below 0.25 percent during the performance specification test, the O_2 concentration may be assumed to be zero and the TRS CEMS need not include an O_2 monitor.

(7) In place of the TRS CEMS under paragraph (a)(6) of this section, a CEMS using an air or O_2 dilution and oxidation system to convert the TRS to SO_2 for continuously measuring and recording the concentration (dry basis, zero percent excess air) of the resultant SO_2. The CEMS shall include an oxygen monitor for correcting the data for excess oxygen.

(i) The span values for this CEMS are 375 ppm SO_2 and 10 percent O_2.

(ii) For reporting purposes, the SO_2 exceedance level for this CEMS is 250 ppm (dry basis, zero percent excess air).

(iii) The performance evaluations for this SO_2 (and O_2) CEMS under § 60.13(c) shall use Performance Specification 5. Methods 15 or 15A and Method 3 shall be used for conducting the relative accuracy evaluations.

* * * * *

(d) For any fluid catalytic cracking unit catalyst regenerator under § 60.102 that uses an incinerator-waste heat boiler to combust the exhaust gases from the catalyst regenerator, the owner or operator shall record daily the rate of combustion of liquid or solid fossil-fuels (liters/hr or kg/hr) and the hours of operation during which liquid or solid fossil-fuels are combusted in the incinerator-waste heat boiler.

(e) For the purposes of reports under § 60.7(c), periods of excess emissions that shall be determined and reported are defined as follows (**Note:** All averages, except for opacity, shall be determined as the arithmetic average of the applicable 1-hour averages, e.g., the rolling 3-hour average shall be determined as the arithmetic average of 3 contiguous 1-hour averages):

(1) *Opacity:* All 1-hour periods that contain two or more 6-minute periods during which the average opacity as measured by the COMS under § 60.105(a)(1) exceeds 30 percent.

(2) *Carbon monoxide.* All 1-hour periods during which the average CO concentration as measured by the CO CEMS under § 60.105(a)(2) exceeds 500 ppm.

(3) *Sulfur dioxide from fuel gas combustion.*

(i) All rolling 3-hour periods during which the average concentration of SO_2 as measured by the SO_2 CEMS under § 60.105(a)(3) exceeds 20 ppm (dry basis, zero percent excess air); or

(ii) All rolling 3-hour periods during which the average concentration of H_2S as measured by the H_2S CEMS under § 60.105(a)(4) exceeds 230 mg/dscm (0.10 gr/dscf).

(4) *Sulfur dioxide from Claus sulfur recovery plants.*

(i) All 12-hour periods during which the average concentration of SO_2 as measured by the SO_2 CEMS under § 60.105(a)(5) exceeds 250 ppm (dry basis, zero percent excess air); or

(ii) All 12-hour periods during which the average concentration of TRS (as SO_2) as measured by the TRS CEMS under § 60.105(a)(6) exceeds 300 ppm; or

(iii) All 12-hour periods during which the average concentration of SO_2 as measured by the SO_2 CEMS under § 60.105(a)(7) exceeds 250 ppm (dry basis, zero percent excess air); or

* * * * *

§ 60.106 Test methods and procedures.

(a) In conducting the performance tests required in § 60.8, the owner or operator shall use as reference methods and procedures the test methods in Appendix A of this part or other methods and procedures as specified in this section, except as provided in § 60.8(b).

(b) The owner or operator shall determine compliance with the particulate matter (PM) standards in § 60.102(a) as follows:

(1) The emission rate (E) of PM shall be computed for each run using the following equation:

$$E = \frac{K\,(c_s\,Q_{sd})}{R_c}$$

where:

E = Emission rate of PM, kg/1000 kg (lb/1000 lb) of coke burn-off.

c_s = Concentration of PM, g/dscm (lb/dscf).

Q_{sd} = Volumetric flow rate of effluent gas, dscm/hr (dscf/hr).

R_c = Coke burn-off, rate, kg coke/hr (lb coke/hr).

K = Conversion factor, 1.0 kg^2/g)/(1000 kg) [10^3 lb/(1000 lb)].

(2) Method 5 shall be used to determine the concentation (c_s) of PM and volumetric flow rate (Q_{sd}) of the effluent gas. The sampling time and sample volume for each run shall be at least 60 minutes and 0.90 dscm (31.8 dscf).

(3) The coke burn-off rate (R_c) shall be computed for each run using the following equation:

$$R_c = K_1\,Q_r\,(\%CO_2 + \%CO_2) + K_2\,Q_a - K_3\,Q_r\,[(\%CO/2) + \%CO_2 + \%O_2]$$

where:

R_c = Coke burn-off rate, kg/hr (lb/hr).

Q_r = Volumetric flow rate of exhaust gas from catalyst regenerator before entering the emission control system, dscm/min (dscf/min).

Q_a = Volumetric flow rate of air to FCCU regenerator, as determined from the fluid catalytic cracking unit control room instrumentation, dscm/min (dscf/min).

$\%CO_2$ = Carbon dioxide concentration, percent by volume (dry basis).

%CO = Carbon monoxide concentration, percent by volume (dry basis).

$\%O_2$ = Oxygen concentration, percent by volume (dry basis).

K_1 = Material balance and conversion factor, 0.2982 (kg-min)/(hr-dscm-%) [0.0186 (lb-min)/(hr-dscf-%)].

K_2=Material balance and conversion factor, 2.088 (kg-min)/(hr-dscm-%), [0.1303 (lb-min)/(hr-dscf-%)].

K_3=Material balance and conversion factor, 0.0994 (kg-min)/(hr-dscm-%) [0.0062 (lb-min)/(hr-dscf-%)].

(i) Method 2 shall be used to determine the volumetric flow rate (Q_r).

(ii) The emission correction factor, integrated sampling and analysis procedure of Method 3 shall be used to determine CO_2, CO, and O_2 concentrations.

(4) Method 9 and the procedures of § 60.11 shall be used to determine opacity.

(c) If auxiliary liquid or solid fossil-fuels are burned in an incinerator-waste heat boiler, the owner or operator shall determine the emission rate of PM permitted in § 60.102(b) as follows:

(1) The allowable emission rate (E_s) of PM shall be computed for each run using the following equation:

$$E_s = 1.0 + A\,(H/R_c)\,K'$$

where:

E_s=Emission rate of PM allowed, kg/100 kg (lb/1000 lb) of coke burn-off in catalyst regenerator.

1.0=Emission standard, kg coke/1000 kg (lb coke/1000 lb).

A=Allowable incremental rate of PM emissions, 0.18 g/million cal (0.10 lb/million Btu).

H=Heat input rate from solid or liquid fossil fuel, million cal/hr (million Btu/hr).

R_c=Coke burn-off rate, kg coke/hr (lb coke/hr).

K'=Conversion factor to units of standard, 1.0 (kg^2/g)/(1000 kg) [10^3 lb/(1000 lb)].

(2) Procedures subject to the approval of the Administrator shall be used to determine the heat input rate.

(3) The procedure in paragraph (b)(3) of this section shall be used to determine the coke burn-off rate (R_c).

(d) The owner or operator shall determine compliance with the CO standard in § 60.103(a) by using the integrated sampling technique of Method 10 to determine the CO concentration (dry basis). The sampling time for each run shall be 60 minutes.

(e) The owner or operator shall determine compliance with the H_2S standard in § 60.104(a)(1) as follows: Method 11 shall be used to determine the H_2S concentration. The gases entering the sampling train should be at about atmospheric pressure. If the pressure in the refinery fuel gas lines is relatively high, a flow control valve may be used to reduce the pressure. If the line pressure is high enough to operate the sampling train without a vacuum pump, the pump may be eliminated from the sampling train. The sample shall be drawn from a point near the centroid of the fuel gas line. The sampling time and sample volume shall be at least 10 minutes and 0.010 dscm (0.35 dscf). Two samples of equal sampling times shall be taken at about 1-hour intervals. The arithmetic average of these two samples shall constitute a run. For most fuel gases, sampling times exceeding 20 minutes may result in depletion of the collection solution, although fuel gases containing low concentrations of H_2S may necessitate sampling for longer periods of time.

(f) The owner or operator shall determine compliance with the SO_2 and the H_2S and TRS standards in § 60.104(a)(2) as follows:

(1) Method 6 shall be used to determine the SO_2 concentration. The concentration is mg/dscm (lb/dscf) obtained by Method 6 is multiplied by 0.3754 to obtain the concentration in ppm. The sampling point in the duct shall be the centroid of the cross section if the cross-sectional area is less than 5.00 m^2 (54ft^2) or at a point no closer to the walls than 1.00 m (39 in.) if the cross-sectional area is 5.00 m^2 or more and the centroid is more than 1 m from the wall. The sampling time and sample volume shall be at least 10 minutes and 0.010 dscm (0.35 dscf) for each sample. Eight samples of equal sampling times shall be taken at about 30-minute intervals. The arithmetic average of these 8 samples shall constitute a run. Method 4 shall be used to determine the moisture content of the gases. The sampling point for Method 4 shall be adjacent to the sampling point for Method 6. The sampling time for each sample shall be equal to the time it takes for two Method 6 samples. The moisture content from this sample shall be used to correct the corresponding Method 6 samples for moisture. For documenting the oxidation efficiency of the control device for total reduced sulfur compounds, Method 15 shall be used following the procedures of paragraph (f)(2) of this section.

(2) Method 15 shall be used to determine the TRS and H_2S concentrations. Each run shall consists of 16 samples taken over a minimum of 3 hours. The sampling point shall be the same as that described for Method 6 in paragraph (f)(1) of this section. The ensure minimum residence time for the sample inside the sample lines, the sampling rate shall be at least 3.0 lpm (0.10 cfm). The SO_2 equivalent for each run shall be calculated after being corrected for moisture and oxygen as the arithmetic average of the SO_2 equivalent for each sample during the run. Method 4 shall be used to determine the mositure content of the gases as in paragraph (f)(1) of this section. The sampling time for each sample shall be equal to the time it takes for four Method 15 samples.

(3) The oxygen concentration used to correct the emission rate for excess air shall be obtained by the integrated sampling and analysis procedure of Method 3. The samples shall be taken simultaneously with the SO_2, TRS and H_2S, or moisture samples. The SO_2, TRS, and H_2S samples shall be corrected to zero percent excess air using the following equation:

$$C_c = C\,\frac{(20.9)}{20.9 - \%O_2}$$

where:

C_c=Corrected concentration of pollutant, ppm by volume (dry basis).

C=Measured concentration of pollutant, ppm by volume (dry basis).

$\%O_2$=Oxygen concentration, percent by volume (dry basis).

[FR Doc. 89-4721 Filed 2-28-89; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Queen Alexandra's Birdwing Butterfly

AGENCY: Fish and Wildife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine endangered status for Queen Alexandra's birdwing butterfly (*Troides (=Ornithoptera) alexandrae*). This species, the world's largest butterfly, occurs only in a small part of Papua New Guinea, where it is rare and is losing its restricted forest habitat to logging and agricultural activity. This proposal, if made final, would implement the protection of the Endangered Species Act of 1973, as amended, for this butterfly. The Service seeks relevant data and comments from the public.

DATES: Comments must be received by May 1, 1989. Public hearing requests must be received by April 17, 1989.

ADDRESSES: Comments and materials concerning this proposal should be sent to Chief, Office of Scientific Authority; Mail Stop: Room 527, Matomic Building; U.S. Fish and Wildlife Service; Washington, DC 20240. Comments and materials received will be available for public inspection from 8:00 a.m. to 4:00

p.m. Monday through Friday, in room 537, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane at above address or phone (202) 653–5948 or FTS 653–5948.

SUPPLEMENTARY INFORMATION:

Background

Queen Alexandra's birdwing butterfly was discovered in 1906. Its distribution is restricted to primary and advanced secondary lowland rain forest in or near the Popondetta Plain, a small area in the Northern Province of Papua New Guinea (Collins and Morris 1985). For many years it was known scientifically as *Ornithoptera alexandrae*, but recently Miller (1987) synonymized the genus *Ornithoptera* with *Troides*.

Troides alexandrae is the largest butterfly in the world. The females have a wingspan of up to 10 inches (250 millimeters) and are dark brown in color. The males have a wingspan of 6½ to 7½ inches (170 to 190 millimeters) and are light blue, yellow, green, and black (Collins and Morris 1985).

Because of its restricted range, the destruction of much of its habitat by human activity, and its commercial value, *T. alexandrae* has been classified as endangered by the International Union for Conservation of Nature (Collins and Morris 1985; Wells, Pyle, and Collins 1983). The IUCN's Species Survival Commission selected it as one of the 12 most endangered animals in the world (Fitter 1985). It also has been placed on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

On March 30, 1988, the Service received a petition from Ms. Marion Kelly Murphy, requesting that *T. alexandrae* be added to the U.S. List of Endangered and Threatened Wildlife. On July 1, 1988, the Service made a finding that this petition had presented substantial information. The Service also has gathered other information through its own status review of the species. Section 4(b)(3)(B) of the Endangered Species Act requires that, within 12 monhs after receiving a petition found to present substantial information, a finding be made as to whether the requested action is warranted, not warranted, or warranted but precluded by other listing activity. This proposal incorporates the Service's final finding that listing of *T. alexandrae* is warranted.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to Queen Alexandra's birdwing butterfly (*Triodes alexandrae*) are as follows (information from Collins and Morris 1985).

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

The greatest current danger is the expanding oil palm industry in the Popondetta region of Papua New Guinea, though development of cocoa and rubber plantations has also been a problem. These activities eliminate the natural forest required by *T. alexandrae*, and have already claimed large tracts of its restricted habitat. Local disappearances of the species are occuring because of clearing of forest to make food gardens. Negotiations to exploit reserves of timber in the region are also underway.

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

T. alexandrae is the world's largest butterfly and is aesthetically very attractive. Birdwing butterflies have long been held in high esteem by insect collectors and are in great demand worldwide. Species such as *T. alexandrae*, which are not only impressive, but restricted in range and hard to obtain, realize extremely high prices. Some illegal trade in *T. alexandrae* has undoubtedly occurred.

C. Disease or predation.

Adults are subject to little predation, but eggs are attacked by ants and heteropterous bugs. The larvae are preyed upon by toads, lizards, and birds. Parasitism of larvae by unidentified flies, and of pupae by parasitic wasps, has been reported.

D. The inadequacy of existing regulatory mechanisms.

T. alexandrae is completely protected from collection by the laws of Papua New Guinea, and a large wildlife management area has been established within its range, but it is not yet clear that these measures have helped prevent habitat loss, which is the main threat confronting the species.

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

None now known.

The decision to propose endangered status for *T. alexandrae* was based on an assessment of the best available scientific and commercial information concerning past, present, and probable future threats to the species. A decision to propose no action would exclude this butterfly from benefits provided by the Endangered Species Act. A decision to propose only threatened status would not adequately reflect the evident rarity and multiplicity of problems confronting the species. Critical habitat is not being proposed, as its designation is not applicable to foreign species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages conservation measures by Federal, international, and private agencies, groups, and individuals.

Section 7(a) of the Act, as amended, and as implemented by regulations at 50 CFR Part 402, requires Federal agencies to evaluate their actions that are to be conducted within the United States or on the high seas, with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service. The Service has not identified any ongoing or proposed projects with Federal involvement that may affect Queen Alexandra's birdwing butterfly.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general trade prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part,

make it illegal for any person subject to the jurisdiction of the United States to take (within the United States or on the high seas), import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered wildlife species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance propagation or survival, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered in such relief were not available.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, comments and suggestions concerning any aspect of this proposed rule are hereby solicited from the public, concerned governmental agencies, the scientific community, industry, private interests, and other parties. Comments are particularly sought concerning the following:

(1) Biological, commercial, or other relevant data concerning any threat (or lack thereof) to the subject species;

(2) The location of any additional populations of the subject species;

(3) Additional information concerning the distribution of this species; and

(4) Current or planned activities in the involved areas, and their possible effect on the subject species.

The final decision on this proposed listing will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal, should be in writing, and should be directed to the party named in the above **"ADDRESSES"** section.

National Environmental Policy Act

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

References Cite

Collins, N.M., and M.G. Morris. 1985. Threatened swallowtail butterflies of the world. The IUCN Red Data Book. Gland, Switzerland, 401 pp.

Fitter, M. 1985. Choosing the 24 most endangered species. IUCN Species Survival Commission Newsletter, no. 5, pp. 17–19.

Miller, J.S. 1987. Phylogenetic studies in the Papilioninae (Lepidoptera: Papilionidae). Bull. Amer. Mus. Nat. Hist. 186:365–512.

Wells, S.M., R.M. Pyle, and N.M. Collins. 1983. The IUCN invertebrate Red Data Book. Gland, Switzerland, 632 pp.

Author

The primary author of this proposed rule is Ronald M. Nowak, Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240 (202–653–5948 or FTS 653–5948).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

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

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411; Pub. L. 100–478, 102 Stat. 2306; Pub. L. 100–653, 102 Stat. 3825 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under "INSECTS," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
INSECTS							
*	*	*	*	*	*		
Butterfly, Queen Alexandra's birdwing.	*Troides* (*-Ornithoptera*) *alexandrae.*	Papua New Guinea	NA	E		NA	NA
*	*	*	*	*	*		

Dated: January 26, 1989.

Becky Norton Dunlop,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89–4708 Filed 2–28–89; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 54, No. 39
Wednesday, March 1, 1989

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.

ACTION

National Volunteer Advisory Council Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given of a meeting of the National Volunteer Advisory Council.

Date, time and place: March 17, 1989, 9:00 a.m., Grand Hyatt Hotel, 100 H Street NW., Washington, DC.

Purpose: To select nominees for the President's Volunteer Action Awards for 1989 and hold the regular Council meeting.

In accordance with the determination of the Director of ACTION, this meeting will be partially closed to the public from 9:00 a.m. until 1:00 p.m., pursuant to subsection (c)(9)(B) of section 552b of Title 5, United States Code. The determination of the Director of ACTION is available for public inspection at 806 Connecticut Avenue, NW., Washington, DC 20525, during regular business hours of 8:30 a.m. to 5:30 p.m.

FOR FURTHER INFORMATION CONTACT: Alyse Best, Special Assistant to the Director, at (202) 634–9380.

Signed this 21st day of February 1989, in Washington, DC.

Donna M. Alvarado,

Director of ACTION.

[FR Doc. 89–4713 Filed 2–28–89; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

February 24, 1989.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of P.L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

- Animal and Plant Health Inspection Service

Certificate for Poultry or Hatching Eggs For Export

VS 17–6

On Occasion

Businesses or other for-profit; Federal agencies or employees; Small businesses or organizations; 16,000 responses; 8,000 hours; not applicable under 3504(h)

George O. Winegar (301) 436–8383.

Donald E. Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 89–4774 Filed 2–28–89; 8:45 am]

BILLING CODE 3410–01–M

Federal Grain Inspection Service

Designation Renewal of the Ohio Valley (IN) and Quincy (IL) Agencies

AGENCY: Federal Grain Inspection Service (Service).

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of James L. Goodge, Sr., dba Ohio Valley Grain Inspection (Ohio Valley), and Anthony L. Marquardt dba Quincy Grain Inspection & Weighing Service (Quincy) as official agencies responsible for providing official services under the U.S. Grain Standards Act, as amended (Act).

EFFECTIVE DATE: April 1, 1989.

ADDRESS: James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone: (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to his action.

The Service announced that the Ohio Valley and Quincy designations terminate on March 31, 1989, and requested applications for official agency designation to provide official services within specified geographic areas in the October 5, 1988, **Federal Register** (53 FR 39121). Applications were to be postmarked by November 3, 1988. Ohio Valley and Quincy were the only applicants for designation in their area and each applied for designation renewal in the entire area currently assigned to each agency. The Service announced the applicant names in the December 1, 1988, **Federal Register** (53 FR 48564) and requested comments on the applicants for designation. Comments were to be postmarked by January 17, 1989; no comments were received.

The Service evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and in accordance with section 7(f)(1)(B), determined that Ohio Valley

and Quincy are able to provide official services in the geographic area for which the Service is renewing their designations. Effective April 1, 1989, and terminating March 31, 1992, Ohio Valley and Quincy are designated to provide official inspection functions in their specified geographic areas, as previously described in the October 1 **Federal Register.**

Interested persons my obtain official services by contacting the agencies at the following telephone numbers: Ohio Valley at (812) 858–5444, Quincy at (217) 222–7592.

(Pub. L. 94–582, 90 Stat. as amended (7 U.S.C. 71 *et seq.*))

Date: February 17, 1989.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 89–4493 Filed 2–28–89; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Designation Applicants in the Geographic Area Currently Assigned to the Enid (OK) and Erie (OH) Agencies

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the geographic areas currently assigned to Enid Grain Inspection Company, Inc. (Enid), and Dennis L. Boltenhouse dba Erie Grain Inspection Service (Erie).

DATE: Comments must be postmarked on or before April 17, 1989.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., RM, FGIS, USDA, Room 0628 South Building, P.O. Box 96454, Washington, DC 20090–6454.

Telemail users may respond to [LLEBAKKEN/FGIS/USDA] telemail.

Telex users may respond as follows:

TO: Lewis Lebakken

TLX:7607351, ANS:FGIS UC.

All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 475–3428.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service requested applications for official agency designation to provide official services within specified geographic areas in the January 4, 1989, **Federal Register** (54 FR 162). Applications were to be postmarked by February 3, 1989. Enid and Erie were the only applicants for designation in those areas and each applied for designation renewal in the entire area currently assigned to that agency.

This notice provides interested persons the opportunity to present their comments concerning the applicants for designation. Commenters are encouraged to submit reasons for support or objection to these designation actions and include pertinent data to support their views and comments. All comments must be submitted to the Resources Management Division, at the above address.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicants will be informed of the decision in writing.

(Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Date: February 17, 1989.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 89–4494 Filed 2–28–89; 8:45 am]

BILLING CODE 3410-EN-M

Request for Designation Applicants To Provide Official Services in the Geographic Area Currently Assigned to the Fremont (NE) and Titus (IN) Agencies

AGENCY: Federal Grain Inspection Service (Service).

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of two agencies will terminate, in accordance with the Act, and requests applications from parties interested in being designated as the official agency to provide official services in the geographic area currently assigned to the specified agencies. The official agencies are the Fremont Grain Inspection Department, Inc. (Fremont) and Titus Grain Inspection, Inc. (Titus).

DATE: Applications must be postmarked on or before March 31, 1989.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. All applications received will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of the Service is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Fremont, located at 603 East Dodge Street, Fremont, NE 68025 and Titus located at 1111 East 800 North, West Lafayette, IN 47906, each were designated under the Act as an official agency on September 1, 1986, to provide official inspection functions.

The official agencies' designations terminate on August 31, 1989. Section 7(g)(1) of the Act states that designations of official agencies shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Fremont, in the States of Iowa and Nebraska, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

In Iowa: Carroll (west of U.S. Route 71); Clay (west of U.S. Route 71); Crawford; Dickinson (west of U. S. Route 71); Harrison (east of State Route 183); O'Brien (north of B24 and east of U.S. Route 59); Osceola (east of U.S. Route 59); and Shelby Counties.

In Nebraska:

Bounded on the North by U.S. Route 20 east to the Pierce County line; the eastern Pierce County line; the northern Wayne, Cuming, and Burt County lines east to the Missouri River;

Bounded on the East by the Missouri River south-southeast to State Route 91; State Route 91 west to the Dodge County

line; the eastern and southern Dodge County lines west to U.S. Route 77; U.S. Route 77 south to the Saunders County line;

Bounded on the South by the southern Saunders, Butler, and Polk County lines; and

Bounded on the West by the western Polk County line north to the Platte River; the Platte River northeast to the western Platte County line; the western and northern Platte County lines east to U.S. Route 81; U.S. Route 81 north to U.S. Route 20.

The following locations, outside of the above contiguous geographic area, are part of this geographic area assignment: Juergens Produce and Seed, and Farmers Grain and Lumber Company, both in Carroll, Carroll County, Iowa (located inside Central Iowa Grain Inspection Service, Inc.'s area); and Farmers Cooperative, and Krumel Grain and Storage, both in Wahoo, Saunders County, Nebraska (located inside Omaha Grain Inspection Service, Inc.'s area).

Exceptions to Fremont's assigned geographic area are the following locations inside Fremont's area which have been and will continue to be serviced by the following official agencies:

1. Hastings Grain Inspection, Inc.: Farmers Cooperative Grain Company, and Wagner Mills, Inc., both in Columbus, Platte County, Nebraska;
2. Omaha Grain Inspection Service, Inc.: Farmers Coop Business Assn., Rising City, Butler County, Nebraska, and Farmers Coop Business Assn., Shelby, Polk County, Nebraska; and
3. Sioux City Inspection & Weighing Agency, Inc.: Charter Oak Grain & Seed, and Delanty Grain Company, both in Charter Oak, Crawford County, Iowa.

The geographic area presently assigned to Titus, in the State of Indiana, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern Pulaski County line;

Bounded on the East by the eastern and southern Pulaski County lines; the eastern White County line; the eastern Carroll County line south to State Route 25; State Route 25 southwest to Tippecanoe County; the eastern Tippecanoe County line;

Bounded on the South by the southern Tippecanoe County line; the eastern and southern Fountain County lines west to U.S. Route 41; and

Bounded on the West by U.S. Route 41 north to the northern Benton County line; the northern Benton County line east to State Route 55; State Route 55 north to U.S. Route 24; U.S. Route 24 east to the White County line; the western White and Pulaski County lines.

The following locations, outside of the above contiguous geographic area, are part of this geographic area assignment: Boswell Grain Company, Boswell, Benton County; Dunn Grain, Dunn, Benton County; York Richland Grain Elevator, Inc., Earl Park, Benton County; Raub Grain Company, Raub, Benton County (located inside Champaign-Danville Grain Inspection Departments, Inc.'s area); and The Andersons, Delphi, Carroll County; Buckeye Feed and Supply Company, Leiters Ford, Fulton County; and Cargill, Inc., Linden, Montgomery County (located inside Frankfort Grain Inspection, Inc.'s area).

Exceptions to Titus' assigned geographic area are the following locations inside Titus' area which have been and will continue to be serviced by the following official agency:

Schneider Inspection Service, Inc.: Central Soya, and Farmers Grain, both in Winamac, Pulaski County.

Interested parties, including Fremont and Titus, are hereby given opportunity to apply for official agency designation to provide the official services in the geographic area, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in each specified geographic area is for the period beginning September 1, 1989, and ending August 31, 1992. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

(Pub. L. 94–582 90 Stat. 2867, as amended (7 U.S.C..71 *et seq.*))

Date: February 17, 1989.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 89–4495 Filed 2–28–89; 8:45 am]

BILLING CODE 3410-EN-M

Forest Service

Polk Timber Sale, Lassen National Forest, CA; Intent To Prepare Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare a draft environmental impact statement (DEIS) for a proposal to harvest timber in the Lower Mill Creek, Middle Deer Creek and Lower Deer Creek Management Areas (#'s 40, 41, and 42, respectively) on the Almanor Ranger District, Lassen National Forest, Tehama County, California. The agency has conducted preliminary public scoping on the proposal and has received written comment and suggestions. The agency invites further comments and suggestions on the scope of the analysis. In addition, the agency gives notice of the full environmental analysis and decision-making process that is occurring on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope of the analysis must be received by March 31, 1989.

FOR FURTHER INFORMATION CONTACT: Direct comments, suggestions and questions about the proposed action and DEIS to Laurence Crabtree, District Planning Officer, Almanor Ranger District, Lassen National Forest, P.O. Box 767, Chester, California 96020, phone 916–258–2141.

SUPPLEMENTARY INFORMATION: The Lassen National Forest Timber Management Plan (1975) and the proposed Lassen National Forest Land and Resources Management Plan (1986) provide guidance for the orderly and sustained development of the timber growing capacity of the Lassen National Forest. Plan direction for Management Areas 40, 41 and 42 includes timber harvest, while also considering visual quality, the proposed Wild and Scenic River corridors along Deer Creek and Mill Creek, the proposed Mill Creek Wilderness Area, the Ishi Wilderness Area, semi-primitive non-motorized and semi-primitive motorized recreation areas, the maintenance of habitat for species that are at least partially dependent on old growth timber stands, and other resources.

In preparing the DEIS, the Forest Service will identify and consider alternatives, including no action.

Richard A. Henry, Forest Supervisor, Lassen National Forest, Susanville, California, is the responsible official.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). In May, 1987, the Forest Service sent a letter of management intent to Federal and State agencies and other individuals or organizations with possible interest in, or who may be affected by, the proposed action. The letter sought

information, comments, and assistance regarding the proposed timber sale. This input will be used in preparation of the DEIS. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insigificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.

Responses to the letter of management intent, and input from Forest Service specialists, have identified several issues and concerns. These are:

1. Approximately one-fourth of the proposed sale area was part of the Polk Springs Roadless Area which the California Wilderness Act of 1984 made available for non-wilderness management.
2. Management activities should maintain the recreational and aesthetic values of the proposed Wild and Scenic River corridors of Mill Creek and Deer Creek.
3. Management activities should not degrade the water quality or the anadromous and resident fisheries habitat of Mill Creek, Deer Creek and their tributaries.
4. The Polk Springs area includes habitat for the East Tehama deer herd.
5. Suitable old growth forests to meet the habitat requirements of cetain wildlife species are limited in the proposed sale area.
6. Several raptor nest sites have been identified in the proposed sale area, including a potential peregrine falcon nest (Federal Endangered species).
7. Slope stability and soil erosion potential is a concern in parts of the sale area.
8. Regeneration may be difficult on some soils.
9. Road construction will be difficult and expensive in some places.
10. The creation of slash accumulations adjacent to either private lands or Wilderness Area boundaries could increase fire risks to these areas.
11. Potential areas for land ownership exchange are within the proposed sale area.

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review in April, 1989. At that time EPA will publish a notice of availability of the DEIS in the **Federal Register.**

The comment period on the DEIS will be 45 days from the date the EPA's notice of availability appears in the **Federal Register.** It is very important that those interested in the management of the Lower Mill Creek, Middle Deer Creek and Lower Deer Creek areas participate at that time. To be the most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed.

Comments on the DEIS will be analyzed and considered by the Forest Service in preparing the final EIS (FEIS), which is scheduled to be completed in June, 1989. In the FEIS the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies is making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR 217.

Date: February 22, 1989.

H.R. Tatman,

Acting Forest Supervisor.

[FR Doc. 89-4770 Filed 2-28-89; 8:45 am]

BILLING CODE 3410-11-M

Alder Timber Sale, Lassen National Forest CA; Intent To Prepare Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare a draft environmental impact statement (DEIS) for a proposal to harvest timber in the Middle Deer Creek Management Area (#41) on the Almanor Ranger District, Lassen National Forest, Tehama County, California. The agency has conducted preliminary public scoping on the proposal and has received written comments and suggestions. The agency invites further comments and suggestions on the scope of the analysis. In addition, the agency gives notice of the full environmental analysis and decision-making process that is occurring on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decison.

DATE: Comments concerning the scope of the analysis must be received by March 31, 1989.

FOR FURTHER INFORMATION CONTACT: Direct comments, suggestions and questions about the proposed action and DEIS to Laurence Crabtree. District Planning Officer, Almanor Ranger District, Lassen National Forest, P.O. Box 767, Chester, California 96020, phone 916-258-2141.

SUPPLEMENTARY INFORMATION: The Lassen National Forest Timber Management Plan (1975) and the proposed Lassen National Forest Land and Resource Management Plan (1986) provide guidance for orderly and sustained development of the timber growing capacity of the Lassen National Forest. Plan direction for the Middle Deer Creek Management Area (#41) includes timber harvest, while also considering visual quality, the proposed Wild and Scenic River corridor along Deer Creek, the maintenance of habitat for species that are at least partially dependent on old growth timber stands, and other resources.

In preparing the DEIS, the Forest Service will identify and consider alternatives, including no action.

Richard A. Henry, Forest Supervisor, Lassen National Forest, Susanville, California, is the responsible official.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). In April, 1986, the Forest Service sent a letter of management intent to Federal and State agencies and other individuals or organizations with possible interest in, or who may be affected by, the proposed action. The letter sought information, comments, and assistance regarding the proposed timber sale. This input will be used in preparation of the DEIS. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.

Responses to the letter of management intent, and input from Forest Service specialists, have identified several issues and concerns. These are:

1. The proposed sale area was part of the Cub Creek Roadless Area which the California Wilderness Act of 1984 made available for non-wilderness management.

2. Management activities should maintain the recreational and aesthetic values of Highway 32 and the proposed Wild and Scenic River corridor of Deer Creek.

3. Management activities should not degrade the water quality or the anadromous and resident fisheries habitat of Deer Creek and its tributaries.

4. The proposed sale area includes habitat for deer and bear, and for wildlife species which are at least partially dependent on old growth forests.

5. Old landslides, rock outcrops, steep slopes and shallow soils could make development of a transportation system expensive.

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review in April, 1989. At that time EPA will publish a notice of availability of the DEIS in the **Federal Register.**

The comment period on the DEIS will be 45 days from the date the EPA's notice of availability appears in the **Federal Register.** It is very important that those interested in the management of the Middle Deer Creek area participate at that time. To be the most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed.

Comments on the DEIS will be analyzed and considered by the Forest Service in preparing the final EIS (FEIS), which is scheduled to be completed in June, 1989. In the FEIS the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR 217.

Date: February 22, 1989.

H.R. Tatman,

Acting Forest Supervisor.

[FR Doc. 89-4769 Filed 2-28-89; 8:45 am]

BILLING CODE 3410-11-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: The Architectural and Transportation Barriers Compliance Board (ATBCB).

ACTION: Notice of ATBCB meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 1:00 PM to 3:00 PM, on Wednesday, March 15, 1989, in the Department of Transportation Conference Room 2230, 400 7th Street SW. Washington, DC 20590.

Items on the Agenda: Discretionary research projects for FY 1989 funding; public affairs plan; Fiscal Year 1990 budget; Fiscal Year 1989 budget reprogramming; OCE status report; draft plan for compliance and enforcement case resolution; Office of Compliance and Enforcement annual review; review of the results of the management study; confirmation of the selection for the position of General Counsel. Some portions of the Board meeting will be closed.

DATE: Wednesday, March 15, 1989—1:00 PM–3:00 PM.

ADDRESS: Department of Transportation, 400 7th Street SW., Conference Room 2230, Washington, DC 20590.

The Technical Programs Committee and the Planning and Budget Committee of the ATBCB will meet on Tuesday, March 14, 1989, from 9:00 a.m. to 3:00 p.m. in the ATBCB Offices, 1111 18th Street, NW., Suite 501, Washington, DC 20036–3894.

The Executive Committee will meet from 9:00 a.m. to 11:00 a.m. on Wednesday, March 15, in the Department of Transportation Conference Room 2230, 400 7th Street, SW., Washington, DC 20590. Some portions of the committee meetings will be closed.

FOR FURTHER INFORMATION CONTACT: Barbara A. Gilley, Administrative Officer, (202) 653–7834 (voice or TDD).

Lawrence W. Roffee,

Executive Director.

[FR Doc. 89-4694 Filed 2-28-89; 8:45 am]

BILLING CODE 6820-BP-M

COMMISSION ON CIVIL RIGHTS

Missouri Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Missouri Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 4:30 p.m., on Wednesday, March 22, 1989, at the Days Inn-University Center, 1900 I–70 Drive SW., Columbia, Missouri. The purpose of the meeting is to receive information on the nature and extent of bigotry-related crime and harassment on selected college campuses in Missouri.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Joanne M. Collins, or William F. Muldrow, Acting Director of the Central Regional Division (816) 426–5253, (TDD 816/426–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC., February 21, 1989.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 89-4700 Filed 2-28-89; 8:45 am]

BILLING CODE 6335-01-M

Wisconsin Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:00 p.m., on March 16, 1989, at the Concourse Hotel, One West Dayton Street, Madison, Wisconsin. The purpose of the meeting is to discuss current projects and to plan future activities for FY 1989.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson James L. Baughman, or William F. Muldrow, Acting Director of the Central Regional Division (816) 426–5253, (TTD 816/426–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 15, 1989.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 89-4701 Filed 2-28-89; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. 7685-01]

Actions Affecting Export Privileges; Andre A. Buccolier

Summary

The Decision and Order of the undersigned dated March 2, 1988 is hereby modified to provide that the denial of export privileges set forth in said Order shall not apply to commodities or technical data which may be exported pursuant to General License G-Dest as provided in 14 CFR 771.3.

Order

On March 16, 1988 Respondent Andre Buccolier sought relief from the March 2, 1988 Order of the undersigned denying him export privileges for a period of ten years. The relief sought, *inter alia*, was the right to export commodities and technical data from the United States pursuant to General License G-Dest.

Upon consideration of Respondent's request, and the relief sought appearing justified, it is hereby ordered that the Respondent's 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, are hereby reinstated with respect to those commodities and technical data which may be exported pursuant to General License G-Dest as provided in 14 CFR 771.3; provided however, that this reinstatement shall be valid only so long as Respondents, or the Final Order entered in this proceeding.

This constitutes final agency action in this matter.

Date: February 23, 1989.

Paul Freedenberg,

Under Secretary, Bureau of Export Administration.

[FR Doc. 89-4724 Filed 2-28-89; 8:45 am]

BILLING CODE 3510-DT-M

Order Denying Permission To Apply For or Use Export Licenses; Peter Walaschek

In the Matter of: Peter Walaschek, Marzellenstrasse, 5000 Cologne, Federal Republic of Germany.

On August 26, 1988, Peter Walaschek (Walaschek) was convicted of violating section 2410(b) of the Export Administration Act of 1979 (50 U.S.C. app. 2401-2420 (1982 and Supp. III 1985), as amended by Pub. L. 100-418, 102 Stat. 1107 (August 23, 1988)) (the Act). As provided in section 11(h) of the Act, no person convicted of a violation of the Act, or certain other provisions of the United States Code, shall be eligible, at the discretion of the Secretary,[1] to apply for or use any export license issued pursuant to the Act or the Export Administration Regulations (15 CFR Parts 768-799) (the Regulations),[2] for a period of up to ten years from the date of conviction. In addition, the Secretary may revoke any export license issued under the Act in which a person convicted of violating the Act has an interest at the time of conviction.

Pursuant to 770.15 and 772.1(h) of the Regulations, as amended, 54 FR 4004-4006 (Jan. 27, 1989), upon notification that a person has been convicted of violating the Act, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any export license issued pursuant to the Act and the Regulations and shall also determine whether to revoke any export license previously issued to such a person. Having received notice of Walaschek's conviction for violating the Act, and, following consultations with the Director, Office of Export Enforcement, I have decided that Walaschek may not apply for or use any export license until August 26, 1998, ten years from the date of his conviction.

Accordingly, it is hereby ordered:

I. All outstanding individual validated licenses in which Walaschek 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 Walaschek's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, or in any general license are hereby revoked.

II. Until August 26, 1998, Peter Walaschek, Marzellenstrasse, 5000 Cologne, Federal Republic of Germany, is denied the privilege of applying for or using any export license, including, but not limited to, any individual validated license, bulk license or general license, issued under or authorized by the Act and the Regulations. Pursuant to this Order, Walaschek may not participate in any export license-related activity, including any participation: (a) As a party or as a representative of a party to any export license application submitted to the Department, (b) in preparing or filing with the Department any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license, or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, exported or to be exported from the United States and subject to the Regulations, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

III. After notice and opportunity for comment as provided in § 770.15(h) of the Regulations, any firm, corporation or business organization related to Walaschek by affiliation, ownership, control or position of responsibility may also be subject to the provisions of this Order.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclousre to and specific authorization from the Office of Export Licensing, shall, with respect to U.S.-origin commodities and technical data which are subject to the denial of export privileges set forth herein, 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 Walaschek or whereby Walaschek may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly, in any manner or capacity: (a) Apply for, obtain, transfer, or use any export license, Shipper's Export Declaration, bill of lading or any other export control document relating to any export, reexport, transshipment or diversion of any commodity or

[1] Pursuant to the Regulations, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by section 11(h) of the Act.

[2] Effective October 1, 1988, the Export Administration Regulations were redesignated as 15 CFR Parts 768-799 (53 FR 37751, Sept. 28, 1988). The transfer merely changed the first number of each Part from "3" to "7". Until such time as the Code of Federal Regulations is republished, the Regulations may be found in 15 CFR Parts 368-399 (1988).

technical data exported in whole or in part, or to be exported by, to, or for Walaschek, 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. These prohibitions apply only to those commodities and technical data which are subject to the Act and the Regulations.

V. This Order is effective immediately and shall remain in effect until August 26, 1998.

A copy of this Order shall be delivered to Walaschek. This Order shall be published in the Federal Register.

Dated: February 24, 1989.

Iain S. Baird,

Director, Office of Export Licensing.

[FR Doc. 89-4747 Filed 2-28-89; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

Export Trade Certificate of Review; Application

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Thomas H. Stillman, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and Federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the Federal Register identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. An original and five (5) copies should be submitted not later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1223, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 89-00003." A summary of the application follows:

Applicant: Passport International (PI), 9721 Kempwood Drive, Suite 1005, Houston, Texas 77080, Contact: David N. Williams, President, Telephone: (713) 895-9612
Application No.: 89-00003
Date Deemed Submitted: February 15, 1989
Members (in addition to applicant): None

Summary of the Application

Export Trade Products

Process control equipment, computer hardware and software, electronic test and repair equipment, medical equipment, paper and paper products, and consumer products.

Export Trade Facilitation Services (as they relate to the export of Products)

Consulting, international market research, financing, insurance, advertising, packing and crating, warehousing, trade documentation and shipping, foreign exhibit marketing, and customs brokerage.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

Under the terms of its Certificate, PI seeks to: 1. Coordinate the participation of various suppliers in foreign trade exhibitions through the sharing of trade information that is generally available to the public,

2. Provide Export Trade Facilitation Services to domestic suppliers for the export of their Products to foreign customers,

3. Enter into exclusive agreements with domestic suppliers to arrange for the export of Products to foreign customers in response to foreign invitations to bid,

4. Enter into exclusive agreements with foreign customers to select domestic suppliers of Products in order to match foreign buyer specifications,

5. Meet and negotiate with domestic suppliers concerning the terms of their participation in each bid, invitation or request to bid, or other sales opportunity in the Export Markets,

6. Establish export prices for domestic suppliers seeking to respond to a foreign bid opportunity, and

7. Contract with other Export Intermediaries for the export of the Products of domestic suppliers to the Export Markets.

Dated: February 24, 1989.

Thomas H. Stillman,

Director, Office of Export Trading Company Affairs.

[FR Doc. 89-4745 Filed 2-28-89; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Notice.

SUMMARY: NOAA Fisheries has contracted with the National Academy of Sciences to conduct an independent review of scientific information pertaining to the conservation of sea turtles. The study, mandated in recent amendments to the Endangered Species Act of 1973 (ESA) to be completed by April 1, 1989, will not be completed until January 31, 1990.

ADDRESS: Dr. Nancy Foster, Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Phil Williams (301-427-2322).

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act Amendments of 1988 (Public Law 100-478) includes, among other things, provisions on sea turtle conservation.

The Amendments require the Secretary of Commerce to contract with the National Academy of Sciences for an independent review of sea turtle biology and conservation. The primary purpose of the review is to further the long-term conservation of sea turtles by reviewing available data to ensure that the Federal government is promoting the conservation of sea turtles in the most effective and comprehensive manner possible. In particular, the review will address whether more or less stringent measures to reduce the drowning of sea turtles in shrimp nets are necessary and advisable to provide for the conservation of sea turtles. Congress directed the Academy to report its finding by April 1, 1989. If the Academy cannot complete its review by April 1, then it should give priority to completing the review of Kemp's Ridley sea turtle, and complete its review of other species as expeditiously as possible.

Shortly after the ESA Amendments were passed, NOAA Fisheries contacted the National Academy of Sciences concerning this study. NOAA has accepted the Academy's proposal dated December 27, 1988, for a one-year study to begin on February 1, 1989, and conclude on January 31, 1990. Prior to the enactment of the Amendments, the Academy informed the Congress that at least a year was needed to complete the study. NOAA has requested the Academy to provide progress reports on April 1 and September 29, 1989.

Dated: February 17, 1989.

N. Foster,

Director, Office of Protected Resources and Habitat Programs.

[FR Doc. 89-4580 Filed 2-28-89; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

February 21, 1989.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Licensing information and copies of patent applications bearing serial numbers with prefix E may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151. All other patent applications may be purchased, specifying the serial number listed below, by writing NTIS, 5285 Port Royal Road, Springfield, Virginia 22161 or by telephoning the NTIS Sales Desk at (703) 487-4650. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

Department of Agriculture

SN 6,701,660 (4,797,153)
Method of Increasing Biomass in Plants

SN 7-068,499 (4,795,633)
Vaccine for Swine Trichinosis

SN 7-217,909
Method of Increasing Biomass in Plants

SN 7-226,057
Device for Sustained-Release of a Chemical Onto an Animal and Method of Using the Device

SN 7-251,427
Monoclonal Antibodies Against Chicken T-Lymphocytes

SN 7-261,531
Fatty Glycolic Acid Derivatives as Yarn Lubricants and as Antimicrobial Agents

SN 7-270,608
Hot Air Disinfestation of Fruit and Vegetables

SN 7-274,721
Method for Reduction of Endotoxin in Cotton Lint or Dust

SN 7-281,733
Irrigation Device

SN 7-296,109
Processes and Apparatus for Moving Plant Materials and Containers Useful Therewith

SN 7-299,174
Sequential Oxidative and Reductive Bleaching in a Multicomponent Single Liquor System

Department of Health and Human Services

SN 6-778,669 (4,794,074)
Method and Kit for Detecting Human Exposure to Genotoxic Agents

SN 7-129,387 (4,792,689)
Method for Obtaining a Ratio Measurement for Correcting Common Path Variations in Intensity in Fiber Optic Sensors

SN 7-280,363
Antimicrobial Peptides and Processes for Making the Same

SN E-167-88
Method and Composition for Inducing Glycosaminoglycan Accumulation

SN E-47-89
Attenuation of Ethyl Alcohol Intoxication with Alpha-2 Adrenoceptor Antagonists

SN E-70-89
Purification of Human Chorionic Gonadotropin b-Core Molecule and Preparation of Antibodies With Specificity for Same

Department of the Air Force

SN 7-241,156
Low Glass Transition Temperature Aromatic Polyamides

Department of the Army

SN 7-252,429
Generic Detection With A Receptor-Based Fiber Optic Sensor

SN 7-263,305
Specimen Holder and Rotary Assembly

SN 7-263,306
Thermal Test Chamber Device

SN 7-263,466
Manual Microcircuit Die Test System

SN 7-266,953
Millimeter Wave Microstrip Modulator/Switch

SN 7-270,147
Improved Magnesium/Manganese Dioxide Electrochemical Cell

SN 7-276,981
Phase-Conjugate Resonator

SN 7-280,055
Millimeter Wave Microstrip Nonreciprocal Phase Shifter

SN 7-290-719
Compact Microstrip Latching Reciprocal Phase Shifter

SN 7-295-613
Improved Slotted Microstrip Antenna

Department of the Interior

SN 7-059,892 (4,793,710)
Method and Apparatus for Measuring Surface Density of Explosive and Inert Dust in Stratified Layers

[FR Doc. 89-4705 Filed 2-28-89; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetables Fiber Textile Products Produced or Manufactured in Macau; Correction

February 24, 1989.

On page 47744 in the table of the letter to the Commissioner of Customs published on November 25, 1988 (53 FR 47743), make the following changes:

Category	Sublevel
333/335/833/835	Change from 90,047 dozen to 87,277 dozen.
633/634/635	Change from 318,824 dozen to 332,225 dozen.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-4743 Filed 2-28-89; 8:45 am]

BILLING CODE 3150-DR-M

Amendment of Export Visa and Certification Requirements for Certain Textile Articles Produced, Manufactured or Assembled in the United Mexican States

February 24, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending the existing visa and certification requirements.

EFFECTIVE DATE: March 1, 1989.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

SUPPLEMENTARY INFORMATION:

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).

The existing visa and certification requirements are being amended to include coverage of cotton and man-made fiber textile producs in merged Categories 347/348/647/648 and 359-C/659-C, produced, manufactured or assembled in Mexico and exported from Mexico on and after January 1, 1989. Customs is being directed to accept shipments of the above products exported on or after January 1, 1989 which list on the visa or accompanying Shippers Declaration (Form ITA-370P) either the cotton or man-made fiber category numbers.

In addition, the visa and certification requirements are being amended to include coverage of man-made fiber products in merged Categories 645/646.

A copy of the current visa and certification arrangement is available from the Textile Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647-1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 15724, published on May 3, 1988; 53 FR 32421, published on August 25, 1988; and 53 FR 52464, published on December 28, 1988.

February 24, 1989.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 24, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of August 22, 1988, as amended, which directed you to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in certain specified categories, including any part or merged categories as established in the bilateral agreement, produced, manufactured or assembled in Mexico for which the Government of the United States has not issued an appropriate export visa or exempt certification.

Effective on March 1, 1989, you are directed to permit entry of cotton and man-made fiber textile products visaed as merged Categories 347/348/647/648 and 359-C/659-C [1] which are produced, manufactured or assembled in Mexico and exported from Mexico on and after January 1, 1989 provided the Government of the United Mexican States has issued an appropriate export visa or exempt certification.

You are directed to permit entry of shipments of these products exported from Mexico on or after January 1, 1989 which list on the visa or accompanying Shippers Declaration (Form ITA-370P) either the cotton or man-made fiber category number, i.e. 347/348, 647/648, 359-C or 659-C.

In addition, you are directed to permit entry of man-made fiber textile products visaed as merged Categories 645/646, which are produced, manufactured or assembled in Mexico and exported from Mexico on and after March 1, 1989.

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,

James H. Babb,

Chairman, Committee for the Implementation of Textile agreements.

[FR Doc. 89-4744 Filed 2-28-89; 8:45 am]

BILLING CODE 3510-DR-M

[1] In Categories 359-C/659-C, only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010 in Category 359-C; and 6103.23.0055, 6103.43.2020, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.69.1000, 6104.69.3014,6114.30.3040, 6114.30.3050, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4020, 6211.33.0010, 6211.33.0017 and 6211.43.0010 in Category 659-C.

DEPARTMENT OF DEFENSE

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 March 13-14, 1989. The meeting will be held at the Center for Naval Analyses, 4401 Ford Avenue, Alexandria, Virginia. The meeting will commence at 8:30 a.m. and terminate at 4:30 p.m. on March 13; and commence at 8:30 a.m. and terminate at 5:00 p.m. on March 14, 1989. 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 briefings and discussions related to amphibious concepts and doctrine, lessons learned from specific operations, an assessment of the threat, applicable technologies and systems, investment strategy, and highlights of previous studies. These briefings and discussions contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such 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: February 24, 1989.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89-4749 Filed 2-28-89; 8:45 am]

BILLING CODE 3810-AE-M

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 Survivability of Navy Tactical Communications in a Hostile Environment will meet on March 14 and 15, 1989. The meeting will be held at the Center for Naval Analyses, 4401 Ford Avenue, Alexandria, Virginia. The meeting will commence at 9:00 A.M. and terminate at 4:00 P.M. on March 14 and 15, 1989. 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 the survivability of Navy tactical communications in a hostile environment. The agenda will include briefings and discussions on the connectivity for C^3I, Navy tactical command and control, jam resistance and interoperability, AAW C^3I, and a JCS C^3 assessment. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such 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) 696-4488.

Date: February 24, 1989.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89-4750 Filed 2-28-89; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Meeting; Postsecondary Education Improvement Fund National Board

AGENCY: National Board of the Fund for the Improvement of Postsecondary Education.

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Board of the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: March 16, 1989 from 5:00 p.m to 7:00 p.m., and on March 17, 1989 from 8:00 a.m. to 7:00 p.m.

ADDRESS: Georgetown University Conference Center, The Thomas and Dorothy Leavey Center, 3800 Reservoir Road, NW., Washington, DC 20057.

FOR FURTHER INFORMATION CONTACT: Charles Karelis, Director, Fund for the Improvement of Postsecondary Education, 7th & D Streets, SW., Washington, DC 20202 (202) 732-5750.

SUPPLEMENTAL INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education is established under section 1001 of the Higher Education Amendments of 1980, Title X (20 U.S.C. 1135a-1). The National Board of the Fund is authorized to recommend to the Director of the Fund and the Assistant Secretary for Postsecondary Education priorities for funding and approval or disapproval of grants of a given kind.

The meeting of the National Board is closed to the public. The meeting is for the purpose of reviewing and evaluating grant application submitted to the Fund under the Innovative Projects for Community Services and Student Financial Independence Program.

The meeting of the National Board will be closed to the public from March 16, from 5:00 p.m. to 7:00 p.m., and on March 17, from 8:00 a.m. to 7:00 p.m. The meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix 2) and under exemptions (4) and (6) of 5 U.S.C. 552b(c) (Pub. L. 94-409). The review and discussions of the applications and the qualifications of proposed staff may disclose commercial or financial information obtained from a person and privileged or confidential or which would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting.

Records are kept of all Board proceedings, and are available for public inspection at the office of the Fund for the Improvement of Postsecondary Education, Room 3100, Regional Office Building #3, 7th & D Streets, SW., Washington, DC 20202 from the hours of 8:00 a.m. to 4:30 p.m.

Kenneth D. Whitehead,

Assistant Secretary for Postsecondary Education.

[FR Doc. 89-4688 Filed 2-28-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Idaho Operations Office; Industrial Drying Concepts Using a Superheated Steam Atmosphere With Exhaust Recompression

AGENCY: Department of Energy.

ACTION: Solicitation for financial assistance applications No. DE-PS07-89ID12826 for research and development of industrial drying concepts using a superheated steam atmosphere with exhaust recompression.

SUMMARY: The U.S. Department of Energy (DOE), Idaho Operations Office, is seeking applications on the basis of open competition, for cost-sharing research and development of industrial drying concepts which utilize a superheated steam atmosphere with exhaust recompression. This announcement is the complete solicitation document and no other document for this work is available. The objective of this program is the execution of one or more cooperative agreements to conduct research and development of this technology leading to improvements in industrial drying efficiencies. Up to three-fourths of the energy used for drying may be saved by recovering the latent heat of vaporization. This technology permits that recovery to be made by compressing the exhaust steam from the dryer to a higher pressure with a mechanically driven compressor. The compressor produces a temperature increase along with the pressure increase. Recovery of the latent heat of vaporization is enhanced by excluding as much air as possible from the dryer,

significantly improving the heat transfer coefficient of the condensing steam. The use of either a reheat boiler or a desuperheater in a proposed concept is acceptable if appropriate for the particular type of application, and if such use has potential for significant nationwide utilization. The applicant should describe the proposed concept thoroughly in the application. The description should present convincing arguments as to the technical feasibility and utility of the concept, and should explain the beneficial and advantageous aspects that will enhance the potential for widespread implementation of the concept. Proposals should focus on a specific product or products, and development should include both overall system concepts and design of individual components. An explanation is required of how this concept is applicable to other processes and products.

Product heat sensitivity in a steam atmosphere is perceived as being different from that in air, and may have a significant effect on actual energy savings. Energy savings may be achieved either by using the compressed exhaust steam to partially power the drying process or by showing where in the overall process of producing the product the energy may be used. A wide variety of dryer types and dried products are considered candidates for this technology.

The allowable research and development activities may be nominally divided into three phases: *Phase I—Feasibility Investigation*—applied research to evaluate industrial applicability, explore system configurations, design system elements, and conduct appropriate laboratory testing to provide technical and economic feasibility confirmation and an updated energy savings estimate.

Phase II—Engineering Development—additional laboratory testing, system design, construction, and pilot scale testing/evaluation to document technical performance and predict the energy and economic performance of a full-scale system.

Phase III—Proof-of-Principle-Testing—full or major-scale system testing and evaluation to confirm in-service performance and operability and to finalize energy, economic, and environmental analyses. The proposer may initiate activities in any of the above phases provided that completion of any previous phase(s) can be demonstrated.

Funding of subsequent phases will depend on the results of the initial work, the availability of funding, the DOE program requirements, and the ability to reach a mutual agreement on scope and cost-sharing. All projects will be cost-shared by DOE and the Participant, with the Participant's cost-share increasing as the project proceeds through the various phases. No fee or profit will be paid to the Participant.

DOE anticipates that approximately $500,000 will be available for support of initial phase activities, and that this solicitation will result in one or more cooperative agreements. Negotiation, award, and administration will be in accordance with DOE Financial Assistance Regulations (10 CFR Part 600). The Catalog of Federal Domestic Assistance number for this program is 81.078.

Profit making entities, individuals, educational institutions, nonprofit institutions and other entities are eligible to submit applications in response to this solicitation. Federal agencies and/or laboratories owned, operated, or under the cognizance of the Federal Government are not eligible for award and should not submit applications. Applications which anticipate participation of such a laboratory by subcontract, use agreement, or other arrangement must include satisfactory evidence of specific authorization from the cognizant Federal agency.

All proposals received within 10 CFR 600.13 Application Deadlines will be evaluated and point-scored in accordance with the following four evaluation criteria:

Criterion 1 is the technical viability and applicability of the concept. This criterion is divided into two parts and must include a detailed description of the concept showing innovative aspects, development status, how it will be adopted in industry and the energy savings. The energy value of industrial drying in the U.S. has been estimated to be approximately 1.5×10^{15} Btu/year, or about 5.5 percent of U.S. industrial energy consumption. The proposed concept should be shown to have at least a nominal net energy savings potential on a national basis of 10^{12} Btu/year, together with attractive economic and environmental features. In this context, net energy savings is defined as energy conserved relative to present drying practices by utilizing superheated steam drying, less any energy expense associated with process modification, expressed in Btu per product unit. The national net energy savings is estimated by multiplying the unit energy savings by the total number of units estimated to be produced annually in the U.S. and by the estimated percent market share where the process innovation may be implemented. (All assumptions should be stated and discussed.)

Criterion 1a is technical viability of the proposed technology(s). Factors considered favorable are high feasibility of the technology(s); low development cost and time needed to proceed to a commerical products(s); and high advancement of the technology relative to other systems commercially available or currently under development in terms of the potential for achieving energy savings, product cost reductions, and quality improvements.

Criterion 1b is the applicability of the concept. Factors to be considered favorable are the identity of products and specific industrial applications where a high potential for use exists within industry; the estimated number of applications projected; and the market share and associated energy savings based on the proposers projections for implementation on a national basis.

Criterion 2 is the Statement of Work; it shall be evaluated relative to clarity, completeness, responsiveness, and adequacy to accomplish the project objectives. A description shall be provided for the complete project (all phases). A statement of objectives (what is to be accomplished) and a detailed Statement of Work (specific tasks and subtasks to accomplish the objectives) are required for the proposed initial phase. For subsequent phases, the objectives shall be stated and the work outlined to indicate how the objectives will be accomplished. The work effort may be started in any of the three phases.

Conclusive evidence should be presented showing the conduct and conclusions of the previous phase(s) of work.

Criterion 3 is the ability of the proposer to successfully complete all phases of the project. Factors to be considered are the proposer's general knowledge of industrial drying technologies plus specific knowledge of the proposed technology for industrial drying; the proposed industrial application; market factors affecting acceptance by industry of an industrial dryer using superheated steam with exhaust recompression; the facilities available for building and testing the proposed concept; qualifications of the key individuals and the percentage of their time devoted to the project; background on the proposer's marketing channels for related lines; and facilities and personnel for production and commercialization.

Annual financial statements (balance sheet and income and expense statements) for the past three years shall

be attached for the applicant, subcontractors, consulting firms, and other principals composing the project team. Where available, financial statements prepared by certified public accountants should be submitted. If plant owners, or subcontractors, or consultants are not involved in the initial phase, they must submit their annual Financial Statements prior to involvement in later phases.

Criterion 4 is the project managaement plan. A project management plan is required that shows how the proposed work is to be managed.

The plan shall be evaluated relative to the completeness and adequacy of the work breakdown structure, the schedule (sequence of project tasks), individual responsibilities and task assignments of each project participant, estimates of personnel effort for each of the tasks, resource and manpower availability to satisfy task requirements, project management methods to complete the project in a timely manner and control over budget, schedule, and product quality shall be described. A more general schedule for future phases is also required.

Applications shall be responsive to all the above criteria. The criteria are listed in descending order of importance. Criterion 1 is approximately four-tenths the total evaluation criteria value. Criterion 1a is about twice the value of Criterion 1b. Criterion 2 is about three-tenths the total value, and Criterion 3 and 4 are of equal value and together are approximately three-tenths the total value.

Cost considerations will not be point-scored or adjectively rated. The proposed cost is a function of the management approach, the technical approach, the manpower, the facilities, the organization, the uncertainties of the work, the proposer's competitive strategy, and the economy. The cost consideration will not be an addition to the cumulative score of ratings resulting from the evaluation. Applicants are advised, however, that notwithstanding the lower relative importance of the cost considerations, the evaluated cost may be the basis for selection.

The initial phase is not expected to exceed 12 months; all applicants are required to submit an annual budget provided in detailed breakdown, as part of the applicant's cost proposal. In making the selection decision, the apparent advantages of individual technical and business applications will be weighed against the evaluated probable cost to determine whether better applications, excluding cost considerations are worth the evaluated probable cost differences. When applications are very closely ranked and the Source Selection Official determines that the superiority in the technical and business aspects of the higher related application(s) is not meaningful when viewed in relationship to lower rated applications, evaluated probable costs to the Government may form the basis for selection.

In conducting the evaluation of applications, the Government may utilize assistance and advice from non-Government personnel. Applicants that do not consent to the use of non-Government personnel in evaluating their proposal(s) are required to make that statement on the cover of their application(s). Applicants are further advised that DOE may be unable to give full consideration to an applicant submitted without such consent. Information contained in the applications shall be treated in accordance with the policies and procedures set forth in 10 CFR 600.18.

DOE reserves the right to reject any and all applications received in response to this solicitation or to select any application as a basis for negotiation. DOE may require applications to be clarified or supplemented either through additional written submissions or oral presentations; however, the award may be made solely on the information contained in the proposal. The Government is not liable for any costs incurred in the preparation of an application. Further, costs incurred prior to the signing of a cooperative agreement are not reimbursable.

Program Policy and Preference Factors

The Source Selection official may make selections for negotiations and subsequent awards in a manner that will further the objectives of DOE, considering the following policy factors:

(1) The degree of innovation represented by the concept for utilization of Superheated Steam Drying with Exhaust Recompression. It is desirable to develop either new or creative technologies or to develop unique applications of existing technology in this area. Proposals will not be selected for award which are duplicative of research and development already accomplished or underway in private industry.

(2) The priority of the potential energy savings. Recovery and conversion for material or fuel substitution is of highest priority if the energy savings are from displacement of petroleum; the next highest if from displacement of natural gas; and lowest for displacement of coal or renewable materials by a particular proposal.

(3) Total funds available considering the funds required by a particular proposal; and

(4) The desirability of selecting, for award or support, a group of projects which represents a diversity of methods, approaches, applications, or kinds of work.

(5) The desirability to support development of concepts when the potential benefits are high with relatively little Government expenditure.

Stevens Amendment to the DOD Appropriations Act:

When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds including but not limited to State and local Governments shall clearly state: (1) The percentage of the total cost of the program or project, which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

Instructions for Certification

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of Fact upon which reliance was placed when the agency determined to award the grant.

If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

Certification Regarding Drug-Free Workplace Requirements

Alternate I

A. The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement, and

(2) Notify employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such a conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee up to and including termination; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee shall insert in the space provided below the site(s) for the performance of work done in connection with the specific grant; Place of Performance (Street address, city, county, state, zip code).

Alternate II

The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in conducting any activity with the grant.

Taxpayer Identification Number

All applicants are required to provide somewhere in their application(s) the nine-digit Taxpayer Identification Number (TIN) assigned by the U.S. Internal Revenue Service.

Dates

The closing date will be 4:00 p.m., Mountain Daylight Time, on April 12, 1989. Evaluation of the proposals will commence approximately one week after the closing date. Late applications will be handled in accordance with 10 CFR 600.13. Prospective applicants who intend to submit an application in response to this solicitation should notify the contact above of their intent in writing. Six copies of each application, including the signed original, should be submitted.

Questions regarding this solicitation should also be submitted to the contact above in writing and postmarked prior to March 5, 1989. Questions and answers will be issued in writing by amendment to this solicitation. Copies of all amendments to this solicitation will be sent only to those notifying this office of their intent to submit an application. Selection and award are expected to be made within four months of the closing date of this solicitation.

Contact

Six copies of each application, including the signed original, should be submitted to: Dallas L. Hoffer, Contracts Management Division, U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402–1129.

H. Brent Clark,

Director, Contracts Management Division.

[FR Doc. 89–4767 Filed 2–28–89; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. CP79–382–011 et al.]

South Georgia Natural Gas Company, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. South Georgia Natural Gas Company

[Docket No. CP79–382–011]

February 22, 1989.

Take notice that South Georgia Natural Gas Company (South Georgia) on February 16, 1989, tendered for filing Twelfth Revised Sheet Nos. 76 and 106 to the First Revised Volume No. 2 of its FERC Gas Tariff. The proposed revised tariff sheets would flow through to South Georgia's two gas storage customers reduced storage transportation charges billed to South Georgia by Southern Natural Gas Company (Southern).

South Georgia states that the Commission's August 22, 1980 order in the captioned proceeding permits South Georgia to flow through to its two storage customers any changes in the amounts which the Commission authorizes Southern to charge South Georgia for storage transportation services. South Georgia further states that the Commission recently accepted for filing to be effective December 1, 1988, subject to refund, revised tariff sheets filed by Southern which reduced Southern's storage transportation charges to South Georgia.

South Georgia requests waivers of § 154.51 of the Commission's Regulations and any other waivers necessary to make the revised tariff sheets effective as of December 1, 1988, the date of the decrease in Southern's charges to South Georgia.

Copies of this filing were served on the two jurisdictional cutomers affected by the filing, interested State Commissioners and all parties in the captioned proceeding.

Comment date: March 2, 1989, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. United Gas Pipe Line Company

[Docket No. CP89–840–000]

February 22, 1989.

Take notice that on February 16, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77152–1478, filed in Docket No. CP89–840–000 an application 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 Eagle Natural Gas Company (Eagle), a marketer of natural gas, under United's blanket certificate issued in Docket No. 88–6–000 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.

United proposes to transport, on an interruptible basis, up to 25,750 MMBtu per day for Eagle. United states that construction of facilities would not be required to provide the proposed service.

United further states that the maximum day, average day, and annual transportation volumes would be approximately 25,750 MMBtu, 25,750 MMBtu and 9,398,750 MMBtu respectively.

United advises that service under Section 284.223(a) commenced January 1, 1989, as reported in Docket No. ST89–1872.

Comment date: April 10, 1989, in accordance with standard Paragraph G at the end of this notice.

3. Texas Gas Transmission Corporation

[Docket No. CP89–830–000]

February 22, 1989.

Take notice that on February 15, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky, 42301, filed in Docket No. CP89–830–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport natural gas for Energy Marketing Services, Inc. (Energy Marketing) under Texas Gas' blanket certificate issued in Docket No. CP–88–686–000 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.

Texas Gas proposes to transport on an interruptible basis up to 20,000 MMBtu of natural gas equivalent on behalf of Energy Marketing pursuant to a gas transportation agreement dated October 28, 1988, between Texas Gas and Energy Marketing. Texas Gas would receive the gas at various existing points of receipt on its system in Texas, Indiana, Kentucky, Tennessee, Illinois, Arkansas, Ohio and Louisiana and redeliver equivalent volumes, less fuel and lost and unaccounted for volumes, at existing delivery points in Ohio.

Texas Gas further states that the estimated average daily and annual quantities would be 20,000 MMBtu and 7,300,000 MMBtu, respectively. Service under Section 284.223(a) commenced on January 1, 1989, as reported in Docket No. ST89–1822–000, it is stated.

Comment date: April 10, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. ANR Pipeline Company

[Docket No. CP89–832–000]

February 22, 1989.

Take notice that on February 15, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89–832–000 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 Coastal Gas Marketing Company (Coastal), a marketer of natural gas, under ANR's blanket certificate issued in Docket No. CP88–532–000, 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.

ANR proposes to transport on an interruptible basis up to 150,000 dt equivalent of natural gas on a peak day, 150,000 dt equivalent on an average day and 54,750,000 dt equivalent on an annual basis for Coastal. It is stated that ANR would receive the gas for Coastal's account at existing receipt points on ANR's system in Texas, offshore Texas, Louisiana, offshore Louisiana, Oklahoma, and Kansas, and would redeliver equivalent volumes at existing points on ANR's system in Illinois. It is asserted that the service would be effected using existing facilities and would require no construction of additional facilities. It is explained that the transportation service has commenced under the self-implementing authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89–2097.

Comment date: April 10, 1989, in accordance with Standard Paragraph G at the end of this notice.

United Gas Pipe Line Company

[Docket No. CP89–841–000]

February 22, 1989.

Take notice that on February 16, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–841–000 a request pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service on behalf of Amoco Production Company (Amoco), a producer of natural gas, under its blanket certificate issued in Docket No. CP88–6–000 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.

United states that it proposes to transport natural gas on behalf of Amoco from a point of receipt located in Vermilion Parish, Louisiana to two points of delivery located in Ouachita Parish, Louisiana.

United further states that the maximum daily, average daily and annual quantities that it would transport on behalf of Amoco would be 51,500 MMBtu equivalent, 51,500 MMBtu equivalent and 18,797,500 MMBtu equivalent of natural gas, respectively.

United indicates that in Docket No. ST89–1937, filed with the Commission on January 23, 1989, it reported that transportation service for Amoco had begun under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: April 10, 1989 in accordance with Standard Paragraph G at the end of the notice.

6. Northwest Pipeline Corporation

[Docket No. CP89–838–000]

February 23, 1989.

Take notice that on February 15, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89–838–000 a request pursuant to §§ 157.205 and 284.223(2)(b) of the Commission's Regulations under the Natural Gas Act for authorization to transport for Nevada Cement Company (Nevada cement), an end user 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 on file with the Commission and open to public inspection.

Northwest states that it would transport, on an interruptible basis, up to 7,000 MMBtu per day of natural gas for Nevada Cement. Northwest indicates that vrious receipt points would be located on its pipeline system in Colorado, Oklahoma, Oregon, Utah, Washington, and Wyoming, and the delivery points would be on its pipeline system in Colorado, Idaho, New Mexico, Oklahoma, Oregon, Utah, Washington, and Wyoming. Northwest further states that the maximum day, average day, and annual transportation volumes would be approximately, 7,000 MMBtu, 330 MMBtu and 120,000 MMBtu, respectively. Northwest also states that it would perform the proposed transportation service for Nevada Cement pursuant to a service agreement dated February 24, 1988, as amended, between Northwest and Nevada Cement.

Northwest states that it commenced the transportation service for Nevada Cement on December 20, 1988, at Docket No. ST89–2010–000 for a 120-day period pursuant to § 284.223(a)(1) of the Commission's Regulations and will expire on April 18, 1989. Northwest also states that no construction of new facilities will be required to provide this transportation service.

Northwest states that the natural gas transported under the service agreement dated February 24, 1988, as amended, may be received on behalf of Nevada Cement by any local distribution company or affiliate of Nevada Cement which has and appropriate contractual arrangement with Nevada Cement. Northwest further states that it understands that Nevada Cement has a service agreement with Southwest Gas Corporation, a local distribution company.

Comment date: April 10, 1989, in accordance with Standard Pargraph 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 won 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 apear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-4766 Filed 2-28-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-58-000]

Bear Creek Storage Co.; Order Instituting Investigation and Setting Matter for Hearing

Issued February 23, 1989.

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

To provide additional storage capacity, subsidiaries of Southern Natural Gas Company (Southern) and Tennessee Gas Pipeline Company (Tennessee), referred to as applicants, formed a partnership under the name Bear Creek Storage Company (Bear Creek) to own and operate a storage facility. Bear Creek is owned in equal shares by subsidiaries of Southern and Tennessee. Southern operates the storage facility. By order of April 3, 1979 [1] in Docket Nos. CP78-266 *et al.*, the Commission issued certificates of public convenience and necessity authorizing Bear Creek to construct and operate facilities for the transportation and storage of natural gas in interstate commerce for resale from the Petit Storage Reservoir of the Bear Creek Field, Bienville Parish, Louisiana. These services are provided to Southern and Tennessee by Bear Creek. The order was issued pursuant to a Stipulation and Agreement (S&A) filed with the Commission by Southern and Tennessee.

Discussion

On June 3, 1981, Bear Creek, in compliance with the S&A filed tariff sheets to be effective July 1, 1981, which established a storage demand charge of $2.36 per Mcf of maximum daily withdrawal rate and a storage capacity charge of $.042 per Mcf of maximum storage capacity volume. These currently effective rates were supported by a cost of service of $46.9 million which reflected a rate base of $224.0 million; an overall rate of return of 12 percent consisting of a return on equity of 15 percent and a debt cost of 11 percent; a cash working capital allowance of 12.5 percent of operating and maintenance expenses; and a Federal income tax rate of 46 percent. The cost of service was filed as part of the S&A. Because the two rates are demand charges, Bear Creek is guaranteed recovery of its cost of service.

A preliminary analysis of Bear Creek's 1987 FERC Form No. 2 shows that Bear Creek's total cost of service rate base appears to be $175.0 million, which was derived from actual book balances at December 31, 1986, and December 31, 1987, where applicable, or a decrease of $49.0 million from that contained in the S&A discussed above; no cash working capital allowance, consistent with section 154.63b of the Commission's regulations; [2] and a Federal income tax rate of 34 percent.

Bear Creek's currently effective rates are based on an estimated cost of service made over seven years ago. Because it appears that Bear Creek's current cost of service may be significantly lower than the cost of service reflected in its rates, the Commission finds that Bear Creek's rates may not be just and reasonable. Additionally, Bear Creek's current rates reflect a cash working capital allowance of 12.5 percent of operation and maintenance expenses. Section 154.63b of the Commission's regulations provides that a pipeline will receive a $0 allowance unless supported by a fully developed lead-lag study. Finally, Bear Creek's rates are based on the old 46 percent Federal income tax rate rather than the current 34 percent rate. Accordingly, pursuant to Section 5 of the Natural Gas Act,[3] we shall initiate an investigation to determine whether Bear Creek's rates are unjust and unreasonable or otherwise unlawful.

The Commission Orders

(A) Pursuant to the authority of the Natural Gas Act, particularly Section 5 thereof, and the Commission's rules and regulations, a public hearing shall be held in Docket No. RP89-58-000 concerning the lawfulness of Bear Creek Storage Company's rates, and whether the current rates are unjust, unreasonable, or otherwise unlawful.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose, pursuant to § 375.304 of the Commission's regulations,[4] shall convene a prehearing conference in this proceeding to be held within 60 days of the issuance of this order, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North

[1] 7 FERC ¶ 61,001 (1979).

[2] 18 CFR 154.63b (1988).

[3] 15 U.S.C. 717d (1981).

[4] 18 CFR 375.304 (1988).

Capitol Street, NE., Washington, DC 20426. The prehearing conference shall be held for the purpose of clarification of the positions of the participants, and establishment by the Presiding Administrative Law Judge of any necessary procedural dates to ensure that an Initial Decision will be issued not later than six months from the date of this order. The Presiding Administrative Law Judge is authorized to conduct further proceedings in accordance with this order and the rules of practice and procedure.

(C) Bear Creek must file, within 45 days of the issuance of this order, a cost and revenue study showing actual data for the most recently available 12-month period in the form specified by § 154.63 of the Commission's regulations.

(D) Any person desiring to intervene or to protest 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.[5] All such motions or protests should be filed within 30 days of the date of issuance of this order. 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.

By the Commission.

Lois D. Cashell

Secretary.

[FR Doc. 89-4761 Filed 2-28-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER89-98-000]

Central Vermont Public Service Corp.; Notice of Filing

February 23, 1989.

Take notice that on January 23, 1989, Central Vermont Public Service Corporation (Central Vermont) filed a letter in response to questions by the Staff concerning the development of the 50 MW sale of Vermont Yankee Nuclear Corporation capacity and energy to New England Power Company.

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 March 9, 1989. 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. 89-4763 Filed 2-28-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER89-4-000]

Portland General Exchange, Inc.; Notice of Filing

February 24, 1989.

Take notice that on February 8, 1989 Portland General Exchange, Inc. (PGX) tendered for filing a second amendment to its filing of Service Schedule PGX-1 for the sale of nonfirm energy.

PGX states that the reasons for the amendment to be the following:

i. To change the shared saving rate to reflect shared savings rate principles permitted by the Commission.

ii. To provide cost support for a two (2) mill mark-up.

Copies of the amendment to the filing of Schedule PGX-1 have been served on the PGX-1 Distribution List, as included in the filing.

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 March 10, 1989. 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. 89-4764 Filed 2-28-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-875-000]

Southern Natural Gas Co.; Notice of Request Under Blanket Authorization

February 24, 1989.

Take notice that on February 21, 1989, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP89-875-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service for Atlanta Gas Light Company (Atlanta Gas), under Southern's blanket certificate issued in Docket No. CP88-316-000, 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.

Southern requests authorization to transport, on an interruptible basis, up to a maximum of 500,000 MMBtu of natural gas per day for Atlanta Gas, a local distribution company, from receipt points located in Louisiana, Offshore Louisiana, Texas, Offshore Texas, Alabama, Mississippi and Georgia to delivery points located in Georgia for Atlanta Gas' system supply. Southern anticipates transporting, on an average day 249,315 MMBtu and an annual volume of 91,000 MMBtu.

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[5] 18 CFR 385.211 and 385.214 (1988).

Southern states that the transportation of natural gas for Atlanta Gas commenced December 17, 1988, as reported in Docket No. ST89–2147–000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Southern in Docket No. CP88–316–000.

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 invervene 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. 89–4765 Filed 2–28–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–60–000]

Southwest Gas Storage Co.; Order Instituting Investigation and Setting Matter for Hearing

Issued February 23, 1989.

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

Background

Southwest Gas Storage Company (Southwest Gas Storage) is a Kansas general partnership. The two, equal partners are Pan Gas Storage Company, a wholly-owned subsidiary of Panhandle Eastern Pipe Line Company (Panhandle), and ANR Western Storage Company, a wholly-owned subsidiary of ANR Storage Company. Pursuant to a 15-year gas storage contract, dated June 11, 1979, as amended, Southwest Gas Storage provides storage service to Panhandle, its sole customer and operator of the facility.

On May 7, 1980, the Commission authorized Southwest Gas Storage: (1) To construct and operate a natural gas storage field in Meade County, Kansas; and (2) to store up to 70.1 Bcf of gas with a top working storage of 35 Bcf in the Borchers North Field.[1] Thus, Southwest Gas Storage is authorized to provide storage service under its S–1 rate schedule. Southwest Gas Storage began providing storage service to Panhandle on April 1, 1982.

Discussion

Panhandle currently pays Southwest Gas Storage a monthly charge of $1,736,875 for contract storage of up to 35,620,000 Mcf, which is the initial rate authorized in the certificate proceeding. The rate for Southwest Gas Storage's S–1 storage service is based on a unit charge of 59.55 cents per Mcf and is supported by an estimated cost of service of $20,844,200 per year, as contained in the 1979 certificate filing.[2]

Southwest Gas Storage's currently effective rates are based on an estimated cost of service made almost 10 years ago. The components of the cost of service include, among other things, an estimated rate base of $70.5 million, a Federal income tax allowance based on the old 46 percent rate; an overall return of 16.09 percent consisting of a return on equity of 14.25 percent and debt cost of 16.70 percent; a depreciation rate of 5.25 percent; and a working capital allowance of 12.5 percent of operating and maintenance expenses. The Commission is concerned that this cost of service may no longer be reflective of Southwest's actual expenses.

In addition, the Commission's initial review of information on file with the Commission indicates that Southwest Gas Storage's investment in gas plant may have depreciated over $26 million during the seven (7) years it has been in operation. It also appears that this reduction in rate base is not reflected in the currently effective S–1 rate. Further, the Commission's Regulations require that the cash working capital allowances included in charged rates filed by a company must be based on a fully developed and reliable lead-lag study.[3] Thus, Southwest Gas Storage's current working capital allowance may no longer be appropriate. Finally, Southwest Gas Storage's current operation and maintenance expenses, as reported in FERC Form 2, appear to be substantially less than the estimated expenses embedded in the S–1 rate.[4]

The current rates authorized by the Commission were designed to recover a total cost of service of $20,844,200. Based upon the Commission's initial review, it appears that Southwest's rates generate revenues significantly in excess of its current cost or providing the storage service to Panhandle. Section 9.3 of the S–1 tariff rate schedule permits Southwest or Panhandle to seek authorization from the Commission to adjust the rates to assure just and reasonable rates; however, neither has sought to change the initial rates authorized in 1980. Hence, the Commission has decided to examine the justness and reasonableness of the rates pursuant to section 5 of the NGA.

Based on the foregoing, the Commission is of the view that the initial rates currently in effect may be unjust and unreasonable. We shall therefore initiate an investigation, pursuant to section 5 of the NGA, to determine whether the rates currently being charged by Southwest Gas Storage are just, reasonable and lawful. Accordingly, Southwest Gas Storage is directed to file within 45 days of the issuance of this order, a cost and

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[1] *See* Southwest Gas Storage Company, 11 FERC ¶ 61,145 (1980); *amended*, 19 FERC ¶ 62,299 (1982).

[2] Panhandle's 1987 FERC Form 2 indicates payments of $20,842,500 for storage service in 1987.

[3] 18 CFR 154.63b (1988).

[4] For example, the current rates reflect operation and maintenance expenses of $2,394,600 while the information contained in Southwest's 1987 FERC Form 2 indicate operation and maintenance expenses of $1,194,900. In addition, the current rates include a Federal Income Tax allowance of $2,176,600, based on the old 46 percent rate. Based upon our initial review of this matter, it appears that the tax allowance under the current tax rate of 34 percent may result in a substantial decrease.

revenue study similar to that required by section 154.63 of the Commission's Regulations.[5] In the cost and revenue study, Southwest Gas Storage shall utilize the most recent 12-month period for which actual data is available.

The Commission Orders

(A) Pursuant to the authority of the Natural Gas Act, particularly section 5 thereof, and the Commission's rules and regulations, a public hearing shall be held in Docket No. RP89–60–00 to determine whether the rates currently being charged by Southwest Gas Storage Company are unjust, unreasonable, or otherwise unlawful.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose, pursuant to § 375.304 of the Commission's Regulations,[6] shall convene a prehearing conference in this proceeding to be held within 60 days of the issuance of this order, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. The prehearing conference shall be held for the purpose of clarification of the positions of the participants and establishment by the Presiding Administrative Law Judge of any necessary procedural dates to ensure that an Initial Decision will be issued not later than six months from the date of this order. The Presiding Administrative Law Judge is authorized to conduct further proceedings in accordance with this order and the rules of practice and procedure.

(C) Southwest Gas Storage must file, within 45 days of the issuance of this order, a cost and revenue study showing actual data for the most recently available 12-month period in the form specified by § 154.63 of the Commission's Regulations.

(D) Any person desiring to intervene or to protest 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.[7] All such motions or protests should be filed within 30 days of the issuance of this order. 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.

[5] 18 CFR 154.63 (1988).

[6] 18 CFR 375.304 (1988).

[7] 18 CFR § 385.211 and 385.214 (1988).

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 89–4762 Filed 2–28–89; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[PP 3F2854 and PP 4F3155/PF–512; FRL–3530–9]

Amendments to Pesticide Tolerance Petitions; Mobay Corp.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA announces that Mobay Corp. has filed amendments to pesticide petitions 3F2854 and 4F3155 for the fungicide beta-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol and its metabolites containing chlorophenoxy and triazole moieties (expressed as the fungicide).

DATES: Written comments, identified by the document control number, [PP 3F2854 and 4F31555], may be submitted by March 16, 1989.

ADDRESS:

By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part of all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Registration Division (TS–767C), Attention: Product Manager 21, Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person, contact: Larry A. Schnaubelt (PM 21), Rm. 237, CM #2, 1921 Jefferson Davis Hwy. Arlington, VA 22202, (703)–557–1900.

SUPPLEMENTARY INFORMATION: EPA has received an amendment to pesticide petition 3F2854 from Mobay Corp., P.O. Box 4913, Kansas City, MO 64120–0013, proposing to amend 40 CFR Part 180 by establishing tolerances for the fungicide *beta*-(4-chlorophenoxy)-*alpha*-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol and its metabolites containing chlorophenoxy and triazole moieties (expressed as the fungicide) in or on the raw agricultural commodities grain of wheat, grain of barley, grain of oats, grain of rye, corn forge, fresh corn (including sweet), grain of corn (including field and popcorn) and corn fodder at 0.05 ppm; green forage of wheat, barley, oats, and rye at 2.5 ppm; straw of wheat, barley, oats, and rye and meat, fat, and meat by-products of cattle, goats, hogs, horses, and sheep at 0.1 ppm; and meat, fat, and meat by-products of poultry, milk, and eggs at 0.01 ppm. Notice of the initial filing of PP 3F2854 was published in the **Federal Register** of April 20, 1983 (48 FR 16960) and was amended in the **Federal Register** of September 30, 1983 (48 FR 44905).

EPA also received an amendment to pesticide petition 4F3155 from Mobay Corp., proposing to amend 40 CFR Part 180 by establishing tolerances for *beta*-(4-chlorophenoxy)-*alpha*-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol and its metabolites containing chlorophenoxy and triazole moieties (expressed as the fungicide) in or on the raw agricultural commodities sorghum grain and dry forage at 0.01 ppm and green forage of sorghum at 0.05 ppm. Notice of the initial filing of PP 4F3155 appeared in the **Federal Register** of January 16, 1985 (50 FR 2340).

Authority: 21 U.S.C. 346a.

Dated: February 22, 1989.

Herbert Harrison,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89–4725 Filed 2–28–89; 8:45 am]

BILLING CODE 6560–50–M

[OPP–180806; FRL–3530–3]

Receipt of Application for Specific Exemption To Use Oxyfluorfen; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Wisconsion Department of Agriculture, Trade and Consumer Protection (hereafter referred to as "Applicant") for use of the herbicide oxyfluorfen (goal) to control broadleaf weeds in horseradish in Wisconsin. EPA is soliciting comment before making the decision whether or not to grant this specific exemption request.

DATE: Comments must be received on or before March 16, 1989.

ADDRESS: Three copies of written comments, bearing the identification notation "OPP–180806," should be submitted by mail to: Public Docket and Freedom of Information Section, Field Operations Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street Sw., Washington, DC 20460. In person, bring comments to: Room 236, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for inspection in Room 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Gener Asbury, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Office location and telephone number: Room 716C, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption to permit the use of the herbicide oxyfluorfen (CAS 42874 03 3) available as Goal 1.6E, EPA Reg. No. 707–174, to control broadleaf weeds in horseradish. Information in accordance with 40 CFR Part 166 was submitted as part of this request.

Wisconsin has requested authorization to apply 2.5 pints of Goal 1.6E herbicide (0.5 pounds active ingredient) per acre as a ground spray application on 700 acres of horseradish. Goal 1.6E is a selective herbicide recommended for preemegenence control of certain broadleaf weeds. Goal 1.6E will be applied in a minimum of 40 gallons of water per acre.

According to the Applicant, weed control in horseradish fields in Wisconsin is mainly limited to mechanical means. The rising costs of fuel and labor in the past years has made the use of cultivation increasingly impractical. Cultivation at $4.50/acre/operation costs the grower $49.50/season for the normal eleven cultivations for between row weeds and $18.64/acre for the one hand-weeding for weed control within the row. In test plots, yields ranged from 1,500 pounds/acre with no weed control to 10,000 pounds/acre with proper weed control.

Oxyfluorfen was referred to Special Review in Janaury 1980 because pesticide products containing oxyfluorfen as an active ingredient were shown to be contaminated with perchloroethylene (PCE), a liver carcinogen in B6C3F1 mice. The Special Review process was completed on June 23, 1982, and the decision was made to continue registration of the herbicide subject to certain restrictions (on PCE) pertaining to formulation of the product (47 FR 27118).

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice in the **Federal Register** of receipt of an application for a specific exemption proposing use of a pesticide which contains an active ingredient which has been the subject of a Special Review and is intended for a use that could pose a risk similar to the risk posed by any use of a pesticide which is or has been the subject of a Special Review (40 CFR 166.24(a)(5)).

Accordingly, interested persons may submit written views on this subject to the Field Operations Division (TS–757C), at the address given above. The Agency will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Wisconsin Department of Agriculture, Trade and Consumer Protection.

Dated February 17, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89–4719 Filed 2–28–89; 8:45 am]

BILLING CODE 6560–50–M

[OPP–180805; FRL–3528–5]

Receipt of an Application for a Specific Exemption To Use Avermectin B_1; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: notice.

SUMMARY: EPA has received a specific exemption request from the Washington Department of Agriculture (hereafter referred to as the "Applicant") for use of avermention B_1 (AGRI–MEK 0.15 EC Miticide/Inspecticide") to control two-spotted spider mites (*Tetranychus urticae*); European red mites (*Panonychus ulmi*); McDaniel spider mites (*Tetranychus mcdanielii*) and pear psylla (Psylla pyricola) on 19,400 acres of pears in Washington. Avermectin B_1 (CAS 63AB) contains a mixture of avermectins containing >80% avermectin $B_{1\,1a}$ (5–0–demethyl avermectin A_{1a}) and ⩽ 20% avermectin B_{1b} (5-0-demethl-25-de (1-methylpropyl-25-(1-methylethyl) avermectin A_{1a}). In accordance with 40 CFR 166.24, EPA is soliciting comment before making the decision whether or not to grant this specific exemption request.

DATE: Comments must be received on or before March 16, 1989.

ADDRESS: Three copies of written comments, bearing the identification notiation "OPP–180805 "should be submitted by mail to: Public Docket and Freedom of Information Section, Field Operations Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 246, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information (CBI)." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written coments will

be available for inspection in Rm. 246 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, exclusing legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Wasington, DC 20460.

Office location and telephone number: Rm. 716, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Inspecticide Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any provisions of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption for the use of avermectin B_1, manufactured as AGRI-MEK 0.15 EC Miticide/Insecticide", by MSD AGVET, a division of Merck & Co., Inc., on pears in Washington. No tolerances have been established for avermectin B_1 on any raw agricultural commodities.

Information in accordance with 40 CFR Part 166 was submitted as part of this request. The Applicant proposes ground applications applied at a rate of 10 to 20 ounces of product per acre per application. A maximum of two applications will be made per crop season. Applications would be made through September 1, 1989.

The Applicant indicates that with the recent withdrawal of cyhexatin growers are dependent on inferior products with demonstrated problems. Those products include fenbutatin-oxide, superior sprary oil, oxamyl, formetanate, and propargite.

The Applicant indicates that without adequate control of these pests economic losses expected could total over $14.8 million.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice in the Federal Register and solicit public comment on an application involving the first food use of a pesticide. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period.

Dated: February 8, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-4305 Filed 2-28-89; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50683; FRL-3539-5]

Issuance of Experimental Use Permits; Dow Chemical Co. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (TS-727C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits.

464-EUP-99. Issuance. Dow Chemical Company, P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 45 pounds of the insecticide O-(2(1,1-dimethylethyl)-5-pyrimidinyl) 0,0-diethylphosphorothioate on 76 acres of field corn to evaluate the control of rootworms. The program is authorized only in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Pennsylvania, Texas, and Wisconsin. The experimental use permit is effective from December 30, 1988 to December 30, 1989. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Dennis Edwards, PM-12, Rm. 202, CM#2, (703-557-2386))

352-EUP-146. Issuance. E.I. duPont deNemours & Company, Inc., Agricultural Products Department, Walker's Mill Building, Barley Mill Plaza, Wilmington, DE 19898. This experimental use permit allows the use of 850 pounds of the herbicide methyl 2-[[[[[(4,6-dimethoxypyrimidin-2-yl]amino]carbonyl]amino] sulfonyl]methyl]benzoate for aquatic vegetation management by Federal and State agencies to evaluate the control of aquatic weeds. The program is authorized only in the States of Arizona California, Colorado, Georgia, Florida, Idaho, Texas, and Washington. The experimental use permit is effective from January 6, 1989 to January 6, 1990. A temporary tolerance for residues of the active ingredient in or on fish and an acceptable residue level for potable water has been established. (Richard Mountfort, PM 23, Rm. 237, CM#2, (703-557-1830))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136c.

Dated: February 14, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-4398 Filed 2-28-89; 8:45 am]

BILLING CODE 6560-50-M

[PP 8G3638/T577; FRL-3527-2]

E. I. du Pont de Nemours and Co., Inc.; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the herbicide methyl 2[[[[[(4,6-dimethoxy-pyrimidin-2-yl] amino]carbonyl]amino]sulfonyl]methyl]benzoate, bensulfuron methyl in or on certain raw agricultural commodities. These temporary tolerances were requested by E.I. du Pont de Nemours and Co., Inc.

DATE: These temporary tolerances expire January 6, 1990.

FOR FURTHER INFORMATION CONTACT: By mail: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-1830.

SUPPLEMENTARY INFORMATION: E.I. du Pont de Nemours and Co., Inc., Agricultural Products Dept., Walker's Mill Building, Barley Mill Plaza,

Wilmington, DE 19898, has requested in pesticide petition (PP) 8G3638 the establishment of temporary tolerances for residues of the herbicide methyl 2[[[[[(4,6-dimethoxy-pyrimidin-2-yl) amino]carbonyl]amino]s ulfonyl]methyl]benzoate, bensulfuron methyl in or on the raw agricultural commodities fish at 0.3 part per million (ppm) and water (potable) at 0.1 ppm. These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 352–EUP–146, which is being issued under the the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. E.I. du Pont de Nemours and Co., Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire January 6, 1990. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: (21 U.S.C. 346a(j)).

Dated: February 3, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89–4138 Filed 2–28–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

[Docket No. 89–06]

South Florida NVOCC and NAOCC Association, Inc. v. Caribbean Shipowners Association; Filing of Complaint and Assignment

Notice is given that a complaint filed by the South Florida NVOCC and NAOCC Association, Inc. and its members (the "Association") against the Caribbean Shipowners Association and its members ("CSA") was served February 23, 1989.

The Association alleges that CSA has violated sections 10(b)(5) and 10(b)(6) of the Shipping Act of 1984 (the "Act"), 46 U.S.C. app. 1709(b)(5) and (6), by unfairly and unjustly discriminating against the Association members through unreasonable rate reductions in the U.S.—St. Maarten trade and unreasonable rate increases in the U.S.—Barbados trade. CSA has also allegedly violated section 10(b)(12) of the Act, 46 U.S.C. app. 1709(b)(12), by subjecting the Association to undue and unreasonable prejudice and disadvantage, and section 10(c)(3) of the Act, 46 U.S.C. app. 1709(c)(3), by attempting to eliminate Association members from the foreign trade from the South Eastern United States to St. Maarten and Barbados.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by February 26, 1990, and the final decision of the Commission shall be issued by June 26, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 89–4672 Filed 2–28–89; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Banc One Corp., et al.; Applications To Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated

or the offices of the Board of Governors not later than March 24, 1989.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Banc One Corporation*, Columbus, Ohio; to engage *de novo* through its subsidiary, Bank One Mezzanine Capital Corporation, in making, acquiring, and servicing loans or other extensions of credit pursuant to § 225.25(b)(1) of the Board's Regulation Y

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First State Bancorp, Inc.*, Harwood Heights, Illinois; to engage *de novo* in making, acquiring, or servicing loans or other extensions of credit for the company's account or for the account of others pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 24, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-4753 Filed 2-28-89; 8:45 am]

BILLING CODE 6210-01-M

Carolina First Bancshares, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 20, 1989.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Carolina First BancShares, Inc.*, Lincolnton, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Lincoln Bank of North Carolina, Lincolnton, North Carolina.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Citizens National Corporation*, Naples, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens National Bank of Naples, Naples, Florida.

2. *First Santa Rosa Banc Shares, Inc.*, Milton, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Santa Rosa County, Milton, Florida.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Dearborn Bancorp, Inc.*, Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Irving Bancorp, Inc., Chicago, Illinois, and thereby indirectly acquire The Irving Bank, Chicago, Illinois.

2. *Western Iowa Consultants*, Council Bluffs, Iowa; to retain control of 93.17 percent of the voting shares of Peoples State Bank, Missouri Valley, Iowa.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Commerce Bancshares, Inc.*, Kansas City, Missouri; to acquire 21 percent of the voting shares of First Bankers Trustshares, Inc., Quincy, Illinois, and thereby indirectly acquire First Midwest Bank/M.C., N.A., Quincy, Illinois.

2. *Country Bank Shares, Inc.*, Milford, Nebraska; to acquire 81 percent of the voting shares of Farmers and Merchants Bank, Milford, Nebraska.

Board of Governors of the Federal Reserve System, February 23, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-4678 Filed 2-28-89; 8:45 am]

BILLING CODE 6210-01-M

Citizens and Northern Corp., et al.; Applications To Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 20, 1989.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President), 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Citizens and Northern Corporation*, Ralston, Pennsylvania; to engage *de novo* through its subsidiary, Bucktail Life Insurance Company, Phoenix, Arizona, in credit life, mortgage life and disability insurance on loans generated by Citizens and Northern Bank, Towanda, Pennsylvania, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Summer, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *City Bancorp, Inc.*, Murphysboro, Illinois; to engage *de novo* through its subsidiary, Carboro, Ltd., Murphysboro,

Illinois, in the re-insurance of credit life insurance policies and credit disability insurance policies pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y. These activities will be conducted in the State of Illinois.

Board of Governors of the Federal Reserve System, February 23, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-4679 Filed 2-28-89; 8:45 am]

BILLING CODE 6210-01-M

Franklin Bancorporation, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 24, 1989.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Franklin Bancorporation, Inc.*, Washington, DC; to become a bank holding company by acquiring 100 percent of the voting shares of First Interstate Bank of Washington, DC, N.A., Washington, DC.

2. *New East Bancorp*, Raleigh, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of New East Bank of Goldsboro, in organization, Goldsboro, North Carolina, a *de novo* bank.

Board of Governors of the Federal Reserve System, February 24, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-4754 Filed 2-28-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 15, 1989.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Deloy C. Ross*, Anacoco, Louisiana; to acquire an additional 3.54 percent of the voting shares of Merchants & Farmers Bancshares, Inc., Leesville, Louisiana, and thereby indirectly acquire Merchants & Farmers Bank & Trust Company, Leesville, Louisiana.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Robert H. Stratton, Jr.*, Kansas City, Missouri; to acquire an additional 15.56 percent of the voting shares of Pembroke Bancshares, Inc., Kansas City, Missouri, and thereby indirectly acquire Union Bank, Kansas City, Missouri.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Gerald Cornwall*, to acquire an additional 16.3 percent of the voting shares of Turtle Bancshares, Incorporated, Turtle Lake, Wisconsin, and thereby indirectly acquire Bank of Turtle Lake, Turtle Lake, Wisconsin.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Carl D. Wooldridge*, and Martha L. Wooldridge, Wilburton, Oklahoma; to acquire an additional 85.4 percent of the voting shares of First Latimer Corporation, Inc., Wilburton, Oklahoma, and thereby indirectly acquire Latimer State Bank, Latimer, Oklahoma.

E. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Vernon P. Hearn*, Houston, Texas; to acquire 17.26 percent of the voting shares of Houston City Bancshares, Inc., Houston, Texas, and thereby indirectly acquire Houston Community Bank, N.A., Houston, Texas.

2. *John J. Hegi*, Lamesa, Texas; to acquire 12.33 percent of the voting shares of Lamesa National Corporation, Lamesa, Texas, and thereby indirectly acquire The Lamesa National Bank., Lamesa, Texas.

Board of Governors of the Federal Reserve System, February 23, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-4680 Filed 2-28-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HSQ-166-FN]

Medicare Program; Peer Review Organizations: Revised Scopes of Work for Maryland; New Jersey; the Virgin Islands; and Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands

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

ACTION: Final notice.

SUMMARY: This notice describes requirements for the third Scope of Work for Utilization and Quality Control Peer Review Organizations (PROs). Specifically, this notice: (a) Identifies the requirements of the third Scopes of Work in Maryland and the Virgin Islands; (b) Recognizes the continuing requirements of the Scope of Work currently in effect in the PRO area of Guam/American Samoa/Northern Mariana Islands/the Trust Territory of the Pacific; and (c) Announces a change in the Scope of Work in effect in New Jersey.

This notice also implements section 4091(b)(1) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203), which requires us to publish a new

policy or procedure adopted by the Secretary that affects substantially the performance of contract obligations at least 30 days before the date the policy or procedure is to be used. It also implements other provisions of Pub. L. 100–203, as well as requirements of the Omnibus Budget Reconciliation Act of 1986.

FOR FURTHER INFORMATION CONTACT: Patricia Booth, (301) 966–6860.

SUPPLEMENTARY INFORMATION:

I. Background

The Peer Review Improvement Act of 1982 (Title I, Subtitle C of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248) (TEFRA) established the Utilization and Quality Control Peer Review Organization (PRO) program. TEFRA requires the Secretary to enter into contracts with private Peer Review Organizations (PROs) for the review of services furnished under Medicare. In the past, these contracts have been subject to renewal on a biennial basis.

The specific review obligations of PROs are outlined in a document known as the Scope of Work, which defines the duties and functions of Medicare review performed by the PRO. Such duties and functions include the implementation and operation of a review system to assure the quality of services for which payment may be made, in whole or in part, under Title XVIII of the Social Security Act, and to eliminate unreasonable, unnecessary, and inappropriate care provided to Medicare beneficiaries. The first Scope of Work covered the 1984–1986 contract period. On November 12, 1985 (50 FR 46702), we published a notice in the **Federal Register** which announced the availability of the proposed second Scope of Work and solicited comments on its content. We subsequently considered the comments and incorporated them into the final second Scope of Work. The second Scope of Work was effective for the 1986–1988 contract period.

On September 12, 1988, we published a notice in the **Federal Register** (53 FR 35234) which identified the requirements of the third Scope of Work for all States except Maryland; the Virgin Islands; and Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

II. Implementation of Recent Legislation

Section 4091(a) of Pub. L. 100–203, the Omnibus Budget Reconciliation Act of 1987 (OBRA 87), allows a one-time contract extension (of up to 24 months) for existing contracts in order to permit the Secretary to more effectively administer PRO contract renewals and changes the PRO contract period from two to three years. Accordingly, we have developed a schedule for extending the current contracts and an implementation schedule for the third Scope of Work for the new three-year contract period. Hence, on October 1, 1988, approximately one-fourth of the PRO's began a new 3-year contract period under which they must implement the third Scope of Work. The remaining PROs will implement the third Scope of Work on April 1, 1989 (some through new contracts and others through extensions and modifications to their existing contracts).

Section 4091(b) of OBRA 87 requires that we publish, 30 days prior to the effective date, any new policy or procedure adopted by the Secretary which substantially affects the performance of contract obligations under PRO contracts. Therefore, we are publishing this notice to inform the public that the Third Scope of Work contains some new requirements that substantially impact on PRO contract obligations for Maryland; New Jersey; and the Virgin Islands.

III. Third Scope of Work

The third Scope of Work, for all geographical areas, was developed following an extensive analysis of the review requirements of the second Scope of Work. In addition, the third Scope of Work incorporates the provisions of three public laws which impact on PRO review that were passed after the development of the second Scope of Work. These laws are: Pub. L. 99–272, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA); Pub. L. 99–509, the Omnibus Budget Reconciliation Act of 1986 (OBRA 86); and OBRA 87. Relevant provisions of these laws are discussed in section IV of this notice.

In the September 12, 1988 (53 FR 35234), **Federal Register** we indicated that the requirements of the Scope of Work applicable to the PRO areas of Guam/American Samoa/Northern Mariana Islands/Trust Territory of the Pacific Islands might be changed. We, however, are not making changes at this time; hence the PROs in this area will continue to perform review following the requirements of the second Scope of Work.

Until recently, New Jersey received a waiver from Medicare's prospective payment system (PPS). All acute hospital care in New Jersey was under the State's cost control system, a DRG-based system, and accordingly, the New Jersey PRO contracted under a Scope of Work developed specifically to meet the state's review needs. Effective January 1, 1989, New Jersey converted its Medicare reimbursement program to PPS and, thus, the PRO will now perform PPS-based review outlined in the September 12, 1988, (53 FR 35324), **Federal Register.**

The provisions of the third Scope of Work are effective in Maryland and the Virgin Islands on April 1, 1989. Both Maryland and the Virgin Islands are exempt from Medicare's Prospective Payment System. In Maryland, all acute care hospitals and non-State-owned specialty hospitals are subject to regulatory rate review by an independent State agency, the Health Service Cost Review Commission. The Commission reviews all proposed service charges (based on costs) and, where a proposed rate is not appropriate, changes the rate. The Maryland system and Medicare's PPS provide essentially the same incentives to hospitals. The purpose of Maryland's cost control system is to change hospital behavior through financial incentives which encourage efficient medical care management by doctors and hospitals.

An individual or organization interested in obtaining copies of the second and third Scopes of Work for any of these PRO areas should specify the PRO area Scope he or she wishes to receive and address requests to: Health Care Financing Administration, Attention: Bob Lozosky, Office of Budget and Administration, Room 322A East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

IV. Program Changes and Legal/Administrative Requirements

In an effort to achieve consistency and be least disruptive to on-going review activities, we attempted to change review activities in the Maryland and Virgin Islands Scopes of Work only where absolutely warranted. Thus, much of the consent of the second Scope of Work remains a part of the Scopes of Work for these areas. Where changes were made, they were done in the interest of creating a more effective review system and making more efficient use of PRO resources. In some cases, the third Scope of Work in Maryland, and the modified second Scope of Work in the Virgin Islands, contain certain types of review required by legislation. To the extent that we have flexibility, we are amending the review requirements in the interest of increasing PRO effectiveness and efficiency. Some existing requirements which have proven inefficient or ineffective are being deleted.

We have, in an effort to achieve consistency among PROs, developed a basic quality intervention plan (QIP). This plan is a prescribed blueprint which requires each PRO to implement specific interventions in response to confirmed quality problems. The QIP mandates a three level severity indexing system to be used in categorizing quality problems. It also requires the PRO to follow a specific process, along with timeframes, for notifying the involved physician and/or provider. This process provides these parties with an opportunity to discuss the problem. The QIP dicatates what profiling and weighting of quality problems must occur to determine the prescribed quality intervention.

We have modified the HCFA quality screens which PROs use. These screens were made more explicit in response to comments and ongoing data analysis, so that "false positives" were significantly reduced.

Sections V and VI contain summaries of the differences and similarities between the second and third Scope of Work applicable in Maryland and, the second modified second Scope of Work in the Virgin Islands. The review requirements are grouped according to whether they are: (1) Continuing requirements; (2) new requirements; (3) requirements which continue with some amendments; or (4) requirements which have been deleted.

V. Specific Review Requirements in Maryland

A. Continuing Requirements—The PRO must

- On every case selected, review for quality of care (e.g., Using HCFA generic quality of screens), appropriateness of discharge, length of stay, medical necessity, appropriateness of setting and make limitation of liability (i.e., waiver of liability) and coverage determinations.
- Review the following hospital cases without a change in level of effort from the second Scope of Work:
  - + Noncovered Admissions which are followed by a period in which the level of care is covered, and
  - + HCFA Regional Office and FI Referrals.
- Review freestanding cardiac catheterization facilities, when requested.
- Upon request, reconsider initial determinations and review DRG changes. When an appeal (i.e., hearing) is required, the PRO will prepare the appeals folder.
- When appropriate, initiate sanction recommendations against practitioners and providers.
- Maintain at least one non-physician consumer member on the PRO's governing board.
- Investigate beneficiary complaints about the quality of care.
- Review, upon request, hospital emergency room records to determine if the hospital has complied with the requirement to serve all individuals in need of emergency care (Anti-Dumping).
- Offer the attending physician and provider at least 20 days to discuss the proposed denial or DRG change.
- For cases selected for review, review each day for which payment was made or billed to determine that each day of inpatient care was necessary and appropriate.
- Review all cases with certain principal diagnoses identified by the Medicare Code Editor.

In addition, in accordance with the Health Maintenance Organization/Competitive Medical Plan (HMO/CMP) Scope of Work, the review of inpatient and ambulatory care provided to a sample of all Medicare beneficiaries who have enrolled in a risk-based HMO/CMP will continue. Cases which are reviewed are:

- A random sample of hospital discharge;
- Sample of hospital readmissions within 31 days;
- Sample of non-trauma death;
- All transfers from a hospital with which the HMO does not have an agreement to one with which the HMO has an agreement;
- A sample of hospital discharges for 13 identified conditions (including, based upon the identified condition, post and/or prehospital care); and
- Random sample of enrollees receiving ambulatory care.

B. New Requirements—The PRO must

- Conduct a significant amount of review onsite in at least 20 percent of the rural hospitals as required by section 4090(b) of OBRA 87.
- Determine in cases selected for review if an invasive procedure was reasonable and medically necessary. (Originated because of concern that unnecesary procedures might be performed.)
- Develop a quality intervention plan which meets HDFA requirements. (Originated with intention that quality problems be handled with more consistency across the 54 PRO areas.)
- Conduct a review of ambulatory surgery procedures as required by section 9343(d) of OBRA 1986.
- Use (to the extent possible) a physician reviewer who is trained in psychiatry or physical rehabilitation as required by section 4904(c)(2) of OBRA 1987, when a psychiatric or physical rehabilitation case is reviewed.
- Publish (not less than annually) a report that describes the PRO's finding with respect to the types of cases in which the PRO has frequently determined that care or services were necessary, inappropriate, rendered in an inappropriate setting, or did not meet professionally recognized standards. The findings are to be distributed to providers and practitioners whose services are subject to review. (This requirement is mandated by section 4094(c)(1) of OBRA 1987.)
- Review, as required by section 9352 of OBRA 86, post-hospital intervening care (e.g., home health agency, skilled nursing facility), for which Medicare payment could be made, that is delivered between 2 hospital readmissions where the second admission is within 31 days of the discharge from the first admission.
- Conduct intensified reviews of those physicians, providers, or DRGs found to exhibit a pattern of substandard care. As part of the QIP, implement specific interventions to rectify identified patterns of substandard care.

In addition, if the PRO negotiates with the Office of Civilian Health and Medical Programs of the Uniformed Services (CHAMPUS), the PRO may review inpatient care provided to CHAMPUS beneficiaries. The review is basically the same as Medicare's PPS review and it is estimated that it will consist of approximately 17% of CHAMPUS inpatient cases.

C. Continuing Requirements with Some Amendment

- The PRO must continue to select a random sample of discharges for review; however, the sample size has been decreased from 6 percent to 3 percent.
- Conduct coding validation for those cases selected in the 3 percent random sample.
- The PRO must continue to propose objectives to HCFA in order to resolve identified utilization and quality problems (i.e., a dynamic process). Objectives are based on confirmed quality problems identified through application of generic quality screens. Objectives may be statewide or focused by physician, provider, DRG, etc.
- Preadmission/Preprocedure Review—Increased from 5 to 10 procedures, and can extend to outpatient procedures as well. The

mandatory review of pacemaker implants has been changed to a mandatory cataract surgery and carotid endarterectomy review. Therefore, the PRO will choose 8 additional procedures from the following 11 (listed below) or produce evidence why a procedure not on the list should be subjected to 100 percent preadmission review: cholecystectomy, major joint replacement, coronary artery bypass with graft, percutaneous transluminal coronary angioplasty, laminectomy, complex peripheral revascularization, hysterectomy, bunionectomy, inguinal hernia repair, prostatectomy, pacemaker insertion. (HCFA originated this amendment in the interest of efficient and effective review.)

• Community outreach plans for beneficiaries, providers and physicians must meet certain minimal requirements. The plan must provide for:

+ A toll-free hotline which beneficiaries may use to call the PRO;
+ Programs to inform beneficiaries about PRO review;
+ Specific types of informational materials to be developed by the PRO;
+ Improved educational programs for physicians health care practitioners and providers (including offering to meet with medical and administrative staff at the hospital or at a regional meeting several times a year);
+ Review by a PRO physicians who practices in a setting similar to that in which the physician whose services are under review practices;
+ Use, wherever practicable, of board certified or board eligible physicians in the appropriate speciality to make reconsideration determinations.

(Originated with HCFA desire for material consistency and improved relationships with parties affected by PRO review.)

• Review of all requests for use of an assistant at cataract surgery with or without lens insertion, as required by section 9307 of COBRA. Additionally, the PRO will review requests for use of an assistant when an intraocular lens will be implanted after the cataract surgery has been performed. This is required by section 411 of Pub. L. 101–360, the Medicare Catastrophic Coverage Act of 1988, which amended section 1862(a)(15) of the Act.

• Sample the following review categories with new levels of effort:

+ Readmissions-Reduced from 100 percent of all related readmissions within 15 days of discharge to 25 percent of all readmissions occurring within 31 days from discharge from a hospital.
+ Focused DRG Review-Seven low volume DRGs related to newborns must be reviewed at 100 percent level of effort, while the requirement to review DRG 462 (Rehabilitation) has been deleted. (HCFA initiated this amendment in the interest of efficient and effective review.)

• Calculate error rates for intensifying utilization review by comparing the number of days denied to the number of days reviewed.

D. Requirements Which Have Been Deleted

• The PRO will not review claims for percutaneous lithotripsy.

• For each case reviewed, the PRO is no longer required to perform a review of each ancillary service.

VI. Specific Review Requirements in the Virgin Islands

A. Continuing Requirements—The PRO must

• On every case selected, review for quality of care (e.g., using HCFA generic quality screens), appropriateness of discharge, medical necessity, appropriateness of setting and make limitation of liability (i.e., waiver of liability) and coverage determinations.

• Review all hospital discharges.

B. New Requirements—The PRO must

• Determine in cases selected for review if an invasive procedure was reasonable and medically necessary. (Originated because of concern that unnecessary procedures might be performed.)

• Develop a quality intervention plan which meets HCFA requirements. (Originated with intention that quality problems be handled with more consistency across the 54 PRO areas.)

• Conduct a review of ambulatory surgery procedures as required by section 8343(d) of OBRA 1986.

• Use (to the extent possible) a physician reviewer who is trained in psychiatry or physical rehabilitation as required by section 4094(c)(2) of OBRA 1987, when a psychiatric or physical rehabilitation case is reviewed.

• Published (not less than annually) a report that describes the PRO's findings with respect to the types of cases in which the PRO has frequently determined that care or services were unnecessary, inappropriate, rendered in an inappropriate setting, or did not meet professionally recognized standards. The findings are to be distributed to providers and practitioners whose services are subject to review. This requirement is mandated by section 4094(c)(1) of ORBA 1987.

• Review, as required by section 9352 of OBRA 1986, post-hospital intervening care (e.g., home health agency, skilled nursing facility), for which Medicare payment could be made, that is delivered between 2 hospital readmissions where the second admission is within 31 days of the discharge from the first admission.

In addition, if a PRO negotiates with the Office of Civilian Health and Medical Programs of the Uniformed Services (CHAMPUS), the PRO may review inpatient care provided to CHAMPUS beneficiaries. The review is basically the same as Medicare's PPS review and it is estimated that it will consist of approximately 17% of CHAMPUS inpatient cases.

C. Continuing Requirements with Some Amendment

• The PRO must continue to propose objectives to HCFA in order to resolve identified utilization and quality problems (i.e., a dynamic process). Objectives are based on confirmed quality problems identified through application of generic quality screens. Objectives may be statewide or focused by physician, provider, DRG, etc.

• Preadmission/Preprocedure Review—Increased from 5 to 10 procedures, and can extend to outpatient procedures as well. The mandatory review of pacemaker implants has been changed to a mandatory cataract surgery and carotid endarterectomy review. Therefore, the PRO will choose 8 additional procedures from the following II (listed below) or produce evidence why a procedure not on the list should be subjected to 100 percent preadmission review: Cholecystectomy, major joint replacement, coronary artery bypass with graft, percutaneous transluminal coronary angioplasty, laminectomy, complex peripheral revascularization, hysterectomy, bunionectomy, inguinal hernia repair, prostactectomy, pacemaker insertion. (HCFA originated this amendment in the interest of efficient and effective review.)

• Community outreach plans for beneficiaries, providers and physicians must meet certain minimal requirements. The plan must provide for:

+ A toll-free hotline which beneficiaries may use to call the PRO.
+ Programs to inform beneficiaries about PRO review.
+ Specific types of informational materials to be developed by the PRO.
+ Improved educational programs for physicians, health care practitioners and providers (including offering to meet with medical and administrative

staff at the hospital or at a regional meeting several times a year).

+ Review by a PRO physician who practices in a setting similar to that in which the physician whose services are under review practices.

+ Use, wherever practicable, of board certified or board eligible physicians in the appropriate speciality to make reconsideration determinations.

(Originated with HCFA desire for national consistency and improved a relationship with parties affected by PRO review.)

• Review all of requests for use of an assistant at cataract surgery with or without lens insertion, as required by section 9307 of COBRA 85. Additionally, the PRO will review requests for use of an assistant when an intraocular lens will be implanted after the cataract surgery has been performed. This is required by section 411 of Pub. L. 101–360, the Medicare Catastrophic Coverage Act of 1988, which amended section 1862(a)(15) of the Act.

VII. Paperwork Reduction Act

Provisions of this notice contain information collection requirements which will be implemented with the use of revised PRO reporting forms which are subject to the Office of Management and Budget (OMB) review under authority of the Paperwork Reduction Act of 1980. These forms have been approved under OMB control number 0938–0531.

(1153 of the Social Security Act (42 USC 1320c–2) Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance; and No. 13.774, Medicare-Supplementary Medical Insurance.)

Dated: February 13, 1989.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 89–4727 Filed 2–28–89; 8:45 am]

BILLING CODE 4120–03–M

Health Resources and Services Administration

Advisory Council Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of March 1989:

Name: National Advisory Committee on Rural Health, Health Services Delivery Work Group.

Date and Time: March 14, 1989, 1:00 p.m.

Place: Room 14–22 Parklawn Building, Office of Rural Health Policy, 5600 Fishers Lane, Rockville, Maryland 20857.

The meeting is open to the public.

Purpose: The Committee provides advice and recommendations to the Secretary with respect to the delivery, Financing, research, development and administration of health care service in rural areas. This Work Group is one of three established by the Committee.

Agenda: This meeting will be conducted through a telephone conference call. The conference call will be devoted to a discussion of the issues and work plan activities in preparation of the May and September meeting of the full Committee.

* * * * *

Name: National Advisory Committee on Rural Health, Health Professions Work Group.

Date and Time: March 23, 1989, 10:00 a.m.

Place: Room 14–22 Parklawn Building, Office of Rural Health Policy, 5600 Fishers Lane, Rockville, Maryland 20857.

The meeting is open to the public.

Purpose: The Committee provides advice and recommendations to the Secretary with respect to the delivery, Financing, research, development and administration of health care service in rural areas. This Work Group is one of three established by the Committee.

Agenda: This meeting will be conducted through a telephone conference call. The conference call will be devoted to a continued discussion of information presented and developed at the Second Meeting of the Committee; reports by Work Group members on their respective areas of investigation; a review of the schedule of work plan activities in preparation of the May and September meeting of the full Committee.

Anyone requiring information regarding the subject Committees should contact Mr. Jeffrey Human, Executive Secretary, National Advisory Committee on Rural Health, Health Resources and Service Administration, Room 14–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (310) 443–0835.

Persons interested in attending any portion of the above meetings should contact Ms. Arlene Granderson, Program Analyst, Office of Rural Health Policy, Health Resources and Service Administration, Room 14–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–0835.

Agenda Items are subject to change as priorities dictate.

Date: February 23, 1989.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 89–4683 Filed 2–28–89; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–027–9–25]

Availability of the Goldwater Plan Amendment; Environmental Assessment to the Lower Gila South Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Goldwater Plan Amendment/ Environmental Assessment to the Lower Gila South Resource Management Plan; Phoenix District.

SUMMARY: In compliance with the Federal Land Policy and Management Act of 1976, section 102 (2)(c) of the National Environmental Policy Act of 1969 and the Military Lands Withdrawal Act of 1986 (Pub. L. 96–606), the Bureau of Land Management (BLM) has prepared an amendment and environmental assessment to its Lower Gila South Resource Management Plan. The amendment describes the resource management practices the BLM intends to implement on the Barry M. Goldwater Air Force Range. The amendment involves 1.8 million acres of land in southwest Arizona. The land lies within Maricopa, Pima and Yuma counties. The public review and comment period will end April 7, 1989 after which the Decision will become final.

SUPPLEMENTARY INFORMATION: A limited number of copies of the amendment and environmental assessment are available upon request to the Phoenix District Manager, Bureau of Land Management, 2015 W. Deer Valley Road, Phoenix, Arizona 85027. There are also copies available for review at the above location.

FOR FURTHER INFORMATION CONTACT: Carole Hamilton, Lower Gila Resource Area Manager, 2015 W. Deer Valley Road, Phoenix, Arizona 85027, telephone (602) 863–4464.

Date: February 21, 1989.

Henri Bisson,

District Manager.

[FR Doc. 89–4704 Filed 2–28–89; 8:45 am]

BILLING CODE 4310–32–M

[NM–920–09–4120–10]

San Juan River Regional Coal Team (RCT) Meeting; Availability of Draft Data Adequacy Standards; New Mexico and Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of RCT meeting; Notice of availability.

SUMMARY: The San Juan River RCT will meet to consider future development plans for Federal Coal in the region. The public is invited to attend.

The primary purposes of the meeting are to:

1. Update the RCT on the status of current competitive lease applications in the region;
2. Reassess operating in a lease by application mode versus a regional leasing mode;
3. Introduce the new RCT science advisors; and
4. Review the draft Data Adequacy Standards for coal leasing in the San Juan River Region.

Proposed Data Adequacy Standards for the San Juan River Region are available upon request beginning March 3, 1989. The public is invited to comment on these standards.

DATES: The RCT will meet at 9 a.m. on Friday, April 28, 1989. Public comments on the draft Data Adequacy Standards are requested by Friday, April 21, 1988. Comments should be sent to Russell Jentgen at the address shown below.

ADDRESS: The meeting will be held at the Howard Johnson Plaza Hotel, 4048 Cerrillos Road, Santa Fe, New Mexico 87501, telephone (505) 473–4646. A block of 20 rooms is being held on a first come, first served basis for people wanting a room for the night of April 27, 1989. The single rate is $45 per night including tax. Please make any reservations at least a week before the meeting.

Copies of the draft Data Adequacy Standards may be obtained from either Russell Jentgen or Ed Heffern, Bureau of Land Management, New Mexico State Office, Branch of Solid Minerals, NM (921), P.O. Box 1449, Santa Fe, New Mexico 87504–1449, telephone (505) 988–6109.

FOR FURTHER INFORMATION CONTACT: Russell Jentgen or Ed Heffern at the above address or telephone number.

SUPPLEMENTARY INFORMATION: At this meeting, the Environmental Impact Statement (EIS) contractor will brief the RCT on progress on the EIS for the Fence Lake Coal Lease Application, as well as on the results of public scoping for that effort.

The RCT will also consider whether to return from a lease by application mode to a regional leasing mode. At its last meeting on August 9, 1988, the RCT decided to reconsider whether to shift back to a regional mode if a threshold of two lease applications were received in a calendar year. This threshold was reached in 1988. Salt River Project submitted its application for 6,800 acres near Fence Lake, New Mexico, on October 14, 1988. Blue Flame Coal Company submitted an incomplete lease application for 200 acres near Hesperus, Colorado, on December 17, 1988.

The RCT appointed three science advisors on January 18, 1989, to help prepare Data Adequacy Standards and review lease applications for technical adequacy. Each advisor is an expert on one of the following: nonrenewable resources, renewable resources, and reclamation. They will be introduced at the meeting.

The draft Data Adequacy Standards contain recommended levels of data to be acquired prior to the competitive leasing of Federal coal tracts, whether in the lease by application or regional leasing mode. Data standards are proposed for geology, paleontology, soils, water, vegetation, wildlife, air, cultural resources, socioeconomics, and land-use disciplines within the San Juan River Region.

The standards are being prepared by a multidisciplinary task force composed of Federal and State resource specialists. The task force was appointed and guided by the San Juan River RCT. The Data Adequacy Standards are being prepared, with public input, at the direction of the Department of the Interior as an outcome of the supplemental EIS to the Federal Coal Management Program.

The RCT welcomes comments on any aspect of these standards.

The RCT will consider information obtained from the public in making decisions at this meeting.

Anyone who wishes to be scheduled to speak at the meeting is requested to provide written copies of their remarks to Russell Jentgen or Ed Heffern, Bureau of Land Management, at the above address by April 21, 1989. Written materials will also be accepted in lieu of or in addition to any oral presentation.

Following is a preliminary agenda for this meeting:

1. Introduction
2. Approval of Minutes of Last Meeting
3. Annual BLM Coal Market Assessment
4. Current Activity and Production on Existing Leases
5. Status of Preference Right Lease Applications
6. Status of Industry Interest in San Juan Region Coal
7. Status of Competitive Lease Applications
   a. Fence Lake Project EIS in New Mexico
   b. Blue Flame Lease Application in Colorado
8. Review of Lease by Application versus Regional Leasing
9. Introduction of New Science Advisors
10. Review of Draft Data Adequacy Standards
11. Public Comment
12. Scheduling of Next Meeting
13. Adjourn.

Larry L. Woodward,

Chairman, San Juan River Regional Coal Team.

Dated: February 21, 1989.

[FR Doc. 89–4675 Filed 2–28–89; 8:45 am]

BILLING CODE 4310–FB–M

[CA–020–09–4050–90]

California; Susanville District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94–579 (FLPMA), that a Susanville District Advisory Council meeting has been scheduled for Friday, April 14, 1989. The meeting will begin at 10:00 a.m. at the Susanville District Office of the Bureau of Land Management, 705 Hall Street, Susanville, CA 96130, and end at 4:00 p.m. The agenda will include discussion of Malacha Power Project, an Environmental Assessment recommendation to Washoe County on the Silver State Water Project, modification of wild horse plans and an update on the East Lassen Deer Herd. The meeting is open to the public and interested persons may make oral statements to the Council or file a written statement for the Council's consideration.

Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 705 Hall Street, Susanville, CA 96130, by April 17, 1989. Depending on the number of persons wishing to make oral statements, a per-person limit may be established.

FOR FURTHER INFORMATION CONTACT: Jeff Fontana at 916–257–5381.

C. Rex Cleary,

District Manager.

[FR Doc. 89–4697 Filed 2–28–89; 8:45 am]

BILLING CODE 4310–40–M

[U–58146]

Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease U–58146 for lands in Grand County, Utah, was timely filed and required rentals and royalties accruing

from June 1, 1988, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $7 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of lease U–58146 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective June 1, 1988, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Robert Lopez,

Chief, Minerals Adjudication Section.

[FR Doc. 89–4673 Filed 2–28–89; 8:45 am]

BILLING CODE 4310–DQ–M

Resource Management Plan; Glennallen District, Southcentral Planning Area, AK

AGENCY: Department of the Interior, Bureau of Land Management (BLM).

ACTION: Notice of intent.

SUMMARY: The Glennallen District in Glennallen, Alaska will prepare a Resource Management Plan (RMP) with an Environmental Impact Statement (EIS) for the Southcentral Planning Area. The planning area, situated in the southcentral portion of the state of Alaska, contains some of the most scenic lands in Alaska and because of easy access, is heavily used for a multitude of outdoor recreation and subsistence uses. The RMP will seek to optimize tourism and economic opportunities while protecting and enhancing the present resource values. The plan will address approximately 5.3 million acres of BLM administered lands. These lands are clustered in 3 main blocks of land adjoined by other federal, state and private, lands. BLM recognizes the importance of compatibility with adjacent land managers and will maximize opportunities for cooperation with the public and private sectors. The public is invited to participate in the planning process, beginning with identification of the issues and criteria.

DATE: Comments on the planning issues and criteria should be received by April 30, 1989.

ADDRESSES: Mail comments to the following address: Office of Management, Planning, and Budget, Bureau of Land Management, 222 W. 7th Avenue, Box 13, Anchorage, Alaska 99513.

FOR FURTHER INFORMATION CONTACT: Lynette Nakazawa, Southcentral Planning Team Leader, at the Office of Management, Planning, and Budget, (907–271–5546).

SUPPLEMENTARY INFORMATION: The anticipated issues for this plan are summarized below:

1. Under what framework should improvement to existing recreational facilities and trails proceed? Which new areas and opportunities should be developed?

2. Can or should resources such as mineral and mineral materials, and timber be developed, and in what manner?

3. What wildlife habitat programs should the BLM undertake to maintain and enhance the high level of fish and wildlife in the area to support commercial and recreational users?

4. Should special management areas, such as, Areas of Critical Environmental Concern and Wild and Scenic Rivers be used to support recreation and wildlife opportunities?

5. Should lands be acquired for or transferred from BLM administration? What are the opportunities for leases, sales, and permits on the public lands?

6. Where and how should access areas be developed?

The preliminary planning criteria are:

1. Opportunities for public participation will be encouraged throughout the planning process.

2. Actions and activities which are potentially adverse to the existing energy right-of-way will be avoided.

3. Valid existing rights will be protected.

4. Subsistence uses and needs will be considered and adverse impacts will be minimized whenever possible in accordance with ANILCA 810.

5. Plans and policies of adjacent land holders, managers, and local governments will be considered. The RMP will be consistent with these policies wherever practical.

6. Wildlife habitat management will be consistent with Alaska Department of Fish and Game objectives.

7. The plan will be compatible with the Gulkana and Delta River National Wild and Scenic River Management Plans.

8. The plan will utilize existing data, information, plans, and land use analyses.

9. Requirement of Sec. 106 of the National Historic Preservation Act will be considered.

10. The plan will make no wilderness suitability recommendation.

These issues and criteria are presented for public comment and are subject to change based on such comment. Comments should be received by April 30, 1989. The planning team will seek public comment throughout the planning process by direct mailings, media coverage, person-to-person contacts, and coordination with local, state, and other federal agencies. Public meetings to gather comments on the preliminary issues and criteria are scheduled for:

April 4, 1989, 3–5 p.m., Mentasta Lodge, Mile 78, Tok Cuttoff Road, Mentasta, Alaska

April 4, 1989, 7–9 p.m., BG's Lodge, Mile 6, Nabesna Road, Slana, Alaska

April 5, 1989, 7–9 p.m. Paxson Lodge, Mile 185, Richardson Highway, Paxson, Alaska

April 6, 1989, 7–9 p.m., Glennallen High School, Aurora Drive, Glennallen, Alaska

April 11, 1989, 7–9 p.m., Z.J. Loussac Library, Public Conference Room, Level 1, 3600 Denali Street, Anchorage, Alaska

April 12, 1989, 7–9 p.m., BLM Office Building, 1150 University Avenue, Fairbanks, Alaska.

The planning effort will follow the Code of Federal Regulations, Title 43, Subpart 1600. The RMP will be prepared by an interdisciplinary team composed of BLM specialists in fish and wildlife, forestry, plant ecology, soil, water, air, minerals, fire management, cultural resources, recreation, visual resources, subsistence, realty, economics, and environmental protection.

Complete records of all phases of the planning process will be available for public review at BLM Office of Management, Planning, and Budget in the Alaska State Office, 222 West 7th Avenue, Anchorage, Alaska, 99513. Draft and final documents of the RMP will be available upon request.

Lester K. Rosenkrance,

State Director.

[FR Doc. 89–4674 Filed 2–28–89; 8:45 am]

BILLING CODE 4310–JA–M

Office of Surface Mining Reclamation and Enforcement

Deep River Basin Lands Unsuitable for Mining Petition

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

ACTION: Notice to terminate the preparation of an environmental impact statement (EIS) for a petition to designate certain lands in the Deep River Basin in Lee and Chatham

Counties, North Carolina as unsuitable for surface coal mining operations.

SUMMARY: Notice is hereby given that the Office of Surface Mining Reclamation and Enforcement (OSMRE) has completed its review of the petition to designate certain private lands in the Deep River Basin, Chatham and Lee Counties, North Carolina, as unsuitable for surface coal mining operations.

The petition allegations were reviewed in accordance with the provisions of § 522(a)(2) of the Surface Mining Control and Reclamation Act and 30 CFR 933.764.13(b)(1)(v). Based on the review, OSMRE notified the petitioners on November 18, 1988 that the petition was being returned because the petition allegations lacked serious merit since they presumed inadequate or no regulation of surface coal mining operations pursuant to the North Carolina Federal Program.

On November 19, 1987, OSMRE published in the **Federal Register** (52 FR 44499) a notice of intent to prepare an EIS, and further stated that should information or analysis show that the proposed action did not require an EIS, OSMRE would terminate the EIS preparation through an appropriate notice in the **Federal Register**.

Since the Deep River Basin lands unsuitable for mining petition process has been concluded, OSMRE is terminating the preparation of an EIS.

FOR FURTHER INFORMATION CONTACT: Bruce Klein, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street SW., Suite 500, Knoxville, Tennessee 37902; Telephone: (615) 673–4330.

Brent Wahlquist,

Assistant Director, Program Policy.

Date: February 21,1989.

[FR Doc. 89–4676 Filed 2–28–89; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Lodging of Three Consent Decrees Regarding the Recovery of Response Costs Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Department Policy, 28 CFR 50.7, 38 F.R. 19029, notice is hereby given that three proposed Consent Decrees in *United States* v. *bourdeaudhui*, Civ. Action No. H–88–354, were lodged with the United States District Court for the District of Connecticut on February 16, 1989.The proposed Decrees, if entered, will resolve the liability of three of the seven defendants in this action pursuant to section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9607(a), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), for more than $710,000 in response costs incurred by EPA during the removal of mercury-contaminated soil at two sites in Willington, Connecticut. The Decrees propose settlements with the following defendants for the following amounts: Mrs. Elsie Bourdeaudhui, $40,000; Benco Dental Supply Co., $60,000; A. Leventhal & Sons, Inc., $59,000.

The Department of Justice will receive for a period of thirty (30) days from the date of publication of this notice, written comments relating to the proposed Decrees. Comments should be addressed to the Acting Assistant Attorney General, Land and Natural Resources Division, United States Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Bourdeaudhui*, D.J. Ref. No. 90–11–2–362.

The proposed Decrees may be examined at the office of the United States Attorney, Federal Building, Room 250, 450 Main Street, Hartford, Connecticut 06103; at the Region I office of the United States Environmental Protection Agency, John F. Kennedy Federal Building, Room 2203, Boston, Massachusetts 02203; and at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Decrees may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, at the above address. In requesting a copy, please enclose a check in the amount of $3.60, payable to the Treasurer of the United States, to cover the costs of reproduction.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–4697 Filed 2–28–89; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Settlement Agreement Pursuant to Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on February 8, 1989, a proposed consent decree in *United States* v. *City of Hindman, Kentucky, et al.*, Civil Action No. 89–39, was lodged with the United States District Court for the Eastern District of Kentucky. The complaint filed by the United States alleged violations of the Clean Water Act, and the National Pollutant Discharge Elimination System permit issued to defendant Hindman pursuant to the Clean Water Act. The consent decree requires defendant to pay a civil penalty of $2,500. The consent decree also requires Hindman to follow a schedule for construction and other activities designed to bring Hindman into full compliance with the Clean Water Act and its permit by February 1, 1991.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of Hindman, Kentucky*, D.J. Ref. No. 90–5–1–1–2928. The proposed consent decree may be examined at the Office of the United States Attorney, Federal Building, 4th Floor, Limestone and Barr Streets, Lexington, Kentucky and at the Region IV Office of the Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia. A copy of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1714, Tenth and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy please enclose a check in the amount of $1.90 (10 cents per page reproduction costs), payable to the Treasurer of the United States.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–4699 Filed 2–28–89; 8:45 am]

BILLING CODE 4401–01–M

Antitrust Division

Notice Pursuant To the National Cooperative Research Act of 1984; Deepwater, Aramid Mooring Line Joint Industry Project

Notice is hereby given that, on January 25, 1989, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.*, written notice was filed by Omega

Marine Services International, Inc. ("OMSI") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the project and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project, and its general areas of planned activities, are given below.

The project will comprise three phases. The project participants are:

Amoco Production Company
BP-Exploration
Occidental International Exploration & Production Co.
Exxon Production Research Company
Conoco Inc.
Chevron Corporation
Shell Oil Company
Mobil Research & Development Corporation
National Institute of Standards and Technology on behalf of the Naval Civil Engineering Laboratory and the Minerals Management Service

The purpose of the project is to provide an assessment of deep water mooring technology involving a comparison of steel and aramid-fiber rope as high capacity mooring line. The project will include design and testing of mooring systems for floating production platforms in differing water depths. OMSI will evaluate the mooring lines in terms of performance and cost.

The first phase of the project will involve engineering, design and planning and will include developing designs for the various mooring systems to be tested. Phase one will also include plans for testing the systems in the second and third phases of the project.

Phase two of the project will consist of laboratory testing of aramid rope samples. During this phase, OMSI will build a rope for testing and perform laboratory tests on rope samples for strength and breakage. During this phase, OMSI will also finalize plans for at-sea testing.

The third phase of the project will consist of actual at-sea testing of the aramid rope to evaluate the effectiveness of design and installation plans. Progress reports and the results of each phase of the project will be provided to the firms sponsoring the project.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 89-4698 Filed 2-28-89; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984; Petroleum Environmental Research Forum

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* (the "Act"), the Petroleum Environmental Research Forum ("PERF") has filed written notifications on its own behalf and on behalf of the members of PERF simultaneously with the Attorney General and with the Federal Trade Commission disclosing a change in the membership of PERF. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the notifications stated that the membership in PERF of Champlin Petroleum Company and Tenneco Inc. has terminated.

Accordingly, at present the members of PERF are those companies listed below:

Amerada Hess Corporation, 1 Hess Plaza, Woodbridge, New Jersey 07095
Amoco Oil Company, Post Office Box 400, Mail Station H-9, Naperville, Illinois 60566
Ashland Oil Inc., Post Office Box 391, Ashland, Kentucky 41114
Atlantic Richfield Company, 515 South Flower Street, AP 33 Los Angeles, California 90071
Chevron Research Company, Post Office Box 1627, Richmond, California 94802-0627
Conoco Inc., Petroleum R & D, Post Office Box 1267, Ponca City, Oklahoma 74603
Exxon Research and Engineering Company, Route 22 East, Clinton Township, Annadale, New Jersey 08801
Kerr-McGee Corporation, Post Office Box 25861, Oklahoma City, Oklahoma 73125
Koch Refining Company, Post Office Box 64596, St. Paul, Minnesota 55164
Marathon Oil Company, 539 South Main Street, Findlay, Ohio 45840
Mobil Research and Development Corporation, Paulsboro Research Laboratory, Billingsport Road, Paulsboro, New Jersey 08066
Murphy Oil USA, Inc., 200 Peach Street, El Dorado, Arkansas 71730
Occidental Petroleum Corporation, 10889 Wilshire Blvd., Suite 1500, Los Angeles, California 90024
Pennzoil Company, Pennzoil Place, Post Office Box 2967, Houston, Texas 77252-2967
Phillips Petroleum Company, 468 Frank Phillips Building, Bartlesville, Oklahoma 74004
Shell Development Company, Post Office Box 1380, Houston, Texas 77251-1380
Standard Oil Company of Ohio, 4440 Warrensville Center Road, Cleveland, Ohio 44128
Sun Company, Inc., Sun Refining and Marketing Company, Post Office Box 1135, Marcus Hook, Pennsylvania 19061-0835
Texaco Refining & Marketing Inc., Post Arthur Research Laboratories, Post Office Box 1608, Port Arthur, Texas 77641
Union Oil Company of California, 376 South Valencia Avenue, Post Office Box 76, Brea, California 92621

On Feburary 10, 1986, PERF filed its original notification on its own behalf and on behalf of the members of PERF pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 14, 1986 (51 FR 8903). On May 6, 1986, May 27, 1986 and June 23, 1986, PERF filed additional written notifications. The Department published notices in the **Federal Register** in response to these additional notifications on June 9, 1986 (51 FR 20897), June 19, 1986 (51 FR 22365), and July 17, 1986 (51 FR 25957), respectively.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 89-4695 Filed 2-28-89; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984; the Importance of Lubricating Oil in Diesel Particulate Emissions Southwest Research Institute

Notice is hereby given that, on February 2, 1989, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute ("SwRI") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing the addition of a party to its group project regarding "The Importance of Lubricating Oil in Diesel Particulate Emissions." The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the SwRI advised that Royal Lubricants Company, Inc. has become a party to the group research project.

No other changes have been made in either the membership or planned activity of the group research project.

On August 21, 1987, SwRI filed its original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 18, 1987, 52 FR 35335. On December 22, 1987, May 20, 1988, August 16, 1988, and October 3, 1988, SwRI filed additional written notifications. The Department published notices in the **Federal Register**

in response to these additional notifications on January 19, 1988 (53 FR 1418), June 23, 1988 (53 FR 23704), September 15, 1988 (53 FR 35936), and October 27, 1988 (53 FR 43483) respectively.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 89-4696 Filed 2-28-89; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984; Cable Television Laboratories, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("The Act"), Cable Television Laboratories, Inc. ("CableLabs") has filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission on February 3, 1989, disclosing additions to its membership. The additional written notification was filed for the purpose of extending the protections of section 4 of the Act, which limit the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On August 8, 1988, CableLabs filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 7, 1988 (53 FR 34593). On November 7, 1988, CableLabs filed a notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) on December 16, 1988 (53 FR 50590).

The identities of the new members of CableLabs are set forth below:

Cablevision Systems Corporation, One Media Crossways, Woodbury, NY 11797
Rogers Cable TV Limited, Commercial Union Tower, P.O. Box 249, Toronto, Canada M5K1J5
Vision Cable Communications, Inc., 270 Sylovan Avenue, Englewood Cliffs, NJ 07632
Cablevision Industries, Inc., P.O. Box 311, Liberty, NY 12754
The Cable Company, 1350 North 200 West, P.O. Box 488, Logan, Utah 84321
Metrovision, Inc., 211 Perimeter Center Parkway, Suite 930, Atlanta, GA 30346
New Channels Corporation, P.O. Box 4872, 112 Northern Concourse, Syracuse, NY 13221.

No other changes have been made in either the membership or planned activity of CableLabs. The membership remains open.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 89-4702 Filed 2-28-89; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984; UNIX International, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), UNIX International, Inc. has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the venture and its general areas of planned activities, are given below.

The members of UNIX International, Inc. are:

Addamaz Corporation
Alcatel-SMH
Altos Computer Systems
Amdahl Corporation
American Telephone & Telegraph Company
Arix Corporation
Computer Consoles
Control Data Corporation
Convergent Technologies
Data General Corporation
Floating Point Systems
Fuji Xerox
Fujitsu, Ltd.
Gould Corporation
HCR Corporation
Hitachi, Ltd.
Intel Corporation
Interactive Systems Corporation
International Computer Limited
Lachman Associates
Motorola
NCR Corporation
NEC Corporation
Nippon Telephone & Telegraph
Nokia, Inc.
OKI Electric
Olivetti & Company
Oracle Corporation
Prime Computer
Pyramid Technology
Relational Technology, Inc.
Ricoh Company, Ltd.
SAS Institute, Inc.,
Siemens
Stratus Computer, Inc.
Sun Microsystems, Inc.
System House Ltd.
T. L M Ericsson
Tolerant Systems, Inc.
Toshiba Corporation
Unisoft
UNISYS Corporation
Ventom Com., Inc.
88open

UNIX International plans to engage in research and development related to the improvement of the UNIX operating system, and to promote and encourage the availability of a variety of "open" and compatible UNIX based products and systems which meet the many and varied needs of the end users of those systems.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 89-4703 Filed 2-28-89; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Sajjan Gangappa Chikkannaiah, M.D.; Order to Show Cause/Immediate Suspension of Registration

The following is an Order to Show Cause and Immediate Suspension of Registration proposing to revoke DEA Certificate of Registration AC7647019, previously issued to Sajjan Gangappa Chikkannaiah, M.D. On November 21, 1988, DEA Investigators went to Dr. Chikkannaiah's office and then to his residence to serve the Order. He was not at either location. Dr. Chikkannaiah's family and office staff were unable to provide any information as to his whereabouts. DEA Investigators returned to Dr. Chikkannaiah's residence on January 9, 1989. His wife was unable to provide any information. Since Dr. Chikkannaiah cannot be located, notice of DEA's proposed action is being given through publication in the **Federal Register.**

Date: February 23, 1989.

John C. Lawn,

Administrator.

February 23, 1989.

In the Matter of Sajjan Gangappa Chikkannaiah, M.D., 300 Francis Street, Goodlettsville, Tennessee 37072.

Order to Show Cause; Immediate Suspension of Registration

Pursuant to sections 303 and 304 of the Controlled Substances Act, Title 21, United States Code, Sections 823 and 824,

Notice is hereby given to afford you an opportunity to Show Cause before the Drug Enforcement Administration, at a place and time to be determined as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration,

AC7647019, and deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f), for reason that:

1. On November 12, 1988, the Tennessee Board of Medical Examiners summarily suspended your license to practice medicine after reviewing numerous documents, the results of two separate drug audits, reports from various hospitals, the findings of investigators and the testimony of witnesses, including an expert consultant in pharmacology. Consequently, you are not currently authorized to handle controlled substances in the State of Tennessee.

2. Your continued registration is inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f) and 824(a)(4), as evidenced by, but not limited to, the following:

a. You prescribed controlled substances to individuals for no legitimate medical purpose and outside the scope of professional practice.

b. You prescribed inappropriate and/or dangerous combinations of controlled substances to individuals. Further, you prescribed controlled substances to individuals even though you knew, or should have known, that these individuals had drug or alcohol abuse problems.

c. Although you were previously charged by the State of Tennessee with overprescribing, your abusive and indiscriminate prescribing practices not only continued but worsened.

d. As a result of your prescribing practices, numerous pharmacies in the Nashville area have refused to fill your prescriptions and all of the Nashville-area hospitals at which you previously had privileges have suspended or revoked your hospital privileges.

In view of the foregoing, and pursuant to 21 U.S.C. 824(d), it is my preliminary finding that your repeated and dangerous prescribing of controlled substances will not be abated by the pendency of this action. Accordingly, it is my preliminary conclusion that your continued registration during the pendency of these proceedings would constitute an imminent danger to the public health and safety. Therefore, pursuant to the provisions of 21 U.S.C. 824(d), and the authority delegated to me under 28 CFR 0.100, DEA Certificate of Registration AC7647019 is hereby suspended, effective immediately, such suspension to remain in effect until a final determination is reached in these proceedings.

Pursuant to 21 U.S.C. 824(f) and 21 CFR 1301.46, the Special Agents and Diversion Investigators of the Drug Enforcement Administration who serve this Order to Show Cause are authorized to place under seal and to remove for safekeeping all controlled substances which you possess pursuant to the registration which I have herein suspended. The said Agents and Investigators are also directed to take into their possession the suspended Certificate of Registration and any unused DEA order forms issued thereunder.

The following procedures are available to you in this matter:

1. Within thirty days after the date on which you receive this Order to Show Cause, you may file with the Administrator of the Drug Enforcement Administration a written request for a hearing in the form set forth in 21 CFR 1316.47. You may request that the Administrator fix a date for such hearing as early as reasonably possible and the Administrator will grant such a request as set forth in 21 CFR 1301.46(c). (See 21 CFR 1301.54(a) and 1301.54(b)).

2. Within thirty days after the date on which you receive this Order to Show Cause, you may file with the Administrator a written waiver of hearing together with a written statement of your position on the matters of fact and law involved herein. (See 21 CFR 1301.54(c)).

3. Should you decline to file a request for a hearing, or should you so file and fail to appear at the hearing, you shall be deemed to have waived your opportunity for a hearing. The Administrator may cancel the hearing, if scheduled, and issue his final order based on the record as it appears, pursuant to 21 CFR 1301.57. (See 21 CFR 1301.54(d) and 1301.54(e)).

Correspondence concerning this matter should be directed to the attention of the Hearing Clerk, Office of the Administrative Law Judge, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537.

John C. Lawn,

Administrator.

[FR Doc. 89-4690 Filed 2-28-89; 8:45 am]

BILLING CODE 4410-09-M

LIBRARY OF CONGRESS

Copyright Office

Implementation of the Satellite Home Viewer Act of 1988; Statements of Account Public Meeting

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of public meeting.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is preparing a new statement of account form which will be filed semiannually by satellite carriers who make secondary transmissions of "superstation" and network signals to satellite "dish" owners for private home viewing pursuant to section 119 of the Copyright Act, as amended by the Satellite Home Viewer Act of 1988, Pub. L. 100-667. This notice invites participation in a public meeting intended to elicit comments, views, and information which will assist the Office in this review of statement of account procedures. This is to be an informal meeting for exchange of opinions and information among interested parties. Written comments are welcome, but are not required.

DATE: The meeting will be held on March 14, 1989 in Washington, DC. Participants need not notify the Office of their plans to attend.

ADDRESSES: Meeting location: The meeting will be held on march 14, 1989 in the conference room of the Copyright Office, LM-407 (Green Quadrant) of the James Madison Memorial Building, Library of Congress, First and Independence Ave, SE., Washington, DC, begining at 10:00 a.m.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559, (202) 707-8380.

SUPPLEMENTARY INFORMATION: The Satellite Home Viewer Act of 1988, Pub. L. 100-667, 102 Stat. 3949 (November 16, 1988) added a new section 119 to the Copyright Act of 1976, effective January 1, 1989. For a six-year period, the law establishes a statutory license for certain secondary transmissions made by satellite carriers to satellite "dish" owners for private home viewing. The license is subject to various conditions, including the requirements that satellite carriers making secondary transmissions of "superstations" and network signals to "dish" owners file statements of account semi-annually and pay statutory royalty fees in accordance with section 119. The statutory royalty fee will sunset in four years, and will be replaced by privately negotiated licenses or an arbitrated fee established on or before December 31, 1992. The entire Act itself terminates on December 31, 1994.

In accordance with the new section 119, the Copyright Office will maintain three types of public files, including: (1) The Network Name and Address File, (2) the Satellite Carrier Voluntary Agreements File, and (3) the Satellite Carrier Statements of Account File. The

new statement of account form has been created and is available upon request to those who wish to attend the public meeting. The Copyright Office solicits comments from interested participants as the meeting on the clarity of the form or lack thereof, and suggestions for changes and improvements in the form.

Accordingly, the Copyright Office will hold a public meeting on March 14, 1989, for the purpose of eliciting comment on the statement of account form. Advance copies of the draft statement of account form may be obtained by calling the Office of Copyright General Counsel, (202) 707-8380.

Dated: February 23, 1989.

Dorothy Schrader,

Associate Register of Copyrights for Legal Affairs.

[FR Doc. 89-4760 Filed 2-28-89; 8:45 am]

BILLING CODE 1410-08-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (89-13)]

Aerospace Safety Advisory Panel; Meeting.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATE AND TIME: March 20, 1989, 2 p.m. to 3:30 p.m.

ADDRESS: National Aeronautics and Space Administration, 400 Maryland Avenue, SW, Room 7002, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Gilbert L. Roth, Code Q-1, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-8971).

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel will present its annual report to the NASA Administrator and Deputy Administrator. This is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of manned flight. The major subjects covered will be the National Space Transportation System, Space Station, and Aeronautical Operations. The Aerospace Safety Advisory Panel is chaired by Joseph F. Sutter and composed of 8 members and 5 consultants. The meeting will be open to the public up to the capacity of the room (approximately 50 persons including members of the Panel).

Type of Meeting: Open.

Agenda: Monday, March 20, 1989.

2 p.m.—Presentation of findings and recommendations of the Aerospace Safety Advisory Panel.

3:30 p.m.—Adjourn.

February 23, 1989.

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 89-4689 Filed 2-28-89; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted on or before March 31, 1989.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202-786-0233) and Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503 (202-395-7316).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202) 786-0233 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revisions

Title: Application Instructions and Forms for the Tools Category.

Form Number: Not applicable.

Frequency of Collection: Annual.

Respondents: Humanities researchers and institutions.

Use: Application for funding.

Estimated Number of Respondents: 139 per year.

Frequency of Response: Once.

Estimated Hours for Respondents to Provide Information: 52 per respondent.

Estimated Total Annual Reporting and Recording Burden: 16,528.

Susan Metts,

Assistant Chairman for Administration.

[FR Doc. 89-4741 Filed 2-28-89; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-1359; License No. SNM-1405]

Finding of No Significant Impact; Renewal of Special Nuclear Material; License for IRT Corp., San Diego, CA

February 22, 1989.

The U.S. Nuclear Regulatory Commission (the Commission) is considering the renewal of Special Nuclear Material License No. SNM-1405 for the continued operation of the IRT Corporation (IRT) at San Diego, California.

Environmental Assessment

Identification of the Proposed Action: The proposed action is the renewal of the license which allows IRT to continue to possess and store licensed material.

The Need for the Proposed Action: IRT must have a license in order to possess material. If license renewal is denied, IRT would have to transfer or dispose of all licensed material.

Environmental Impacts of the Proposed Action: The special nuclear material (SNM) at IRT is stored at the

Arjons Facility in a vault-type room. The sources are in a non-dispersable form so there will be no effluents. Only a small amount of radioactive waste (e.g., smear papers) is expected to be generated during storage. Any waste that is produced will be properly stored onsite until it is shipped for disposal.

The principal exposure pathway to an individual is via external radiation. The material is in a locked vault and only two people have authorized access; other personnel do not have access to the sources. Because of the limited activities and IRT's radiation protection procedures, staff concluded that storage activities can be carried out without any significant occupational dose to workers or radiological impact to the environment.

The staff has evaluated the nuclear criticality safety limits and controls for the storage area and found them to be adquate to assure safety for all conditions of water moderation and/or reflection. The design of the storage location, combined with facility procedures, will ensure acceptable protection of the general public and plant personnel under either normal or abnormal conditions.

Conclusion: Based upon the information presented above, the environmental impacts associated with license renewal are expected to be insignificant. Essentially no effluents, liquid or airborne, will be released, and acceptable controls will be implemented to prevent a radiological accident. Therefore, staff concludes that there will be no significant impacts associated with the proposed action.

Agencies and Persons Consulted: Staff utilized the application dated October 14, 1988, in performing this assessment. No other agencies were contacted.

Alternatives to the Proposed Action: Alternatives to the proposed action include complete denial of IRT's renewal application. This action would result in IRT transferring all licensed material to another facility. This alternative would be considered only if issues of public health and safety could not be resolved.

Finding of No Significant Impact: The Commission has prepared an Environmental Assessment related to the renewal of Special Nuclear Material License No. SNM-1405. On the basis of this assessment, the Commission has concluded that environmental impacts created by the proposed licensing action would not be significant and do not warrant the preparation of an Environment Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

The Environmental Assessment and the October 14, 1988, application related to this proposed action are available for public inspection and copying at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC. Copies of the Environmental Assessment may be obtained by calling (301) 492-3358 or by writing to the Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Rockville, Maryland, this 22nd day of February, 1989.

For the Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 89-4730 Filed 2-28-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-443-OL, 50-444-OL; ASLBP No. 82-471-02-OL (Offsite Emergency Planning)]

Public Service Co. of New Hampshire, et al., Seabrook Station, Units 1 and 2; Hearing

Before Administrative Judges: Iran W. Smith, Chairman Dr. Richard F. Cole, Dr. Kenneth A. McCollom

February 23, 1989.

Notice is hereby given that the evidentiary hearing in this proceeding will resume at 9:00 a.m., March 21, 1989 at Auditorium (main floor), Thomas P. O'Neill Jr. Federal Building, 10 Causeway Street, Boston, Massachusetts.

The Atomic Safety and Licensing Board will receive evidence concerning the offsite radiological emergency plans for the Seabrook Station, a nuclear power facility located in Seabrook, New Hampshire. In particular, the hearing will address the adequacy of the Seabrook plan for the Massachusetts communities lying within the ten-mile emergency planning zone for the Seabrook Station, and the graded exercise of the Seabrook radiological emergency plans conducted by the Federal Emergecy Management Agency in June 1988.

For the Atomic Safety and Licensing Board.

Ivan W. Smith,

Chairman, Administrative Law Judge.

Bethesda, Maryland.

February 23, 1989.

[FR Doc. 89-4734 Filed 2-28-89; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-26560; File No. SR-NASD-89-6]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Shareholder Approval

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 15, 1989, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD.

The NASD has designated this proposal an interpretation with respect to the enforcement of an existing rule of the NASD which renders the interpretation effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Satatement of the Terms of Substance of the Proposed Rule Change

The proposed rule change defers until March 19, 1989 effectiveness of a rule requiring shareholder approval of the issuance of securities in connection with certain transactions by NASDAQ National Market System issuers.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, And Statuory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the delay of effectiveness of the shareholder approval requirements contained in new

[1] *See* Securities Exchange Act Release No. 26433 (January 9, 1989); 54 FR 1463 (January 13, 1989).

paragraph (i) of Part III, section 5 of Schedule D to the NASD By-Laws is to allow NASDAQ/NMS issuers who will be effected by the rule, sufficient notice of the requirement to permit compliance with the rule. During the time when the rule was pending Commission approval and subsequent to publication of the approval order in the Federal Register, the NASD received a number of inquiries from issuers and their representatives which raised concerns relating to the degree of issuer awareness of the pendency of the rule change. The NASD has therefore determined that it is appropriate to provide issuers with a grace period before the rule becomes effective. Transactions in progress as of the effective date will be reviewed by the NASD on a case-by-case basis. Statutory basis for the proposed rule change is found in section 15A(b)(6) of the Securities Exchange Act of 1934 which provides that the rules of a registered securities association be designed to facilitate transactions in securities and to remove impediments to imperfect the mechanism of a free and open market at a national market system for securities transactions. The NASD believes that a proposed rule change will elminiate potential problems in trading of NASDAQ National Market System securities which could result from imposition of the requirements of the rule without adequate notice to issuers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association does not anticipate that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purpose of the Act.

C. Self-Regualtory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received with respect to the proposed rule changes contained in this filing.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by March 22, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: February 21, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–4709 Filed 2–28–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–16831; (812–6908)]

EBI Series Trust, et al.; Application

February 22, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: The EBI Flex Fund and EBI International Fund of EBI Series Trust (the "Trust"), EBI Equity, Inc. ("EBI Equity"), EBI Income, Inc. ("EBI Income") and EBI Cash Management, Inc. ("EBI Cash").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) and Rule 22c–1 thereunder; approval requested under section 11(a).

Summary of Application: Applicants seek an order amending an existing order (Investment Company Act Release No. 16283, February 23, 1988) ("Existing Order") which permits the assessment and waiver of a contingent deferred sales load ("CDSL"), and approves certain exchange privileges. The amended order would increase the time period during which the CDSL may be imposed from 30 months to 60 months and change the formula of the CDSL to reflect the additional 30 months.

DATES: The application was filed on August 30, 1988, and amended on December 19, 1988, and February 3 and 17, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on March 15, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549; Applicants, Suite 500, 1315 Peachtree Street NE., Atlanta, Georgia 30309.

FOR FURTHER INFORMATION CONTACT: Paul J. Heaney, Financial Analyst (202) 272–3420, or Brion R. Thompson, Branch Chief (202) 272–3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch in person, or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

Each of the Applicants is registered under the 1940 Act as an open-end, diversified management investment company. INVESCO Services, Inc. ("Distributor") serves as principal underwriter for each of the Applicants. The Existing Order, which amended two earlier orders (Investment Company Act Release No. 14916, January 27, 1986 and Investment Company Act Release No. 13789, February 24, 1984) was issued on behalf of Applicants and any additional series or classes of shares Applicants may offer in the future on substantially the same basis as Applicants now (other than EBI Cash) offer their shares.

2. Applicants now request that the Existing Order be amended to increase the time period during which an investor is required to pay a CDSL from 30

months to 60 months and change the formula used to calculate the amount of the CDSL to reflect the additional 30 months. Applicants will continue to apply the terms of the CDSL permitted in the Existing Order for those investors who have, or acquired, shares of Applicants prior to the time that the terms of the proposed modifications of the CDSL are set forth in the current prospectuses of the Applicants and mailed to all then current shareholders of the Applicants. In addition, the proposed modifications of the CDSL would not effect the existing exchange privileges of such shareholders. Existing shareholders of Applicants were not notified by way of Applicants' prospectuses that their exchange privileges were subject to change. To ensure that such shareholders would not be harmed by the proposed modification of the CDSL, Applicants agree as a condition to this application, that existing shareholders who were not on notice of the fact that their exchange privilege was subject to change may continue to exchange their shares under the original terms of such exchange privilege.

3. Each of the Applicants (except EBI Cash) distributes its shares pursuant to separate plans of distribution adopted under Rule 12b–1 under the 1940 Act (collectively, "Rule 12b–1 Plans"). EBI Cash does not presently have a Rule 12b–1 Plan and, thus, shares acquired in EBI Cash are not in and of themselves subject to a CDSL.

4. According to the application, no CDSL is charged on exchanges of shares between the Applicants. However, if shares of any of the Applicants are acquired as a result of an exchange of shares from another of the Applicants and the shares tendered ("Exchanged Shares") are subject to a CDSL such charge will carry over to the shares being acquired ("Acquired Shares"). Any CDSL that is carried over to the Acquired Shares is calculated as if the holder of the Acquired Shares has held those shares from the date in which he or she became the holder of the Exchanged Shares. Acquired Shares held in EBI Cash, however, which are subject to a CDSL will not be credited with the time such shares are held in EBI Cash. Applicants represent that in order to effectuate the proposed modification of the CDSL by any of the Applicants it is necessary for EBI Cash to join in this application for an amendment of the Existing Order so that all of the Applicants may be able to collect such a CDSL on behalf of each other.

5. Applicants will institute internal monitoring procedures to insure that exchanges are made at the request of investors and not for any broker's personal gain. Applicants will actively monitor customer complaints and will continue to be alert to possible abuses that might occur regarding the exchange privileges. The Trustees of the Trust and the Board of Directors of EBI Equity and EBI Income, in their periodic review of the Rule 12b–1 Plans, will consider, among other things, the effect of the CDSL and waivers thereof. The Existing Order covers not only the Applicants, but also any additional series or classes of shares the Applicants may offer in the future on substantially the same basis as the Applicants now (other than EBI Cash) offer their shares. Any subsequently created series or classes of shares, the shares of which are issued and sold with a CDSL, on substantially the same basis as the CDSL applicable to the Applicants will utilize distribution plans under Rule 12b–1 comparable to the Rule 12b–1 Plans described in the application. Such distribution plans will comply with the provisions of Rule 12b–1 as they are now in affect and as they may be revised in the future.

6. Applicants will limit any future offers of exchange of any similar series or classes of shares of Applicants, as the case may be, to the terms and conditions described in the application. Applicants will notify their shareholders by means of Applicants' prospectuses of the fact that Applicants reserve the right to modify or terminate the exchange privilege. Applicants will consider, in connection with sales literature and advertising that refer to the Applicants' exchange privilege, the desirability of disclosing that they reserve the right to modify or terminate the exchange privilege. Applicants will notify shareholders in writing at least 60 days prior to any modifications or termination of Applicants' exchange privilege; provided, however, that the temporary cessation of the sale of Applicants' shares under extraordinary circumstances such as when the Applicants are unable to effectively invest amounts in accordance with applicable investment objectives, policies and restrictions, or the suspension of the redemption of Applicants' shares pursuant to section 22(e) of the 1940 Act and the Rules and Regulations thereunder shall not be considered a modification or termination of the Applicants' exchange privilege. Applicants will obtain an amended order from the SEC prior to any modification (*i.e.*, manner, frequency or basis) of the Applicants' exchange privilege in a manner not described in the application; provided, however, that no amended order would be requested by Applicants if they decide to terminate the Applicants' exchange privilege.

Applicants' Legal Analysis

1. Applicants assert that the proposed amendment of the CDSL is fair and in the best interests of their shareholders. Applicants have determined that expenditures incurred on their behalf as a result of investors' purchases would be more adequately and fairly recovered among all shareholders when shares are held continuously for at least 60 months. Accordingly, extending the time during which shareholders cannot redeem shares without incurring a CDSL will result in distribution expenses being more adequately allocated among shareholders on a more equitable basis. Under the proposed amendment to the Existing Order, the burden of reimbursing Applicants for distribution expenses would be placed on a more direct basis on those shareholders with respect to which Applicants (other than EBI Cash) incurred distribution expenses.

2. Applicants assert further that granting the amendment to the Existing Order requested is appropriate and in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Applicants' Conditions

If the requested order is granted, Applicants agree to the following conditions:

1. Applicants will comply with provisions of proposed Rule 6c–10 under the 1940 Act as currently stated and as it is adopted.

2. Applicants will comply with the provisions of Rule 12b–1 under the 1940 Act as they are now in effect and as it may be revised in the future.

3. Applicants will comply with the provisions of Rule 22d–1 under the 1940 Act.

4. Applicants will comply with the provisions of revised proposed Rule 11a–3 under the 1940 Act as it is currently stated and as finally adopted.

5. Applicants agree that the exemptive relief requested does not cover any person, or any affiliated person of such person (or any affiliated person of such affiliated person) who holds Applicants out to the public, or who, directly or indirectly, causes Applicants to be held out to the public as being "No Load" or uses, or who, directly or indirectly, causes the use of terminology that, given the context and presentation, is likely to convey to investors the impression that

no charges for sales or promotional expenses are imposed on shares issued by Applicants.

6. Applicants agree to permit existing shareholders who were not on notice of the fact that the exchange privilege was subject to change to continue to exchange their shares under the original terms of the exchange privilege.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-4710 Filed 2-28-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16833; 811-2181]

First Federalist Fund, Inc.; Application

February 23, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

Applicant: First Federalist Fund, Inc.

Relevant 1940 Act Sections: Section 8(f) and Rule 8f-1 thereunder.

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company.

Filing Date: The application was filed on November 8, 1988 and amended on February 2, 1989 and February 15, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on March 14, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for 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. Applicant, 2965 Brandywine Street NW., Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272-3022 or Stephanie Monaco, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the Application; the complete Application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant, a Delaware corporation and unit investment trust, filed a Notification of Registration on Form N-8A on April 4, 1971 and a Registration Statement on Form N-8B-1 on February 29, 1972 under the 1940 Act.

2. Applicant has been dissolved under Delaware state law. Applicant has never made a public offering of its securities and does not propose to make a public offering or to engage in business of any kind.

3. Applicant has no shareholders, debts or liabilities as of the time of filing the application.

4. Within the last 18 months, Applicant has not transferred any of its assets to a separate trust, the beneficiaries of which are securityholders of Applicant.

5. Applicant is not a party to any litigation or administrative proceeding.

6. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-4711 Filed 2-28-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-26566; File No. SR-PHLX-89-02]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating To the Responsibility to Make Ten-Up Markets

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 2, 1989, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX, pursuant to Rule 19b-4 of the Act, proposes to amend PHLX Rule 1033 and amend and restate PHLX Options Floor Procedure Advice A-11. The text of the current Advice A-11 is proposed to be withdrawn and replaced with the text that appears below. The text of PHLX Rule 1033 is proposed to be amended as follows (brackets indicate deletions; italics indicates additions):

Rule 1033(a). All bids or offers made on the Floor for option contracts shall be deemed to be for one option contract unless a specific number of option contracts is expressed in the bid or offer. A bid or offer for more than one option contract shall be deemed to be for the amount thereof or a smaller number of option contracts. [The Exchange, in its discretion, may require that when a specialist and/or Registered Options Trader ("ROT") is quoting the best bid or offer in certain options series, the specialist or ROT is responsible for ensuring that public orders in such series are filled to a minimum depth of ten contracts. The Exchange, in its discretion, may further require that a specialist or ROT is responsible for executing public orders in certain options series at prices reflecting the maximum quotation spreads for those series even where the specialist or ROT is not quoting the best bid or offer in those series.] *The Exchange, in its discretion, may require that specialists and ROTs be responsible for ensuring that public orders are filled to a minimum depth of ten (10) contracts at the best quoted bid or offer.*

Rule 1033 (b) through (d) No Change.

PHLX Options Floor Procedure Advice A-11: Responsibility to Make Ten-Up Markets:

Non-contingent public customer market or marketable limit orders shall be filled at the best market price to a minimum of ten contracts by floor traders (*i.e.*, specialists and ROTs) in the crowd, as follows:

(i) If only one floor trader is quoting the availed upon best bid or offer, that floor trader is responsible for providing a fill at the minimum ten contracts;

(ii) If more than one floor trader is quoting the availed upon best bid or offer, and their combined quote size is less than ten contracts, participation for the additional contracts needed to meet the minimum ten contract requirement shall be decided upon by agreement of those floor traders or otherwise divided proportionately amongst them;

(iii) If the availed upon best bid or offer is made by someone other than a floor trader and is not for at least ten contracts, participation for the additional contracts needed to meet the minimum ten contract requirement shall be by the floor trader at the next best bid or offer (whichever the case). If more than one floor trader is quoting the next best bid or offer, participation for the additional contracts shall be decided upon agreement by those floor traders or otherwise divided proportionately amongst them.

Under exceptional circumstances or for good cause shown, exemptions from the ten-up requirement may be granted for a trade day in any option or group of options by two floor officials. Any such exemption shall be in writing and shall set forth the basis upon which the exemption is granted.

Advice A–11 Fine Schedule

1st Occurrence: Warning
2nd Occurrence: $50.00
3rd Occurrence: $100.00
4th Occurrence and Thereafter: Sanction is discretionary with the Business Conduct Committee

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The responsibility to make ten-up markets means that a specialist or ROT must ensure that public customer orders are filled to a minimum of ten contracts. This requirement is intended to facilitate a more liquid market and to benefit public customers by assuring a minimum size of orders for which they can receive executions. Previously, the Commission approved SR–PHLX–87–09 which first imposed a requirement on specialists and ROTs to make ten-up markets under certain circumstances.[1] Under the current Rules, the responsibility to make ten-up markets is limited in that it applies only (1) to the nearest expiring options that are at, just in and just out-of-the-money, and (2) when the specialist or ROT is quoting the best bid or offer for his or her own account. These limitations have resulted in confusion among PHLX members about when and to which option series Advice A–11 applies. Also, the Advise is incomplete in that it does not assure a ten-up commitment if the best bid or offer is made by a public customer.

While the ten-up requirement has certainly benefitted public customers and fostered anhanced competition in PHLX's option markets due to the aformentioned limitations of the Rule, such benefits have not been fully realized. Accordingly, the PHLX proposes to expand the reach of PHLX Rule 1033 and Advice A–11 to every option series traded at the PHLX, regardless of expiration month or strike price. Also, it is proposed that if the best bid or offer is by a floor trader(s) (*i.e.*, specialist or ROT), then he (they) is (are) responsible for assuring a minimum ten contract execution; and, if the best bid or offer is made by one other than a floor trader for less than ten contracts, then the floor trader(s) at the next best bid or offer must ensure the balance of the ten contract minimum at the best bid or offer. In this regard, if the balance must be filled by several floor traders, it shall be done so as agreed upon by them or otherwise be divided propertionately. In all other respects, including the fine schedule for assessed violations, Advice A–11 is substantively unchanged.

The effect of this proposed rule change would be a rule that is easier to enforce and understand, and that fulfills the purposes delineated above. Particularly, the markets in the out-of-the-money and further out term option series would become significantly more liquid. For these reasons, this rule change has been proposed.

The PHLX believes that the proposed rule change is consistent with section 6(b)(5) of the Act in that it will promote just and equitable principles of trade, protect investors, and promote the public interest by assuring a minimum ten contract execution of public customer orders. Additionally, the PHLX believes that the proposal is consistent with section 11A(a)(1)(C)(ii) and (iv) of the Act in that it will promote "fair competition among brokers and dealers" and "the practicability of brokers executing investors' orders in the best market."

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Station, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 22, 1989.

[1] *See* Securities Exchange Act Release No. 24580 (June 11, 1987), 52 FR 23120 (June 17, 1987).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Jonathan G. Katz,

Secretary.

Dated: February 22, 1989.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-4759 Filed 2-28-89; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region IX Advisory Council; Public Meeting

The U.S. Small Business Administration, Region IX Advisory Council, located in the geographical area of Honolulu will hold a public meeting at 9:30 a.m. on Thursday, February 23, 1989, at the Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Conference Room 4113A, Honolulu, Hawaii 96850, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Charles T.C. Lum, District Director, U.S. Small Business Administration, 300 Ala Moana Boulevard, Room 2213, Honolulu, Hawaii 96850, 808/541-2990.

February 15, 1989.

Jeannette M. Pauli,

Acting Director, Office of Advisory Councils.

[FR Doc. 89-4728 Filed 2-28-89; 8:45 am]

BILLING CODE 8025-01-M

Region VI; Regional Executive Board, Public Meeting

The U.S. Small Business Administration, Region VI Regional Executive Board, will hold a public meeting beginning at 9:00 a.m. on Friday, March 17, 1989, at the World Trade Center, #2 Canal Street, New Orleans, Louisiana 70130, 504/529-1701, to discuss such matters as may be presented by members, staff of the Small Business Administraiton and others present.

For further information, write or call Joseph Pena, Regional Administrator, U.S. Small Business Administration, 8625 King George Drive, Bldg. C, Dallas, Texas 75235-3391, 214/767-7611.

February 16, 1989.

Jeannette M. Pauli,

Acting Director, Office of Advisory Councils.

[FR Doc. 89-4729 Filed 2-28-89; 8:45 am]

BILLING CODE 8025-01-M

[2] 17 CFR 200.30-3(a)(12) (1988).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-89-7]

Petition for Exemption; Summary and Disposition

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: March 21, 1989.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on January 21, 1989.

Denise Donohue Hall,

Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 25739.
Petitioner: Ms. Dorothy Blevins.
Regulations Affected: 14 CFR 141.35(e).
Description of Relief Sought: To allow petitioner to be designated as a chief instructor for a ground school course without having served for 1 year as an instructor in a certificated pilot school.

Docket No.: 25762.
Petitioner: General Electric Company.
Sections of the FAR Affected: 14 CFR 21.325.
Description of Relief Sought: To allow petitioner to use an alternate method to certify the airworthiness of Glass III export products.

Docket No.: 24427.
Petitioner: United States Ultralight Foundation.
Regulations Affected: 14 CFR 103.1 (a), (b), and (e)(1).
Description of Relief Sought/ Disposition: To extend Exemption No. 4274, as amended, that allows individuals authorized by the petitioner to operate a two-place powered ultralight vehicle of not more than 350 pounds empty weight for the purpose of flight instruction. Exemption No. 4274, as amended, expires on February 28, 1989.
GRANT, February 10, 1989, Exemption No. 4274B.

Docket No.: 24515.
Petitioner: United Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.434(c)(1)(iii).
Description of Relief Sought/ Disposition: To allow petitioner to substitute an FAA-designated pilot examiner to complete the observation of an initial operating experience (IOE) flight leg, including takeoff and landing. This substitution would occur *only* when the FAA is unable to schedule one of its own inspectors during IOE.
DENIAL, February 10, 1989, Exemption No. 5017.

Docket No.: 25643.
Petitioner: North American Airline Training Group.
Sections of the FAR Affected: Section 63.37(a) and Part 63, Appendix C, paragraphs (a)(3)(i) and (iv)(*a*) and (iv)(*b*).
Description of Relief Sought/ Disposition: To allow petitioner to utilize Boeing 727 training vehicle No. 3/023 /24 in its FAA-approved Flight Engineer Training Program.
DENIAL, February 15, 1989, Exemption No. 5018.

Docket No.: 25794.
Petitioner: Mr. Fumio Niwa.
Sections of the FAR Affected: 14 CFR 61.3(b), 91.27 (a) and (b), and 91.43(b).
Description of Relief Sought/ Disposition: To allow petitioner to

enter U.S. airspace and land in the United States after attempting a transpacific solo balloon flight in a helium filled balloon carrying a pressurized gondola.

GRANT, February 13, 1989, Exemption No. 5016.

Docket No.: 25731.

Petitioner: The Experimental Aircraft Association and the Confederate Air Force.

Sections of the FAR Affected: 14 CFR Part 45.

Description of Relief Sought/ Disposition: To allow aircraft owned and operated by petitioners to operate with 2-inch markings located on the sides of the fuselage under the Horizontal stabilizer or on the sides of the vertical tail surfaces, instead of as is presently provided under §§ 45.25 and 45.29.

GRANT, February 16, 1989, Exemption No. 5019.

[FR Doc. 89-4669 Filed 2-28-89; 8:45 am]
BILLING CODE 4910-13-M

Airway Science Grants; Solicitation for Proposals

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of solicitation for airway science grant proposals.

SUMMARY: The Federal Aviation Administration (FAA) is authorized by Pub. L. 100-457 to solicit competitive proposals for Airway Science (AWS) grants from accredited 4-year public or nonprofit private colleges and universities with recognized FAA AWS Curriculum programs. The FAA expects to award most, if not all, of an available $1,000,000 in the form of grants, to a small, select number of these institutions of higher learning. Awards typically will range from $75,000 to $200,000 maximum.

The grant awards are available for the purchase, lease with intent to purchase, or construction of academic buildings and associated facilities to be used in conjunction with an FAA recognized AWS curriculum. In no event shall the total Federal share of any AWS construction project exceed 50% of the cost of the project. In addition, funds may be used for nonexpendable instructional materials or instructional equipment to be used in the actual teaching of the AWS curriculum. No Federal grant funds are to be used for salaries, operating expenses, research and development, travel, consultant fees, indirect costs, office supplies, automobiles, aircraft, maintenance agreements, printing costs, promotional and marketing materials or equipment, general purpose parking lots, land, commercial airport facilities, taxiways, runways, or any project in support of a commercial activity.

FOR FURTHER INFORMATION: Virginia Hancock Krohn, Airway Science Grant Manager, Federal Aviation Administration, Office of Training and Higher Education, AHT-30, 400 7th. Street SW., NW Plaza, Room PL-100, Washington, DC 20590, telephone: (202) 267-8003.

DATE: Closing Deadline: The original and five copies of the Proposal from an interested institution must be received by the FAA by either mail or hand delivery, no later than June 16, 1989 (4:30 p.m. EST).

Proposals Submitted by Mail: A proposal submitted by mail must be addressed to: Federal Aviation Administration, Virginia Hancock Krohn, Manager, AWS Grant Program, Office of Training and Higher Education, AHT-30, NW Plaza, Room PL-100, 400 7th Street SW., Washington, DC 20590.

Applicants are encouraged to use registered or, at least, first class mail. Any grant application received after the closing date of June 16, 1989, 4:30 p.m. EST will be treated as a late application and not considered for award of a grant. Each late applicant will be notified if its application was received late.

Proposals Submitted By Hand Carried Messengers: A proposal that is hand delivered must be taken to the Federal Aviation Administration at the address listed above. The office of the Manager, AWS Grant program, will accept hand delivered proposals between the hours of 8:30 a.m. and 4:30 p.m. (EST), daily, except Saturdays, Sundays, and Federal holidays. A proposal that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

No supplemental materials received after the application deadline date will be considered unless such material is specifically solicited by the Manager, AWS Grant Program. Questions regarding grant management requirements should be referred to the program manager.

Background

The FAA is engaged in a comprehensive program to modernize the Nation's airway system to meet the challenge of aviation growth in the coming decades. The modernization program is reflected in the agency's National Airspace System plan which takes advantage of current technological advances to increase the capacity and efficiency of the Nation's airspace system while reducing relative costs to the Nation's taxpayers.

The FAA recognizes the increasing complexity of technical and managerial skills that will be needed to accommodate the technological advances in equipment, systems and configurations being planned and implemented in the aviation industry. The FAA decision to sponsor an AWS curriculum was a direct result of an FAA assessment of the human resources needed to realize the full benefits of the forthcoming airspace and airway system modernization.

Beginning in 1982, in collaboration with the University Aviation Association, the FAA developed and recommended a specific college-level AWS curriculum. The AWS curriculum was designed to satisfy university academic and accreditation requirements, be easily adaptable to existing aviation-related programs, and yet allow individual educational institutions the option of offering any number of the five areas of concentration according to their individual resources. (48 FR 32490, July 15, 1983).

The five areas of concentration are: (1) airway science management, (2) airway computer science, (3) aircraft systems management, and (4) airway electronics systems, and (5) aviation maintenance management. Graduates of educational institutions offering FAA recognized AWS programs are eligible for recruitment by the FAA in one of four agency career fields: Air traffic control, electronics technology, aviation safety inspection (general aviation operations and maintenance), and computer sciences.

The FAA has recognized 32 institutions with one or more airway science areas of concentration. Their curricula directly support FAA's human resource needs by producing graduates with the necessary knowledge and skills to pursue aviation-related technical careers in the public and private sectors.

References

Those parties interested in the FAA's previous AWS activities may refer to the following **Federal Register** Notices: 48 FR 116872, March 18, 1983, (FAA proposed AWS curriculum demonstration project plan); 48 FR 32490, July 15, 1983, (Office of Personnel Management approval of the FAA demonstration project final plan); 49 FR 22903, June 1, 1984; 50 FR 37612, September 16, 1985; and 52 FR 3195, February 2, 1987; (notices announcing the competitive criteria employed by the FAA in selecting the AWS grant recipients under the previous 3 solicitations).

The Airway Science Grant

Authority

This solicitation represents a continuation of the FAA's AWS Grant Program. This program funds projects at selected institutions of higher learning which have evidenced a commitment to the agency's AWS curriculum program. The grants are authorized by Pub. L. 100-457. An amount of $1,000,000 is available for grant awards for the purchase, lease with intent to purchase, or construction of academic buildings and associated facilities to be used in conjunction with AWS curricula. In addition, funds may be used for nonexpendable instructional materials or instructional equipment to be used in the actual teaching of the AWS curriculum. Monies are not available for salaries, operating expenses, research and development, travel, consultant fees, indirect costs, office supplies, automobiles, aircraft, maintenance agreements, printing costs, promotional and marketing materials or equipment, general purpose parking lots, land, commercial airport facilities, taxiways, runways, or any project in support of commercial activities.

Eligibility

Eligible institutions must be accredited 4-year public and non-profit colleges or universities in the United States and its possessions. To be eligible an applicant institution must have an established FAA-recognized AWS curriculum in place and available to students. The curriculum must have been recognized by the Federal Aviation Administrator no later December 31, 1988.

Proposal Format and Content

Each AWS grant proposal is subject to the provisions of applicable FAA regulations and OMB Circulars A-21, A-73, A-88, and A-110. Proposals should contain the following information in the order listed.

1. Cover Sheet

Near the top of the Cover Sheet, type the title "Airway Science Grant Proposal". The legal name of the proposed grantee institution, its mailing address, and Employer Identification Number, as assigned by the Internal Revenue Service, should be centered on the Cover Sheet. The names, titles, and telephone numbers of the proposed Project Director and of an official authorized to sign for the proposed grantee institution should be typed on the lower left and right corners, respectively, of the Cover Sheet. The Cover Sheet of one Copy of the proposal must bear the original signature and date of each of the above individuals. The signature of the authorized individual signifies institutional endorsement of the proposal, cognizance of the eligibility and limitation requirements, and a commitment to provide the specific support for the proposed activities in the event the grant is made.

2. Standard Form 424

Applicants must submit Standard Form 424 (Rev. 4-88), application for Federal Assistance, with the grant proposal. This form may be obtained by writing to the Manager, AWS Grant Program, at the address listed above. *Applications without this form will be disqualified.*

3. Table of Contents

A table of contents with page numbers must be included.

4. Project Summary

A concise summary of the proposed project, including a statement of the goals and objectives, the plan to achieve these goals and objectives and the long-term benefits of the project to the institutional and national AWS programs is required. The summary should not exceed two (2) double-spaced typewritten pages, and should be written so that individuals in the aviation community can understand the basis for the use of Federal funds to support the proposed project.

5. Narrative

The Narrative should be clearly written and not exceed forty (40) double-spaced typewritten pages in length. The Narrative should contain the following:

(a) Introduction

The introduction should present a brief description of the institution including historical background, full-time graduate and undergraduate student enrollment, student body profile, location (rural, urban, etc.), fields of emphasis and degrees awarded.

(b) Background

The Narrative must describe the evolution of the institution's involvement in the AWS Program. Describe how the program relates to other interdisciplinary programs in mathematics, science and engineering, computers sciences, management, and other aviation science programs.

(c) The Existing AWS Program

The Narrative must include a description of the current AWS program. Information must be given on the recognition dates for each area of concentration, number of full-time and part-time faculty, average teaching loads, the total student enrollment in the AWS Program, the number of AWS declared majors by academic year by AWS concentration area, minority and female statistics by AWS concentration, the number of AWS degrees awarded, and projection of student enrollment and expected degrees to be conferred over the next 5 years. Describe institutional plans to attract students to the AWS program including minority and female recruitment activities.

An institution must enclose, with the proposal, a copy of the official course catalog and/or other brochure(s) showing the AWS course offerings to students during the 1988-1989 academic year. *Institutions which do not submit the above information will be disqualified.*

(d) Other Aviation Programs

The Narrative must include a description of current aviation programs other than the AWS program. Discuss how the AWS program interfaces with the other aviation programs. Explain how the grant project will support the goals and objectives of the entire aviation program at the institution. Provide information on the number of faculty, total student enrollment by aviation major including minority and female statistics, number of degrees awarded, projections of student enrollment and expected degrees to be conferred over the next five (5) years. Discuss activities the institution has pursued outside of AWS in support of aviation education at the collegiate level.

(e) Project Plan

A Project Plan in support of an institution's recognized AWS program must be prepared that sets forth the goals and objectives of the proposed grant project and the various activities and tasks necessary to bring the project to a successful conclusion. (An institution may present only one proposed grant project. *Proposals which present alternative projects or modifications to a basic grant project will be disqualified.* The plan must include time schedules for performance with appropriate and realistic milestones relating to the conduct of the project. The Plan should describe the mechanisms that will be used to manage and monitor the progress of the project. Anticipated progress reports, advisory committee meetings and similar events should be described. Discuss the

relationship of the proposed grant project to the goals and objectives of the overall AWS program at the institution. Discuss the impact of the project upon the institution's current AWS program including the students, AWS programs at other institutions, the national AWS program, and the FAA.

(f) Institutional Needs in Airway Science

The Narrative must identify and discuss the institution's needs for funds, faculty, facilities, equipment and other resources in terms of the institution's goals and objectives for the AWS program. This should include a realistic long range AWS program plan and activities the institution will pursue to meet the goals and objectives including funding from sources outside of the FAA. The role of the proposed project should be discussed in this context.

(g) Project Personnel

Identify and describe the relevant skills of those individuals who have major AWS program responsibilities. Information should be provided on the number of full-time and part-time faculty, average teaching loads, and the amount of time each person is required to devote to the AWS program must be stated. The role of the AWS Program Director is particularly critical. The proposal must provide information indicating that the director has well-defined responsibilities, sufficient time, and adequate academic and institutional authority and support to effectively manage the program. The AWS grant project director must be identified with a discussion of relevant skills in relation to the proposed project and the time to be devoted to the project.

(h) Evaluation Plan

As part of the Narrative, a project Evaluation Plan must be outlined. The purpose of the Evaluation Plan, when completed at the close of the project, is to permit FAA officials and other educational and aviation specialists to assess whether the objectives of the project have been achieved and the impact of the project upon the AWS program at the institution, other institutions, and to the FAA. The completed Evaluation Plan should give attention to the enhanced skills and subsequent occupational marketability of those AWS students who have benefitted from the project. The Evaluation Plan may be prepared entirely by institutional staff or in collaboration with outside consultants. The results of the completed evaluation are to be included in the Final Report. The FAA anticipates that FAA representatives will make site visits to each grant institution during the lifetime of the project.

(i) Budget Plan

The proposal must contain a Budget Plan that includes a *detailed itemization* of proposed expenditures according to the following categories:

Item	Federal dollars	Percent	Non-Federal dollars	Percent
(1) Facilities				
(2) Equipment				
(3) Materials				
(4) Travel [1]				
(5) Consultant services [1]				
(6) Other direct costs [1]				
(7) Indirect costs [1]				

[1] Costs directly related to grant project even though not qualified for Federal funding. FAA grant funds may only be dedicated to categories a, b, and c. Each line item under each of the above categories must show the allocations of expenditures between the FAA grant funds and matching institutional funds and/or equivalent support services. The source of matching funds must be indicated, such as industry, institutional, or private source. Discuss the circumstances under which the funds are allocated to the grant project. In no event shall the total Federal grant funds provided for an AWS construction project exceed 50% of the construction cost of the project. Matching funds include allowable project costs (categories a, b, and c) which are incurred by the institution or the value of in-kind contributions. *Budgets which do not include an itemization of expenditures will be disqualified.* Budgets including construction activities with a general cost per square foot will not be excepted.

(j) Equipment, Facilities, and Materials

The Narrative should present a detailed discussion of the Facilities, Equipment, and Materials for which grant award funds are proposed to be spent as presented in the budget. This must include a description of the item, an explanation of the need for the item, the tentative source of acquisition, and the time table and method (lease to purchase, purchase, or construction) for acquisition. Applicants may submit photographs, architectural drawings, site plans or other visual representations that would aid the reviewing panel in assessing the relative merits of the proposed facilities.

(k) Other Project Costs

The institution must describe the other costs included in the budget and explain how they directly relate to the grant project.

Reporting Requirements

Until the proposed project is completed, the FAA requires that each award institution prepare an annual Project Report, not to exceed twenty (20) double-spaced typewritten pages in length. The annual Project Report shall be submitted to the FAA within 90 days of the close of each fiscal year by the award institution. The report should include a summary of project progress, highlights and accomplishments, personnel changes and a status report on expenditures and account balances for each of the line items presented in the proposed Budget Plan.

In addition, a final Project Report shall be prepared and submitted to the FAA within 90 days of the project completion. The final Project should include summaries of project activities, accomplishments and Budget Plan expenditures. The Report must contain the completed Evaluation Plan described above. "Project completion" will be determined by the FAA in terms of the proposed project goals and objectives and will occur after the principal project objectives have been achieved and the awarded funds have been expended.

Local Review Statement

The proposal must have attached to it a statement, signed by an appropriate official of the institution, that contains: (a) An endorsement of the proposed project; (b) a description of how the proposed project supports the larger institutional goals and objectives in AWS; and (c) a commitment to provide the institutional resources necessary to meet matching fund obligations; complete the proposed project, maintain the facilities and equipment to an acceptable standard, and continue financial support for the AWS Curriculum Program after the grant funds have been expended.

Proposal Review

Proposals will be reviewed, evaluated, and ranked on the basis of merit by a panel of educational and aviation specialists from the public and private sectors, including academia, private industry and/or the Federal government. This input will be used by the FAA in the selection of applicants for award of the grants. The awards typically will range from $75,000 to $200,000 maximum. The FAA does not intend to fund all proposed projects or necessarily all components of a proposal selected for award. The agency expects to distribute most, if not all of the $1,000,000.

Evaluation Criteria

The evaluation criteria are designed to enable the reviewing panel and FAA officials to effectively evaluate the relative merit of proposals submitted in response to this solicitation. Each

reviewer will evaluate the proposals based on the following factors listed below and rate each proposal on a 100-point scale.

The evaluation criteria are the following:

(a) *Institutional Impact.* Each proposal will be evaluated to determine the extent to which the applicant institution has demonstrated:

(1) The need for funding of its AWS program in terms of the AWS program goals and objectives;

(2) The role grant funding will play in achieving these goals and objectives;

(3) The impact the grant funding will have upon the existing AWS program;

(4) The consequences to the AWS program if the project is not funded.

(10 points maximum)

(b) *Institutional Commitment.* Each proposal will be evaluated as to the extent of the institution's commitment to the AWS Program in particular and aviation education in general. This includes but is not limited to consideration of the following:

(1) Number and qualifications of dedicated AWS faculty;

(2) Number of recognized AWS curriculum options and the number of enrolled students;

(3) The amount of institutional matching funds provided toward the project;

(4) Efforts to obtain other nonfederal sources of funding in support of the grant project and the long range plan for the AWS program;

(5) Demonstrated continued support and growth of the institution's AWS program.

(6) Activities other than AWS in support of aviation education at the collegiate level.

In addition, the Local Review Statement and level of signature will be considered in determining the overall commitment of the institution to the AWS program.

(15 points maximum)

(c) *Project Plan Quality.* The Project Plan for the proposed AWS project will be evaluated in regard to the following:

(1) The appropriateness of the project in terms of the institution's current AWS program;

(2) The relationship between the goals and objectives of the proposed project and those of the overall AWS program at the institution;

(3) The adequacy of the institutional resources for achieving the goals and objectives of the proposed project;

(4) The effectiveness of the proposed mechanism for the management and coordination of the faculty, administrative, facility, and other institutional resources in achieving the goals and objectives of the proposed project;

(5) Project management mechanisms that provide for the effective administration and technical direction of the project, including the establishment of specific project goals and objectives, time-tables for performance and milestones that permit monitoring of the progress of the project and the measurement of its overall effectiveness;

(6) Adequate institutional budgeting and other fiscal controls that allow for periodic review of resource commitments and determinations that expenditures are in accordance with the Project Plan;

(7) The identification of significant educational, technical and administrative innovations as a result of the grant project that would further the attainment of the institutional and national goals and objectives for the AWS program.

(25 points maximum)

(d) *Budget Plan.* The Budget Plan must sufficiently detail proposed expenditures by budget category and line item and show the allocation between grant funds and institutional funds and/or equivalent support services. The budget figures should be appropriate for the goods and services being procured and consistent with the project narrative presented elsewhere in the Project Plan. (15 points maximum)

(e) *Expected benefits.* The benefits of the proposed project to both the institutional and national programs will be evaluated. The reviewers will consider:

(1) The long-term benefits to the institution, including the AWS students;

(2) The applicability and usefulness of educational, technical, and administrative innovations to AWS programs at other institutions and in other instructional and occupational environments;

(3) The benefit to the future employers of AWS program graduates, including academia, private industry and Federal, State and Local governments;

(4) The salient benefits to the FAA as both the AWS program sponsor of the AWS program and as an employer of the graduates.

(15 points maximum)

(f) *Qualifications of Key Personnel.* The reviewing panel will evaluate the professional qualifications and experience of the institution's present AWS personnel and other key officials who will be involved in the proposed AWS grant project. Particular attention will be given to the AWS Program Director. The relationship of the qualifications and past experiences of these individuals to the goals and objectives of the project will be considered.

(10 points maximum)

(g) *Evaluation Plan.* The reviewing panel will consider the adequacy of the proposed Evaluation Plan in assessing project performance and the impact of the project upon the existing institutional AWS program and the quality of the graduating AWS students.

(10 points Maximum)

Award Date

The FAA expecis to announce the institutional recipients of the AWS grant awards by September 30, 1989.

Richard E. Cullen,

Acting Director, Office of Training and Higher Education.

Issued in Washington, DC, on February 7,1989.

[FR Doc. 89-4671 Filed 2-28-89; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Executive Committee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given for the Executive Committee Meeting to be held March 17, 1989, at the NASA Goddard Space Flight Center, Building 12, Room C-206, Greenbelt, Maryland 20771, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks and introductions; (2) approval of the minutes of meeting held January 27, 1989; (3) Executive Director's Report; (4) Special Committee Activities Report for January-February 1989; (5) Fiscal and Management Subcommittee Report; (6) Search Committee for Executive Director Successor Report; (7) consideration of proposals to establish new Special Committees; (8) approval of Special Committee 142 Report, "Minimum Operational Performance Standards (MOPS) for Mode S Aircraft Data Link Processor"; and (9) other business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street NW., Suite 500,

Washington, DC 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 22, 1989.

Geoffrey R. McIntyre,

Acting Designated Officer.

[FR Doc. 89–4670 Filed 2–28–89; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

National Motor Carrier Advisory Committee

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meetings.

SUMMARY: The FHWA announces that the National Motor Carrier Advisory Committee will hold a meeting on March 21 and 22, 1989, in Washington, DC, at the U.S. Department of Transportation Headquarters, 400 7th Street, SW., Washington, DC. The meeting will begin at 9:00 a.m. on both days in Room 4200 and it is open to the public.

The agenda will include: a review of initiatives regarding advanced highway/vehicle technologies, activities regarding the study of driver fatigue, programs to address the driver shortage problem, status or various motor carrier safety regulations as well as the reasonable access regulations, implementation of the Commercial Drivers' Licensing program, the progress being made in the review of the future of the highway program, the status of the DOT drug testing program, and the status of legislation affecting the motor carrier industry. Reports and recommendations will also be presented from the Subcommittee Chairmen.

In conjunction with the full Committee meeting, the Subcommittee on Research will meet on March 20, 1989, to discuss priorities for and possible additions to FHWA's motor carrier research programs. This will be the first meeting of this Subcommittee. The Subcommittee meeting will begin at 9:30 a.m. in Room 4200 of the U.S. Department of Transportation Headquarters, 400 7th Street, SW., Washington, DC. This Subcommittee meeting is also open to the public.

A second Subcommittee will also be meeting in conjunction with the full Committee meeting. The Subcommittee on Government and Taxation will be meeting on March 20, 1989, at 1:30 p.m. in Room 4200 of the U.S. Department of Transportation Headquarters, 400 7th Street, SW., Washington, DC. The Subcommittee will be meeting to discuss potential recommendations on four points: (1) The illegal evasion of payments of Federal highway user fees, (2) the diversion of these fees for non-highway purposes, (3) exemptions to these fees, and (4) the desirability of greater uniformity with respect to the various State tax and operating regulations which motor carriers must observe. This Subcommittee meeting is also open to the public.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph S. Toole, Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HOA–1, Room 4218, 400 7th Street, SW., Washington, DC 20590, (202) 366–2238, office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

Issued on: February 23, 1989.

Robert E. Farris,

Federal Highway Administrator.

[FR Doc. 89–4775 Filed 2–28–89; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Assistant Commissioner (EP/EO) Employee Plans Ad Hoc Group; Open Meeting

The first meeting of the Assistant Commissioner (Employee Plans and Exempt Organizations) Employee Plans Ad Hoc Group will be held on March 22, 1989 at the IRS Atlanta Service Center. The Service Center is located at 4800 Buford Highway, Atlanta, Georgia. The meeting will begin at 8:30 a.m. on Wednesday, March 22. The agenda will include the following topics:

Tour of Facility for Overview of Service Center Operations and Employee Plans Return Processing.

Discussion of Employee Plans Determination and Examination of Programs.

Discussion of Employee Plans Technical Issues.

Due to the Service Center's security requirements and limited conference space, notification of intent to attend the meeting must be made with Jane Baniewicz, Staff Assistant to the Assistant Commissioner, no later than March 13, 1989. Ms. Baniewicz may be reached on (202) 566–9204 (not toll-free).

FOR FURTHER INFORMATION CONTACT: Jane Baniewicz, Staff Assistant to Assistant Commissioner (EP/EO), (202) 566–9204 (not toll-free).

Robert I. Brauer,

Assistant Commissioner (E).

[FR Doc. 89–4746 Filed 2–28–89; 8:45 am]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 39
Wednesday, March 1, 1989

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).

NATIONAL TRANSPORTATION SAFETY BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 54, No. 35/Thursday, February 23, 1989/7918–7919.

PREVIOUSLY ANNOUNCED TIME AND DATE: 9:30 a.m., Tuesday, February 28, 1989.

CHANGE IN MEETING: A majority of the Board Members determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. Response to FAA's proposed airworthiness directive applicable to certain small airplanes concerning flight into known icing conditions (NPRM) was added to the open portion of the meeting.

FOR MORE INFORMATION, CONTACT: Bea Hardesty, (202) 382–6525.

Bea Hardesty,
Federal Register Liaison Officer.
February 27, 1989.

[FR Doc. 89–4885 Filed 2–27–89; 3:45 pm]
BILLING CODE 7533-01-M

POSTAL SERVICE BOARD OF GOVERNORS

Amendment to Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 54 FR 7919, February 23, 1989.

PREVIOUSLY ANNOUNCED DATE OF MEETING: March 7, 1989.

CHANGE: Addition of the following item to the open meeting agenda:

Officer Compensation. (Postmaster General Anthony M. Frank)

CONTACT PERSON FOR MORE INFORMATION: David F. Harris, (202) 268–4800

David F. Harris,
Secretary.

Paul J. Kemp,
Certifying Officer.

[FR Doc. 89–4843 Filed 2–27–89; 12:01 pm]
BILLING CODE 7710-12-M

federal register

Wednesday
March 1, 1989

Part II

Department of Labor

Pension and Welfare Benefits Administration

Department of the Treasury

Internal Revenue Service

Pension Benefit Guaranty Corporation

29 CFR Part 2520

Employee Benefits Reporting and Disclosure; Final Rule and Notice

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Part 2520

Annual Reporting and Disclosure Requirements

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This document contains amendments to Department of Labor (Department) regulations relating to the annual reporting requirements under Part 1 of Title I of the Employee Retirement Income Security Act of 1974 (ERISA). In part, the amendments contained in this document are necessary to conform to revisions to the annual return/report forms (Form 5500 Series) filed by administrators of employee pension and welfare benefit plans under Part 1 of Title I of ERISA.

Other amendments contained in this document are technical revisions updating the regulations to reflect changes in the annual reporting requirements, simplifying the regulations by deleting certain portions thereof which are duplicative of the instructions to the Form 5500 Series and incorporating address corrections to be used in submitting certain documents filed with the Department.

The amendments will affect the financial and other information required to be reported and disclosed by employee benefit plans filing Form 5500 Series reports under Part 1 of Title I of ERISA.

DATES: This regulation is effective January 1, 1988. The amendments are effective for reporting for plan years beginning on or after January 1, 1988.

FOR FURTHER INFORMATION CONTACT: Ronald D. Allen, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington, DC, (202) 523-8515 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Note: This final regulation imposes no new information collection requirement in addition to the information collection requirement associated with the submission of the Form 5500 Series.

A. Background

On September 19, 1986, the Department, in conjunction with the Internal Revenue Service and Pension Benefit Guaranty Corporation, published in the **Federal Register** (51 FR 33500) proposed changes to the Form 5500 Series. On January 2, 1987, the Department published in the **Federal Register** (52 FR 84) proposed amendments to the annual reporting regulations (Part 2520 of Chapter XXV of Title 29 of the Code of Federal Regulations) which, in part, were necessary to implement certain of the proposed changes to the Form 5500 Series. A number of technical amendments to the regulations were also proposed in order to update certain of the reporting and disclosure regulations, as well as to eliminate duplication of information also appearing in the instructions to the Form 5500 Series. The Form 5500 Series, as modified by the Agencies, is published in the same separate part of today's **Federal Register.**

The amendments published on January 2, 1987, were proposed to be effective for reporting for plan years beginning on or after January 1, 1987, to coincide with the implementation of revisions to the Form 5500 Series for the 1987 plan year. Subsequent to the publication of the proposed amendments, the Department, in conjunction with the Internal Revenue Service and Pension Benefit Guaranty Corporation, decided to defer forms revisions to the 1988 plan year filing cycle. Accordingly, the amendments contained herein will be effective for reporting for plan years beginning on or after January 1, 1988, to coincide with forms revisions implemented for the 1988 plan year filing cycle.

As discussed in more detail below, the Department received only three comments relating to the proposed amendments to the annual reporting regulations, and the Department has decided to adopt those amendments in the form proposed, except as otherwise noted.

B. Description of Amendments

Sections 2520.103–1 and 2520.103–2

Section 2520.103–1 describes the content of the Form 5500. The Department is adopting the following amendments to § 2520.103–1. (1) Amend paragraph (a)(2) to delete the reference to § 2520.104b–11, which prescribed the summary annual report requirements for plans which constitute a group insurance arrangement. Section 2520.104b–11 was superseded by § 2520.104b–10 pursuant to notice in the **Federal Register** (44 FR 19403) on April 3, 1979. (2) Amend paragraph (b) to delete references to specific line items on the Form 5500 Series in order to avoid future regulation amendments solely to accommodate minor item changes to the forms. (3) Amend paragraphs (b) and (c) to add a reference to Schedule C, the proposed schedule for reporting service provider, trustee, and certain service provider termination information (*see* revised Form 5500 Series in the same separate part of today's **Federal Register**). And, (4) amend paragraphs (c), (d), and (e) to eliminate references to the Form 5500–K, which was eliminated as a reporting form for plan years beginning after December 31, 1983 (*see* Internal Revenue Service Release 84–71, June 18, 1984).[1]

Section 2520.103–2 describes the contents of the Form 5500 for plans which constitute a group insurance arrangement, as defined in § 2520.104–43. Paragraph (b) of § 2520.103–2 is amended to eliminate the references to specific line items on the Form 5500, consistent with the amendments to § 2520.103–1.

Section 2520.103–6

Section 2520.103–6 sets forth the definition of reportable transactions for the Form 5500. The Department is amending paragraph (b)(1)(ii) to delete the reference to a specific line item on the Form 5500 Series.

Under paragraph (c) of § 2520.103–6, a reportable transaction is defined as any transaction or series of transactions involving an amount in excess of 3 percent of the current value of a plan's assets.[2] The Department is amending paragraph (c) of § 2520.103–6 by adding a new subparagraph (c)(4) which raises the threshold for reportable transactions from 3 percent to 5 percent for plan years beginning on or after January 1, 1988. This amendment is necessary to implement the increase in the threshold for reportable transactions from 3 percent to 5 percent on the revised Form 5500 Series (*see* in the same separate part of today's **Federal Register**).

The Department also is modifying the examples set forth in paragraph (e) of § 2520.103–6 to reflect the change from 3 percent to 5 percent.

This amendment is being adopted in accordance with the authority granted the Secretary under sections 104(a)(3) and 110, pursuant to which utilization of the Form 5500 under § 2520.103–1 constitutes a limited exemption for welfare plans and an alternative method

[1] Form 5500–K was the Return/Report of Employee Benefit Plan for Sole Proprietorships and Partnerships. The Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248, 96 Stat. 324 (1982)) repealed most of the special limitations and restrictions on the design and operation of these Keogh plans, resulting in these plans having the same contribution, deduction, and vesting requirements, and similar coverage requirements, as other plans. These plans are now required to file either Form 5500–C or Form 5500–R.

[2] *See* section 103(b)(3)(H) of ERISA.

of compliance for pension plans. The findings required under section 104(a)(3) and section 110 with respect to the use of the Form 5500 as a limited exemption and alternative method of compliance are discussed below.

Section 2520.103–10

Section 2520.103–10 describes the format and content of the financial schedules included as part of the Form 5500. The Department is amending § 2520.103–10 as follows: (1) Delete the references to specific line items (e.g., item 22) in order to avoid the necessity of future amendments to the regulations to accommodate minor changes in the forms; and (2) in an effort to eliminate duplication, delete the schedule formats and other general explanatory information appearing in the regulation which also appears in the instructions to the forms.[3]

The Department had proposed an amendment to § 2520.103–10 that would add a reference to the Form 5500–C to accommodate a proposed change to the Form 5500–C requiring plans with 26 to 99 participants to file a schedule of loans and leases in default (*see* proposed revisions to the Form 5500 Series, 51 FR 33500). Under the revised Form 5500 Series being adopted by the Agencies (*see* in the same separate part of today's **Federal Register**), plans filing the Form 5500–C will not be required to file a schedule of loans and leases in default. Accordingly, the Department is not adopting this amendment.

Section 2520.104–41

Section 2520.104–41 provides a simplified method of annual reporting for plans with fewer than 100 participants. Paragraph (c)(2) of that section requires administrators of Keogh plans to file the Form 5500–K. Because the Form 5500–K has been eliminated as an annual reporting form, § 2520.104–41 is being amended to delete paragraph (c)(2) in its entirety.

Section 2520.104b–10

Section 2520.104b–10 sets forth the requirements for the summary annual report and prescribes the formats for such reports. Included as an appendix to the regulation is a cross-reference guide which corresponds the line items of the summary annual report formats to the line items on the Forms 5500 and 5500–C to facilitate completion. This document includes a revised appendix which takes into account the changes to the revised Form 5500 Series being adopted by the Agencies.

Section 2520.104–46

Section 2520.104–46 provides a waiver of the examination and report of an independent qualified public accountant for employee benefit plans with fewer than 100 participants. This section is being amended to delete the reference to Form 5500–K appearing in paragraph (d).

Address Corrections to Reporting Regulations

Since the publication of many of the reporting regulations, the Office of Pension and Welfare Benefit Programs has changed its name to the Pension and Welfare Benefits Administration, pursuant to Secretary of Labor's Order No. 1–86. In addition, the agency has changed the room for receipt of documents required to be filed under Title I of ERISA with the Department. In order to facilitate the filing and receipt of documents, the Department is amending the following sections to provide an updated address: §§ 2520.104–22(c); 2520.104–23(c); 2520.014a–3(d), and 2520.104a–4(c).

C. Discussion of Comments

The Department received three comment letters concerning the proposed amendments to the annual reporting regulations. Two of the letters contained comments relating to § 2520.103–6. One of the commentators suggested that raising the reportable transaction threshold from 3 percent to 5 percent would permit, in the case of a plan with substantial assets, transactions involving a significant amount of assets to go unreported. The commentator also recommended that the dates of reportable transactions be required to be reported. The Department recognizes that by increasing the reportable transaction threshold from 3 percent to 5 percent, certain transactions heretofore required to be reported will go unreported. However, the Department has concluded, on the basis of its enforcement experience over the past ten years, that the disclosure of 5 percent transactions will enable it to identify transactions that are sufficiently large to suggest that fiduciary misconduct may be involved and, therefore will provide adequate reporting to the Department. For the same reason, the Department believes that the 5 percent threshold will provide adequate disclosure to plan participants and beneficiaries. It is also noted that the 5 percent threshold is consistent with the threshold under generally accepted accounting principles for identifying "significant" investments, which are required to be reported on the financial statements of plans. Accordingly, the Department has decided to adopt the 5 percent threshold criteria for reportable transactions. The Department also has decided not to require the dates of reportable transactions to be reported. The Department believes that sufficient information concerning reportable transactions is required to be reported, without transaction dates, to apprise the Department and plan participants and beneficiaries of potential abuses. Moreover, because the report is required to be filed annually, the specific date of a particular transaction is of less significance.

The other commentator recommended that the definition of a reportable transaction under § 2520.103–6 be amended to exclude the following transactions involving pooled separate accounts maintained by insurance companies: (a) New employer deposits; (b) transfers between pooled separate accounts; and (c) transfers between general assets accounts and pooled separate accounts. The commentator suggests that the reporting of such 5 percent transactions with pooled separate accounts detracts from other transactions that should be reported. As noted by the commentator, a plan meeting the requirements of 29 CFR 2520.103–4 is not required to report on its annual report individual transactions of the pooled separate account; however, such a plan is required to report any plan transactions with the pooled separate account, including certain reportable transactions under § 2520.103–6. In this regard, the Department notes that, while § 2520.103–6 does not exempt all plan transactions with pooled separate accounts, paragraph (b)(2)(ii)(G) of that section relating to transactions which occurred prior or subsequent to a reportable transaction with the same person during the plan year, does significantly reduce the reporting that would otherwise be required. The Department further notes that, pursuant to 29 CFR 2520.103–11(b)(2)(vi), units of participation in a pooled separate account are excluded from the definition of "assets held for investment" for purposes of the asset schedules required to accompany the annual report. In view of the aforementioned reporting exceptions and the adoption herein of an amendment increasing the reportable transaction threshold from 3 percent to 5

[3] For clarification purposes, the regulation continues to specify certain transactions with a party-in-interest that are not required to be reported on that schedule. In this respect, it should be noted that, although the form does not require the reporting of publicly traded securities transactions involving a party-in-interest, such transactions are not in all cases exempt from the prohibited transaction provisions of section 406 of ERISA.

percent, the Department believes that the reporting of new employer deposits, transfers between pooled separate accounts, and transfers between general asset accounts and pooled separate accounts does provide useful information concerning basic transactions involving pooled separate accounts, without imposing undue burdens on either plan administrators or insurance companies maintaining such accounts.

The third commentator offered suggested changes to the requirements of § 2520.103–9, relating to the direct filing of common or collective trust and pooled separate account information by banks and insurance carriers with the Department. The Department did not propose any amendments to § 2520.103–9, accordingly, the suggested changes to that section are beyond the scope of the annual reporting amendments being adopted herein.

D. Departmental Findings

For purposes of Part 1 of Title I of ERISA, the filing of a completed Form 5500 (including the report of an independent qualified public accountant and any required statements and schedules) by plans with 100 or more participants constitutes compliance with the limited exemption and alternative method of compliance prescribed in paragraph (b) of § 2520.103–1, promulgated in accordance with the authority granted the Secretary of Labor (the Secretary) under sections 104(a)(3) and 110 of ERISA.

Section 104(a)(3) authorizes the Secretary to exempt any welfare plan from all or part of the reporting and disclosure requirements of Title I of ERISA or to provide simplified reporting and disclosure, if the Secretary finds that such requirements are found to be inappropriate. Section 110 permits the Secretary to prescribe for pension plans alternative methods of complying with any of the reporting and disclosure requirements, if the Secretary finds: (1) That the use of the alternative is consistent with the purposes of ERISA and that it provides adequate disclosure to plan participants and beneficiaries and to the Secretary; (2) that application of the statutory reporting and disclosure requirements would increase the costs to the plan or impose unreasonable administrative burdens with respect to the operation of the plan; and (3) that the application of the statutory reporting and disclosure requirements would be adverse to the interests of plan participants in the aggregate.[4]

As reflected in the revised Form 5500 Series (*see* in the same separate part of today's **Federal Register**), and the amendment to § 2520.103–6, raising the threshold of reportable transactions from 3 percent to 5 percent, a number of changes are being adopted which affect the information required to be reported and disclosed on the Form 5500. With regard to these changes, the Department has made the following findings under sections 110 and 104(a)(3) with regard to the utilization of the revised Form 5500 (and statements and schedules required to be attached to the Form 5500) as an alternative method of compliance and limited exemption pursuant to 29 CFR 2520.103–1(b):

1. The use of the revised Form 5500 as an alternative method of compliance is consistent with the purposes of Title I of ERISA and provides adequate disclosure to plan participants and beneficiaries and adequate reporting to the Secretary. While the information required to be reported on or in connection with the revised Form 5500 deviates, in some respects, from that information delineated in section 103 of the Act, the information essential to ensuring adequate disclosure and reporting under Title I of ERISA is required to be included on or as part of the Form 5500, as revised. With regard to the revision to the definition of "reportable transaction" for purposes of the Form 5500 to include only transactions involving amounts in excess of 5 percent of the plan's assets, the Department believes such a change will assure the reporting of significant transactions which may reveal fiduciary misconduct which is the purpose underlying the 3 percent statutory requirement in section 103. The Department, on the basis of its experience with enforcement cases over the past ten years of ERISA, has concluded that disclosure of 5 percent transactions will enable it to identify transactions that are sufficiently large to suggest that fiduciary misconduct may be involved.[5] For the same reason, the Department believes the 5 percent threshold will provide adequate disclosure to plan participants and beneficiaries.

2. The use of Form 5500 as an alternative method of compliance relieves plans subject to the annual reporting requirements from increased costs and unreasonable administrative burdens by providing a standardized format which facilitates reporting, eliminates duplicative reporting requirements, and simplifies the content of the annual report in general. The Form 5500, as revised, is intended to further reduce the administrative burdens and costs attributable to compliance with the annual reporting requirements.

With regard to the change from 3 percent to 5 percent threshold for reportable transactions, the Department's experience has been that a 3 percent threshold has resulted in the reporting of information which is not necessary for the effective administration of ERISA. Therefore, reporting information regarding transactions involving more than 3 percent, but less than 5 percent of a plan's assets, has resulted in additional costs and unreasonable administrative burdens to plans.

3. Finally, taking into account the above, the Department has determined that application of the statutory annual reporting and disclosure requirements without the availability of the Form 5500 would be adverse to the interests of participants in the aggregate. The revised Form 5500 provides for the reporting and disclosure of basic financial and other plan information described in section 103 in a uniform, efficient, and understandable manner; thereby, facilitating the disclosure of such information to plan participants.

With regard to the 5 percent reportable transaction threshold, the Department's experience has been that the 3 percent threshold tended not to reveal abusive cases that would not otherwise have been revealed at a 5 percent threshold. The additional disclosure of information regarding transactions involving more than 3 percent, but less than 5 percent, therefore only provides participants and beneficiaries with information of negligible value and this information is often voluminous, especially in the case of larger plans. The Department believes that the revised 5 percent threshold should provide for clearer and more

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[4] Under the authority of sections 104(a)(2)(A) and 104(a)(3), the Secretary has prescribed by regulation a simplified annual report for pension and welfare plans which cover fewer than 100 participants (Form 5500–C). *See* 29 CFR 2520.104–41. Pursuant to this authority, the Department has made changes to the 1988 Form 5500–C. These changes are described in the preamble accompanying the publication of the 1988 annual report forms. (*See* the "notices" section of today's Federal Register.)

[5] In the interest of efficient administration of ERISA, the Department has attempted to align the reporting and disclosure requirements, where possible, with generally accepted accounting principles. Recommendations of the Employee Benefit Plans and ERISA Special Committee of the American Institute of Certified Public Accountants in concert with the Financial Accounting Standards Board's Statement No. 35 indicate that, under generally accepted accounting principles, investments representing 5 percent or more of net assets are treated as "significant," and therefore, must be reported on financial statements.

concise reporting of those transactions which because of their size require closer scrutiny.

Further, the Department has determined under section 104(a)(3) that application of the statutory reporting requirements to the extent that the revisions to Form 5500 modify them would be inappropriate in the context of welfare plans for the reasons discussed above.

Regulatory Flexibility Act

The Department has determined that this regulation would have no significant economic impact on small entities. In conducting the analysis required under the Regulatory Flexibility Act, it is estimated that adoption of the amendments to the annual reporting regulations—which conform to the changes being made in the annual report forms (Form 5500 Series), make additional technical corrections, and eliminate certain duplicative language—will impose no additional costs on small entities. The purpose of these revisions is to simplify and reduce the burden attributable to the annual reporting requirements.

Executive Order 12291

The Department has determined that this regulatory action does not constitute a "major rule" as that term is used in Executive Order 12291 because the action does not result in: an annual effect on the economy of $100 million; a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The amendments to the annual reporting regulations include revisions which are necessary to conform the regulations to changes in the annual report form (Form 5500 Series) which have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96-511). The approved information collection for the Form 5500 Series annual report is assigned control number 1210-0016.

List of Subjects in 29 CFR Part 2520

Accountants, Actuaries, Disclosure requirements, Employee benefit plans, Employee Retirement Income Security Act, Health insurance, Life insurance, Pensions, Pension and Welfare Benefits Administration, Reporting and recordkeeping requirements.

Final Regulation

For the reasons set out in the preamble, Part 2520 of Chapter XXV of Title 29 of the Code of Federal Regulations is hereby amended as follows:

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

1. The authority citation for Part 2520 is revised to read as follows:

Authority: Secs. 101, 102, 103, 104, 105, 109, 110, 111(b)(2), 111(c), and 505, Pub. L. 93-406, 88 Stat. 840-52 and 894 (29 U.S.C. 1021-25, 1029-31, and 1135); Secretary of Labor's Order No. 27-74, 13-76, 1-87, and Labor Management Services Administration Order No. 2-6.

2. In § 2520.103-1, paragraphs (b)(1) and (c) are revised to read as follows:

§ 2520.103-1 Contents of the annual report.

* * * * *

(b) * * *

(1) A completed Form 5500 "Annual Return/Report of Employee Benefit Plan (with 100 or more participants)" and any statements or schedules required to be attached to the form, including Schedule A "Insurance Information," Schedule B "Actuarial Information," Schedule C "Service Provider/Trustee/Service Provider Termination Information," and the financial schedules described in § 2520.103-10. *See* the instructions ("What to File" and "Specific Instructions") for this form.

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(c) *Contents of the annual report for plans with fewer than 100 participants.* Except as provided in paragraph (d) of this section and in §§ 2520.104-43 and 2520.104a-6, the annual report of an employee benefit plan which covers fewer than 100 participants at the beginning of the plan year shall be a completed Form 5500-C "Return/Report of Employee Benefit Plan (with fewer than 100 participants)," or a completed Form 5500-R "Registration Statement of Employee Benefit Plan (with fewer than 100 participants)," and any statements or schedules which are required to be attached to these forms, including Schedule A "Insurance Information," and Schedule B "Actuarial Information." *See* the instructions ("What to File" and "Specific Instructions") for these forms.

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3. Section 2520.103-1 is further amended as follows:

a. In paragraph (a)(2), in the second sentence, remove the words "or § 2520.104b-11."

b. In paragraph (b)(2)(i), in the second sentence, remove the words "listed in columns a and b of item 13 of" and insert in their place "required to be reported on the."

c. In paragraph (b)(2)(ii), remove the words "shown in item 14 of" and insert in their place "required to be reported on the."

d. In paragraph (b)(3), remove the words "information contained in items 13 and 14 of" and insert in their place "assets, liabilities, income, expenses and changes in net assets as required to be reported on the."

e. In paragaph (d), remove the words "Forms 5500-C, K, or R" and insert in their place "Forms 5500-C, or R."

f. In paragraph (e), in the first sentence, remove the reference to "5500-K."

4. Section 2520.103-2 is amended by revising paragraph (b)(1) to read as follows:

§ 2520.103-2 Contents of the annual report for a group insurance arrangement.

* * * * *

(b) * * *

(1) A completed Form 5500 "Annual Return/Report of Employee Benefit Plan (with 100 or more participants)" and any statements or schedules required to be attached to the form, including Schedule A "Insurance Information," Schedule C "Service Provider/Trustee/Service Provider Termination Information," and the financial schedules described in § 2520.103-10. *See* the instructions ("What to File" and "Specific Instructions") for this form.

* * * * *

5. Section 2520.103-2 is further amended as follows:

a. In paragraph (b)(2)(i), in the second sentence, remove the words "listed in columns a and b of item 13 of" and insert in their place "required to be reported on the."

b. In paragraph (b)(2)(ii), remove the words "shown in item 14 of" and insert in their place "required to be reported on the."

c. In paragraph (b)(3), remove the words "information contained in items 13 and 14 of" and insert in their place "assets, liabilities, income, expenses and changes in net assets as required to be reported on the."

6. Section 2520.103-6 is amended by revising paragraph (c)(1) introductory text, adding paragraph (c)(4), and revising paragraph (e) to read as follows:

§ 2520.103–6 Definition of reportable transaction for annual return/report.

* * * * *

(c) *Application.* (1) Except as provided in paragraph (c)(4) of this section, this provision applies to—

* * * * *

(4) For plan years beginning on or after January 1, 1988, 5 percent shall be substituted for 3 percent in paragraphs (c) (1) and (2) of this section for purposes of determining whether a transaction or series of transactions constitutes a reportable transaction under this section.

* * * * *

(e) *Examples.* These examples are effective for reporting for plan years beginning on or after January 1, 1988.

(1) At the beginning of the plan year, XYZ plan has 10 percent of the current value of its plan assets invested in ABC common stock. Halfway through the plan year, XYZ purchases ABC common stock in a single transaction in an amount equal to 6 percent of the current value of plan assets. At about this time, XYZ plan also purchases a commercial development property in an amount equal to 8 percent of the current value of plan assets. Under paragraph (c)(1)(i) of this section, the 6 percent stock transaction is a reportable transaction for the plan year because it exceeds 5 percent of the current value of plan assets. The 8 percent land transaction is also reportable under paragraph (c)(1)(i) of this section because it exceeds 5 percent of the current value of plan assets.

(2) During the plan year, AAA plan purchases a commercial lot from ZZZ corporation at a cost equal to 2 percent of the current value of the plan assets. Two months later, AAA plan loans ZZZ corporation an amount of money equal to 3.5 percent of the current value of plan assets. Under the provisions of paragraph (c)(1)(ii) of this section, the plan has engaged in a reportable series of transactions with or in conjunction with the same person, ZZZ corporation, which when aggregated involves 5.5 percent of plan assets.

(3) During the plan year NMN plan sells to OPO corporation a commercial property that represents 3.5 percent of the current value of plan assets. OPO simultaneously executes a note and mortgage on the purchased property to NMN which represents 3 percent of the current value of plan assets. Under the provisions of paragraph (c)(1)(ii) of this section, NMN has engaged in a reportable series of transactions with or in conjunction with the same person, OPO corporation, consisting of a simultaneous sale of property and a loan, which, when aggregated, involves 6.5 percent of the current value of plan assets.

(4) At the beginning of the plan year, ABC plan has 10 percent of the current value of plan assets invested equally in a combination of XYZ Corporation common stock and XYZ preferred stock. One month into the plan year, ABC sells some of its XYZ common stock in an amount equal to 2 percent of the current value of plan assets.

(i) Six weeks later the plan sells XYZ preferred stock in an amount equal to 4 percent of the current value of plan assets. A reportable series of transactions has not occurred because only transactions involving securities of the same issue are to be aggregated under paragraph (c)(1)(iii) of this section.

(ii) Two weeks later when the ABC plan purchases XYZ common stock in an amount equal to 3.5 percent of the current value of plan assets, a reportable series of transactions under paragraph (c)(1)(iii) of this section has occurred. The sale of XYZ common stock worth 2 percent of plan assets and the purchase of XYZ common stock worth 3.5 percent of plan assets aggregate to exceed 5 percent of the total value of plan assets.

(5) At the beginning of the plan year, Plan X purchases through broker-dealer Y common stock of Able Industries in an amount equal to 6 percent of plan assets. The common stock of Able Industries is not listed on any national securities exchange or quoted on NASDAQ. This purchase is a reportable transaction under paragraph (c)(1)(i) of this section. Three months later, Plan X purchases short term debt obligations of Charley Company through broker-dealer Y in the amount of 0.2 percent of plan assets. This purchase is also a reportable transaction under the provisions of paragraph (c)(1)(iv) of this section.

(6) At the beginning of the plan year, Plan X purchases from Bank B certificates of deposit having a 180 day maturity in an amount equal to 6 percent of plan assets. Bank B is a national bank regulated by the Comptroller of the Currency. This purchase is a reportable transaction under paragraph (c)(1)(i) of this section. Three months later, Plan X purchases through Bank B 91-day Treasury bills in the amount of 0.2 percent of plan assets. This purchase is not a reportable transaction under paragraph (c)(1)(iv) of this section because the purchase of the Treasury bills as well as the purchase of the certificates of deposit are not considered to involve a security under the definition of "securities" in paragraph (b)(2)(ii) of this section.

(7) At the beginning of the plan year, Plan X purchases through broker-dealer Y common stock of Able Industries, a New York Stock Exchange listed security, in an amount equal to 6 percent of plan assets. This purchase is a reportable transaction under paragraph (c)(1)(i) of this section. Three months later, Plan X purchases through broker-dealer Y, acting as agent, common stock of Baker Corporation, also a New York Stock Exchange listed security, in an amount equal to 0.2 percent of plan assets. This latter purchase is not a reportable transaction under paragraph (c)(1)(iv) of this section because it is not a transaction "with or in conjunction with a person" pursuant to paragraph (b)(3)(ii) of this section.

7. Section 2520.103–6 is further amended in paragraph (b)(1)(ii) by removing the words "on line 13(h) of Form 5500 Annual Return/Report" and insert in their place "as total assets on Form 5500 Annual Return/Report."

8. Section 2520.103–10 is revised to read as follows:

§ 2520.103–10 Annual Report Financial Schedules.

(a) *General.* The administrator of a plan filing an annual report pursuant to 29 CFR 2520.103–1(a)(2) or the report for a group insurance arrangement pursuant to 29 CFR 2520.103–2, shall, as provided in the instructions to the Form 5500 "Annual Return/Report of Employee Benefit Plan (with 100 or more participants)", include as part of the annual report the separate financial schedules described in paragraph (b) of this section.

(b) *Schedules—(1) Assets held for investment.* A schedule of all assets held for investment purposes at the end of the plan year (see 29 CFR 2520.103–11).

(2) *Assets acquired and disposed within the plan year.* A schedule of all assets acquired and disposed of within the plan year (see 29 CFR 2520.103–11).

(3) *Party in interest transactions.* (i) Except as provided in paragraph (b)(3)(ii) of this section, a schedule of each transaction involving a person known to be a party in interest.

(ii) Do not include—

(A) A transaction to which a statutory exemption under part 4 of Title I applies;

(B) A transaction to which an administrative exemption under section 408(a) of the Act applies; or

(C) A transaction to which the exemptions of section 4975(c) or 4975(d) of the Internal Revenue Code of 1954, as amended, applies.

(4) *Obligations in default.* A schedule of all loans or fixed income obligations which were in default as of the end of the plan year or were classified during the year as uncollectible.

(5) *Leases in default.* A schedule of all leases which were in default or were classified during the year as uncollectible.

(6) *Reportable transactions.* A schedule of all reportable transactions as defined in § 2520.103–6.

9. Section 2520.104–22 is amended by revising paragraph (c) to read as follows:

§ 2520.104–22 Exemption from reporting and disclosure requirements for apprenticeship and training plans.

* * * * *

(c) *Filing Address.* The notice referred to in paragraph (a) of this section shall be filed with the Secretary of Labor by mailing it to: Apprenticeship and Training Plan Exemption, Pension and Welfare Benefits Administration, Room N–5644, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, or by delivering it during normal working hours to the Division of Reports, Office of Program Services, Pension and Welfare Benefits Administration, Room N–5644, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC.

10. Section 2520.104–23 is amended by revising paragraph (c) to read as follows:

§ 2520.104–23 Alternative method of compliance for pension plans for certain selected employees.

* * * * *

(c) *Filing Address.* Statements may be filed with the Secretary of Labor by mailing them addressed to: Top Hat Plan Exemption, Pension and Welfare Benefits Administration, Room N–5644, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, or by delivering it during normal working hours to the Division of Reports, Office of Program Services, Pension and Welfare Benefits Administration, Room N–5644, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC.

* * * * *

11. Section 2520.104–41 is amended by revising paragraph (c) to read as follows:

§ 2520.104–41 Simplified annual reporting requirements for plans with fewer than 100 participants.

* * * * *

(c) *Contents.* The administrator of an employee pension or welfare benefit plan which covers fewer than 100 participants shall file a Form 5500–C "Return-Report of Employee Benefit Plan (with fewer than 100 participants)," or, as appropriate, a Form 5500–R "Registration Statement of Employee Benefit Plan (with fewer than 100 participants)," in the manner prescirbed in § 2520.104a–5.

12. Section 2520.104–46 is amended by revising paragraph (d) to read as follows:

§ 2520.104–46 Waiver of examination and report of an independent qualified public accountant for employee plans with fewer than 100 participants.

* * * * *

(d) *Limitations.* (1) The waiver described in this section does not affect the obligation of a plan described in paragraph (b) (1) or (2) of this section to file a Form 5500–C or, as appropriate, Form 5500–R and all schedules called for therein. *See* § 2520.104–41.

(2) This section does not apply to a plan which elects to file an Annual Return/Report Form 5500 pursuant to § 2520.103–1(d).

13. Section 2520.104a–3 is amended by revising paragraph (d) to read as follows:

§ 2520.104a–3 Summary plan description.

* * * * *

(d) *Filing Address.* The summary plan description shall be filed with the Secretary of Labor by mailing it to SPD, Pension and Welfare Benefits Administration, Room N–5644, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, or by delivering it during normal working hours to Room N–5644, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC.

* * * * *

14. Section 2520.104a–4 is amended by revising paragraph (c) to read as follows:

§ 2520.104a–4 Material modifications to the plan and changes in plan description information.

* * * * *

(c) *Filing Address.* The summary description of material modifications to the plan and changes in the information required by section 102(b) shall be filed with the Secretary of Labor by mailing it to SMM, Pension and Welfare Benefits Administration, Room N–5644, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, or by delivering it during normal working hours to Room N–5644, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC.

§ 2520.104b–10 [Amended]

15. Section 2520.104b–10 is amended by revising the Appendix summary annual report cross-reference guide as follows:

APPENDIX—THE SUMMARY ANNUAL REPORT (SAR) UNDER ERISA A CROSS-REFERENCE TO THE ANNUAL REPORT

SAR item	Form 5500 line items	Form 5500–C line items
A. Pension Plan		
1. Funding arrangement	11 & 12	11 & 12.
2. Total plan expenses	35h	31j.
3. Administrative expenses	35g col.b	31h.
4. Benefits paid	35e(iii) col.b	31g(ii) col.b.
5. Other expenses	35f	31i.
6. Total participants	7(f)	7(a)(ii).
7. Value of plan assets (net):		
a. End of plan year	35l	30k col.b.
b. Beginning of plan year	35k	30k col.a.
8. Change in net assets	35l minus 35k	30k col.b minus col.a.
9. Total income	35d	31f.
a. Employer contributions	35a(i)(A) & 35a(ii) if applicable	31a(j) & 31(b) if applicable.
b. Employee contributions	35a(i)(B) & 35a(ii) if applicable	31a(ii) & 31b if applicable.
c. Gains (losses) from sale of assets	35b(iv) col.b	31d.
d. Earnings from investments	35b(i)G col.b, 35b(ii)B col.b, 35b(iii), 35b(v), & 35b(vi)	31c.
10. Total insurance premiums	35e(ii) or total of Schs. A Part II, item 5(b)	Total of Schs. A, Part II, item 5(b).
11. Funding deficiency:		
a. Defined benefit plans	Sch. B, item 9m or 10h	Sch. B, item 9m or 10h.
b. Defined contribution plans	15b(iii)	15b(iii)

APPENDIX—THE SUMMARY ANNUAL REPORT (SAR) UNDER ERISA A CROSS-REFERENCE TO THE ANNUAL REPORT—Continued

SAR item	Form 5500 line items	Form 5500–C line items
B. Welfare Plan		
1. Name of insurance carrier	All Schs. A, Part I, item 2a	All Schs. A, Part I, item 2a.
2. Total insurance premiums	All Schs. A, Part III, total of item 8c	All Schs. A, Part III, total of item 8c.
3. Experience-rated premiums	All Schs. A, Part III, item 9a(iv)	All Schs. A, Part III, item 9a(iv).
4. Experience-rated claims	All Schs. A, Part III, item 9b(iv)	All Schs. A, Part III, item 9b(iv).
5. Value of plan assets (net):		
a. End of plan year	35l	30k col.b.
b. Beginning of plan year	35k	30k col.a.
6. Change in net assets	35l minus 35k	30k col.b minus col.a.
7. Total income	35d	31f.
a. Employer contributions	35a(i)(A) & 35a(ii) if applicable	31a(i) & 31b if applicable.
b. Employee contributions	35a(i)(B) & 35a(ii) if applicable	31a(ii) & 31b if applicable.
c. Gains (losses) from sale of assets	35b(iv) col.b	31d.
d. Earnings from investments	35b(i)(G) col.b, 35b(ii)(B) col.b, 35b(iii), 35b(v), and 35b(vi).	31c.
8. Total plan expenses	35h	31j.
9. Administrative expenses	35g col.b	31h.
10. Benefits paid	35e(iii) col.b	31g(ii) col.b

Signed at Washington, DC, this 23rd day of February, 1989.

David M. Walker,

Assistant Secretary for Pension and Welfare Benefits Administration, U.S. Department of Labor.

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DEPARTMENT OF THE TREASURY

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

PENSION BENEFIT GUARANTY CORPORATION

Revision of Annual Information Return/Reports

AGENCIES: Department of the Treasury, Department of Labor, and Pension Benefit Guaranty Corporation.

ACTION: Notice of adoption of revised forms.

SUMMARY: This document contains revised annual return/report forms (Form 5500 Series) filed by administrators of employee pension and welfare benefit plans under the Employee Retirement Income Security Act of 1974, as amended (ERISA), and the Internal Revenue Code of 1986 (the Code). The revised forms affect the financial and other information required to be reported and disclosed by employee benefit plans filing the Form 5500 Annual Return/Report of Employee Benefit Plan (with 100 or more participants), Form 5500–C Return/Report of Employee Benefit Plan (with fewer than 100 participants), From 5500–R Registration Statement of Employee Benefit Plan (with fewer than 100 participants), and the statements and schedules required to accompany the forms (collectively, the Form 5500 Series). The Form 5500–EZ is not included as part of this publication.

EFFECTIVE DATE: The revised forms are effective for plan years beginning on or after January 1, 1988.

FOR FURTHER INFORMATION CONTACT: George M. Holmes, Jr. or Ronald D. Allen, Pension and Welfare Benefits Administration, U.S. Department of Labor, (202) 523–8515, for questions relating to fiduciary, prohibited transaction, bonding, service provider, financial and insurance information items.

Mark O'Donnell, Employee Plans Technical and Actuarial Division, Internal Revenue Service, (202) 566–6395, or George Basta, Tax Forms, Internal Revenue Service, (202) 566–3895, for questions relating to financial and qualification (e.g., discrimination, participation, vesting, minimum funding standards, distributions) information items.

Emerson Beier, Pension Benefit Guaranty Corporation, (202) 778–8851, for questions relating to information items involving Title IV of ERISA.

The telephone numbers given above are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

On September 19, 1986, the Internal Revenue Service, Department of Labor and Pension Benefit Guaranty Corporation (the Agencies) published in the **Federal Register** (51 FR 33500) a notice of proposed revisions to the Form 5500 Series. Written comments were solicited from interested members of the public on the Agencies' proposed revisions to the forms. Pursuant to the same September 19, 1986 notice appearing in the **Federal Register**, the Agencies also held a public hearing on October 22, 1986 for the purpose of allowing interested parties the opportunity to present oral testimony, and written comments, on the proposed forms revisions.

Upon consideration of the written comments and the record of the public hearing, as well as the Agencies' respective administrative and enforcement informational needs, the Agencies have decided to adopt the Form 5500 Series contained in this notice for plan years beginning on or after January 1, 1988.[1]

II. Overview of Forms Revisions

The following is a summary of the major changes to the 1987 Form 5500 Series which are being adopted by the Agencies for plan years beginning on or after January 1, 1988.

A. Form 5500

The Form 5500 is filed by employee benefit plans with 100 or more participants. In addition to eliminating a number of information items and making certain format and item numbering changes, changes to the Form 5500 include: (1) A request for CUSIP number, if one has been assigned to the sponsor of a single employer plan or plan of a controlled group of corporations or common control employers (item 1e); (2) the expanded utilization of check boxes and identifier codes to allow more specific plan characteristics information (items 6, 11 and 12); (3) with regard to collectively bargained plans, a request for the six digit labor-management disclosure file number(s) utilized by sponsoring labor organization(s) in filing LM–2 or LM–3 (item 13b); (4) modifications to the financial statements, which include a more detailed break-out of administrative expenses, limiting the reporting of party in interest investments by increasing reliance on the disclosures in the accountant's report, consolidated reporting of interests in common/collective trusts, master trusts, pooled separate accounts, registered investment companies, and 103–12 investment entities, and changes which are intended to more closely conform the reporting of financial information with FASB standards (items 34 and 35); (5) raising the payment threshold for the reporting of service provider information to $5,000 in a plan year (item 28a); (6) the reporting of service provider information, trustee information and accountant/actuary termination information on Schedule C (a new schedule for the 1988 plan year); (7) a requirement that a terminated accountant and actuary be furnished a copy of the reported reasons for the termination and a notice of their right to send comments to the Department of Labor (the notice is set forth in the instructions) (item 28f and Schedule C); (8) an increase in the threshold for reportable transactions from 3 percent to 5 percent (item 30d); and (9) a new question, designed to ensure compliance with the required distribution rules, asking if the plan has received transfers or rollovers with respect to a participant who has attained age 70½ (item 17).

B. Form 5500–C

The Form 5500–C is required to be filed, at least every third year, by plans with fewer than 100 participants. In the two intervening years, Form 5500–C filers may file a Form 5500–R in lieu of the Form 5500–C.[2] In addition to eliminating certain information items and making certain numbering and format changes, changes to the Form 5500–C include: (1) A request for the CUSIP number, if one has been assigned to the sponsor of a single employer plan or plan of a controlled group of corporations or common control employers; (2) the expanded utilization of check boxes and identifier codes to allow more specific plan characteristics information (items 6, 11 and 12); (3) changes to the statements of assets, liabilities, income and expense; (4) elimination of service provider termination information (1987 Form 18a,

[1] For purposes of Title I of ERISA, the filing of the Form 5500 Series, in accordance with instructions thereto, by the administrator of the plan constitutes compliance with the limited exemption and alternative method of compliance prescribed in 29 CFR § 2520.103–1, promulgated in accordance with the authority granted the Secretary of Labor under sections 104(a)(3) and 110 of ERISA.

[2] Certain one-participant pension benefit plans required to file annual returns under the Internal Revenue Code, but not under Title I of ERISA, can satisfy the filing requirements by filing the Form 5500–EZ, rather than the Form 5500–C and Form 5500–R.

b and c); (5) elimination of contract administrator information (1987 Form 18d); (6) elimination of party-in-interest transaction schedule (1987 Form item 19a); and (7) elimination of listing of all fiduciaries (1987 Form 23).

C. Form 5500–R

The Form 5500–R may be filed in lieu of the Form 5500–C by plans with fewer than 100 participants for those plan years for which a Form 5500–C is not required to be filed. The major changes to the Form 5500–R include: (1) A requirement that certain basic financial information be reported concerning the plan, i.e., total assets, liabilities, and net assets at the beginning and ending of the plan year, total income and expense for the plan year, net income (loss), plan contributions and total benefits paid during the plan year (items 13 and 14); (2) an increase in the number of yes/no questions and, in cases where a "yes" response is indicated, the entry of the dollars involved may be required (item 15); (3) a request for more specific plan characteristics information (items 4 and 6); and (4) addition of an item concerning PBGC covered plans that have terminated, in order to be consistent with the other forms (item 8c).

D. Schedules A, B and C

1. Schedule A (Insurance Information). The Schedule A is required to be filed by plans if any benefits under the plan are provided by an insurance company, insurance service, or other similar organization (such as Blue Cross, Blue Shield, or a health maintenance organization). A notice has been added to the top of the Schedule A referencing the statutory obligation of insurance companies, carriers and services under section 103(a)(2) to provide that information necessary to enable the administrator to comply with the reporting requirements. Section 103(a)(2) provides that such imformation must be furnished within 120 days after the end of the plan year. The instructions to the Schedule A have been revised to clarify that a policy or contract year cannot exceed 12 months. The instructions also have been revised to clarify that commissions and fees to be reported on the Schedule A include amounts paid by company on the basis of the aggregate value of contracts or policies (or classes thereof) placed or retained by agents and brokers.

2. Schedule B (Actuarial Information). The Schedule B is required to be filed by defined benefit plans subject to the minimum funding standards. Changes to the Schedule B include the requirement that amortization charges be broken out between those attributable to funding waivers (item 9c(i)) and those attributable to other than funding waivers (item 9c(ii)). The unamortized outstanding balance is similarly required to be broken out. There is a new instruction to item 9j to clarify that a funding waiver request(s) pending with the IRS is not to be reported in this item until the waiver(s) is granted.

Lines 6(d) (i) through (iii) are changed to require completion by plans with fewer than 100 participants as well as plans with 100 or more participants. Line 12h has been changed to ask for the rate of return on plan assets for the year ending on the valuation date. The table of codes for mortality tables in the instructions to 12b has been expanded to include additional tables. The instructions for the statement by the enrolled actuary have been revised to provide that the enrolled actuary must sign the Schedule B; however, such signature may be subject to permitted qualifications. Also, the instructions now explicitly state that a stamped or machine-produced signature is not acceptable.

3. Schedule C (Service Provider and Trustee Information). The Schedule C is a new schedule for plan years beginning on or after January 1, 1988. The information required to be reported on the Schedule C includes: service provider information previously required to be reported on the Form 5500 (See: 1987 Form 5500 item 12), however, the threshold amount for reporting information concerning a service provider has been raised from $600 in a plan year to $5000 in a plan year; trustee information; and information relating to the termination of certain service providers (i.e., accountant, enrolled actuary, insurance carrier, custodian, administrator, investment manager, trustee; See: 1987 Form 5500 items 15a, b and c). The Schedule C is required to be filed only by those plans required to file the Form 5500 (plans with 100 or more participants).

III. Summary of Comments on Proposed Forms

The Agencies received a number of comments, suggestions and recommendations concerning the revisions to the Form 5500 Series published in the **Federal Register** on September 19, 1986 (51 FR 33500). In general, most commentators, while supporting the Agencies' efforts to simplify the forms and reduce burden hours, expressed the view that the proposed forms continued to be too detailed and complex and, if implemented, would not result in significant reductions in burden hours or costs. A number of commentators suggested modifications to the reporting requirements which would, in the view of the Agencies, require legislative changes to implement (e.g., increasing the threshold for simplified reporting from 100 participants to 250 or 500 participants, and the elimination of certain schedules required to accompany the annual report, such as the schedule of "assets held for investment") and, accordingly, are beyond the scope of this forms revision initiative. Other commentators questioned, generally and specifically, the need and/or usefulness of the information required to be reported on the forms. Many commentators, recognizing the need for certain information, submitted recommendations and suggestions for simplifying and/or clarifying the forms generally, specific items on the forms, and the instructions to the forms.

As explained in the Supplementary Information section accompanying the Agencies' September 19, 1986 **Federal Register** publication of the proposed revisions to the Form 5500 Series, the Form 5500 Series is the principal source of information and data concerning the operations of 900,000 employee benefit plans, covering an estimated 58 million participants and beneficiaries with assets estimated at $1.4 trillion. Accordingly, the Form 5500 Series information and data necessarily constitute an integral part of each Agency's enforcement, research and policy development programs. The return/reports also serve as the primary means by which the operations of plans can be monitored by participants, beneficiaries and the general public. The ability of the Agencies to effectively and efficiently utilize information reported on the Form 5500 Series, as well as the importance of filers reporting complete and accurate annual report information, will increase significantly with the implementation of a new ERISA database system for processing, analyzing and verifying the Form 5500 Series. While the Agencies were unable to adopt all the submitted suggestions and recommendations for simplification of the forms, the Agencies, in an effort to facilitate both compliance with the annual reporting requirements and the processing of annual reports, have made certain format changes to the forms and, in response to comments, have attempted to clarify the instructions accompanying the forms. In addition, the Agencies are exploring various means by which to provide general information and technical guidance on completing the Form 5500 Series to

assist filers in carrying out their statutory annual reporting obligations.

In addition to a number of general comments relating to the statutory and regulatory annual reporting scheme, the Agencies received a number of comments relating to specific elements of the proposed revisions to the Form 5500 Series. The following is a form by form, subject by subject, summary of the major comments received by the Agencies on the September 19, 1986 proposed revisions. To avoid having to duplicate comments, and discussions thereof, comments relating to items common to more than one form will be addressed only with respect to the first form and/or item to which the comment relates.

A. Form 5500

1. Identification, Plan Characteristics, Participant, and Other General Information Items

a. *General.* A few commentators suggested that identification and certain other information which rarely changes from year to year be simplified and, other than basic identification information, should not be required to be reported annually. The Agencies believe that these suggestions have merit and, while it is not administratively possible to implement the suggestions for the 1988 plan year filings, the Agencies are exploring means by which to limit the annual reporting of such information, after the information is on file, to only that information which actually changes in a given year.

A number of commentators suggested that the signature line should remain on the first page of the forms, rather than the last page as contemplated by the proposed revisions to the forms. The commentators believe that including the signature line on the first page of the forms reduces the likelihood of the signature being omitted from the forms. In an effort to reduce the number of forms rejected for a lack of signature, the Agencies decided to adopt this suggestion.

b. *CUSIP number (item 1e).* A number of commentators indicated that while providing the CUSIP number is not complex, obtaining such numbers may be time consuming, particularly for large multiemployer plans. Because the CUSIP number will both facilitate identification of plans sponsored by a controlled group of employers and afford the Agencies ready access to other data base systems containing employer financial information, the Agencies have decided to retain this item on the forms. However, the Agencies are limiting the plans required to respond to this item to single employer plans and plans of a controlled group of corporations or common control employers.

c. *Identifier and plan characteristics codes (items 3c–g of proposed form/ items 4, 6, 11, and 12 of final form).* A number of commentators indicated that the use of identifier and other codes, which require reference to the instructions to the forms, is more complicated than the check box approach utilized in the current forms and, thus does not simplify preparation, particularly for manual filers. Commentators also expressed the view that the utilization of codes adversely affects disclosure of annual report information to participants and beneficiaries who, as a general matter, do not have ready access to the form instructions. Having considered these comments, the Agencies have decided to limit their utilization of identifier and plan characteristics codes at this time. In general, the final forms reflect an expanded utilization of check boxes for purposes of identifying the type of benefits provided (e.g., dental, vision, prepaid legal, severance, uninsured death benefits, etc.) and other plan features (e.g., leveraged ESOP, common/ collective trust, etc.). However, the Agencies have adopted the utilization of identifier codes for purposes of identifying how the plan is funded (e.g., trust, insurance, general assets of employer) and how benefits are provided (e.g., trust, insurance, general assets of employer).

d. *Total participant information (item 5a of proposed form/item 7a–f of final form).* As proposed, this item merely required the reporting of total participants as of the beginning and end of the plan year. Some commentators indicated that a requirement to count participants at the beginning of the plan year would be unduly burdensome for many multiemployer plans. The Agencies, in response, have decided to drop this requirement. Another commentator indicated that the deletion of detailed participant count information, as is currently required, concerning the number of vested, nonvested, etc., participants would result in the loss of valuable information. The Agencies are persuaded that, at least with respect to large plans, the current reporting of participant information does provide valuable information to both participants and beneficiaries and the Agencies. Accordingly, the Agencies have decided not to adopt the proposed change to this information item. Because the information requested should be readily available to plan administrators, not adopting the proposed change should not result in any significant burden increases.

With regard to the same item, one commentator indicated that it was unclear as to whether "alternate payees" entitled to benefits under a qualified domestic relations order should be counted as participants. In response to this comment, the Agencies have modified the instruction to item 7 to make it clear that, for purposes of item 7, alternate payees should not be counted as participants. Another commentator indicated that the participant count for purposes of item 7 should not included non-vested participants who are separated from service. The Agencies disagree and maintain the requirement, revised to reflect statutory changes, that non-vested participants should be counted as participants until after the breaks in service period for purposes of Form 5500 Series and related schedules. PBGC uses a different approach for premium purposes. In response to similar questions concerning individuals entitled to group health continuation coverage benefits, the Agencies have modified the instructions to item 7b, concerning retired or separated participants receiving benefits, to clarify that former employees receiving continuation coverage benefits under a group health plan must be counted as participants.

e. *LM numbers (item 7b of proposed form/item 13b of final form).* Several commentators indicated that for multiemployer plans, particularly national plans which may have a large number of sponsoring labor organizations, obtaining LM numbers for sponsoring labor organizations would be time consuming, costly, and without any apparent use to the Agencies. The furnishing of the LM number on the annual return/report form provides the Agencies with the means to easily access information filed on Forms LM–2 and LM–3 (Labor Organization Annual Report) filed with the Department of Labor. The ability to access such information provides the Agencies with a valuable tool for reviewing the operations and activities of related multiemployer and union affiliated plans. While the Agencies recognize that there may be some burdens attributable to the furnishing of LM numbers, the Agencies believe that the burdens are essentially a one-time burden and, because the information should be readily available from the sponsor labor organizations, any burdens and costs attendant to gathering the information should be relatively small. Accordingly,

the Agencies have decided to retain this item on the final form.

f. *Summary plan description (SPD) (item 9c and d of proposed form/item 8d and e of final form).* The SPD item is required to be answered where there has been a plan amendment during the plan year. This item inquires whether the amendment changes the information contained in the SPD disclosures and, if so, whether disclosures reflecting the amendment have been furnished to participants and beneficiaries and filed with the Department of Labor. One commentator questioned the need for what appeared to be essentially a remainder question on SPDs. Two commentators recommended that the question be expanded to request the dates on which the SPD disclosures were furnished to participants and beneficiaries. Because of the importance of updated summary plan description information to participants and beneficiaries, the Department of Labor believes that the SPD item is important because, among other things, it does serve to remind plan administrators of their SPD disclosure obligations under ERISA, while imposing virtually no burden on filers. The Department does not believe, however, that expanding the question to include distribution dates is necessary to accomplish the objectives of the question and would result in imposing additional filer burdens. Accordingly, this item is being adopted as proposed.

g. *Number of Schedule A's (item 8 of proposed form/item 14 of final form).* This item requires the entry of the number of Schedule A's accompanying the filing. A number of commentators questioned the need for this item when the answer is easily obtained by counting the number of attachments. This item serves both to provide a means by which the filer can verify that all Schedule A's are being attached and, most importantly, a means by which the Agencies can ensure that all Schedule A's are received, processed and maintained with the appropriate annual return/report. Because such verification information is important, from a processing standpoint, where there is a great likelihood of multiple attachments, a similar question has been added to the final form with respect to Schedule C attachments (See: item 28g).

h. *PBGC coverage information (items 6e–g of proposed form/items 9g and 33a–b of final form).* Plans are required to report (1) whether they are covered under the PBGC termination insurance program, (2) if the plan has terminated and it is covered, whether it is continuing to file a PBGC Form 1 (Form 1–ES, if applicable) and pay premiums until the end of the plan year in which assets are distributed or brought under the control of PBGC, and (3) if the plan is covered or this is "not determined," the employer identification number and plan number used to identify the plan. One comment recommended that the item concerning filing of the PBGC Form 1 and payment of premiums by terminated, covered plans should be eliminated since it is only a reminder item. The Agencies have decided that this reminder is valuable in assuring that these premiums are paid and therefore the item is retained. Two comments recommended that the item requesting the employer identification number and plan number should be eliminated since it would be used infrequently. The Agencies have decided to retain this item, since it provides a valuable way to link Form 5500 and PBGC Form 1 information on covered plans and should not be a significant burden on plans.

2. Financial Statements and Related Items

a. *Statement of assets and liabilities (item 17 of proposed form/item 34 of final form).* A number of commentators questioned the need for the required detailed breakdowns of assets, and the corresponding components of income. One commentator suggested that the requested asset information is available to the Agencies in the schedule of assets held for investment accompanying the Form 5500. Other commentators questioned the absence or elimination of certain asset categories (e.g., options, futures, foreign investments, state and municipal securities). The Agencies have carefully reviewed their information needs with respect to the financial statements and that information necessary to adequately monitor the basic financial condition, investment activity, rates of return on certain investment categories, and diversification of assets of plans. In addition, the Agencies reviewed general accounting standards and practices with respect to the preparation of financial statements. On the basis of these reviews, the Agencies have decided to adopt the statement of assets and liabilities and the income and expense statements, essentially as proposed. As discussed below, however, modifications to certain items and instructional clarifications with respect to others have been adopted in response to public comment on the September 1986 proposed forms revisions.

The Department of Labor notes that the statement of assets held for investment, which is required to accompany the Form 5500, does provide information concerning certain assets held by a plan as of the end of the plan year, and acquisitions and dispositions of certain assets during the plan year; however, not all assets are required to be included as part of that schedule and the reported assets are not required to be aggregated by asset type on the schedule (*See:* 29 CFR 2520.103–11 and instructions to the Form 5500). Accordingly, while the schedule of assets held for investment provides valuable information concerning certain plan investments, it does not serve to provide a complete or consolidated composite of a plan's financial status or investment activity and, therefore, does not, in contrast to the required asset and income statements, lend itself to providing adequate information for analysis by the Agencies or disclosure to participants and beneficiaries.

One commentator indicated that it is not uncommon for a particular plan participating in a master trust to hold 100 percent participation in one particular master trust asset and suggested that a plan holding such an asset should be permitted to report that asset as a line-item asset on the Form 5500, rather than having to treat the asset as a separate master trust investment account. Because it appears that this suggestion would result in simplified reporting without affecting the integrity of the information required to be reported, the Agencies have modified the instructions relating to master trust reporting to permit the reporting of an asset(s) in a master trust which is held solely by a single plan to be reported either as a master trust investment account or as a line-item asset on the plan's Form 5500.

One commentator suggested, by reference to the limited reporting requirements for arrangements covered under sections 403(b)(1) and 403(b)(7) of the Internal Revenue Code and arrangements fully funded with allocated insurance contracts, that similar exemptions should be allowed for profit sharing and money purchase plans where assets are invested in individual, fully vested mutual fund accounts or insurance company contracts where the participant is allowed to select from a group of available investment choices. The commentator indicates that such exemption would reduce administrative burdens and that the confirmation statements provided by the mutual fund/insurance company would serve as adequate disclosure to plan participants. The Agencies have not adopted this suggestion. While the Agencies believe

that individual account status statements do provide valuable information to participants and beneficiaries, the Agencies also believe that such disclosure in and of itself does not provide a sufficient basis for exempting individual participant directed-type arrangements from the general financial and other reporting requirements, which, among other things, serve to provide participants, beneficiaries and the Agencies with an overview of operations of such plans.

Other commentators suggested that the instructions be modified and/or clarified with respect to what constitutes an "allocated" insurance contract for annual reporting purposes. The clarification requested by the commentators relates to whether certain insurance contracts issued to individual participant account defined contribution plans, pursuant to which the insurance company guarantees with respect to each participant account amounts contributed, a credited interest rate and the payment of retirement benefits, are allocated or unallocated contracts for purposes of the limited exemption from annual reporting, promulgated by the Department of Labor, at 29 CFR § 2520.104–44. Section 2520.104–44 essentially permits pension plans the benefits of which are provided exclusively through allocated insurance contracts or policies, pursuant to the specific terms of which benefit payments are fully guaranteed, to be treated as fully insured plans for purposes of the annual reporting requirements (*See*: Paragraphs (b)(2) and (c) of § 2520.104–44). Plans meeting the requirements of § 2520.104–44 are, among other things, exempt from the requirements to report certain financial information on the annual report (e.g., assets, liabilities, income and expenses), the requirement to engage an independent qualified public accountant, and the requirement to include the report of such accountant as part of the annual report. It has long been the view of the Department of Labor, in interpreting the application of § 2520.104–44, that, for annual reporting purposes, "allocated" contracts include only those contracts under which an insurance company immediately assumes upon receipt of contributions or premiums fixed dollar obligations to provide the retirement benefit specified in the plan, which is payable without adjustment for fluctuations in the market value of the underlying assets (i.e., an unconditional guarantee by the insurer to provide a retirement benefit of a specified amount) and under which the participant or beneficiary obtains a legal right to such benefits which is enforceable directly against the insurance company. The reporting exemption provided by § 2520.104–44(b)(2) is premised on the fact that under such contracts the plan has effectively transferred the risk for the payment of benefits accrued to that date (i.e., the date of the contribution or premium payment) to the insurer and, accordingly, limited reporting is appropriate. The Department has not changed its views with regard to the term "allocated" contract for purposes of § 2520.104–44(b)(2). In this regard, the Department, in response to the issues raised by the commentators, has added a clarifying "note" to the general instructions (Section 2, Part B "What to File," Subpart 1 "Pension Benefit Plan"). In response to comments, the Agencies also have revised the instructions to the forms to clarify that the method for determining the value of unallocated contracts may be the same method utilized in determining the amount reported in item 6e of the Schedule A (*See*: instructions to item 34c(xiv)).

Also in response to comments, the Agencies have attempted to clarify, by example, investments which might be reported as "other" (*See*: instruction to item 34c(xiii)), and, under the liabilities portion of the statement, what constitutes a "benefit claims payable" (*See*: instruction to item 34g).

In an effort to simplify reporting, certain pooled investment arrangement line items appearing on the proposed Form 5500 (*See*: items 17c(v), re: shares of registered investment companies, and 17c(x)(A), (B), (C), and (D) re: values of interest in common/collective trusts, pooled separate accounts, master trusts and 103–12 investment entities, of the proposal) have been combined into a single line item "value of interest in certain investment arrangements" (*See* item 34c(xi) and instructions thereto of final form). A corresponding change was made to the income statement (*See*: item 35b(vi) "net investment gain (loss) from certain investment arrangements" and instructions thereto of final form). In this regard, the instructions to income item 35b(vi) are intended to clarify the reporting of income with respect to registered investment companies, i.e., registered under the Investment Company Act of 1940, as requested by one of the commentators. Finally, the Agencies have added an instruction to emphasize that the collectibility of receivables must be taken into account in valuing those assets (*See*: instruction to 34b). The value of employer contributions due to be received, for example, should also reflect appropriate allowances for collectibility. This would include such factors as the age of the receivable and the financial status of the employer, including the effect of any bankruptcy proceeding.

b. *Statement of income and expenses (item 18 of proposed form/item 35 of final form).* As explained above with respect to the statement of assets and liabilities, the Agencies have, with minor modifications and some clarifications, adopted the income and expense statements essentially as proposed. Those comments and changes relating to the income and expense statement which were not referenced in the above discussion are discussed below.

Some commentators suggested that, with regard to non-cash contributions, a disclosure be made on the form as to the nature of the contribution. The Agencies have not adopted this suggestion in view of the fact that such information is generally required to be disclosed in the accountant's opinion which is required to accompany the Form 5500 and which is required to be made available or furnished to participants and beneficiaries in response to a request to examine or receive a copy of the latest annual report of the plan (*See*: ERISA sections 104(b)(2) and (4)).

Other commentators suggested with respect to the expense statement that the "benefit payment" item be expanded to include a category for hardship withdrawals and transfers to individual retirement accounts. The Agencies have not adopted this recommendation. The Agencies believe that "benefit payment" expense item "other" (*See*: item 35e(iii)) is at this time sufficient for the reporting of benefit-related payments. However, in response to the suggestion of one commentator, reconciliation item (*See*: item 35j and related instruction) has been added to the form to account for the receipt and disbursement of those amounts which do lend themselves to being characterized as either contributions/investment income or administrative/benefit expenses (e.g., amounts received or disbursed as a result of a plan merger or spin-off, etc.). This item was added to minimize distortions in the benefit payment category and evaluating overall plan performance that might otherwise result from the receipt or disbursement of such amounts.

The majority of comments on the income/expense statement related to the detailed break out of administrative expenses (*See*: item 35g). Some commentators believed that the detailed break out of administrative expenses would be very useful. Other

commentators felt that such a break out was unnecessary and burdensome. A number of commentators suggested that the information was duplicative of the information required to be reported with respect to service providers on the Schedule C. The Agencies have adopted the administrative expense item (item 35g) as proposed. The Agencies believe that a specific break out of administrative expenses by the category of the expense (e.g., accounting fees, actuarial fees, legal fees, etc.) is critical to determining the overall reasonableness of the amounts paid for specific services. The information required to be reported with respect to service providers on the Schedule C relates only to service providers receiving $5,000 or more during the plan year; accordingly, not all administrative expenses relating to a particular category of expense would be available if the reporting of administrative expenses were limited to that information required to be reported on the Schedule C.

One commentator recommended that an item be added to determine the amount of administrative expenses paid by the plan sponsor, rather than the plan. The Agencies have adopted this suggestion in part by adding a new "yes/no" item (*See*: item 36) which asks whether any administrative expenses were paid by the employer sponsoring the plan. The Agencies believe that this item is sufficient to account for any distortions in administrative expenses that might otherwise result from a plan sponsor's payment of such expenses.

c. Party-in-interest transactions (items 21 a and b of proposed form/ items 29 c, d and 30 e, f of final form). As proposed, item 21a asked whether the notes to the financial statements accompanying the accountant's opinion disclose any transactions with parties-in-interest. If the answer to 21a is "yes," the amount involved in the transaction(s) was required to be reported in the appropriate category (e.g., securities other than qualifying employer securities, real estate other than qualifying employer real property, mortgages, etc.). Proposed item 21b asked whether the plan engaged in non-exempt transactions with parties-in-interest not reported in 21a, and if the answer is "yes" a schedule of such non-exempt transactions was required to be completed in accordance with the instructions. One commentator expressed concern that the proposed change resulted in requiring disclosure of only those party-in-interest transactions identified by the accountant. The commentator also indicated that moving the party-in-interest disclosures from the assets and liabilities section of the financial statements should be permitted only if all exempt and non-exempt transactions are required to be reported. Other commentators indicated that the proposed changes in the reporting of party-in-interest transactions might be more burdensome in view of the fact that only non-exempt transactions were required to be reported in prior years by Form 5500 filers and that, if the information was in the accountant's notes, it would be duplicative to also report the information on the forms.

The Agencies believe that the general appproach proposed with respect to the reporting of party-in-interest transactions does provide for adequate disclosure of such transactions. For instance, as the reporting alternative to the information currently reported in the existing asset column, information about specific party-in-interest transactions is required to be reported on lines 29 and 30 (including addition of 29(d) seeking the amount involved in transactions reported in 29(c), specific reporting of employer related securities and real estate on line 34(d), and identification by asterisk of party-in-interest transactions on the schedules required by lines 30 a, b, c, d, e, and f). Accordingly, the Agencies have, with some modification, adopted the same approach for purposes of the final form. Items 29 c and d of the final form have replaced item 21a(i)–(vii) of the proposed form. Item 29c, which appeared on the 1987 Form 5500 as item 22d, specifically asks for a "yes"/"no" response to whether the financial statements or notes to the financial statements accompanying the report disclose, among other things, significant real estate or other transactions in which the plan and the sponsor, plan administrator, employers or employer organizations are jointly involved, and whether the plan has participated in any related party transactions. This item is intended to conform to those disclosures typically included by the accountant in the financial statements or notes to such statements.

Item 29c provides, through a simple "yes"/"no" question, for the identification of certain significant transactions on the form which have been identified by a source independent of the plan administrator (i.e., the independent qualified public accountant), without imposing any measurable burdens on either the administrator or accountant. In lieu of requiring the detailed break-out of the transactions identified in the accountant's financial statements or notes, as in item 21a(i)–(vii), item 30d of the final form merely requires the reporting of the total amount of the transactions. The Agencies believe that the reporting of the total amount of such transactions will be sufficient to identify potential problems in this area. Item 21b of the proposed form required a schedule of only those non-exempt transactions not reported in the accountant's financial statements and/or notes. As pointed out by a couple of commentators, it is unlikely that the accountant's financial statements or notes would typically specify whether a party-in-interest transaction is subject to an exemption or not. Accordingly, the form has been modified to require that a schedule be completed by the plan administrator with respect to all non-exempt party-in-interest transactions during the plan year (including those involving publicly traded securities), whether or not such transactions have generally been identified in the accountant's financial statements or notes (*See*: items 30 e and f and related instructions).

The Agencies do not believe that a listing of all exempt transactions is necessarily useful as part of the annual report because the availability of each exemption is conditioned on the satisfaction of those conditions set forth in the exemption, as well as the accuracy of the representations made in connection with the granting of an individual exemption; accordingly, determining compliance with any given exemption would, in the absence of imposing significant reporting burdens on filer, be very difficult to determine through the annual reporting process. The Agencies have other means, which are more efficient and effective, by which to verify compliance with available exemptions.

3. Service Provider Information (Items 19 and 23 of Proposed Form/Item 28 of Final Form)

a. *Service providers receiving $5,000 or more in compensation.* Item 23 of the proposed form reflected the Agencies decision to increase the threshold amount for reporting service provider information from $600 in a plan year to $5,000 in a plan year. Many of the comments relating to the reporting of this information on the Schedule C supported the Agencies' proposed change. On the basis of these comments and the Agencies' continued belief that an increase in the compensation threshold will result in the reporting of more useful information to the Agencies, as well as participants and

beneficiaries, the Agencies are adopting this item without change (*See:* item 28a of the final form). The listing of service providers is reported in Part I of the new Schedule C.

b. *General termination in appointment information.* Items 19a–c of the proposed form are identical to the questions which appeared on the Form 5500 in prior years with respect to providing information on the termination of certain service providers to the plan. Items 19a–c specifically ask: whether there has been a termination of a trustee, accountant, insurance carrier, enrolled actuary, administrator, investment manager or custodian; for the identification of the terminated party (i.e., name, address and telephone number); for an explanation of the termination; and whether there are any outstanding material disputes or matters of disagreement concerning the termination. A number of commentators suggested that changes in service providers generally are undertaken for a variety of legitimate reasons in the normal course of plan administration and, therefore, questioned the need for such information. Other commentators indicated there was insufficient space allotted on the form to provide the requested information concerning terminated service providers.

The Agencies have decided to retain these questions without change for Form 5500 filers (*See*: items 28c–e of the final form). First, the Agencies note that section 103(c)(4) specifically mandates that an administrator include as part of the annual report an explanation for the termination of the persons delineated in item 28d. Second, while the Agencies recognize that changes in service providers can take place for a variety of legitimate reasons, the Agencies believe that the requested information, particularly the explanation of the termination, does provide useful information concerning the general practices of a plan and does serve as a means by which to identify those practices which may not be in the best interest of the plan or its participants and beneficiaries. In response to a comment noting insufficient space on the form for the requested termination information, the Agencies, in an effort to provide more space for the requested information, have modified the new Schedule C to accommodate this information (*See*: Part III of Schedule C).

c. *Termination of Accountant/Actuary (item 19d of proposed form/item 28f of final form).* Item 19d (and the instructions thereto) of the proposed form required that the plan administrator include as part of the annual report a letter from any accountant or enrolled actuary who had been terminated, stating the reasons for the termination. A number of commentators indicated that the requested letter from the terminated accountant or actuary should not be required as part of the annual report in view of the fact that a terminated accountant or actuary may be uncooperative in providing such a letter or reluctant to state reasons for the termination. The commentators noted that having to obtain such a letter may be very difficult, if not impossible, and may, as a result of delays in receiving such letter, cause delays in the filing of the annual report. One commentator noted that, if a professional believes that a termination was without cause, the terminated professional should be able to notify the Department of Labor directly.

The Department of Labor believes that accountants and actuaries represent a valuable and independent source of information concerning the operations and activities of employee benefit plans. In this regard, it is noted that ERISA sections 103(a)(3)(A) and 103(a)(4)(A) specifically require that, with certain exceptions, the administrator of a plan is to engage an independent qualified public accountant and an enrolled actuary, respectively, on behalf of all plan participants and beneficiaries. Accordingly, the Department believes that the termination of an accountant and/or actuary is a significant event and that the views of the terminated accountant or actuary as to the reasons for their termination will be useful in identifying potential abuses. However, the Department also agrees with those commentators who indicated that requiring administrators to obtain, and include as part of a plan's annual report, a letter from a terminated accountant or actuary stating the reasons for the termination may result in significant burdens on the plan administrator. The Department, therefore, has modified the requirements of the final form (*See:* item 28f) to merely require that the administrator furnish the terminated accountant and/or actuary a copy of the administrator's explanation for the termination, as set forth on Schedule C, along with a notice advising the accountant/actuary of the opportunity to provide comments on the furnished explanation directly to the Department of Labor (*See:* model notice in instructions to item 28f). The Department believes that this change accommodates both the needs of the Department and the concerns expressed by the commentators in this area.

4. *Reportable transactions (item 26a(iv) of proposed form/item 30d of final form).* As proposed, item 26a(iv) required the reporting of any transaction or series of transactions involving in excess of 5 percent (rather than 3 percent) of the current value of plan assets. The Department of Labor has adopted this item as proposed (*See:* item 30d of final form). Comments concerning this item are discussed in connection with the adoption by the Department of Labor of amendments to 29 CFR § 2520.103–6 appearing in today's **Federal Register.**

B. Form 5500–C/R

1. Identification, Plan Characteristics, Participant, and Other General Information Items (*See:* Form 5500 Discussion Relating to These General Items)

2. *Financial statements and related items*

As proposed, the Form 5500–C required plans with 25 or fewer participants to report only summary financial information (i.e., total assets, liabilities, net assets, income, expenses, net income (loss) and contributions for the plan year) and plans with 26 to 99 participants to complete the more detailed financial statements (*See:* items 18, 19, 24 and 25 of the proposed form). The proposed Form 5500–R also included a requirement that all plans filing the form report summary financial information identical to that to be reported by plans with 25 or fewer participants on the proposed Form 5500–C.

A number of commentators indicated that the limited financial reporting provided for plans with 25 or fewer participants on the proposed Form 5500–C would result in a reduction of reporting burdens. However, many of the same commentators also indicated that the addition of financial information to Form 5500–R would increase reporting burdens for many small plans and offset any burden reductions that may have resulted from the simplified reporting on the proposed Form 5500–C. Some commentators felt that adding financial information to the Form 5500–R would defeat the intended purpose of the triennial filing scheme. A number of commentators recommended that the limited financial reporting provided on the proposed Form 5500–C for plans with 25 or fewer participants be extended to all plans with fewer than 100 participants. Other commentators indicated that the simplified financial reporting provided for plans with 25 or

fewer participants would not result in any reductions in burdens because completion of the summary financial information items required virtually the same steps as those that would be required to complete the detailed financial statements.

Taking into consideration the importance of the information contained in the detailed financial statements to assure tax compliance for small plans and what appears, from some comments received on the proposed forms revisions, to be little difference in those burdens attributable to completing the detailed financial statements and those attributable to completing the summary financial statements, the Agencies have decided not to adopt, for purposes of the Form 5500–C, the summary financial statement reporting requirement for plans with 25 or fewer participants.[3] The Agencies, however, have decided to adopt, essentially as proposed, the requirement for the reporting of summary financial information on the Form 5500–R (*See:* items 13 and 14 of the Form 5500–R). The only modification to the proposed summary financial information is the addition of a line item for "total benefits paid" (*See:* item 14e of final Form 5500–R). This modification was adopted to permit the Agencies, and participants and beneficiaries, to distinguish between benefit payment expenses and those expenses related to the actual administration of a plan.

While a number of commentators indicated that the reporting of the proposed summary financial information on the Form 5500–R would increase burdens for small plan filers and, in effect, negate the benefits of the triennial filing system, the Agencies do not agree. First, the absence of any financial information on the Form 5500–R has over the past several years effectively precluded the Agencies, as well as participants and beneficiaries, from undertaking any type of current analysis of the financial condition of those plans filing the Form 5500–R. The Agencies believe that the availability of financial information on the Form 5500–R, albeit summary in nature, will significantly enhance the ability of both the Agencies and the participants and beneficiaries in small plans, to monitor, on a current annual basis, the financial condition and activity of such plans, while imposing little, if any additional burden on small plan filers. Second, the Agencies continue to believe, as indicated in the supplementary information accompanying the September 19, 1986 proposed forms revisions, that the requested financial information is prepared and maintained in the normal course of prudent plan operations and, therefore, the entry of the information on the form should not result in any increase in burdens or costs to affected plans.[4] This conclusion is supported, in part, by the fact that at least 50 percent of small plan filers currently elect to file the Form 5500–C, which requires the completion of detailed financial information, every year, rather than only every third year as permitted under the triennial filing system. The Agencies also believe that, even with the addition to the Form 5500–R of summary financial information, the differences in the information required to be reported on the Form 5500–C and the Form 5500–R is such that reduced reporting burdens will result for many plans electing to take advantage of the Form 5500–C/R triennial reporting system, as opposed to the filing of the Form 5500–C on an annual basis.

Lastly, the Agencies note that the deletion of certain reporting items for 5500–C filers will also reduce reporting burdens. In this regard, the Department of Labor believes that the interests of both the Department and plan participants are protected by section 107 of the Act which requires plans to preserve and make accessible all information which would be reported absent an exemption or simplified reporting requirement.

3. Miscellaneous Items

a. *Service provider information.* Item 28 of the proposed Form 5500–C asked whether, since the end of the plan year covered by the last return/report Form 5500 or 5500–C (or during this plan year, if this is the initial return/report), any person who rendered services to the plan received directly or indirectly more than $2,500 in compensation during the plan year (except for employees of the plan who were paid less than $1,000 per month). This information was required to be reported in the service provider section of the Schedule C. However, upon reevaluating the information needs of the Agencies, as they relate to small plans, and taking into consideration the availability of such information upon examination of such plans, the Agencies have decided not to require Form 5500–C filers to report service provider information at this time.

b. *Service provider termination information.* Item 22 of the proposed Form 5500–C, like item 19 of the proposed Form 5500, asked for information concerning any trustee, administrator, accountant, investment manager, insurance carrier, custodian and enrolled actuary terminated during the plan year, an explanation of reasons for the termination and whether there have been any outstanding material disputes or disagreements concerning the termination, and, in the case of a terminated accountant or actuary, whether a signed letter from the terminated accountant or actuary is attached explaining the reasons for the termination. Taking into consideration the comments received concerning the service provider termination items and a review of the Agencies' informational needs for small plans, the Agencies have decided not to require Form 5500–C/R filers to file information concerning terminated service providers. The Agencies believe that the availability of such information upon examination of the books and records of small plans is adequate at this time.

c. *Party-in-interest transactions.* Item 26a of the proposed Form 5500–C asked whether, except for publicly traded securities, the plan engaged in non-exempt transactions with parties in interest. If the answer is "yes," a schedule of such transactions, prepared in accordance with the instructions, was required to be completed. In an effort to further simplify reporting for small plans, the Agencies have modified this question on the final forms by adding "yes"/"no" questions which ask whether, during the plan year, there has

[3] In addition to the solicitation of comments on the Agencies' forms revisions proposal published in the Federal Register and the receipt of testimony at the joint Agency public hearing on the proposed forms revisions, the Internal Revenue Service, with participation by the Office of Management and Budget, conducted a number of public symposia relating to, among other things, the Form 5500 Series. Public comments received at those symposia appeared to support the proposition that essentially the same information and process required to complete the detailed financial statements is necessary to the completion of the proposed summary financial statements. Therefore, it would appear that little, if any, increase in burdens would result from requiring all plans to complete the detailed, rather than the proposed summary, financial statement.

[4] The Department of Labor notes that ERISA section 107, relating to the retention of record, requires "every person subject to a requirement to file any description or report * * * *or who would be subject to such a requirement but for an exemption or simplified reporting reporting requirement under section 104(a)(2) or (3)* of this title [Title I], shall maintain records on matters of which disclosure is required which will provide in sufficient detail the necessary basic information and data from which the documents thus required may be verified, explained, clarified and checked for accuracy and completeness. * * *" (Emphasis supplied). The statutory basis for the prescription of simplified annual reporting for pension plans with fewer than 100 participants and small welfare plans is ERISA section 104(a)(2) and (3). Accordingly, whether or not the detailed financial information required to be included in an annual report pursuant to ERISA section 103 is required to be reported on the Form 5500 Series, records relating to those requirements are required to be maintained in accordance with the recordkeeping requirements of section 107.

been any sale, exchange, or lease of any property or any loan or extension of credit between the plan and the employer, any fiduciary, any of the five most highly paid employees of the employer, any owner of a 10% or more interest in the employer or relatives of any such persons [*See:* item 29c and d of the final Form 5500–C]; As adopted, item 29c and d does not require the administrator to distinguish between exempt and non-exempt party in interest transactions, nor is a schedule of the transactions required to accompany the Form 5500–C filing. However, if a "yes" response is required, the amount of such transaction(s) is also required to be provided.

C. Schedule A (Insurance Information)

A number of commentators suggested elimination or modification of the Schedule A on the basis that the plan administrator is dependent on the insurance company to provide the information necessary to complete the Schedule and some insurance companies do not provide the required information in a timely manner and others do not provide it at all, thereby putting the administrator in the difficult position of having position of having to decide whether to file the annual report without the Schedule A information or delay their annual report filing. It is the view of the Agencies that compliance with annual reporting requirements requires the filing of a complete, accurate and timely annual return/report, which includes that information required to be reported on the Schedule A. Accordingly, plan administrators and fiduciaries are obliged to take any and all steps reasonably necessary to secure the Schedule A information. In this regard, it should be noted that, with respect to the obligation of insurance carriers to furnish the Schedule A information, ERISA section 103(a)(2) specifically provides that, if some or all of the information necessary to enable the administrator to comply with the requirements of Title I of ERISA is maintained by an insurance carrier or other organization which provides some or all of the benefits under a plan or holds assets of the plan in a separate account, such carrier is required to transmit and certify the accuracy of such information to the administrator within 120 days after the end of the plan year. Therefore, the failure or refusal by an insurance carrier to provide the required Schedule A information to the plan administrator in a timely manner would constitute a violation of the requirements of Title I of ERISA, with respect to which plan fiduciaries may pursue the statutory remedies provided in section 502(a)(3). Administrators are advised that in no event should annual return/report filings be delayed pending receipt of the Schedule A information beyond the date on which the report is due (including any extensions granted by the Internal Revenue Service). Rather, the administrator should complete the Schedule A, to the extent possible, and file a timely return/report noting any deficiencies in the Schedule A, the carrier and the steps being taken to secure the required information. Upon the receipt of the deficient Schedule A information by the plan administrator, the administrator should file an amended return/report in accordance with the instructions to the forms.

One commentator requested that the Department of Labor reconsider its position, as set forth in Advisory Opinion No. 86–17A, on the reporting of certain "excess commissions" on the Schedule A. Another commentator noted that, if Opinion No. 86–17A is the Department's position on the reporting of "excess commissions", the instructions to the Schedule A should be modified to clearly reflect that position. Opinion No. 86–17A addressed the issue as to whether certain compensation or fees (referred to as "excess commissions") received by insurance brokers, which might be calculated on a percentage of new business and/or renewal business obtained in one year, or on the increase in premiums earned by a broker in one year over a prior year, or on the total business managed by a broker, are required to be reported on the Schedule A, even though such commissions do not compensate the broker for the placement of a particular contract with an employee benefit plan. In Opinion No. 86–17A the Department concluded that, because the "excess commissions" described in the letter would be calculated taking into account contracts with employee benefit plans and such commissions are not paid for managing an agency or for performing other administrative functions (exceptions provided in the instructions to the Schedule A), the excess commissions are required to be reported on a proportionate basis on the Schedule A of a plan's annual return/report. In the course of its review of the annual reporting requirements and the public comments received on the proposed revisions to the Form 5500 Series, the Department did review the extent to which insurance fees and commissions should be required to be reported on the Schedule A. On the basis of this review, the Department has concluded that, consistent with its views expressed in Opinion No. 86–17A, all fees and commissions directly or indirectly attributable to a contract between a plan and an insurance company, insurance service or similar organization should be reported on the Schedule A. Therefore, the Department has retained the requirement that "excess commissions", as described in Opinion No. 86–17A, must be reported on the Schedule A. The instructions to the Schedule A have been revised to clarify the required reporting of such amounts.

D. Schedule B (Actuarial Information)

The proposed Schedule B required that certain values, previously reported by all plans as of the beginning of the plan year, would be reported by single employer plans as of the end of the plan year. Multiemployer plans would continue to report these values as of the beginning of the plan year. The items affected were the current value of assets accumulated in the plan (item 6c), the present value of vested benefits (item 6d), and the present value of nonvested accrued benefits (item 6e). Comments stated that end-of-year assets are reported on the main form and therefore requiring this on the Schedule B would be redundant. Comments further stated that requiring the actuary to enter this value on the Schedule B would result in delays and increased requests for filing extensions if the actuary had to wait to obtain this value from the plan administrator in order to complete the Schedule B. Comments indicated that requiring end-of-year valuations, in order to report vested benefits and nonvested accrued benefits as of the end of the year, would result in significant additional costs and burden for many plans, since most plans perform their valuations as of the beginning of the plan year. Several comments requested that projections of actuarial values to the end of the plan year be allowed, and one comment suggested that an end-of-year requirement that allowed projections would not represent a significant burden for many plans. In response to these comments, the Agencies have decided not to require end-of-year reporting of these values at this time. All plans will continue to report these values as of the beginning of the plan year.

Another change to the Schedule B requires plans to separate amortization charges to the funding standard account into those charges due to funding waivers (item 9c(i)) and those charges due to other than funding waivers (item 9c(ii)). Unamortized balances are similarly required to be separated. The response to this item was favorable; no

one indicated that it would be burdensome to the plans. The Agencies have accordingly decided to adopt this change.

A new instruction was added to item 9j to clarify that a funding waiver request(s) pending with the IRS is not to be reported in this item until the waiver(s) is granted. One comment indicated that the wording of the instruction suggested that only waived minimum funding amounts could be included in this item, and stated that actuaries use this item to report amounts due to other occurrences. The Agencies have changed the instruction to recognize that other credits are reported in this item.

Some comments were focused on the fact that the instructions for item 7 did not reflect the overview. The instructions have been revised to provide that only contributions that have actually been made are to be reported in item 7. The change is being made so that the Schedule B will properly reflect whether a funding deficiency exists. Oftentimes, the Agencies have found that the reported contributions (reported as "to be made by" a specified date) were, in fact, not made. However, by the time this fact is discovered, a significant period of time has elapsed. The revised instructions should enable the Agencies to address in a more timely manner the failure to make contributions to a plan.

Some comments focused on the addition of line 8(c) which asks for the unfunded liability for spread gain methods. This item has been added to test for compliance with the requirements of section 1.412(c)(3)–1(b)(1) of the Income Tax Regulations (relating to the basic funding formula). Prior to the change, the Schedule B did not contain sufficient information to test whether this requirement was met for a plan that was funded using a spread gain method that had an unfunded liability (e.g., the frozen initial liability method).

E. Schedule C (Service Provider and Trustee Information)

The Schedule C is essentially a Department of Labor schedule to be used for the reporting of certain service provider and trustee information. As proposed, Part I of the Schedule was, in the case of Form 5500 filers to be used for the reporting of service providers receiving $5,000 or more duiring the plan year and, in the case of Form 5500–C filers, service providers receiving more than $2,500 or more during the plan year. Part II of the proposed Schedule C was to be used for the reporting of the name and address of each plan trustee. In addition to other changes to the Schedule C, the Department of Labor, as indicated above, has, on the basis of a review of its informational needs, decided to limit the reporting of the information required on the Schedule C to only Form 5500 filers. Accordingly, plans with fewer than 100 participants filing the Form 5500–C will not be required to file a Schedule C as part of their return/report. The Department also has decided, with respect to that information required to be reported on the Schedule C, to adopt the proposed increase in the compensation reporting threshold for reporting service provider information from $600 to $5,000 during the plan year (*See:* above discussion of item 28a of the final Form 5500).

With respect to Part I of the proposed Schedule C, a few commentators suggested that the requirement to report service provider information was burdensome and should be eliminated. One commentator suggested that the information should be reported on the form, rather than on a new Schedule. Other commentators indicated that the service provider information provides a useful clarification of the elements comprising the operating costs of plans and should be retained as a reporting requirement.

With the exception of the increase in the threshold amount for reporting service provider information, the service provider information required to be reported on the Schedule C is identical to that information which has, since the inception of the Form 5500 Series, been required to be reported by Form 5500 filers (*See:* item 12 of 1987 Form 5500). Over the past several years, the Department of Labor has identified a number of abuses by employee benefit plan service providers (e.g., excessive and duplicative fees, payment of kickbacks to plan fiduciaries, etc.). As a result of the number of abusive practices identified in the service provider area, the Department of Labor has included service provider investigations as a major component of its ERISA Enforcement Strategy Implementation Plan (December 1986). The abuses in the service provider area and the importance of adequate service provider information as part of the Form 5500 Series was recognized in the report of the President's Commission on Organized Crime (*See:* Report to the President and the Attorney General, *The Edge: Organized Crime, Business, and Labor Unions*). Thus, it is the view of the Department that the service provider information required to be reported on the Schedule C is a valuable source of information to the Department, as well as other Federal agencies and participants and beneficiaries. Moreover, the Agencies continue to believe that utilizing a separate schedule for the reporting of service provider and trustee information will facilitate compliance by plans and data entry of reported information by the Agencies. For these reasons, the Agencies have decided to retain the service provider reporting requirements for Form 5500 filers, with the reporting of such information on the Schedule C (*See:* Part I of Schedule C).

However, in response to various comments suggesting the need for clarifications in the instructions relating to the reporting of service provider information, the Agencies have modified the instructions to Schedule C. Specifically, the instructions to Part I of the Schedule C have been modified to clarify that, in the case of service providers which are business entities (e.g., corporations, partnerships, etc.), information relating to the business entity is to be reported rather than the employees of the business entity who are servicing the plan on behalf of the entity. The instructions also have been modified to clarify that the $5,000 compensation threshold for reporting service provider information is to be determined on the basis of the total aggregate compensation paid to a service provider during the plan year and not on the basis of whether any one service provided by the individual or entity resulted in a payment or payments of $5,000 or more by the plan. The revised instructions further clarify the types of payments which are and are not required to be reported on the Schedule C. For example, the instructions clarify that amounts paid by an employer-plan sponsor to its employees for services provided to the plan are not required to be reported on the Schedule C to the extent that the payment of such amounts do not constitute a direct or indirect expense of the plan. The instructions also clarify that information relating to the payment of certain fees or commissions (such as a "finder" fee) paid by a service provider to an independent agent is required to be reported on the Schedule C, if the amount paid is $5,000 or more during the plan year.

With respect to the reporting of trustee information (i.e., the name and address of each plan trustee), a number of commentators indicated that such reporting was a duplication of that information already required to be reported in the summary plan description and Schedule P and, therefore, should be eliminated or modified. Other commentators felt that

the reporting of current trustee information as part of the annual report would provide useful, up-to-date information, particularly, according to one commentator, in view of the turnover of trustees on some funds. The Agencies believe that current trustee information is important to both the Agencies and plan participants and beneficiaries. While the summary plan description is required to contain trustee information, the information included as part of the summary plan description, which principally serves to disclose, in narrative form, plan information to participants and beneficiaries, does not lend itself to computer-entry to the same degree as that information reported on the Form 5500 Series. Accordingly, the access to information through the summary plan description is limited, in addition to being complicated by the fact that summary plan descriptions are being amended on a regular basis and updated summary plan descriptions are not required to be furnished to participants and beneficiaries or filed with the Department of Labor except at five or ten year intervals. However, the reporting of trustee information as part of the annual report, in conjunction with the implementation by the Agencies of a new expanded data base system for the 1988 plan year Form 5500 Series filings, will provide the Agencies with the ability to easily access current trustee information. Other commentators suggested utilization of the Schedule P for trustee information. The Schedule P is an IRS form for the reporting of certain trustee/custodian information. However, because the Schedule P is an optional filing applicable only to trustees and custodians of organizations qualified under Code section 401(a) and exempt from tax under Code section 501(a), the Schedule P would not serve as a complete or reliable source of current trustee information. For these reasons, the Agencies are adopting Part II of the proposed Schedule C without modification. The Agencies, however, will in the future, be reviewing the feasibility of some form of exception reporting in this area (e.g., reporting only changes in the trustee information annually).

As noted earlier, a new Part III has been added to the Schedule C for inclusion of explanations of terminations of certain service providers to plans.

IV. Regulations Relating to the Final Forms

In the supplementary information accompanying the September 19, 1986 publication of the proposed forms revisions in the **Federal Register**, the Department of Labor noted (51 FR 33503) that the proposed forms contemplated adoption of a proposed regulation (§ 2520.103–12) providing a limited exemption from, and alternative method of compliance with, the reporting and disclosure requirements of Title I of ERISA for plans which invest in certain entities whose assets would be deemed "plan assets" under the Department's regulation defining "plan assets" (29 CFR 2510.3–101). Regulation § 2520.103–12 was adopted and published in the **Federal Register** on November 13, 1986 (51 FR 41285).

For purposes of Title I of ERISA, the filing of a completed Form 5500 (including the report of an independent qualified public accountant and any required statements and schedules) by plans with 100 or more participants constitutes compliance with the limited exemption and alternative method of compliance prescribed in paragraph (b) of 29 CFR 2520.103–1, promulgated in accordance with the authority granted the Secretary under sections 104(c)(3) and 110 of ERISA. The filing of a completed Form 5500–C or Form 5500–R, as appropriate, constitutes compliance with the simplified annual reporting requirements prescribed at 29 CFR 2520.104–41, adopted pursuant to the authority granted the Secretary under sections 104(a)(2)(A) and 104(a)(3) (*Also see:* 29 CFR 2520.103–1(c)). In the supplementary information accompanying the 1986 proposed forms revisions (51 FR 33503), the Department of Labor also noted that certain amendments to the annual reporting regulations would be necessary to accommodate certain proposed revisions to the forms. These amendments were published in the **Federal Register** for public comment on January 2, 1987 (52 FR 84). A document containing amendments to the annual reporting regulations adopted by the Department of Labor appears in this same separate part of today's **Federal Register**. These amendments are effective for reporting for plan years beginning on or after January 1, 1988.

Paperwork Reduction Act

These forms contain information collection requirements. They have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The Form 5500 Series Annual Report of Employee Benefit Plans has been assigned Control No. 1210–0016.

Statutory Authority

Accordingly, pursuant to the authority in sections 101, 103, 104, 109, 110 and 4065 of ERISA and sections 6039D and 6058 of the Code, the Form 5500 Series Annual Return/Report and the instructions thereto are adopted as set forth below.

Signed at Washington, DC, this 23rd day of February, 1989.

David M. Walker,

Assistant Secretary for Pension and Welfare Benefits, U.S. Department of Labor.

Robert I. Brauer,

Assistant Commissioner, Employee Plans and Exempt Organizations, Internal Revenue Service.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

BILLING CODE 4830-01-M, 4510-29-M, 7708-01-M

Form **5500**

Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefits Administration

Pension Benefit Guaranty Corporation

Annual Return/Report of Employee Benefit Plan (With 100 or more participants)

This form is required to be filed under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 and sections 6039D, 6057(b), and 6058(a) of the Internal Revenue Code, referred to as the Code.

▶ **For Paperwork Reduction Act Notice, see page 1 of the instructions.**

OMB No. 1210-0016

1988

This form is open to public inspection.

For the calendar plan year 1988 or fiscal plan year beginning , 1988, and ending , 19 .

If your plan year changed since the last return/report filed, check this box ▶ . . . . . ☐

Type or print in ink all entries on the form, schedules, and attachments. If an item does not apply, enter "N/A." File the originals.

If *(i)* through *(iii)* do not apply to this year's return/report, leave the boxes unmarked. This return/report is:
(i) ☐ the first return/report filed for the plan; (ii) ☐ an amended return/report; or (iii) ☐ the final return/report filed for the plan.

▶ Welfare benefit plans and fringe benefit plans need only complete certain items—see the instructions "What To File."
▶ If you have been granted an extension of time to file this form, you must attach a copy of the approved extension to this form.

Use IRS label. Otherwise, please print or type.	1a Name of plan sponsor (employer if for a single-employer plan)	1b Employer identification number
	Address (number and street)	1c Telephone number of sponsor ( )
	City or town, state, and ZIP code	1d Business code number
		1e CUSIP issuer number
2a	Name of plan administrator (if same as plan sponsor, enter "Same")	
	Address (number and street)	2b Administrator's employer identification no.
	City or town, state, and ZIP code	2c Telephone number of administrator ( )

3 Are the name, address, and employer identification number (EIN) of the plan sponsor and/or plan administrator the same as they appeared on the last return/report filed for this plan? ☐ Yes ☐ No. If "No," enter the information from the last return/report in a and/or b, and complete c.

a Sponsor ▶ ..... EIN ..... Plan number .....

b Administrator ▶ ..... EIN .....

c If a indicates a change in the sponsor's name and EIN, is this a change in sponsorship only? (See specific instructions for definition of sponsorship.) ☐ Yes ☐ No

4 Check the appropriate box to indicate the type of plan entity (check only one box):

a ☐ Single-employer plan
b ☐ Plan of controlled group of corporations or common control employers
c ☐ Multiemployer plan
d ☐ Multiple-employer-collectively-bargained plan
e ☐ Multiple-employer plan (other)
f ☐ Group insurance arrangement (of welfare plans)

5a *(i)* Name of plan ▶ .....

(ii) ☐ Check if name of plan changed since last return/report

5b Effective date of plan ▶

5c Enter three-digit plan number . . ▶

6a ☐ Welfare benefit plan (plan numbers 501 through 999) must check applicable items (A) through (P) and 6c.

(i) ☐ Type
(A) ☐ Health (other than dental or vision)
(B) ☐ Life insurance
(C) ☐ Supplemental unemployment
(D) ☐ Dental
(E) ☐ Vision
(F) ☐ Temporary disability (accident & sickness)
(G) ☐ Prepaid legal
(H) ☐ Long-term disability
(I) ☐ Severance pay
(J) ☐ Apprenticeship & training
(K) ☐ Scholarship (funded)
(L) ☐ Death benefits other than life insurance
(M) ☐ Code section 120 (group legal services plan)
(N) ☐ Code section 125 (cafeteria plan)
(O) ☐ Code section 127 (educational assistance program)
(P) ☐ Other (specify) ▶ .....

(ii) If you checked (M), (N), or (O), check if plan is: ☐ funded or ☐ unfunded.

6b ☐ Pension benefit plan (plan numbers 001 through 500) must check applicable items in *(i)* through *(vii)* and answer 6c through 6f.

(i) ☐ Defined benefit plan
(ii) ☐ Defined contribution plan—(indicate type of defined contribution):
(A) ☐ Profit-sharing (B) ☐ Stock bonus
(C) ☐ Target benefit (D) ☐ Other money purchase (E) ☐ Other (specify) ▶ .....
(iii) ☐ Defined benefit plan with benefits based partly on balance of separate account of participant (Code section 414(k))
(iv) ☐ Annuity arrangement of certain exempt organizations (Code section 403(b)(1))
(v) ☐ Custodial account for regulated investment company stock (Code section 403(b)(7))
(vi) ☐ Pension plan utilizing individual retirement accounts or annuities (described in Code section 408) as the sole funding vehicle for providing benefits
(vii) ☐ Other (specify) ▶

▶ Caution: A penalty for the late or incomplete filing of this return/report will be assessed unless reasonable cause is established.

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Date ▶ ..... Signature of employer/plan sponsor ▶ .....

Date ▶ Signature of plan administrator ▶

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6c Other plan features: (i) ☐ ESOP (ii) ☐ Leveraged ESOP (iii) ☐ Participant-directed account plan
(iv) ☐ Pension plan maintained outside the United States (v) ☐ Master trust (see instructions)
(vi) ☐ 103-12 investment entity (see instructions) (vii) ☐ Common/collective trust (viii) ☐ Pooled separate account

		Yes	No
d	Single-employer plans enter the tax year end of the employer in which this plan year ends ▶ Month ..... Day ..... Year		
e	Is the employer a member of an affiliated service group?		
f	Does this plan contain a cash or deferred arrangement described in Code section 401(k)?		

7	Number of participants as of the end of the plan year (welfare plans complete only a(iv), b, c, and d):			
a	Active participants: (i) Number fully vested	a(i)		
	(ii) Number partially vested	(ii)		
	(iii) Number nonvested	(iii)		
	(iv) Total		(iv)	
b	Retired or separated participants receiving benefits		b	
c	Retired or separated participants entitled to future benefits		c	
d	Subtotal (add a(iv), b, and c)		d	
e	Deceased participants whose beneficiaries are receiving or are entitled to receive benefits		e	
f	Total (add d and e)		f	

			Yes	No
g	(i) Was any participant(s) separated from service with a deferred vested benefit for which a Schedule SSA (Form 5500) is required to be attached to this form?	g(i)		
	(ii) If "Yes," enter the number of separated participants required to be reported ▶			
8a	Were any plan amendments adopted during the plan year?	8a		
b	Did any amendment result in the retroactive reduction of accrued benefits for any participant?	b		
c	Enter the date the most recent amendment was adopted ▶ Month ..... Day ..... Year			
d	If a is "Yes," did any amendment change the information contained in the latest summary plan descriptions or summary description of modifications available at the time of the amendment?	d		
e	If d is "Yes," has a summary plan description or summary description of modifications that reflects the plan amendments referred to in d been furnished to participants and filed with the Department of Labor?	e		
9a	Was this plan terminated during this plan year or any prior plan year? If "Yes," enter the year ▶	9a		
b	Were all plan assets either distributed to participants or beneficiaries, transferred to another plan, or brought under the control of PBGC?	b		
c	Was a resolution to terminate this plan adopted during this plan year or any prior plan year?	c		
d	If a or c is "Yes," have you received a favorable determination letter from IRS for the termination?	d		
e	If d is "No," has a determination letter been requested from IRS?	e		
f	If a or c is "Yes," have participants and beneficiaries been notified of the termination or the proposed termination?	f		
g	If a is "Yes" and the plan is covered by PBGC, is the plan continuing to file a PBGC Form 1 and pay premiums until the end of the plan year in which assets are distributed or brought under the control of PBGC?	g		
h	During this plan year, did any trust assets revert to the employer for which the Code section 4980 excise tax is due?	h		
i	If h is "Yes," enter the amount of tax paid with your Form 5330 ▶			

10a In this plan year, was this plan merged or consolidated into another plan(s), or were assets or liabilities transferred to another plan(s)? ☐ Yes ☐ No

If "Yes," identify other plan(s)	c Employer identification number(s)	d Plan number(s)
b Name of plan(s) ▶		

e Has Form 5310 been filed? ☐ Yes ☐ No

11 Enter the plan funding arrangement code (see instructions)	12 Enter the plan benefit arrangement code (see instructions)

			Yes	No
13a	Is this a plan established or maintained pursuant to one or more collective bargaining agreements?	13a		
b	If a is "Yes," enter the appropriate six-digit LM number(s) of the sponsoring labor organization(s) (see instructions): ▶ (i) (ii) (iii)			
14	If any benefits are provided by an insurance company, insurance service, or similar organization, enter the number of **Schedules A** (Form 5500), Insurance Information, that are attached. If none, enter "-0-." ▶			

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WELFARE PLANS DO NOT COMPLETE ITEMS 15 THROUGH 27. GO TO ITEM 28

			Yes	No
15a	If this is a defined benefit plan, is it subject to the minimum funding standards for this plan year? If "Yes," attach **Schedule B** (Form 5500).	15a		
b	If this is a defined contribution plan, i.e., money purchase or target benefit, is it subject to the minimum funding standards? (If a waiver was granted, see instructions.)	b		
	If "Yes," complete *(i)*, *(ii)*, and *(iii)* below:			
	(i) Amount of employer contribution required for the plan year under Code section 412 — b(i) $			
	(ii) Amount of contribution paid by the employer for the plan year — b(ii) $			
	Enter date of last payment by employer ▶ Month ____ Day ____ Year ____			
	(iii) If *(i)* is greater than *(ii)*, subtract *(ii)* from *(i)* and enter the funding deficiency here; otherwise, enter zero. (If you have a funding deficiency, file Form 5330.) — b(iii) $			
16	Has the plan been top-heavy at any time beginning with the 1984 plan year?	16		
17	Has the plan accepted any transfers or rollovers with respect to a participant who had attained age 70½?	17		
18a	If the plan distributed any annuity contracts this year, did these contracts contain a requirement that the spouse consent before any distributions under the contract are made in a form other than a qualified joint and survivor annuity?	18a		
b	Did the plan make distributions to participants or spouses in a form other than a qualified joint and survivor annuity (a life annuity if a single person) or qualified preretirement survivor annuity (exclude deferred annuity contracts)?	b		
c	Did the plan make distributions or loans to married participants and beneficiaries without the required consent of the participant's spouse?	c		
d	Upon plan amendment or termination, do the accrued benefits of every participant include the subsidized benefits that the participant may become entitled to receive subsequent to the plan amendment or termination?	d		
19	Were the spousal consent requirements for distributions under Code section 417(e) complied with?	19		
20	Have any contributions been made or benefits accrued in excess of the Code section 415 limits, as amended by the Tax Reform Act of 1986?	20		
21	Has the plan made the required distributions in 1988 under Code section 401(a)(9)?	21		
22a	Does the plan satisfy the percentage test of Code section 410(b)(1)(A)?	22a		
	If **a** is "Yes," complete **b** through **l**. If "No," complete only **b** and **c** below and see specific instructions.		Number	
b	*(i)* Number of employees who are aggregated with employees of the employer as a result of the employer being aggregated with any employer covered by this plan under Code section 414(b), (c), or (m)	b(i)		
	(ii) Number of individuals who performed services as leased employees under Code section 414(n) including leased employees of employers in *(i)*	b(ii)		
c	Total number of employees (including any employees aggregated in **b**)	c		
d	Number of employees excluded under the plan because of *(i)* minimum age or years of service, *(ii)* employees on whose behalf retirement benefits were the subject of collective bargaining, or *(iii)* nonresident aliens who receive no earned income from United States sources	d		
e	Total number of employees not excluded (subtract **d** from **c**)	e		
f	Employees ineligible (specify reason) ▶	f		
g	Employees eligible to participate (subtract **f** from **e**)	g		
h	Employees eligible but not participating	h		
i	Employees participating (subtract **h** from **g**)	i		

			Yes	No
23a	Is it intended that this plan qualify under Code section 401(a)? If "Yes," complete **b** and **c**.	23a		
b	Enter the date of the most recent IRS determination letter — Month ____ Year ____			
c	Is a determination letter request pending with IRS?	c		
24a	If this is a plan with Employee Stock Ownership features, was a current appraisal of the value of the stock made immediately before any contribution of stock or the purchase of the stock by the trust for the plan year covered by this return/report?	24a		
b	If **a** is "Yes," was the appraisal made by an unrelated third party?	b		
25	Is this plan integrated with social security or railroad retirement?	25		
26	Does the employer/sponsor listed in **1a** of this form maintain other qualified pension benefit plans? If "Yes," enter the total number of plans, including this plan ▶	26		
27	If this plan is an adoption of a master, prototype, or uniform plan, indicate which type by checking the appropriate box: a ☐ Master b ☐ Prototype c ☐ Uniform			

		Yes	No
28a	Did any person who rendered services to the plan receive directly or indirectly $5,000 or more in compensation from the plan during the plan year (except for employees of the plan who were paid less than $1,000 in each month)? If "Yes," complete Part I of **Schedule C** (Form 5500).	28a		
b	Did the plan have any trustees who must be listed in Part II of Schedule C (Form 5500)?	b		
c	Has there been a termination in the appointment of any person listed in d below?	c		
d	If c is "Yes," check the appropriate box(es), answer e and f, and complete Part III of Schedule C (Form 5500): *(i)* ☐ Accountant *(ii)* ☐ Enrolled actuary *(iii)* ☐ Insurance carrier *(iv)* ☐ Custodian *(v)* ☐ Administrator *(vi)* ☐ Investment manager *(vii)* ☐ Trustee			
e	Have there been any outstanding material disputes or matters of disagreement concerning the above termination?	e		
f	If an accountant or enrolled actuary has been terminated during the plan year, has the terminated accountant/actuary been provided a copy of the explanation required by Part III of Schedule C (Form 5500) with a notice advising them of their opportunity to submit comments on the explanation directly to DOL?	f		
g	Enter the number of Schedules C (Form 5500) that are attached. If none, enter -0- ▶			
29a	Is this plan exempt from the requirement to engage an independent qualified public accountant?	29a		
b	If a is "No," attach the accountant's opinion to this return/report and check the appropriate box. This opinion is: *(i)* ☐ Unqualified *(ii)* ☐ Qualified/disclaimer per Department of Labor Regulations 29 CFR 2520.103-8 and/or 2520.103-12(d) *(iii)* ☐ Qualified/disclaimer other *(iv)* ☐ Adverse *(v)* ☐ Other (explain)			
c	If a is "No," do the financial statements or notes to the financial statements attached to this return/report disclose *(i)* a loss contingency indicating that assets are impaired or liability incurred; *(ii)* significant real estate or other transactions in which the plan and (A) the sponsor, (B) plan administrator, (C) the employer(s), or (D) the employee organization(s) are jointly involved; *(iii)* that the plan has participated in any related party transactions; or, *(iv)* any unusual or infrequent events or transactions occurring subsequent to the plan year-end that might significantly affect the usefulness of the financial statements in assessing the plan's present or future ability to pay benefits?	c		
d	If c is "Yes," provide the total amount involved in such disclosure ▶			
30	If 29a is "No," during the plan year:			
a	Did the plan have assets held for investment?	30a		
b	Were any loans by the plan or fixed income obligations due the plan in default as of the close of the plan year or classified during the year as uncollectible?	b		
c	Were any leases to which the plan was a party in default or classified during the year as uncollectible?	c		
d	Were any plan transactions or series of transactions in excess of 5% of the current value of plan assets?	d		
e	Do the notes to the financial statements accompanying the accountant's opinion disclose any nonexempt transactions with parties-in-interest?	e		
f	Did the plan engage in any nonexempt transactions with parties-in-interest not reported in e?	f		
g	Did the plan hold qualifying employer securities that are not publicly traded?	g		
h	Did the plan purchase or receive any nonpublicly traded securities that were not appraised in writing by an unrelated third party within 3 months prior to their receipt?	h		
i	Did any person manage plan assets who had a financial interest worth more than 10% in any party providing services to the plan or receive anything of value from any party providing services to the plan? If **a, b, c, d, e,** or **f** is checked "Yes," schedules of those items in the format set forth in the instructions are required to be attached to this return/report.	i		
31	Did the plan acquire individual whole life insurance contracts during the plan year?	31		
32	During the plan year:			
a	*(i)* Was this plan covered by a fidelity bond?	32a		
	(ii) If (i) is "Yes," enter amount of bond ▶			
b	*(i)* Was there any loss to the plan, whether or not reimbursed, caused by fraud or dishonesty?	b		
	(ii) If (i) is "Yes," enter amount of loss ▶			

33a Is the plan covered under the Pension Benefit Guaranty Corporation termination insurance program?
☐ Yes ☐ No ☐ Not determined

b If a is "Yes" or "Not determined," enter the employer identification number and the plan number used to identify it.
Employer identification number ▶ Plan number ▶

34 Current value of plan assets and liabilities at the beginning and end of the plan year. Combine the value of plan assets held in more than one trust. Allocate the value of the plan's interest in a commingled trust containing the assets of more than one plan on a line-by-line basis unless the trust meets one of the specific exceptions described in the instructions. Do not enter the value of that portion of an insurance contract which guarantees, during this plan year, to pay a specific dollar benefit at a future date. **Round off amounts to the nearest dollar.** Plans with no assets at the beginning and the end of the plan year, enter zero on line 34f.

Assets		(a) Beginning of year	(b) End of Year
a Total noninterest-bearing cash	a		
b Receivables (net):			
(i) Employer contributions	b(i)		
(ii) Participant contributions	(ii)		
(iii) Income	(iii)		
(iv) Other	(iv)		
(v) Total	(v)		
c General investments:			
(i) Interest-bearing cash (including money market funds)	c(i)		
(ii) Certificates of deposit	(ii)		
(iii) U.S. Government securities	(iii)		
(iv) Corporate debt instruments	(iv)		
(v) Corporate stocks:			
(A) Preferred	(v)(A)		
(B) Common	(B)		
(vi) Partnership/joint venture interests	(vi)		
(vii) Real estate:			
(A) Income-producing	(vii)(A)		
(B) Nonincome-producing	(B)		
(viii) Loans (other than to participants) secured by mortgages:			
(A) Residential	(viii)(A)		
(B) Commercial	(B)		
(ix) Loans to participants:			
(A) Mortgages	(ix)(A)		
(B) Other	(B)		
(x) Other loans	(x)		
(xi) Value of interest in certain investment arrangements (see instructions)	(xi)		
(xii) Value of funds held in insurance company general account (unallocated contracts)	(xii)		
(xiii) Other	(xiii)		
(xiv) Total	(xiv)		
d Employer-related investments:			
(i) Employer securities	d(i)		
(ii) Employer real property	(ii)		
e Buildings and other property used in plan operation	e		
f Total assets	f		
Liabilities			
g Benefit claims payable	g		
h Operating payables	h		
i Acquisition indebtedness	i		
j Other liabilities	j		
k Total liabilities	k		
Net Assets			
l Line f minus line k	l		

35 Plan income, expenses, and changes in net assets for the plan year.
Include all income and expenses of the plan, including any trust(s) or separately maintained fund(s), and any payments/receipts to/from insurance carriers. **Round off amounts to the nearest dollar.**

Income		(a) Amount	(b) Total
a Contributions:			
(i) Received or receivable from:			
(A) Employers	a(i)(A)		
(B) Participants	(B)		
(C) Others	(C)		
(ii) Noncash contributions	(ii)		
b Earnings on investments:			
(i) Interest:			
(A) Interest-bearing cash (including money market funds)	b(i)(A)		
(B) Certificates of deposit	(B)		
(C) U.S. Government securities	(C)		
(D) Corporate debt instruments	(D)		
(E) Mortgage loans	(E)		
(F) Other loans	(F)		
(G) Other	(G)		
(ii) Dividends:			
(A) Preferred stock	b(ii)(A)		
(B) Common stock	(B)		
(iii) Rents	(iii)		
(iv) Net gain (loss) on sale of assets:			
(A) Aggregate proceeds	b(iv)(A)		
(B) Aggregate costs	(B)		
(v) Unrealized appreciation (depreciation) of assets	(v)		
(vi) Net investment gain (loss) from certain investment arrangements—see instructions	(vi)		
c Other income	c		
d Total income (add a, b, and c)	d		
Expenses			
e Benefit payment and payments to provide benefits:			
(i) Directly to participants or beneficiaries	e(i)		
(ii) To insurance carriers for the provision of benefits	(ii)		
(iii) Other	(iii)		
f Interest expense	f		
g Administrative expenses:			
(i) Salaries and allowances	g(i)		
(ii) Accounting fees	(ii)		
(iii) Actuarial fees	(iii)		
(iv) Contract administrator fees	(iv)		
(v) Investment advisory and management fees	(v)		
(vi) Legal fees	(vi)		
(vii) Valuation/appraisal fees	(vii)		
(viii) Trustees fees/expenses (including travel, seminars, meetings, etc.)	(viii)		
(ix) Other	(ix)		
h Total expenses (add e, f, and g)	h		
i Net income (loss) (d minus h)	i		
j Transfers to (from) the plan (see instructions)	j		
k Net assets at beginning of year (line 34l, column (a))	k		
l Net assets at end of year (line 34l, column (b))	l		

	Yes	No
36 Did any employer sponsoring the plan pay any of the administrative expenses of the plan that were not reported in 35g?		

Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefits Administration

Pension Benefit Guaranty Corporation

1988 Instructions for Form 5500

Annual Return/Report of Employee Benefit Plan (With 100 or more participants)

(Code references are to the Internal Revenue Code. ERISA refers to the Employee Retirement Income Security Act of 1974.)

Paperwork Reduction Act Notice.—We ask for this information to carry out the law as specified in ERISA and Code section 6039D. We need it to determine whether the plan is operating according to the law. You are required to give us this information.

The time needed to complete and file the forms listed below reflect the combined requirements of the Internal Revenue Service, Department of Labor, Pension Benefit Guaranty Corporation, and the Social Security Administration. These times will vary depending on individual circumstances. The estimated average times are:

	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form to IRS
Form 5500	82 hrs., 2 min.	9 hrs., 3 min.	13 hrs., 34 min.	49 min.
Schedule A(Form 5500)	17 hrs., 28 min.	28 min.	1hr., 42 min.	16 min.
Schedule B(Form 5500)	25 hrs., 50 min.	1 hr.,	1 hr., 27 min.	
Schedule C(Form 5500)	5 hrs., 1 min.	6 min.	11 min.	
Schedule P(Form 5500)	2hrs., 9 min.	1 hr., 24 min.	1 hr., 29 min.	
Schedule SSA(Form 5500)	6 hrs., 42 min.	12 min.	19 min.	

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms more simple, we would be happy to hear from you. You can write to the **Internal Revenue Service,** Washington, DC 20224, Attention: IRS Reports Clearance Officer, TR:FP; or the **Office of Management and Budget,** Paperwork Reduction Project, Washington, DC 20503.

File 1988 forms for plan years that started in 1988. If the plan year differs from the calendar year, fill in the fiscal year space just under the form title. For a short plan year, see Section 1, instruction B.

Reminder: In addition to filing this form with IRS, plans covered by the Pension Benefit Guaranty Corporation termination insurance program must file their Annual Premium Payment, PBGC Form 1, directly with that agency.

Penalties.—ERISA and the Code provide for the assessment or imposition of penalties for not giving complete information and not filing statements and returns/reports. Certain penalties are administrative; that is, they may be imposed or assessed by one of the governmental agencies delegated to administer the collection of Form 5500 series data. Others require a legal conviction.

A. Administrative Penalties.—Listed below are various penalties for not meeting the Form 5500 series filing requirements. One or more of the following five penalties may be imposed or assessed in the event of incomplete filings or filings received after the date they are due unless it is determined that your explanation for failure to file properly is for reasonable cause:

1. A penalty of up to $1,000 a day for each day a plan administrator fails or refuses to file a complete return/report. See ERISA section 502(c)(2) and 29 CFR 2560.502c-2.
2. A penalty of $25 a day (up to $15,000) for not filing returns for certain plans of deferred compensation, certain trusts and annuities, and bond purchase plans by the due date(s). See Code section 6652(e). This penalty also applies to returns required to be filed under Code section 6039D.
3. A penalty of $1 a day (up to $5,000) for each participant for whom a registration statement (Schedule SSA (Form 5500)) is required but not filed. See Code section 6652(d)(1).
4. A penalty of $1 a day (up to $1,000) for not filing a notification of change of status of a plan. See Code section 6652(d)(2).
5. A penalty of $1,000 for not filing an actuarial statement. See Code section 6692.

B. Other Penalties.—

1. Any individual who willfully violates any provision of Part 1 of Title I of ERISA shall be fined not more than $5,000 or imprisoned not more than 1 year, or both. See ERISA section 501.
2. A penalty of up to $10,000, 5 years imprisonment, or both, for making any false statement or representation of fact, knowing it to be false, or for knowingly concealing or not disclosing any fact required by ERISA. See section 1027, Title 18, U.S. Code, as amended by section 111 of ERISA.

How To Use This Instruction Booklet

The instructions are divided into four main sections.

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Section 1

A. Who Must File.—Any administrator or sponsor of an employee benefit plan subject to ERISA must file information about each such plan **every year** (Code section 6058 and ERISA sections 104 and 4065). Also required to file, for each year, is every employer maintaining a specified fringe benefit plan as described in Code section 6039D. The Internal Revenue Service (IRS), Department of Labor (DOL), and Pension Benefit Guaranty Corporation (PBGC) have consolidated their returns and report forms to minimize the filing burden for plan administrators and employers. The chart on page 7 gives a brief guide to the type of return/report to be filed.

B. When To File.—File all required forms and schedules by the last day of the 7th month after the plan year ends. For a short plan year, file the form and applicable schedules by the last day of the 7th month after the short plan year ends. For purposes of this return/report, the short plan year ends upon the date of the change in accounting period or upon the complete distribution of the assets of the plan. (Also see Section 3.) If the current year Form 5500 is not available before the due date of your short plan year return/report, use the latest year form available and change the date printed on the return/report to the current year. Also show the dates your short plan year began and ended.

Request for Extension of Time To File.—A one time extension of time up to 2½ months may be granted for filing returns/reports if **Form 5558,** Application for Extension of Time To File Certain Employee Plan Returns, is filed **before the normal due date of the return/report.**

Exception: *Single-employer plans and plans of a controlled group of corporations which file consolidated Federal income tax returns are automatically granted an extension of time to file Form 5500, 5500-C, or 5500-R to the due date of the Federal income tax return of the single employer or controlled group of corporations if all the following conditions are met:*

1. The plan year and the tax year coincide.

2. The single employer or the controlled group has been granted an extension of time to file its Federal income tax return to a date later than the normal due date for filing the Form 5500, 5500-C, or 5500-R.

3. A copy of the IRS extension of time to file the Federal income tax return is attached to each Form 5500, 5500-C, or 5500-R filed with IRS.

Note: *An extension of time to file the return/report does not operate as an extension of time to file the PBGC Form 1.*

C. Where To File.—Please file the return/report with the Internal Revenue Service Center indicated below. No street address is needed.

See page 5 for the filing address for investment arrangements filing directly with DOL.

If the principal office of the plan sponsor or the plan administrator is located in	Use the following Internal Revenue Service Center address
Connecticut, Delaware, District of Columbia, Foreign Address, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia	Holtsville, NY 00501
Alabama, Alaska, Arkansas, California, Florida, Georgia, Hawaii, Idaho, Louisiana, Mississippi, Nevada, North Carolina, Oregon, South Carolina, Tennessee, Washington	Atlanta, GA 39901
Arizona, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Utah, West Virginia, Wisconsin, Wyoming	Memphis, TN 37501
All Form 5500EZ filers	Andover, MA 05501

Section 2

A. Kinds of Plans.—Employee benefit plans include pension benefit plans and welfare benefit plans. File the applicable return/report for any of the following plans.

(a) Pension benefit plan.—This is an employee pension benefit plan covered by ERISA. The return/report is due whether or not the plan is qualified and even if benefits no longer accrue, contributions were not made this plan year, or contributions are no longer made ("frozen plan" or "wasting trust"). See, Section 3 "Final Return/Report" on page 6.

Pension benefit plans required to file include defined benefit plans and defined contribution plans (e.g., profit-sharing, stock bonus, money purchase plans, etc.). The following are among the pension benefit plans for which a return/report must be filed:

(i) Annuity arrangements under Code section 403(b)(1).

(ii) Custodial account established under Code section 403(b)(7) for regulated investment company stock.

(iii) Individual retirement account established by an employer under Code section 408(c).

(iv) Pension benefit plan maintained outside the United States primarily for nonresident aliens if the employer who maintains the plan is:

(A) a domestic employer, or

(B) a foreign employer with income derived from sources within the U.S. (including foreign subsidiaries of domestic employers) and deducts contributions to the plan on its U.S. income tax return. See "Plans Excluded From Filing" below.

(v) Church plans electing coverage under Code section 410(d).

(vi) A plan that covers residents of Puerto Rico, the Virgin Islands, Guam, Wake Island, or American Samoa. This includes a plan that elects to have the provisions of section 1022(i)(2) of ERISA apply.

See "Items To Be Completed on Form 5500" on page 4 for more information about what questions need to be completed by pension plans.

(b) Welfare benefit plan.—This is an employee welfare benefit plan covered by Part 1 of Title I of ERISA. Welfare plans would provide benefits such as medical, dental, life insurance, apprenticeship training, educational assistance, severance pay, disability, etc.

See "Items To Be Completed on Form 5500" on page 4 for more information about what questions need to be completed for welfare benefit plans.

(c) Fringe benefit plan.—Group legal services plans described in Code section 120, cafeteria plans described in Code section 125, and educational assistance programs described in Code section 127 are considered fringe benefit plans and generally are required to file the annual information specified by Code section 6039D. However, Code section 127 educational assistance programs which provide only job-related training which is deductible under Code section 162 do not need to file Form 5500.

See "Items To Be Completed on Form 5500" on page 4 for more information about how to complete this form for a fringe benefit plan.

B. Plans Excluded From Filing (this does not apply if you are a fringe benefit plan required to file by Code section 6039D).—Do not file a return/report for an employee benefit plan that is any of the following:

(a) A welfare benefit plan which covered fewer than 100 participants as of the beginning of the plan year and is: (i) fully insured, (ii) unfunded, or (iii) a combination of insured and unfunded.

(1) An unfunded welfare benefit plan has its benefits paid as needed directly from the general assets of the employer or the employee organization that sponsors the plan.

(2) A fully insured welfare benefit plan has its benefits provided exclusively through insurance contracts or policies, the premiums of which must be paid directly by the employer or employee organization from its general assets or partly from its general assets and partly from contributions by its employees or members (which the employer or organization forwards within 3 months of receipt).

(3) A combination unfunded/insured welfare plan has its benefits provided partially as an unfunded plan and partially as a fully insured plan. An example of such a plan is a plan which requires the employer to reimburse an employee for hospital expenses with the first $1,000 per year of benefits paid from the general assets of the employer and any benefits above $1,000 paid from a stop loss insurance contract.

The insurance contracts or policies discussed above must be issued by an insurance company or similar organization (such as Blue Cross, Blue Shield or a health maintenance organization) that can legally do business in any state. A plan meeting (1) cannot have any assets at any time during the plan year.

"Directly," as used in (1) above, means that the plan cannot use a trust or separately maintained fund (including a Code section 501(c)(9) trust) to hold plan assets or to act as a conduit for the transfer of plan assets.

See 29 CFR 2520.104-20.

Note: *An "employees' association" as used in Code section 501(c)(9) should not be confused with the employee organization or employer which establishes and maintains (i.e., sponsors) the welfare benefit plan.*

(b) An unfunded pension benefit plan or an unfunded or combination unfunded and insured welfare benefit plan: (1) whose benefits go only to a select group of management or highly compensated employees, and (2) which meets the terms of Department of Labor Regulations 29 CFR 2520.104-23 (including the requirement that a notification statement be filed with DOL) or 29 CFR 2520.104-24.

(c) Plans maintained only to comply with workers' compensation, unemployment compensation, or disability insurance laws.

(d) An unfunded excess benefit plan.

(e) A welfare benefit plan maintained outside the United States primarily for persons substantially all of whom are nonresident aliens.

(f) A pension benefit plan maintained outside the United States if it is a qualified foreign plan within the meaning of Code section 404A(e) that does not qualify for the treatment provided in Code section 402(c).

(g) An annuity arrangement described in 29 CFR 2510.3-2(f).

(h) A simplified employee pension (SEP) described in Code section 408(k) which conforms to the alternative method of compliance described in 29 CFR 2520.104-48 or 29 CFR 104-49. A SEP is a pension plan which meets certain minimum qualifications regarding eligibility and employer contributions.

(i) A church plan not electing coverage under Code section 410(d) or a governmental plan.

(j) A welfare plan (other than a fringe benefit plan) that participates in a group insurance arrangement that files a return/report Form 5500 on behalf of the welfare plan. See 29 CFR 2520.104-43.

C. Kinds of Filers.—Item 4 on the Form 5500, 5500-C and 5500-R lists the different types of entities which file the forms. These entities are described below.

(a) Single-employer plan.—If one employer or one employee organization maintains a plan, file a separate return/report for the plan. If the employer

or employee organization maintains more than one such plan, file a separate return/report for each plan.

If a member of either a controlled group of corporations or a group of trades or businesses under common control maintains a plan that does not involve other group members, file a separate return/report as a single-employer plan.

If several employers participate in a program of benefits wherein the funds attributable to each employer are available only to pay benefits to that employer's employees, each employer must file a separate return/report.

(b) Plan for controlled group of corporations or group of trades or businesses under common control.— These groups are defined in Code sections 414(b) and (c), and are referred to as controlled groups.

If the benefits are payable to participants from the plan's total assets without regard to contributions by each participant's employer, file one return/report for the plan. On the return/report for the plan, complete item 22 only for the controlled group's employees.

Exception: Employers who participate in a plan of one of the groups listed above but who are not members of the group must file a separate return/report. The return/report should be filed on Form 5500-C or 5500-R, as applicable (see "What To File" on page 4). On Form 5500-C complete only items 1, 2, 3, 4f, 5, 6, 9, and 22. On Form 5500-R complete only items 1 through 3, 4f and 5 through 8b.

If several employers participate in a program of benefits wherein the funds attributable to each employer are available only to pay benefits to that employer's employees, each employer must file a separate return/report as a single employer plan.

(c) Multiemployer plan.— Multiemployer plans are plans: (1) to which more than one employer is required to contribute; (2) which are maintained pursuant to one or more collective bargaining agreements, and (3) have not made the election under Code section 414(f)(5) and ERISA section 3(37)(E). File one return/report for each such plan. Contributing employers do not file individually with respect to such plans. See Code section 414 for more information.

(d) Multiple-employer-collectively-bargained plan.—A multiple-employer-collectively-bargained plan involves more than one employer, is collectively bargained and collectively funded, and, if covered by PBGC termination insurance, has properly elected before 9-27-81 not to be treated as a multiemployer plan under Code section 414(f)(5) or ERISA sections 3(37)(E) and 4001(a)(3). File one return/report for each such plan. Participating employers do not file individually for these plans.

(e) Multiple-employer plan (other).—A multiple-employer plan (other) involves more than one employer and is not one of the plans already described. A multiple-employer plan (other) includes only plans whose contributions from individual employers are available to pay benefits to all participants. File one return/report for each such plan.

In addition, for pension benefit plans, each participating employer files either a Form 5500-C, regardless of the number of participants, or Form 5500-R . On Form 5500-C complete only items 1, 2, 3, 4f, 5, 6, 9, and 22. On Form 5500-R complete only items 1 through 3, 4f, and 5 through 8b.

Note: *If a participating employer is also the sponsor of the multiple-employer plan (other), the plan number on the return/report filed for the plan should be 333.*

The Form 5500-C or Form 5500-R filed by the participating employer should list his or her appropriate plan number.

If more than one employer participates in the plan and the plan provides that each employer's contributions are available to pay benefits only for that employer's employees who are covered by the plan, one annual return/report must be filed for each participating employer. These filers will be considered single employers and should complete the entire form.

(f) Group insurance arrangement.— A group insurance arrangement is an arrangement which provides benefits to the employees of two or more unaffiliated employers (not in connection with a multi-employer plan or a multiple-employer-collectively-bargained plan), fully insures one or more welfare plans of each participating employer, and uses a trust (or other entity such as a trade association) as the holder of the insurance contracts and the conduit for payment of premiums to the insurance company.

You do not need to file a separate return/report for a welfare benefit plan that is part of a group insurance arrangement if a consolidated return/report for all the plans in the arrangement was filed by the trust or other entity according to 29 CFR 2520.104-43. Form 5500 is required by 29 CFR 2520.103-2 to be part of the consolidated report.

D. Investment Arrangements Filing Directly With DOL.—Some plans invest in certain trusts, accounts, and other investment arrangements which may file information concerning itself and its relationship with employee benefit plans (as specified on page 5) directly with DOL. Plans participating in an investment arrangement as described in paragraphs **a** through **c** below are required to attach certain additional information to the return/report filed with IRS as specified below.

a. Common/Collective Trust and Pooled Separate Account

(i) Definition. For reporting purposes, a common/collective trust is a trust maintained by a bank, trust company, or similar institution which is regulated, supervised, and subject to periodic examination by a state or Federal agency for the collective investment and reinvestment of assets contributed thereto from employee benefit plans maintained by more than one employer or controlled group of corporations, as the term is used in Code section 1563. For reporting purposes, a pooled separate account is an account maintained by an insurance carrier which is regulated, supervised, and subject to periodic examination by a state or Federal agency for the collective investment and reinvestment of assets contributed thereto from employee benefit plans maintained by more than one employer or controlled group of corporations, as the term is used in Code section 1563. See 29 CFR sections 2520.103-3, 2520.103-4, 2520.103-5, and 2520.103-9.

Note: *For reporting purposes, a separate account which is not considered to be holding plan assets pursuant to 29 CFR 2510.3-101(h)(1)(iii), shall not constitute a pooled separate account.*

(ii) Additional Information Required To Be Attached to the Form 5500 for Plans Participating in Common/Collective Trusts and Pooled Separate Accounts. A plan participating in a common/collective trust or pooled separate account must complete the annual return/report and attach either (1) the most recent statement of the assets and liabilities of any common/ collective trust or pooled separate account, or (2) a certification that: (A) the statement of the assets and liabilities of the common/ collective trust or pooled separate account has been submitted directly to DOL by the financial institution or insurance carrier; (B) the plan has received a copy of the statement; and (C) includes the EIN and other numbers used by the financial institution or insurance carrier to identify the trusts or accounts in the direct filing made with DOL.

b. Master Trust

(i) Definition. For reporting purposes, a master trust is a trust for which a regulated financial institution (as defined below) serves as trustee or custodian (regardless of whether such institution exercises discretionary authority or control with respect to the management of assets held in the trust), and in which assets of more than one plan sponsored by a single employer or by a group of employers under common control are held.

A "regulated financial institution" means a bank, trust company, or similar financial institution which is regulated, supervised, and subject to periodic examination by a state or Federal agency. Common control is determined on the basis of all relevant facts and circumstances (whether or not such employers are incorporated). See 29 CFR 2520.103-1(e).

For reporting purposes, the assets of a master trust are considered to be held in one or more "investment accounts." A master trust investment account may consist of a pool of assets or a single asset.

Each pool of assets held in a master trust must be treated as a separate master trust investment account if each plan which has an interest in the pool has the same fractional interest in each asset in the pool as its fractional interest in the pool, and if each such plan may not dispose of its interest in any asset in the pool without disposing of its interest in the pool. A master trust may also contain assets which are not held in such a pool. Each such asset must be treated as a separate master trust investment account.

Financial information must generally be provided with respect to each master trust investment account as specified on page 5.

(ii) Additional Information Required To Be Attached to the Form 5500 for Plans Participating in Master Trusts. A plan participating in a master trust must complete the annual return/report and attach a list of each master trust investment

Page 3

account in which the plan has an interest indicating the plan's name, EIN, and plan number and the name of the master trust used in the master trust information filed with DOL (see page 5). In tabular format, show the net value of the plan's interest in each investment account at the beginning and end of the plan year and the net investment gain (or loss) allocated to the plan for the plan year from the investment account (see instructions for item 34c(xi) on page 15).

Note: *If a master trust investment account consists solely of one plan's asset(s) during the reporting period, the plan may report the(se) asset(s) either as an investment account to be reported as part of the master trust report filed directly with DOL or as a plan asset(s) which is not part of the master trust (and therefore subject to all instructions pertaining to assets not held in a master trust).*

c. 103-12 Investment Entities

Definition. 29 CFR 2520.103-12 provides an alternative method of reporting for plans which invest in an entity (other than an investment arrangement filing with DOL described in **a** or **b** above), the underlying assets of which include "plan assets" (within the meaning of 29 CFR 2510.3-101) of two or more plans which are not members of a "related group" of employee benefit plans. For reporting purposes, a "related group" consists of each group of two or more employee benefit plans (1) each of which receives 10 percent or more of its aggregate contributions from the same employer or from a member of the same controlled group of corporations (as determined under Code section 1563(a), without regard to Code section 1563(a)(4) thereof); or (2) each of which is either maintained by, or maintained pursuant to a collective bargaining agreement negotiated by, the same employee organization or affiliated employee organizations. For purposes of this paragraph, an "affiliate" of an employee organization means any person controlling, controlled by, or under common control with such organization. See 29 CFR 2520.103-12.

For reporting purposes, the investment entities described above with respect to which the required information is filed directly with DOL constitute "103-12 investment entities" (103-12 IEs).

E. What To File.—This section describes the different categories of the 5500 series of forms and schedules. In addition, this section also lists items to be completed by different types of Form 5500 filers. This section also contains a description of the special filing requirements for plans that invest in certain investment arrangements. Finally, a brief guide illustrating which forms and schedules are required by different types of plans and filers may be found on page 7.

Forms

Form 5500.—File **Form 5500**, Annual Return/Report of Employee Benefit Plan, annually for each plan with 100 or more participants at the beginning of the plan year.

Form 5500-C.—File **Form 5500-C**, Return/Report of Employee Benefit Plan, for each pension benefit plan, welfare benefit plan, and fringe benefit plan (unless otherwise exempted) with fewer than 100 participants (one-participant plans see "Form 5500EZ" below) at the beginning of the plan year. File Form 5500-C for the first plan year, the year for which the final return/report is due, and for plan years in which a Form 5500-R is not filed as explained below.

Form 5500-R.—**Form 5500-R**, Registration Statement of Employee Benefit Plan (with fewer than 100 participants), may be filed instead of a Form 5500-C for this plan year provided: (a) this is not the first plan year, (b) this is not a year for which the final return/report is due, and (c) a Form 5500-C has been filed for one of the prior 2 plan years. The Form 5500-R should not be filed if (a) this plan year is the first plan year, (b) this is the plan year for which a final return/report is due, or (c) the Form 5500-R has been filed for both of the prior 2 plan years.

Any plan may choose not to file the Form 5500-R if the plan files the Form 5500-C instead.

Note: *Generally, under the filing requirements explained above, if the number of plan participants increases from under 100 to 100 or more, or decreases from 100 or more to under 100, from one year to the next, you would have to file a different form from that filed the previous year. However, there is an exception to this rule. You may file the same form you filed last year, even if the number of participants changed, provided that at the beginning of this plan year the plan had at least 80 participants, but not more than 120.*

Form 5500EZ.—**Form 5500EZ**, Annual Return of One-Participant Pension Benefit Plan, should be filed by most one-participant plans.

A one-participant plan is: (1) a pension benefit plan that covers only an individual or an individual and his or her spouse who wholly own a trade or business, whether incorporated or unincorporated; or (2) a pension benefit plan for a partnership that covers only the partners or the partners and the partners' spouses.

See Form 5500EZ and its instructions to see if the plan meets the requirements for filing the form.

Items To Be Completed on Form 5500

Certain kinds of plans and certain kinds of filers that are required to submit an annual Form 5500 are not required to complete the entire form. These are described below, by type of plan. Check the list of headings to see if your plan is affected.

1. Welfare Benefit Plans—Welfare benefit plans generally must complete the following items on the Form 5500 : 1 through 6c; 7a(iv), b, c, and d; 8a, c, d, and e; 9a, b, c, and f; 10a through d; 11 through 14; 28 through 32; and 34 through 36.

Note: *If one Form 5500 is filed for both a welfare plan and a fringe benefit plan, items 22c, 22g, and 22i must be completed in addition to the items listed above for welfare plans.*

Exception for unfunded, fully insured and unfunded /insured welfare plans—Welfare benefit plans that are unfunded, fully insured or combination unfunded/insured need not complete items 34 and 35 unless the Form 5500 also serves as a return/report under Code section 6039D (fringe benefit plan) in which case items 35g and 35h must be completed. See page 2, Section 2 B(a) for definition of (1) unfunded, (2) fully insured and (3) combination of unfunded/insured.

2. Fringe Benefit Plans—A Form 5500 filed only because of Code section 6039D (i.e., for a fringe benefit plan) need complete only items 1 through 6a, 7a(iv), 7b, 9a, 9b, 22c, 22g, 22i, 35e, 35g, and 35h.

If the annual return/report is also for a welfare benefit plan (see "Who Must File" on page 1), complete the above items and those specified for welfare benefit plans in "1" above.

3. Pension Plans—In general, most pension plans (defined benefit and defined contribution) are required to complete all items on the form. However, some items need not be completed by certain types of pension plans, as described below.

a. Plans exclusively using a tax deferred annuity arrangement under Code section 403(b)(1). These plans (see "Who Must File" on page 1), need only complete items 1 through 5, 6b(iv), and 9.

b. Plans exclusively using a custodial account for regulated investment company stock under Code section 403(b)(7).These plans need only complete items 1 through 5, 6b(v), and 9.

c. Individual Retirement Account Plan.—A pension plan utilizing individual retirement accounts or annuities (as described in Code section 408) as the sole funding vehicle for providing benefits need only complete items 1 through 5, 6b(vi), and 9.

d. Fully Insured Pension Plan.—A pension benefit plan providing benefits exclusively through an insurance contract, or contracts that are fully guaranteed, and which meets all of the conditions of 29 CFR 2520.104-44 need only complete items 1 through 29, 32, and 33.

A pension plan which includes both insurance contracts of the type described in 29 CFR 2520.104-44 as well as other assets should limit its reporting in items 34 and 35 to those other assets.

Note: *For purposes of the annual return/report and the alternative method of compliance set forth in 29 CFR 2520.104-44, a contract is considered to be "allocated" only if the insurance company or organization that issued the contract unconditionally guarantees, upon receipt of the required premium or consideration, to provide a retirement benefit of a specified amount, without adjustment for fluctuations in the market value of the underlying assets of the company or organization, to each participant, and each participant has a legal right to such benefits which is legally enforceable directly against the insurance company or organization.*

e. Nonqualified plans maintained outside the U.S.—Nonqualified pension benefit plans maintained outside the United States primarily for nonresident aliens required to file a return/report (see "Who Must File" on page 1) need only complete items 1 through 8c, 9 through 12, and 15 through 17.

4. Plans of More Than One Employer—All plans of more than one employer (plans of a controlled group, multiemployer plans, multiple-employer-collectively-bargained plans, and multiple-employer-plan (other)) generally should complete all applicable (welfare or pension) items on the form except for item 6d. Only single-employer pension plans must complete this item. In

addition, multiemployer and multiple-employer-collectively-bargained plans need not complete item 22 on the Form 5500.

Schedules

The various schedules to be attached to the return/report are listed below.

Note: *All attachments to the Forms 5500, 5500-C, and 5500-R must include the name of the plan and the EIN and plan number (PN) as found in items 5a, 1b, and 5c, respectively.*

Attach Schedule A (Form 5500), Insurance Information, to Form 5500, 5500-C, or 5500-R if any benefits under the plan are provided by an insurance company, insurance service, or other similar organization (such as Blue Cross, Blue Shield, or a health maintenance organization).

Exception: *Schedule A (Form 5500) is not needed if the plan covers: (1) only an individual, or an individual and his or her spouse, who wholly owns a trade or business, whether incorporated or unincorporated; or (2) a partner in a partnership, or a partner and his or her spouse.*

Do not file a Schedule A (Form 5500) with a Form 5500EZ.

Attach Schedule B (Form 5500), Actuarial Information, to Forms 5500, 5500-C, 5500-R, or 5500EZ for most defined benefit pension plans. See the instructions for Schedule B.

Attach Schedule C (Form 5500), Service Provider and Trustee Information, to Form 5500. See item 28 and the instructions to Schedule C.

Schedule SSA (Form 5500), Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits, may be needed for separated participants. See "When To Report Separated Participants" in the instructions for Schedule SSA.

Schedule P (Form 5500), Annual Return of Fiduciary of Employee Benefit Trust.— Any fiduciary (trustee or custodian) of an organization that is qualified under Code section 401(a) and exempt from tax under Code section 501(a) who wants to protect the organization under the statute of limitations provided in Code section 6501(a) must file a Schedule P (Form 5500).

File the Schedule P (Form 5500) as an attachment to Form 5500, 5500-C, 5500-R, or 5500EZ for the plan year in which the trust year ends.

Other Filings

Reporting Requirements for Investment Arrangements Filing Directly with DOL

Certain investment arrangements for employee benefit plans file financial information directly with DOL. These arrangements include common/collective trusts, pooled separate accounts, master trusts, and 103-12 IEs. Definitions of these investment arrangements may be found on pages 3 and 4. Their DOL filing requirements are described below.

1. Common/Collective Trust and Pooled Separate Account Information To Be Filed Directly With DOL

Financial institutions and insurance carriers filing the statement of the assets and liabilities of a common/collective trust or pooled separate account should identify the trust or account by providing the EIN of the trust or account, or (if more than one trust or account is covered by the same EIN) both the EIN and any additional number assigned by the financial institution or insurance carrier (such as: 99-1234567 Trust No. 1); and a list of all plans participating in the trust or account, identified by the plan number, EIN, and name of the plan sponsor. The direct filing should be addressed to:

Common/Collective Trust (OR)
Pooled Separate Account
Pension and Welfare Benefits Administration
U.S. Department of Labor, Room N5644
200 Constitution Avenue, NW.
Washington, DC 20210

2. Master Trust Information To Be Filed Directly With DOL

The following information with respect to a master trust must be filed with DOL by the plan administrator or by a designee, such as the administrator of another plan participating in the master trust or the financial institution serving as trustee of the master trust, no later than the date on which the plan's return/report is due. While only one copy of the required information should be filed for all plans participating in the master trust, the information is an integral part of the return/report of each participating plan, and the plan's return/report will not be deemed complete unless all the information is filed within the prescribed time.

Note: *If a master trust investment account consists solely of one plan's asset(s) during the reporting period, the plan may report the(se) asset(s) either as an investment account to be reported as part of the master trust report filed directly with DOL or as a plan asset(s) which is not part of the master trust (and therefore subject to all instructions pertaining to assets not held in a master trust).*

Each of the following statements and schedules must indicate the name of the master trust and the name of the master trust investment account. The information shall be filed with DOL by mailing it to:

Master Trust
Pension and Welfare Benefits Administration
U.S. Department of Labor, Room N5644
200 Constitution Avenue, NW.
Washington, DC 20210

a. The name and fiscal year of the master trust and the name and address of the master trustee

b. A list of all plans participating in the master trust, showing each plan's name, EIN, PN, and its percentage interest in each master trust investment account as of the beginning and end of the fiscal year of the master trust ending with or within the plan year.

c. A statement, in the same format as Part I of Schedule C (Form 5500), for each master trust investment account showing amounts of compensation paid during the fiscal year of the master trust ending with or within the plan year to persons providing services with respect to the investment account and subtracted from the gross income of the investment account in determining the net increase (decrease) in net assets of the investment account.

d. A statement for each master trust investment account showing the assets and liabilities of the investment account at the beginning and end of the fiscal year of the master trust ending with or within the plan year, grouped in the same categories as those specified in item 34 of Form 5500.

e. A statement for each master trust investment account showing the income and expenses, changes in net assets, and net increase (decrease) in net assets of each such investment account during the fiscal year of the master trust ending with or within the plan year, in the categories specified in item 35 of Form 5500. In place of item 35a, show the total of all transfers of assets into the investment account by participating plans. In place of item 35j, show the total of all transfers of assets out of the investment account by participating plans.

f. Schedules, in the format set forth in the instructions for item 30 of Form 5500, of the following items with respect to each master trust investment account for the fiscal year of the master trust ending with or within the plan year: assets held for investment, nonexempt party-in-interest transactions, defaulted or uncollectible loans and leases, and 5% transactions involving assets in the investment account. The 5% figure shall be determined by comparing the current value of the transaction at the transaction date with the current value of the investment account assets at the beginning of the applicable fiscal year of the master trust.

3. 103-12 IE Information To Be Filed Directly With DOL

The information described below must be filed with the DOL by the sponsor of the 103-12 IE no later than the date on which the plan's return/report is due before the plan administrator can elect the alternative method of reporting. While only one copy of the required information should be filed for the 103-12 IE, the information is an integral part of the return/report of each plan electing the alternative method of compliance.

The filing address is:

103-12 Investment Entity
Pension and Welfare Benefits Administration
U. S. Department of Labor, Room N5644
200 Constitution Avenue NW.
Washington, DC 20210

a. The name, fiscal year, and EIN of the 103-12 IE and the name and address of the sponsor of the 103-12 IE. If more than one 103-12 IE is covered by the same EIN, they shall be sequentially numbered as follows: 99-1234567 Entity No. 1.

b. A list of all plans participating in the 103-12 IE, showing each plan's name, EIN, PN, and its percentage interest in the 103-12 IE as of the beginning and end of the fiscal year of the 103-12 IE ending with or within the plan year.

c. A statement, in the same format as Part I of Schedule C (Form 5500), for the 103-12 IE showing amounts of compensation paid during the fiscal year of the 103-12 IE ending with or within the plan year to persons providing services to the 103-12 IE.

d. A statement showing the assets and liabilities at the beginning and end of the

fiscal year of the 103-12 IE ending with or within the plan year, grouped in the same categories as those specified in item 34 of Form 5500.

e. A statement showing the income and expenses, changes in net assets, and net increase (decrease) in net assets during the fiscal year of the 103-12 IE ending with or within the plan year, grouped in the same categories as those specified in item 35 of Form 5500. In place of item 35a, show the total of all transfers of assets into the 103-12 IE by participating plans. In place of item 35j, show the total of all transfers of assets out of the 103-12 IE by participating plans.

f. Schedules, in the format set forth in the instructions for item 30 of Form 5500 (except item 30c) with respect to the 103-12 IE for the fiscal year of the 103-12 IE investment entity ending with or within the plan year. Substitute the term "103-12 IE" in place of the word "plan" when completing the schedules.

g. A report of an independent qualified public accountant regarding the above items and other books and records of the 103-12 IE that meets the requirements of 29 CFR 2520.103-1(b)(5).

Section 3

General Information

Final Return/Report.—If all assets under the plan (including insurance/annuity contracts) have been distributed to the participants and beneficiaries or distributed to another plan (and when all liabilities for which benefits may be paid under a welfare plan have been satisfied), check the "final return/report" box at the top of the form filed for such plan. The year of complete distribution is the last year a return/report must be filed for the plan. For purposes of this paragraph, a complete distribution will occur in the year in which the assets of a terminated plan are brought under the control of PBGC.

For a defined benefit plan covered by PBGC, a PBGC Form 1 must be filed and a premium must be paid until the end of the plan year in which the assets are distributed or brought under the control of PBGC.

Filing the return/report marked "final return" and indicating that the plan terminated satisfies the notification requirement of Code section 6057(b)(3).

Signature and Date.—The plan administrator must sign and date all returns/reports filed. In addition, the employer must sign a return/report filed for a single-employer plan or a plan required to file only because of Code section 6039D.

When a joint employer-union board of trustees or committee is the plan sponsor or plan administrator, at least one employer representative and one union representative must sign and date the return/report.

Participating employers in a multiple-employer plan (other), who are required to file Form 5500-C or 5500-R, are required to sign the return/report. The plan administrator need not sign the Form 5500-C or 5500-R filed by the participating employer.

Reproductions.—Original forms are preferable, but a clear reproduction of the completed form is acceptable. Sign the return/report after it is reproduced. All signatures must be original.

Change in Plan Year.—Generally only defined contribution pension benefit plans need to get prior approval for a change in plan year. (See Code section 412(c)(5).) Rev. Proc. 87-27, 1987-1 C.B. 769 explains the procedure for automatic approval of a change in plan year. A pension benefit plan that would ordinarily need to obtain approval for a change in plan year under Code section 412(c)(5) is granted an automatic approval for a change in plan year if all the following criteria are met:

1. No plan year is more than 12 months long.

2. The change will not delay the time when the plan would otherwise have been required to conform to the requirements of any statute, regulation, or published position of the IRS.

3. The trust, if any, retains its exempt status for the short period required to effect the change, as well as for the taxable year immediately preceding the short period.

4. All actions necessary to implement the change in plan year, including plan amendment and a resolution of the board of directors (if applicable), have been taken on or before the last day of the short period.

5. No change in plan year has been made for any of the preceding plan years.

6. In the case of a defined benefit plan, deductions are taken in accordance with section 5 of Rev. Proc. 87-27.

For the first return/report that is filed following the change in plan year, check the box indicated on the second line under the title at the top of the form (or item 1d if Form 5500R is being filed).

Amended Return/Report.—If you file an amended return/report, check the "(ii) an amended return/report" box at the top of the form. When filing an amended return, be sure to answer all questions and put a circle around the numbers of the items that have been amended.

How The Annual Return/Report Information May Be Used.—All Form 5500 series return/reports will be subjected to a computerized review. It is, therefore, in the filer's best interest that the responses accurately reflect the circumstances they were designed to report. Annual reports filed under Title I of ERISA must be made available by plan administrators to plan participants and by the Department of Labor to the public pursuant to ERISA section 104.

Section 4

Specific Instructions for Form 5500

Important: Answer all items on the Form 5500 with respect to the plan year, unless otherwise explicitly stated in the item-by-item instructions or on the form itself. Therefore, your responses usually apply to the year entered or printed at the top of the first page of the form. Yes and no questions are to be marked either "Yes" or "No" but not both. If neither "Yes" nor "No" applies, enter "NA."

Information To Be Completed at the Top of the Form

First Line at the top of the form—Complete the space for dates when: (1) the 12-month plan year is not a calendar year, or (2) the plan year is less than 12 months (a short plan year).

Second Line— Check the box if the plan year has been changed since the last return/report was filed.

Fifth Line—Check box (i) if this is the initial filing for this plan. Do not check this box if you have ever filed for this plan even if it was on a different form (Form 5500 vs. Form 5500-C or Form 5500-R).

Check box (ii) if you have already filed for the 1988 plan year and are now submitting an amended return/report to reflect errors and/or omissions on the previously filed return/report.

Check box (iii) if the plan no longer exists to provide benefits. See section 3 for instructions concerning the requirement to file a final return/report.

The numbers of the following instructions are the same as the item numbers on the return/report.

1a. If you did not receive a preaddressed mailing label, enter the name and address of the plan sponsor. If the plan covers only the employees of one employer, enter the employer's name.

If you received a Form 5500 with a preaddressed mailing label, please attach it in the name and address area of the form you file. If the name or address on the label is wrong, draw a line through the incorrect part and correct it.

The term "plan sponsor" means—

(i) the employer, for an employee benefit plan that a single employer established or maintains;

(ii) the employee organization in the case of a plan of an employee organization; or

(iii) the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan, if the plan is established or maintained jointly by one or more employers and one or more employee organizations, or by two or more employers.

Include enough information in 1(a) to describe the sponsor adequately. For example, "Joint Board of Trustees of Local 187 Machinists" rather than just "Joint Board of Trustees."

For group insurance arrangements, enter the name of the trust or other entity that holds the insurance contracts. In addition, attach a list of all participating employers and their EINs.

A group insurance arrangement is an arrangement which provides benefits to the employees of two or more unaffiliated employers (not in connection with a multiemployer plan or a mutiple-employer-collectively-bargained plan), fully insures one or more welfare plans of each participating employer, and uses a trust (or other entity such as a trade association) as the holder of the insurance contracts and the conduit for payment of premiums to the insurance company.

1b. Enter the 9-digit employer identification number (EIN) assigned to the plan sponsor/employer. For example, 00-1234567.

Employers and plan administrators who do not have an EIN should apply for one on Form SS-4, available from most IRS or Social Security Administration offices. Send Form SS-4 to the same Internal Revenue Service Center to which this form will be sent.

Plan sponsors are reminded that they should use the trust EIN when opening a bank account or conducting other transactions for a plan that requires an employer identification number. The trust may apply for an EIN as explained in the preceding paragraph.

A plan of a controlled group of corporations whose sponsor is more than one of the members of the controlled group should insert only the EIN of one of the sponsoring members. This EIN must be used in all subsequent filings of the annual returns/reports for the controlled group unless there is a change in the sponsor.

If the plan administrator is a group of individuals, get a single EIN for the group. When you apply for a number, enter on line 1 of Form SS-4 the name of the group, such as "Joint Board of Trustees of the Local 187 Machinists' Retirement Plan."

Note: *Although Employer Identification Numbers (EINs) for funds (trusts or custodial accounts) associated with plans are not required to be furnished on the Form 5500 series returns/reports, the IRS will issue EINs for such funds for other reporting purposes. EINs may be obtained by filing Form SS-4 as explained above.*

1d. From the list of business codes on pages 18 and 19, enter the one that best describes the nature of the employer's business. If more than one employer is involved, enter the business code for the main business activity.

1e. Plans checking item 4a or 4b must enter the first six digits of the CUSIP (Committee on Uniform Securities Identification Procedures) number, "issuer number," if one has been assigned to the plan sponsor for purposes of issuing corporate securities. CUSIP issuer numbers are assigned to corporations and other entities which issue public securities listed on stock exchanges or traded over the counter. The CUSIP issuer number is the first six digits of the number assigned to the individual securities which are traded. If the plan sponsor has no CUSIP issuer number, enter "N/A."

2a. If the document constituting the plan appoints or designates a plan administrator other than the sponsor, enter the administrator's name and address. If the plan administrator is also the sponsor, enter "Same." If filing as a group insurance arrangement, enter "Same." If 2a is the "Same," then items 2b and 2c should be left blank.

The term "administrator" means—

(i) the person or group of persons specified as the administrator by the instrument under which the plan is operated;

(ii) the plan sponsor/employer if an administrator is not so designated; or

(iii) any other person prescribed by regulations of the Secretary of Labor if an administrator is not designated and a plan sponsor cannot be identified.

2b. A plan administrator must have an EIN for reporting purposes. Enter the plan administrator's 9-digit EIN here. If the plan administrator has no EIN, apply for one as explained in 1b above.

Employees of an employer are not plan administrators unless so designated in the plan document, even though they engage in administrative functions of the plan. If an employee of the employer is designated as the plan administrator, that employee must get an EIN.

3. If you answer "No," enter the name, address, and EIN of the plan sponsor and/or the plan administrator shown on the prior return/report.

3c. Indicate if the change in 3a is only a change in sponsorship. "Change in sponsorship" means the plan's sponsor has been changed but no assets or liabilities have been transferred to another plan(s), the plan has not terminated or merged with any other plan, and so forth.

4a. Check for a single-employer plan. See "Kinds of Filers" for what is considered a single-employer plan.

4b. Check for a plan in which more than one employer participates, and some of the employers are members of a controlled group of corporations (Code section 414(b)) or members of a group of employers under common control (Code section 414(c)).

4c. Check for a multiemployer plan as defined in Code section 414(f) and ERISA sections 3(37) and 4001(a)(3).

4d. Check for a multiple-employer-collectively-bargained plan as described under "Kinds of Filers."

4e. Check for a multiple-employer plan (other) if the plan administrator is filing for the plan as a whole.

4f. Check for a consolidated filing (pursuant to 29 CFR 2520.104-43) that a trust or other entity makes on behalf of welfare benefit plans that participate in a group insurance arrangement.

5a. Enter the formal name of the plan, group insurance arrangement, or enough information to identify the plan.

5b. Enter the date the plan first became effective.

5c. Enter the 3-digit number the employer or plan administrator assigned to the plan. All welfare plan numbers and Code section 6039D plan numbers start at 501. All other plans start at 001.

Once you use a plan number, continue to use it for that plan on all future filings with IRS, DOL and PBGC. Do not use it for any other plan even if you terminated the first plan.

Group Insurance Arrangement.—For entities filing as a group insurance arrangement, enter the name of the arrangement and enter the next 3-digit plan number available to the plan sponsor in the 500 series (i.e., 501, 502 etc.).

6a. Check every box that describes the welfare benefit plan for which this return/report is being filed. Example: If your plan provides health insurance, dental insurance, eye examinations, and life insurance, four boxes should be checked—6a(i)(A), 6a(i)(B), 6a(i)(D), and 6a(i)(E).

If you checked box (M), (N), or (O), you must check one box in 6a(ii). Check unfunded if the plan is (1) unfunded, (2) fully insured, or (3) a combination of unfunded/insured as defined on page 2, Section 2B(a).

6b(i). For a defined benefit plan, check the box.

Summary of Filing Requirements for Employers and Plan Administrators (File forms ONLY with IRS)

Type of plan	What to file	When to file
Most pension plans with only one participant or one participant and that participant's spouse	Form 5500EZ	File all required forms and schedules for each plan by the last day of the 7th month after the plan year ends.
Pension plan with fewer than 100 participants	Form 5500-C or 5500-R	
Pension plan with 100 or more participants	Form 5500	
Annuity under Code section 403(b)(1) or trust under Code section 408(c)	Form 5500, 5500-C, or 5500-R	
Custodial account under Code section 403(b)(7)	Form 5500, 5500-C, or 5500-R	
Welfare benefit plan with 100 or more participants*	Form 5500	
Welfare benefit plan with fewer than 100 participants (see exception on page 1 of these instructions)*	Form 5500-C or 5500-R	
Pension or welfare plan with 100 or more participants (see instructions for item 29)	Financial statements, schedules, and accountant's opinion	
Pension or welfare plan with benefits provided by an insurance company	Schedule A (Form 5500)	
Pension plan that requires actuarial information	Schedule B (Form 5500)	
Plan with 100 or more participants	Schedule C (Form 5500)	
Pension plan filing a registration statement identifying separated participants with deferred vested benefits from a pension plan	Schedule SSA (Form 5500)	

*This includes Code section 6039D filers.

6b(ii). Check (C) for a money purchase plan if the contribution is determined by a target benefit calculation. Check (D) for all money purchase plans that do not have a target benefit calculation.

6c(ii). Check this box for an ESOP which acquires employer securities with borrowed money or other debt-financed techniques.

6c(iii). Check if the plan is a pension plan that provides for individual accounts and permits a participant or beneficiary to exercise independent control over the assets in his or her account (see ERISA section 404(c)).

6c(iv). Check this box for pension benefit plans maintained outside the United States primarily for nonresident aliens. See "Kinds of Filers" for more information.

6c(v). In the space provided following 6c(viii), enter name of the trust and bank or financial institution. Also enter city and state where the trust is maintained. (See page 3 for master trust instructions.)

6c(vi). In the space provided following 6c(viii), enter name and address of the 103-12 IE. (See page 4.)

6d. For single-employer plans enter the date the employer's tax year ends. For example, if the tax year is a calendar year, enter 12-31-88. For all plans with more than one employer, enter "N/A."

6e. Definition of Affiliated Service Group.—In general, Code section 414(m)(2) defines an affiliated service group as a first service organization (FSO) that has:

(1) a service organization (A-ORG) that is a shareholder or partner in the FSO and that regularly performs services for the FSO, or is regularly associated with the FSO in performing services for third persons, and/or

(2) any other organization (B-ORG) if:

(a) a significant portion of the business of that organization consists of performing services for the FSO or A-ORG of a type historically performed by employees in the service field of the FSO or A-ORG, and

(b) 10% or more of the interest of the B-ORG is held by persons who are highly compensated employees of the FSO or A-ORG.

An affiliated service group also includes a group consisting of an organization whose principal business is performing management functions for another organization (or one organization and other related organizations) on a regular and continuing basis, and the organization for which such functions are so performed by the organization. For a plan maintained by more than one employer, check "Yes" if any such employer is a member of an affiliated service group.

6f. A cash or deferred arrangement described in Code section 401(k) is a part of a qualified defined contribution plan which provides for an election by employees to defer part of their compensation or receive these amounts in cash.

7. The description of "participant" in the instructions below is only for purposes of item 7 of this form.

For welfare plans, dependents are considered to be neither participants nor beneficiaries. For pension benefit plans, "alternate payees" entitled to benefits under a qualified domestic relations order are not to be counted as participants for this item.

"Participant" means any individual who is included in one of the categories below.

7a. Active participants include any individuals who are currently in employment covered by a plan and who are earning or retaining credited service under a plan. This category includes any individuals who are: (i) currently below the integration level in a plan that is integrated with social security, and/or (ii) eligible to elect to have the employer make payments to a Code section 401(k) qualified cash or deferred arrangement. Active participants also include any nonvested individuals who are earning or retaining credited service under a plan. This category does not include nonvested former employees who have incurred the greater of 5 consecutive one year breaks in service or the break in service period specified in the plan.

For determining if active participants are fully vested, partially vested, or nonvested, consider vesting in employer contributions only.

For purposes of Code section 6039D, "participant" means any individual who, for a plan year, has had at least one dollar excluded from income by reason of Code section 120, 125, or 127. If you are filing Form 5500 for a welfare plan that is required to file under Title I of ERISA and under Code section 6039D, the preceding sentence does not apply.

7b. Inactive participants receiving benefits are any individuals who are retired or separated from employment covered by the plan and who are receiving benefits under the plan. This includes former employees who are receiving group health continuation coverage benefits pursuant to Part 6 of ERISA who are covered by the employee welfare benefit plan. This category does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

7c. Inactive participants entitled to future benefits are individuals who are retired or separated from employment covered by the plan and who are entitled to begin receiving benefits under the plan in the future. This category does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

7e. Deceased participants are any deceased individuals who have one or more beneficiaries who are receiving or are entitled to receive benefits under the plan. This category does not include an individual if an insurance company has made an irrevocable commitment to pay all the benefits to which the beneficiaries of that individual are entitled under the plan.

7g(i). If "Yes," file Schedule SSA (Form 5500) as an attachment to Form 5500. Plan administrators: Code section 6057(e) provides that the plan administrator must give each participant a statement showing the same information for that participant as is reported on Schedule SSA.

8a. Check "Yes" if an amendment to the plan was adopted in this plan year, regardless of the effective date of the amendment.

8b. Check "Yes" only if the accrued benefits were retroactively reduced. For example, a plan provides a benefit of 2% for each year of service, but the plan is amended to change the benefit to 1½% a year for all years of service under the plan.

8c. Enter the date the most recent amendment was adopted regardless of the date of the amendent or the effective date of the amendment.

8d. Check "Yes" only if an amendment changed the information previously provided to participants by the summary plan description or summary description of modifications.

8e. A revised summary plan description or summary description of modifications must be filed with DOL and distributed to all participants and pension plan beneficiaries no later than 210 days after the close of the plan year in which the amendment(s) was adopted. If the material was distributed and filed since the amendments were adopted (even if after the end of the plan year), check "Yes" to item 8e.

9a. Check "Yes" if the plan was terminated or if the plan was merged or consolidated into another plan. Enter year of termination if applicable. If you checked 6a(i)(M), (N), or (O) and indicated that this is an unfunded plan and you also answered 9a "Yes," you must also check 9b "Yes."

9b. If the plan was terminated and all plan assets were not distributed, file a return/report for each year the plan has assets. In that case, the return/report must be filed by the plan administrator, if designated, or by the person or persons who actually control the plan's property.

If all plan assets were used to buy individual annuity contracts and the contracts were distributed to the participants, check "Yes."

If all the trust assets were transferred to another plan, check "Yes."

Do not check "Yes" for a welfare plan which is still liable to pay benefits for claims which were incurred prior to the termination date, but not yet paid. See 29 CFR 2520.104b-2(g)(2)(ii).

9h. The Code provides for a nondeductible excise tax on a reversion of assets from a qualified plan. The tax is effective for reversions after December 31, 1985, unless the plan termination date is prior to January 1986.

9i. The employer must report the reversion by filing Form 5330 and pay any applicable tax. The tax will not be imposed upon employers who are tax-exempt entities under Code section 501(a). See instructions for Form 5330.

10a. If this plan was merged or consolidated into another plan(s), or plan assets or liabilities were transferred to another plan(s), indicate which other plan or plans were involved.

10c. Enter the EIN of the sponsor (employer, if for a single-employer plan) of the other plan.

10e. Pension benefit plans must file Form 5310 at least 30 days before any plan merger or consolidation or any transfer of plan assets or liabilities to another plan. **Caution:** *There is a penalty for not filing Form 5310 on time.*

11. Enter the code for the **funding arrangement** used by the plan from the list below.

The "funding arrangement" is the method used for the receipt, holding, investment, and transmittal of plan assets prior to the time the plan actually provides the benefits promised under the plan. For purposes of items 11 and 12, the term "trust" includes any fund or account which receives, holds, transmits, or invests plan assets other than an account or policy of an insurance company.

	Funding Arrangement Codes
Trust	1
Trust and insurance	2
Insurance	3
Exclusively from general assets of sponsor (unfunded)	4
Partially insured and partially from general assets of sponsor	5
Other	6

12. Enter the code for the **benefit arrangement** used by the plan from the list below.

The "benefit arrangement" is the method by which benefits are actually provided to participants by the plan. For example, when a participant retires, the plan might purchase an annuity from an insurance company for that individual to provide the actual benefits promised by the plan. In this example, the annuity would be the benefit arrangement.

Using the chart below, the plan in the above example would enter a "3" to indicate the benefit arrangement.

	Benefit Arrangement Codes
Trust	1
Trust and insurance	2
Insurance	3
Exclusively from general assets of sponsor (unfunded)	4
Partially insured and partially from general assets of sponsor	5
Other	6

13a. Enter "Yes," if either the contributions to the plan or the benefits paid by the plan are subject to the collective bargaining process, even if the plan is not established and administered by a joint board of trustees. Enter "Yes" even if only some of those covered by the plan are members of a collective bargaining unit which negotiates benefit levels on its own behalf. The benefit schedules need not be identical for all employees under the plan.

13b. All plans checking items 4c or 4d must enter the 6-digit LM number to identify each sponsoring labor organization which is a party to the collective bargaining agreement. Other plans which are maintained pursuant to collective bargaining agreements should enter the appropriate LM number, if available. The "LM number" is the six-digit Labor-Management disclosure number entered by the sponsoring labor organization in item 1 of the Form LM-2 or LM-3 (Labor Organization Annual Report) filed with the Department of Labor. Accordingly, the LM number(s) should be readily available from the sponsoring labor organization(s). If all sponsoring labor organizations' LM numbers cannot be entered in the spaces provided in item 13b on the form, enter the additional LM numbers on a supplemental sheet to accompany the Form 5500.

14. If the funding arrangement code (item 11) and/or the benefit arrangement code (item 12) is 2, 3, or 5, at least one Schedule A (Form 5500) must be attached to the Form 5500 filed for pension and welfare plans. The insurance company (or similar organization) which provides benefits is required to provide the plan administrator with the information needed to complete the return/report, pursuant to ERISA section 103 (a)(2). If you do not receive this information in a timely manner, contact the insurance company (or similar organization). If information is missing on Schedule A due to a refusal to provide this information, note this on the Schedule A. If there are no Schedule(s) A attached, enter "0."

15b. If a waived funding deficiency is being amortized in the current plan year, do not complete (i), (ii), and (iii), but complete 1, 2, 3, 7, and 9 of Schedule B (Form 5500). An enrolled actuary need not sign Schedule B under these circumstances.

15b(iii). File Form 5330 with IRS to pay the excise tax on any funding deficiency. **Caution:** *There is a penalty for not filing Form 5330 on time.*

16. A "top-heavy plan" is a plan which during any plan year is:

(1) any defined benefit plan if, as of the determination date, the present value of the cumulative accrued benefits under the plan for key employees exceeds 60% of the present value of the cumulative accrued benefits under the plan for all employees; and

(2) any defined contribution plan if, as of the determination date, the aggregate of the accounts of key employees under the plan exceeds 60% of the aggregate of the accounts of all employees under the plan.

Each plan of an employer included in a required aggregation group is to be treated as a top-heavy plan if such group is a top-heavy group. See definitions of required aggregation group and top-heavy group, below.

Key Employee —A key employee is any participant in an employer plan who at any time during the plan year, or any of the 4 preceding years, is:

(1) an officer of the employer having an annual compensation greater than 50% of the amount in effect under Code section 415(c)(1)(A) for any such plan year,

(2) one of the 10 employees having annual compensation from the employer of more than the limitation in effect under Code section 415(c)(1)(A) and owning (or considered as owning within the meaning of Code section 318) both more than ½% interest and the largest interests in the employer,

(3) a 5% owner of the employer, or

(4) a 1% owner of the employer having an annual compensation from the employer of more than $150,000.

In determining whether an individual is an officer of the employer, no more than 50 employees, or, if less, the greater of 3 employees or 10% of the employees, are to be treated as officers. See Code section 416(i) and T-12 of Regulations section 1.416. A key employee will not include any officer or employee of a governmental plan under Code section 414(d).

Required Aggregation Group—A required aggregation group consists of:

(1) each plan of the employer in which a key employee is or was a participant, and

(2) each other plan of the employer which enables a plan to meet the requirements for nondiscrimination in contributions or benefits under Code section 401(a)(4), or the participation requirements under Code section 410.

Top-Heavy Group—A top-heavy group is an aggregation group if, as of the determination date, the sum of the present value of the cumulative accrued benefits for key employees under all defined benefit plans included in such group and the aggregate of the accounts of key employees under all defined contribution plans in such group exceeds 60% of a similar sum determined for all employees. To determine if a plan is top-heavy, include distributions made in the 5-year period ending on the determination date. However, do not take into account accrued benefits for an individual who hasn't performed services for the employer during the 5-year period ending on the determination date.

18a. If the plan distributes an annuity contract, whether or not deferred and whether or not upon termination, that contract must provide that all distributions from it will meet the participant and spousal consent requirements of Code section 417. Consent is not needed for the distribution of the contract itself. Check "No" if the plan did not distribute any annuity contracts.

18b. In general, distributions must be made in the form of a qualified joint and survivor annuity for life or a qualified preretirement survivor annuity. An annuity distribution to a single individual is a qualified joint and survivor annuity. Check "Yes" if distributions in other forms were made, even if such distributions were permissible, e.g., because consent was obtained or was not needed.

18c. Generally, within the 90 days prior to the date of any benefit payment or the making of a loan to a participant, you must get the spouse's consent to the payment of the benefit or the use of the accrued benefit for the making of the loan. However, there are some circumstances where obtaining this spousal consent is not required. The following is a partial listing of circumstances where spousal consent is not required:

(1) The participant is not married and no spouse is required to be treated as a current spouse under a qualified domestic relations order issued by a court.

(2) The participant's accrued benefit in the plan never had a present value of more than $3,500.

(3) The benefit is paid in the form of a qualified joint and survivor annuity, i.e., an annuity for the life of the participant with a survivor annuity for the life of the spouse which is not less than 50% of (and is not greater than 100% of) the amount of the

annuity which is payable during the joint lives of the participant and the spouse. See Code section 417(b).

(4) The payout is from a profit-sharing or stock bonus plan that pays the spouse the participant's full account balance upon the participant's death, an annuity payment is not elected by the participant, and the profit-sharing or stock bonus plan is not a transferee plan with respect to the participant (i.e., had not received a transfer from a plan that was subject to the consent requirements with respect to the participant).

(5) The participant had no service under the plan after August 22, 1984.

18d. A plan may not eliminate a subsidized benefit or a retirement option by plan amendment or plan termination.

19. For purposes of determining the present value of a participant's accrued benefits and the amount of any distribution, a qualified plan must use a rate no higher than "the applicable interest rate." The "applicable interest rate" means the interest rate which would be used (as of the date of distributions) by the PBGC for determining the present value of a lump sum distribution on termination of the plan.

a. If the present value of the vested accrued benefit is no more than $25,000, the amount to be distributed is calculated using the PBGC rate.

b. If the present value of the vested accrued benefit exceeds $25,000 (using the PBGC rate), the total amount to be distributed is determined using an interest rate no greater than 120% of the applicable interest rate that would be used by the PBGC upon the plan's termination. In such a case the value will be no less than $25,000.

20. The Tax Reform Act of 1986 amended Code section 415 to provide that the maximum annual benefit that may be provided under a defined benefit plan may not exceed the lesser of $90,000 or 100% of compensation. However, if benefits begin before the social security retirement age, the $90,000 limit must be reduced as described in Notice 87-21, 1987-1 C.B. 458.

In addition, the dollar limitations will be reduced for participants with fewer than 10 years of participation in a defined benefit plan, i.e., a 10% reduction for each year under 10 years of participation.

For defined contribution plans, Code section 415 now provides that the dollar limit on annual additions to a qualified plan may not exceed the greater of $30,000 or 25% of the defined benefit dollar limit for such limitation year. The defined contribution dollar limit will not be increased until the defined benefit dollar limit, as increased by cost of living adjustments, equals or exceeds $120,000. (For years beginning after December 31, 1987, the $90,000 defined benefit limit will be adjusted to reflect post-1986 cost of living increases.) The defined contribution dollar limit will then be increased to an amount equal to 25% of the defined benefit limit.

Annual additions to a defined contribution plan will, for years beginning after December 31, 1985, include 100% of all after-tax employee contributions. For participants participating in plans of tax-exempt organizations, the pre-Tax Reform Act limits remain in effect.

The Tax Reform Act of 1986 also provides that a participant's previously accrued benefit won't be reduced merely because of the reduction in dollar limits or increases in required periods of participation. The transitional rule applies to an individual who was a participant prior to January 1, 1987, in a plan in existence on May 5, 1986. If this participant's current accrued benefit exceeds the dollar limit under the Tax Reform Act of 1986, but complies with prior law, then the applicable dollar limit for the participant is equal to the current accrued benefit. The term "current accrued benefit" is defined as the participant's accrued benefit as of the close of the last limitation year beginning before January 1, 1987, and expressed as an annual benefit. To compute the defined benefit fraction, the current accrued benefit would replace the dollar limit otherwise used in the denominator of the fraction. The current accrued benefit is also reflected in the numerator of the defined benefit fraction.

21. In the calendar year in which the employee attains age 70 ½, the employee must begin to receive minimum distributions pursuant to Code section 401(a)(9) by April 1 of the following calendar year. Once begun, minimal distributions must continue each calendar year.

22. For purposes of filing required only because of Code section 6039D, complete only items 22c, 22g, and 22i.

22a. If you do not claim to meet the percentage tests of Code section 410(b)(1)(A), attach an explanation indicating how your plan meets the coverage requirements of Code section 410(b)(1)(B).

22b. Provide information for all employers of a controlled group, a group under common control, or an affiliated service group even if they do not participate in the plan. Also, leased employees (described in Code section 414(n)(2)) of any such employer(s) are to be included as employees unless the leasing organization maintains a "safe harbor" plan described in Code section 414(n)(5) for the leased employees. See below for more information regarding a "safe harbor" plan.

Generally, leased employees are individuals who are employees of a leasing organization, but who during the course of their employment perform services for a trade or business other than the leasing organization on a substantially full-time basis for a period of at least one year.

Service is to include any period during which the employee would have been a leased employee, but for the requirement that substantially full-time service be performed for at least one year. Such leased employees are to be considered employees of their recipient organization at certain times and for certain qualification requirements unless the leasing organization adopts and maintains the type of qualified plan specified in Code section 414(n)(5).

A safe harbor plan is a money purchase pension plan maintained by the leasing organization that provides with respect to a leased employee:

(A) a nonintegrated employer contribution rate of at least 10%, and

(B) immediate participation and full and immediate vesting.

The plan must cover all employees of the leasing organization other than those who are not "leased out" and cover those whose compensation from the leasing organization is less than $1,000 per year during a plan year and each of the prior 3 plan years. The safe harbor plan must provide the 10% of compensation allocation regardless of the number of hours of service during the year, age, or whether the employee is employed on a specific date.

In general, if leased employees make up more than 20% of the nonhighly compensated work force of the recipient, such employees must be covered by the recipient's pension plan regardless of the safe harbor plan. Recipient includes employers aggregated under Code section 414(b), (c), or (m). Under the 20% rule, "leased employees" include all persons who performed services as a "nonemployee."

Therefore, the total number of employees entered in 22c, the breakdown of excluded employees shown in 22d, and the ineligible employees shown in 22f should also include the employees of the controlled group, employees of employers under common control, or other employees in the affiliated service group or leased employees as described above.

Do not complete 22 for multiemployer plans described in Code section 414(f) or for multiple-employer-collectively-bargained plans.

24b. An independent appraiser must be used to ascertain the value of securities, acquired by a plan after December 31, 1986, if the securities aren't readily tradeable on an established securities market.

28a. Check "Yes" if any person (including, when applicable, a corporation or partnership) received, directly or indirectly, $5,000 or more during the plan year for providing services to the plan. For exceptions, see instructions to Part I of Schedule C (Form 5500). If you checked "Yes," complete Part I of Schedule C (Form 5500), which must then be attached to the Form 5500. Include payments from the plan sponsor which are reimbursable by the plan.

28b. Include all trustees in office during the plan year. List these trustees on Part II of Schedule C (Form 5500) and attach it to the Form 5500.

28c. Check "Yes," if there has been a termination in the appointment of any person for which a box must be checked in item 28d. In the case where the service provider is not an individual (i.e., when the service provider is a legal entity such as a corporation, partnership, etc.), check "Yes" when the service provider (not the individual) has been terminated. If item 28c is checked "Yes," complete Part III of Schedule C (Form 5500) and attach the Schedule C to the Form 5500. Otherwise, check "No" and skip to item 28g.

28d. Check all appropriate boxes and complete Part III of Schedule C (Form 5500). At least one box must be checked if 28c is answered "Yes."

28e. If item 28c is checked "Yes," check 28e "Yes" if, during the two most recent

plan years preceding the termination and any subsequent interim period preceding such termination, resignation, or dismissal, there were any disagreements (whether or not the disagreements were a factor in the termination) on any matter of professional judgment that, if not resolved to the satisfaction of the former appointee, would have caused (or did cause) the former appointee to take some action, such as including the subject matter of the disagreement within a written report. For example, check "Yes," if the accountant was terminated as a result of a disagreement over the valuation of plan assets and the accountant would have required that the matter be disclosed in a note to the financial statements. Disagreements not involving a matter of professional judgement, such as the payment or nonpayment of fees, or the amount of the fee charged should not be included.

28f. If items 28d(i) or 28d(ii) has been checked, indicating that an independent qualified public accountant or enrolled actuary has been terminated, the plan administrator must provide the terminated accountant or enrolled actuary with a copy of the explanation of the reason for the termination provided in Part III of Schedule C (Form 5500), along with a completed copy of the notice which follows.

Notice To Terminated Accountant or Enrolled Actuary

An explanation of the reasons for the termination of an accountant or enrolled actuary (terminated party) must be provided as part of the annual report (Part III of Schedule C). The plan administrator of the employee benefit plan is also required to provide the terminated party with a copy of this explanation and a notification that the terminated party has the opportunity to comment directly to the Department of Labor concerning any aspect of this explanation.

In accordance with this requirement, I, as plan administrator, verify that the explanation that is either reproduced below or attached to this notice is the explanation concerning your termination as reported on the Schedule C (Form 5500) attached to the 1988 Annual Return/Report Form 5500 for the (enter name of plan). This return/report is identified in item 1b by the nine-digit EIN – (enter Employer Identification Number) and in item 5c by the three-digit PN (enter plan number).

Signed

Dated

Any comments concerning this explanation should include the name, EIN, and PN of the plan and be submitted directly to:

Office of Enforcement
Pension and Welfare Benefits Administration
U. S. Department of Labor
200 Constitution Avenue, NW.
Washington, DC 20210

28g. A Schedule C (Form 5500) must be attached if item 28a, 28b, and/or 28c is checked "Yes." More than one Schedule C may be required if additional space is required to complete any part of the Schedule C. If no Schedule(s) C is required to be attached, enter "0".

29. Employee benefit plans filing the Annual Return/Report Form 5500 are generally required to engage an independent qualified public accountant pursuant to ERISA section 103(a)(3)(A). An independent qualified public accountant's opinion must be attached to Form 5500 unless: (i) the plan is an employee welfare benefit plan which is unfunded, fully insured, or a combination of unfunded and insured as described in 29 CFR 2520. 104-44(b)(1); (ii) the plan is an employee pension benefit plan whose sole asset(s) consists of insurance contracts which provide that, upon receipt of the premium payment, the insurance carrier fully guarantees the amount of benefit payments attributable to plan participants for that plan year as specified in 29 CFR 2520.104-44(b)(2); or (iii) the plan has elected to defer attaching the accountant's opinion for the first of two plan years, one of which is a short plan year of 7 months or less as allowed by 29 CFR 2520.104-50. (Also see the instructions for item 29a below.)

Single employer welfare plans using a 501(c)(9) trust are generally not exempt from the requirement of engaging an independent qualified public accountant.

29a. Plans meeting (i) or (ii) above should check "Yes" for item 29a and skip to item 31. Plans meeting (iii) must attach the required explanation and statements in lieu of the opinion and should check "No" to item 29a and "Other" to item 29b, and specify, in the space provided, that "the opinion is to be attached to the next Form 5500 pursuant to 29 CFR 2520.104-50." All other plans should check "No." "N/A" is NOT an acceptable response to this item. If the required accountant's opinion is not attached to the Form 5500, the filing is subject to rejection as incomplete and penalties may be imposed (see page 1).

29b(i). Generally, an unqualified opinion is issued when the auditor concludes that the plan's financial statements present fairly, in all material respects, the financial status of the plan as of the end of the period audited, and the changes in its financial status for the period under audit in conformity with generally accepted accounting principles. Check this box if the plan received an unqualified opinion.

29b(ii). Department of Labor regulations 29 CFR 2520.103-8 and 2520.103-12(d) generally state that the examination and report of an independent qualified public accountant need not extend to: (1) information prepared and certified to by a bank or similar institution or by an insurance carrier which is regulated and supervised and subject to periodic examination by a state or Federal agency, or (2) information concerning a 103-12 IE which is reported directly to the Department of Labor. Check this box if the plan received an accountant's opinion as discussed in 29b(i) above except for the information not audited pursuant to the above regulations.

29b(iii). Generally a qualified opinion is issued by an independent qualified public accountant when the plan's financial statements present fairly, in all material respects, the financial position of the plan as of the end of the audit period and the results of its operations for the audit period in conformity with generally accepted accounting principles except for the effects of one or more matters which are described in the opinion. A disclaimer of opinion is issued when the independent qualified public accountant does not express an opinion on the financial statements because he has not performed an audit sufficient in scope to enable him to form an opinion of the financial statements. Check this block if the plan received a qualified opinion or if a disclaimer of opinion was issued. If the audit was of limited scope pursuant to 29 CFR 2520.103-8 and/or 2520.103-12(d), and no other limitations as to scope or procedures were in effect, then check the box in item 29b(ii).

29b(iv). Generally an adverse opinion is issued by an independent qualified public accountant when the plan's financial statements do not present fairly, in all material respects, the financial position of the plan as of the end of the audit period and the results of its operations for the audit period in conformity with generally accepted accounting principles. Check this box if the plan received an adverse accountant's opinion.

29b(v). Generally, an independent qualified public accountant's opinion will be described by one of the categories in 29b(i)–(iv). Check this box if the accountant's opinion received by the plan is not described by one of the categories in 29b(i)–(iv). Explain the nature of the opinion in the space next to this box. In the event the explanation requires more space, enter "See attached" and on a separate sheet of paper explain in detail the nature of the accountant's opinion. Any attachments should identify the item number and include the plan's name, EIN and PN.

29c and d. These items must be answered by all plans required to engage an independent qualified public accountant (item 29a is "No"). The disclosure of the transactions and financial conditions listed in 29c are some of the disclosures required to be made when a plan's financial statements are presented in accordance with generally accepted accounting principles. (Usually these disclosures are contained in the notes to the financial statements.) If you are unsure as to whether the disclosures presented in or accompanying the plans' financial statements fall within one of the disclosures described in 29c, you should consult with the plan's independent qualified public accountant.

Check "Yes" to 29c and provide the amount involved in 29d if the financial statements or the notes to the statements contain any of the disclosures listed in 29c. The amount should be determined by adding the amounts of all of the applicable disclosures. For example, if two significant transactions are disclosed between the plan and the sponsor, the amounts, if any, disclosed in the notes should be added together and the total reported.

If you confirm, through consultation with the accountant, if necessary, that the accountant's report, including any applicable financial statements or notes, does not contain any of the disclosures noted in 29c, check "No" to item 29c and enter '0' in 29d.

30. Plans with assets held in a master trust and/or 103-12 IE (see pages 3 and 4 for the definition of these terms) should complete items 30a, b, c, and d to report information relating to assets held and transactions occurring outside the master trust and/or 103-12 IE. In determining the 5% figure for item 30d, subtract the value of plan assets held in the master trust or 103-12 IE from the current value of the plan's total assets at the beginning of the plan year.

Do not complete sub-items 30a through 30f if all plan funds are held in a master trust.

If "Yes" is checked for item(s) 30a, b, c, d, e, and/or f, schedules must be completed and attached to the Form 5500. If the required schedule is not attached to the Form 5500, the filing is subject to rejection as incomplete and penalties may be imposed (see page 1). Any attachments should identify the item number and include the plan's name, EIN, and PN.

30a–30d. If the assets or investment interests of two or more plans are maintained in one trust (except investment arrangements reported in 34c(xi) (see page 15)), all entries in the schedules included under items 30a, b, and c which relate to the trust shall be completed by including the plan's allocable portion of the trust. For purposes of item 30d, the plan's allocable portion of the transactions of the trust shall be combined with the other transactions of the plan, if any, to determine which transactions (or series of transactions) are reportable. Do not include individual transactions of investment arrangements reported in 34c(xi).

For purposes of this form, party-in-interest is deemed to include a disqualified person—see Code section 4975(e)(2). The term "party-in-interest" means, as to an employee benefit plan—

(A) any fiduciary (including, but not limited to, any administrator, officer, trustee or custodian), counsel, or employee of the plan;

(B) a person providing services to the plan;

(C) an employer, any of whose employees are covered by the plan;

(D) an employee organization, any of whose members are covered by the plan;

(E) an owner, direct or indirect, of 50% or more of—(i) the combined voting power of all classes of stock entitled to vote, or the total value of shares of all classes of stock of a corporation, (ii) the capital interest or the profits interest of a partnership, or (iii) the beneficial interest of a trust or unincorporated enterprise that is an employer or an employee organization described in (C) or (D);

(F) a relative of any individual described in (A), (B), (C), or (E);

(G) a corporation, partnership, or trust or estate of which (or in which) 50% or more of: (i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation, (ii) the capital interest or profits interest of such partnership, or (iii) the beneficial interest of such trust or estate is owned directly or indirectly, or held by, persons described in (A), (B), (C), (D) or (E);

(H) an employee, officer, director (or an individual having powers or responsibilities similar to those of officers or directors), or a 10% or more shareholder, directly or indirectly, of a person described in (B), (C), (D), (E), or (G), or of the employee benefit plan; or

(I) a 10% or more (directly or indirectly in capital or profits) partner or joint venturer of a person described in (B), (C), (D), (E), or (G).

30a. Check "Yes" and attach one or both of the following two schedules to the Form 5500 if the plan had any assets held for investment purposes at any time during the plan year. Assets held for investment purposes shall include:

1 Any investment asset held by the plan on the last day of the plan year; and

2 Any investment asset purchased during the plan year and sold before the end of the plan year except:

(i) Debt obligations of the U.S. or any U.S. agency.

(ii) Interests issued by a company registered under the Investment Company Act of 1940 (e. g.., a mutual fund).

(iii) Bank certificates of deposit with a maturity of one year or less.

(iv) Commercial paper with a maturity of 9 months, or less, if it is valued in the highest rating category by at least two nationally recognized statistical rating services and is issued by a company required to file reports with the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934.

(v) Participations in a bank common or collective trust.

(vi) Participations in an insurance company pooled separate account.

(vii) Securities purchased from a broker-dealer registered under the Securities Exchange Act of 1934 and either:

(A) listed on a national securities exchange registered under section 6 of the Securities Exchange Act of 1934, or (B) quoted on NASDAQ.

Assets held for investment purposes shall not include any investment which was not held by the plan on the last day of the plan year if that investment is reported in the annual report for that plan year in any of the following:

1 The schedule of loans or fixed income obligations in default required by item 30b;

2 The schedule of leases in default or classified as uncollectible required by item 30c;

3 The schedule of reportable transactions required by item 30d; and

4 The schedule of party-in-interest transactions required by items 30e and f.

The first schedule required to be attached to the Form 5500 is a schedule of all assets held for investment purposes at the end of the plan year, aggregated and identified by issue, maturity date, rate of interest, collateral, par or maturity value, cost and current value, and, in the case of a loan, the payment schedule. The schedule should use the following or a similar format and the same size paper as the Form 5500.

Note: *In column (a), place an asterisk (*) on the line of each identified person known to be a party-in-interest to the plan. In column (c), include any restriction on transferability of corporate securities. (include lending of securities permitted under Prohibited Transactions Exemption 81-6.)*

(a)	(b) Identity of issue, borrower, lessor, or similar party	(c) Description of investment including maturity date, rate of interest, collateral, par or maturity value	(d) Cost	(e) Current value

The second schedule required to be attached to the Form 5500 is a schedule of investment assets which were both acquired and disposed of within the plan year (see 29 CFR 2520.103-11). The schedule should use the following or a similar format and the same size paper as the Form 5500.

(a) Identity of issue, borrower, lessor, or similar party	(b) Description of investment including maturity date, rate of interest, collateral, par or maturity value	(c) Costs of acquisitions	(d) Proceeds of dispositions

30b. Check "Yes," and attach the following schedule to the Form 5500 if the plan had any loans or fixed income obligations in default or determined to be uncollectible as of the end of the plan year. Include obligations where the required payments have not been made by the due date. With respect to notes and loans, the due date, payment amount and conditions for default are usually contained in the note or loan documents. Defaults can occur at any time for those obligations which require periodic repayment. Generally loans and fixed income obligations are considered uncollectible when payment has not been made and there is little probability that payment will be made. A loan by the plan is in default when the borrower is unable to pay the obligation upon maturity. A fixed income obligation has a fixed maturity date at a specified interest rate. List any loans by the plan which are in default and any fixed income obligations which have matured, but have not been paid, for which it has been determined that payment will not be made. The schedule should be in the following or similar format, use the same size paper as the Form 5500.

Note: *In column (a), place an asterisk (*) on the line of each identified person known to be a party-in-interest to the plan. Include all loans that were renegotiated during the plan year. Also, explain what steps have been taken or will be taken to collect overdue amounts for each loan listed.*

(a)	(b) Identity and address of obligor	(c) Original amount of loan	Amount received during reporting year		(f) Unpaid balance at end of year	(g) Detailed description of loan including dates of making and maturity, interest rate, the type and value of collateral, any renegotiation of the loan and the terms of the renegotiation and other material items	Amount overdue	
			(d) Principal	(e) Interest			(h) Principal	(i) Interest

30c. Check "Yes," and attach to the Form 5500 the following schedule if the plan had any leases in default or classified as uncollectible. The schedule should use the following or a similar format and the same size paper as the Form 5500.

A lease is an agreement conveying the right to use property, plant or equipment for a stated period. A lease is in default when the required payment(s) has not been made. An uncollectible lease is one where the required payments have not been made and for which there is little probability that payment will be made. *Also, explain what steps have been taken or will be taken to collect overdue amounts for each lease listed.*

(a)	(b) Identity of lessor/lessee	(c) Relationship to plan, employer, employee organization or other party-in-interest	(d) Terms and description (type of property, location and date it was purchased, terms regarding rent, taxes, insurance, repairs, expenses, renewal options, date property was leased)	(e) Original cost	(f) Current value at time of lease	(g) Gross rental receipts during the plan year	(h) Expenses paid during the plan year	(i) Net receipts	(j) Amount in arrears

30d. Check "Yes" and attach to the Form 5500 the following schedule if the plan had any reportable transactions (see 29 CFR 2520.103-6). The schedule should use the following or a similar format and the same size paper as the Form 5500. A reportable transaction includes:

1. A single transaction within the plan year in excess of 5% of the current value of the plan assets;
2. Any series of transactions with, or in conjunction with, the same person, involving property other than securities, which amount in the aggregate within the plan year (regardless of the category of asset and the gain or loss on any transaction) to more than 5% of the current value of plan assets;
3. Any transaction within the plan year involving securities of the same issue if within the plan year any series of transactions with respect to such securities amount in the aggregate to more than 5% of the current value of the plan assets; and
4. Any transaction within the plan year with respect to securities with, or in conjunction with, a person if any prior or subsequent single transaction within the plan year with such person, with respect to securities, exceeds 5% of the current value of plan assets.

The 5% figure is determined by comparing the current value of the transaction at the transaction date with the current value of the plan assets at the beginning of the plan year.

If the assets of two or more plans are maintained in one trust, the plan's allocable portion of the transactions of the trust shall be combined with the other transactions of the plan, if any, to determine which transactions (or series of transactions) are reportable (5%) transactions. This does not apply to investment arrangements whose current value is reported in 34c(xi). Instead, for investments in common/collective trusts, pooled separate accounts, 103-12 IEs and registered investment companies, determine the 5% figure by comparing the transaction date value of the acquisition and/or disposition of units of participation or shares in the entity with the current value of the plan assets at the beginning of the plan year. Do not complete item 30d if all plan funds are held in a master trust. Plans with assets in a master trust which have other transactions should determine the 5% figure by subtracting the current value of plan assets held in the master trust from the current value of all plan assets at the beginning of the plan year. Do not include individual transactions of investment arrangements reported in 34c(xi).

In the case of a purchase or sale of a security on the market, do not identify the person from whom purchased or to whom sold.

(a) Identity of party involved	(b) Description of asset (include interest rate and maturity in case of a loan)	(c) Purchase price	(d) Selling price	(e) Lease rental	(f) Expense incurred with transaction	(g) Cost of asset	(h) Current value of asset on transaction date	(i) Net gain or (loss)

30e and f. Check "Yes," and attach the following schedule to the Form 5500 if the plan had any non-exempt transactions with a party-in-interest. For purposes of this form, party-in-interest is deemed to include a disqualified person (see Code section 4975(e)(2)). The term "party-in-interest" is defined on page 12 . Non-exempt transactions with a party-in-interest include any direct or indirect:

1. Sale or exchange, or leasing, of any property between the plan and a party-in-interest.
2. Lending of money or other extension of credit between the plan and party-in-interest.
3. Furnishing of goods, services, or facilities between the plan and a party-in-interest.
4. Transfer to, or use by or for the benefit of, a party-in-interest, of any income or assets of the plan.
5. Acquisition, on behalf of the plan, of any employer security or employer real property in violation of Code section 407(a).
6. Dealing with the assets of the plan for a fiduciary's own interest or own account.
7. Acting in a fiduciary's individual or in any other capacity in any transaction involving the plan on behalf of a party (or represent a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries.

8. Receipt of any consideration for his or her own personal account by a party-in-interest who is a fiduciary for any party dealing with the plan in connection with a transaction involving the income or assets of the plan.

Do not check "Yes" for items 30e or 30f, or list transactions that are statutorily exempt under Part 4 of Title I of ERISA, or administratively exempt under ERISA section 408(a), or exempt under Code sections 4975(c) and 4975(d), or include transactions of a 103-12 IE with parties other than the plan. You may indicate that an application for an administrative exemption is pending.

If you are unsure as to whether a transaction is exempt or not, you should consult with either the plan's independent qualified public accountant or legal counsel or both.

Set out each transaction with the information set forth below in the following or similar format using the same size paper as the Form 5500.

If a nonexempt prohibited transaction occurred with respect to a disqualified person, file Form 5330 with IRS to pay the excise tax on the transaction.

(a) Identity of party involved	(b) Relationship to plan, employer or other party-in-interest	(c) Description of transactions including maturity date, rate of interest, collateral, par or maturity value	(d) Purchase price	(e) Selling price	(f) Lease rental	(g) Expenses incurred in connection with transaction	(h) Cost of asset	(i) Current value of asset	(j) Net gain or (loss) on each transaction

30g. Employer Security.—An employer security is any security issued by an employer (including affiliates) of employees covered by the plan. These may include common stocks, preferred stocks, bonds, zero coupon bonds, debentures, convertible debentures, notes, and commercial paper. Generally, a publicly traded security is a security which is bought and sold on a recognized market (e.g., NYSE, AMEX, over the counter, etc.) for which there is a pool of willing buyers and sellers. Securities which are listed on a market but for which there does not exist a pool of willing buyers and sellers are not publicly traded.

Qualifying Employer Security.—An employer security which is a stock or a "marketable obligation" is considered a qualifying employer security. For purposes of this definition, the term "marketable obligation" means a bond, debenture, note, certificate, or other evidence of indebtedness (obligation) if:

(i) such obligation is acquired —

(A) on the market, either: (1) at the price of the obligation prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (2) if the obligation is not traded on such a national securities exchange, at a price not less favorable to the plan than the offering price for the obligation as established by current bid and asked prices quoted by persons independent of the issuer;

(B) from an underwriter, at a price: (1) not in excess of the public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission, and (2) at which a substantial portion of the same issue is acquired by persons independent of the issuer; or

(C) directly from the issuer, at a price not less favorable to the plan than the price paid currently for a substantial portion of the same issue by persons independent of the issuer;

(ii) immediately following the acquisition of such obligation—

(A) not more than 25% of the aggregate amount of obligations issued in such issue and outstanding at the time of acquisition is held by the plan, and

(B) at least 50% of the aggregate amount referred to in subparagraph (A) is held by persons independent of the issuer; and

(iii) immediately following the acquisition of the obligation, not more than 25% of the assets of the plan is invested in obligations of the employer or an affiliate of the employer.

For purposes of the qualifying employer security definition, the term "stock" must meet the following conditions:

1. No more than 25% of the aggregate amount of stock of the same class issued and outstanding at the time of acquisition is held by the plan, and

2. At least 50% of the aggregate amount of stock described in the preceding paragraph is held by persons independent of the issuer.

For exceptions to the above, see ERISA section 407(f).

30h. Generally, as it relates to this question, an appraisal by an unrelated third party is an evaluation of the value of a security prepared by an individual or firm who knows how to judge the value of securities and does not have an ongoing relationship with the plan or plan fiduciaries except for preparing the appraisal. Non-publicly traded securities are generally held by few people and not traded on a stock exchange.

32a(i). Generally, every plan official of an employee benefit plan who handles funds or other property of such plan must be bonded. A plan administrator, officer, or employee shall be deemed to be handling funds or other property of a plan, so as to require bonding, whenever his or her duties or activities with respect to given funds are such that there is a risk that such funds could be lost in the event of fraud or dishonesty on the part of such person, acting either alone or in collusion with others. Section 412 of ERISA and the regulations found at 29 CFR 2580 provide the bonding requirements, including the definition of "handling" (29 CFR 2580.412-6), the permissible forms of bonds (29 CFR 2580.412-10), and certain exemptions such as the exemption for unfunded plans, certain banks and insurance companies (ERISA section 412), and the exemption allowing plan officials to purchase bonds from surety companies authorized by the Secretary of the Treasury as acceptable reinsurers on Federal bonds (29 CFR 2580.412-23).

Check "Yes" only if the plan itself (as opposed to the plan sponsor) is a named insured under a fidelity bond covering plan officials.

Plans are permitted under certain conditions to purchase fiduciary liability insurance. These policies do not protect the plan from dishonest acts and are not bonds which should be reported in question 32.

32a(ii). Indicate the aggregate amount of coverage available for all claims.

32b(i). Check "Yes" if the plan has suffered or discovered any loss as the result of a dishonest or fraudulent act(s).

32b(ii). If item 32b(i) has been answered "Yes," enter the full amount of the loss. If the full amount of the loss has not yet been determined, provide and disclose that the figure is an estimate, such as "Approximately $1,000."

Note: *Willful failure to report is a criminal offense. See ERISA section 501.*

33a. If you are uncertain as to whether the plan is covered under the PBGC termination insurance program check the box "Not determined" and contact the PBGC and request a coverage determination. Welfare and fringe benefit plans do not complete this item.

34 and 35. You can use either the cash, modified accrual, or accrual basis for recognition of transactions in items 34 and 35, as long as you use one method consistently.

Round off all amounts in items 34 and 35 to the nearest dollar. Be sure to check all sub-totals and totals carefully.

Caution: *Do not mark through the printed line descriptions and insert your own description as this may cause additional correspondence due to a new computerized review of the Form 5500.*

"Current value" means fair market value, where available. Otherwise, it means the fair value as determined in good faith under the terms of the plan by a trustee or a named fiduciary, assuming an orderly liquidation at the time of the determination.

If the assets of two or more plans are maintained in one trust, such as when an employer has two plans which are funded through a single trust (except investment arrangements reported in 34c(xi)), complete items 34 and 35 by entering the plan's allocable part of each line item.

If assets of one plan are maintained in two or more trust funds, report the combined financial information in items 34 and 35.

Fully insured, unfunded, and unfunded/insured welfare plans, and fully insured pension plans meeting the conditions of 29 CFR 2520.104-44, need not complete

items 34 and 35. To determine if your welfare plan is fully insured, unfunded, or unfunded/insured, see page 2.

To determine if your pension plan is fully insured, see page 4.

Exception: *Plans which are both welfare and fringe benefit plans must complete items 35e, 35g and 35h.*

34. Column (a) should be used to enter the current value of plan assets and liabilities as of the beginning of the plan year. Column (b) should be used to enter the current value of plan assets and liabilities as of the end of the plan year.

Amounts reported in column (a) must be the same as reported for corresponding line items in column (b) of the return/report for the preceding plan year.

34a. Total noninterest-bearing cash includes, among other things, cash on hand or cash in a noninterest-bearing checking account.

34b. Subtract any allowance for doubtful accounts from each receivable to obtain the net receivable for that line item.

34b(i). Noncash basis filers should include contributions due the plan by the employer but not yet paid. Do not include other amounts due from the employer such as the reimbursement of an expense or the repayment of a loan.

34b(ii). Noncash basis filers should include contributions withheld by the employer from participants and amounts due directly from participants which have not yet been received by the plan. Do not include the repayment of participant loans.

34b(iii). Noncash basis filers should include income from investment income earned but not yet received by the plan.

34b(iv). Noncash basis filers should include amounts due to the plan which are not includable in items 34b(i)–(iii) above. These may include amounts due from the employer or another plan for expense reimbursement or from a participant for the repayment of an overpayment of benefits.

34b(v). Add 34b(i), 34b(ii), 34b(iii) and 34b(iv) and enter the total.

34c(i). Include all assets which earn interest in a financial institution account or in a money market fund, including, interest bearing checking accounts, passbook savings accounts, et al.

34c(ii). Include securities issued or guaranteed by the U.S. Government or its designated agencies such as U.S. Savings Bonds, Treasury bonds, Treasury bills, FNMA, and GNMA.

34c(iv). Include investment securities issued by a corporate entity at a stated interest rate repayable on a particular future date such as most bonds, debentures, convertible debentures, commercial paper and zero coupon bonds. Do not include debt securities of Governmental units or municipalities reported under 34c(iii) or 34c(xiii).

34c(v)(A). Include stock issued by corporations which is accompanied by preferential rights such as the right to share in distributions of earnings at a higher rate or has general priority over the common stock of the same entity. Include the value of warrants convertible into preferred stock.

34c(v)(B). Include any stock which represents regular ownership of the corporation and is not accompanied by preferential rights plus the value of warrants convertible into common stock.

34c(vi). Include the value of the plan's participation in a partnership or joint venture if the underlying assets of the partnership or joint venture are not considered to be plan assets under 29 CFR 2510.3-101. Do not include the value of a plan's interest in a partnership or joint venture which is a 103-12 IE (see 34c(xi), below).

34c(vii)(A). Include the current value of real property owned by the plan which produces income from rentals, etc. This property is not to be included in item 34e, buildings and other property used in plan operations.

34c(vii)(B). Include the current value of real property owned by the plan which is not producing income or used in plan operations.

34c(viii)(A). Include the current value of all loans made by the plan to provide mortgage financing to purchasers (other than plan participants) of residential dwelling units, either by making or participating in loans directly or by purchasing mortgage loans originated by a third party. (For participant loans, see 34c(ix), below.)

34c(viii)(B). Include the current value of all loans made by the plan to provide mortgage financing to purchasers (other than participants) of commercial real estate, either by making or participating in the loans directly or by purchasing mortgage loans originated by a third party. (For participant loans, see 34c(ix), below).

34c(ix)(A). Include the current value of all loans to participants which are made by the plan to provide mortgage financing to participants who were purchasers of real property, irrespective of whether the mortgage was for residential, commercial or farm property.

34c(ix)(B). Include the balance of any loans made to participants which were not reported in 34c(ix)(A).

34c(x). Include all loans made by the plan which are not to be reported elsewhere in item 34 such as loans for construction, securities loans, and other miscellaneous loans.

34c(xi). Enter the current value of the sum of the plan's interest in common/collective trusts, pooled separate accounts, master trusts, 103-12 IEs and registered investment companies (registered under the Investment Company Act of 1940) at the beginning and end of the plan year. If some plan funds are held in these investment arrangements, and other plan funds are held in other funding media, complete all applicable sub-items of item 34 with regard to assets held in other funding media.

A plan investing in common/collective trusts or pooled separate accounts should attach to the return/report either the statement of assets and liabilities of the common/collective trust or pooled separate account or the certification discussed on page 3 of these instructions.

The value of the plan's interest in a master trust is the sum of the net values of the plan's interest in master trust investment accounts. The net values of such interests are obtained by multiplying the plan's percentage interest in each master trust investment account by the net assets of the investment account (total assets minus total liabilities) at the beginning and end of the plan year.

34c(xii). You can use the same method for determining the value of the insurance contracts reported in 34c(xii) that you used for line 6e of the Schedule A (Form 5500) as long as the contract values are stated as of the beginning and end of the plan year.

34c(xiii). Other investments include options, index futures, repurchase agreements, and state and municipal securities among other things.

34c(xiv). Add items 34c(i) through 34c(xiii) and enter the total.

34d. See 30g on page 14 for the definition of employer security.

34e. Include the current (not book) value of the buildings and other property used in the operation of the plan. Buildings or other property held as plan investments should be reported in item 34c(vii)(A) or (B), or 34d(ii).

34f. Add items 34a, 34b(v), 34c(xiv), 34d(i), 34d(ii) and 34e and enter the total.

Do not include the value of future pension payments in 34g, 34h, 34i, 34j or 34k.

34g. Noncash basis plans should include the total amount of benefit claims which have been processed and approved for payment by the plan.

34h. Noncash basis plans should include the total amount of obligations owed by the plan which were incurred in the normal operations of the plan and have been approved for payment by the plan but have not been paid.

34i. Acquisition indebtedness.— "Acquisition indebtedness," for debt-financed property other than real property, means the outstanding amount of the principal debt incurred:

(1) by the organization in acquiring or improving the property;

(2) before the acquisition or improvement of the property if the debt was incurred only to acquire or improve the property; or

(3) after the acquisition or improvement of the property if the debt was incurred only to acquire or improve the property and was reasonably foreseeable at the time of such acquisition or improvement.

For further explanation, see Code section 514(c).

34j. Noncash basis plans should include amounts owed for any liabilities which would not be classified as benefit claims payable, operating payables, or acquisition indebtedness.

35a(i). Include the total cash contributions received and/or (for accrual basis plans) due to be received.

35a(ii). Use the current value, at date contributed, of securities or other noncash property.

35b(i)(A). Include the interest earned on interest-bearing cash. This is derived from investments which are includable in 34c(i), including earnings from sweep accounts, STIF accounts, etc.

35b(i)(B). Include the interest earned on certificates of deposit. This is the interest earned on the investments which are reported on line 34c(ii).

35b(i)(C). Include the interest earned on U. S. Government securities. This is the interest earned on the investments which are reported on line 34c(iii).

35b(i)(D). Generally, this is the interest earned on securities which are reported on line(s) 34c(iv) and 34d(i).

35b(i)(E). Include the interest earned on the investments which are reported on line(s) 34c(viii)(A) and (B) and 34c(ix)(A).

35b(i)(F). Include the interest earned on the investments which are reported on lines(s) 34c(ix)(B) and 34c(x).

35b(i)(G). Include any interest not reported in 35b(i)(A)–(F).

35b(ii) (A) and (B). Generally, these dividends are from the investments which are reported in items 34c(v)(A) and (B) and 34d(i).

For accrual basis plans, include any dividends declared for stock held on the date of record, but not yet received as of the end of the plan year.

35b(iii). Generally, rents represent the income earned on the real property which is reported in items 34c(vii)(A) and 34d(ii). Rents should be entered as a "Net" figure. Net rents are determined by taking the total rent received and subtracting all expenses directly associated with the property. If the real property is jointly used as income producing property and for the operation of the plan, that portion of the expenses attributable to the income producing portion of the property should be netted against the total rents received.

35b(iv). Column (b), total of net gain (loss) on sale of assets, should reflect the sum of the net realized gain (or loss) on each asset held at the beginning of the plan year which was sold or exchanged during the plan year and each asset which was both acquired and disposed of within the plan year.

Note: *As current value reporting is required for the Form 5500, assets are revalued to current value at the end of the plan year. For the purposes of this form, the increase or decrease in the value of assets since the beginning of the plan year (if held on the first day of the plan year) or their acquisition date (if purchased during the plan year) is reported in item 35b(v) below, with two exceptions: (1) the realized gain (or loss) on each asset which was disposed of during the plan year is reported in 35b(iv) (NOT in 35b(v)), and (2) the net investment gain (or loss) from certain investment arrangements is reported in item 35b(vi).*

The sum of the realized gain (or loss) of all assets sold or exchanged during the plan year is to be calculated by—

(1) entering the sum of the amount received for these former assets in 35b(iv), column (a), line (A),

(2) entering in 35b(iv), column (a), line (B), the sum of the current value of these former assets as of the beginning of the plan year, for those assets on hand at the beginning of the plan year, or the purchase price for those assets acquired during the plan year, and

(3) subtracting (B) from (A) and entering this result in column (b).

A negative figure should be placed in parentheses.

35b(v). Subtract the current value of assets at the beginning of the year plus the cost of any assets acquired during the plan year from the current value of assets at the end of the year to obtain this figure. A negative figure should be placed in parentheses. Do not include assets which were disposed of within the plan year (reportable in 35b(iv) above) or certain investment arrangements (reportable in 35b(vi) below).

35b(vi). For purposes of this item, investment arrangements include investments includable in 34c(xi). Report all earnings, expenses, gains or losses, and unrealized appreciation or depreciation which were included in computing the net investment gain (or loss) from any such investment arrangement here. If some plan funds are held in any of these investment arrangements and other plan funds are held in other funding media, complete all applicable sub-items of item 35 to report plan earnings, and expenses, relating to the other funding media.

The net investment gain (or loss) allocated to the plan for the plan year from the plan's investment in these investment arrangements is equal to:

(A) the sum of the current value of the plan's interest in each investment arrangement at the end of the plan year,

(B) minus the current value of the plan's interest in each investment arrangement at the beginning of the plan year,

(C) plus any amounts transferred out of each investment arrangement by the plan during the plan year, and

(D) minus any amounts transferred into each investment arrangement by the plan during the plan year.

Enter the net gain as a positive number or the net loss in parentheses on line 35b(vi).

35c. Include any other plan income earned that is not included in 35a or 35b. Do not include transfers from other plans which should be reported in item 35j.

35d. Add items 35a, 35b, and 35c and enter the total income.

35e. If distributions include securities or other property, use the current value at date distributed for this item. See page 14 for the definition of current value. If this return/report is being filed only for a fringe benefit plan (or for both a fringe benefit plan and a welfare benefit plan which is exempt from completing item 35), you must complete items 35g and 35h (reasonable estimates will be acceptable for these figures).

35e(i). Include the current value of all cash, securities or other property at the date of distribution.

35e(ii). Include payments to insurance companies and similar organizations such as Blue Cross, Blue Shield and health maintenance organizations for the provision of plan benefits, e.g., paid-up annuities, accident insurance, health insurance, vision care, dental coverage, etc.

35e(iii). Include payments made to other organizations or individuals providing benefits. Generally, these are individual providers of welfare benefits such as legal services, day care services, training and apprenticeship services.

35f. Interest expense is a monetary charge for the use of money borrowed by the plan. This amount should include the total of interest paid or to be paid (for accrual basis plans) during the plan year.

35g. Expenses incurred in the general operations of the plan are classified as administrative expenses. Report all administrative expenses (by specified category) paid by or charged to the plan, including those which were not subtracted from the gross income of common/collective trusts, pooled separate accounts, master trust investment accounts, and 103-12 IEs in determining their net investment gain(s) or loss(es). If this return/report is filed only for a fringe benefit plan and NOT for a welfare benefit plan, do not include overhead expenses such as utilities and photocopying expenses. Also, if you are filing for an educational assistance program described in Code section 127, do not include expenses for job-related training which are deductible under Code section 162.

35g(i). Include all of the plan's expenditures such as salaries and the payment of premiums to provide benefits to plan employees (e.g., health insurance, life insurance, etc.).

35g(ii). Include the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) by the plan for outside accounting services. These may include the fee(s) for the annual audit of the plan by an independent qualified public accountant, for payroll audits, and for accounting/bookkeeping services. These do not include amounts paid to plan employees to perform accounting functions.

35g(iii). Include the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) to an actuary for services rendered to the plan.

35g(iv). Include the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) to a contract administrator for performing administrative services for the plan. For purposes of the return/report, a contract administrator is any individual, partnership, or corporation, responsible for managing the clerical operations (e.g., handling membership rosters, claims payments, maintaining books and records) of the plan on a contractual basis. Do not include salaried staff or employees of the plan or banks, or insurance carriers.

35g(v). Include the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) to an individual, partnership or corporation (or other person) for advice to the plan relating to its investment portfolio. These may include fees paid to manage the plan's investments, fees for specific advice on a particular investment, and fees for the evaluation of the plan's investment performance.

35g(vi). Include total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) to a lawyer for services rendered to the plan. Include fees paid for rendering legal opinions, litigation, and advice but not for providing legal services as a benefit to plan participants.

35g(vii). Include the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) for valuations or appraisals to determine the cost, quality, or value of an item. These may include the fee(s) paid for appraisals of real property (real estate, gemstones, coins, etc.), and a valuation of closely held securities for which there is no ready market.

35g(viii). Include the total fees and expenses paid to or on behalf of plan trustees (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year). These may include reimbursement of expenses associated with trustees such as lost time, seminars, travel, meetings, etc.

35g(ix). Other expenses are those that cannot be associated definitely with items 35g(i) through 35g(viii). All miscellaneous expenses are also included in this figure. These may include expenses for office supplies and equipment, cars, telephone, postage, rent, and expenses associated with the ownership of a building used in the operation of the plan.

35h. Add column (b) of items 35e, 35f, and 35g.

35i. Subtract item 35h from item 35d

35j. Include in this reconciliation figure any transfers of assets into or out of the plan resulting from mergers and consolidations of plans or associated with benefit liabilities which are also being transferred. A transfer is not a shifting of assets or liabilities from one investment medium to another used for a single plan (e.g., between a trust and an annuity contract). Transfers out should be shown in parentheses.

35k. Include amount of net assets at the beginning of the year. This amount must equal item 34i, column (a).

35l. Include the amount of net assets at the end of the year. This amount must equal item 34l, column (b).

Codes for Principal Business Activity and Principal Product or Service

These industry titles and definitions are based, in general, on the Enterprise Standard Industrial Classification System authorized by the Regulatory and Statistical Analysis Division, Office of Information and Regulatory Affairs, Office of Management and Budget, to classify enterprises by type of activity in which they are engaged.

Code

AGRICULTURE, FORESTRY, AND FISHING

0120 Field crop.
0150 Fruit, tree nut, and vegetable
0180 Horticultural specialty.
0230 Livestock.
0270 Animal specialty.

Agricultural services and forestry:

0740 Veterinary services.
0750 Animal services, except veterinary.
0780 Landscape and horticultural services
0790 Other agricultural services.
0800 Forestry.

Farms:

Fishing, hunting, and trapping:

0930 Commercial fishing, hatcheries, and preserves.
0970 Hunting, trapping, and game propagation.

MINING

Metal mining:

1010 Iron ores.
1070 Copper, lead and zinc, gold and silver ores
1098 Other metal mining
1150 Coal mining.

Oil and gas extraction:

1330 Crude petroleum, natural gas, and natural gas liquids.
1380 Oil and gas field services.

Nonmetallic minerals (except fuels) mining:

1430 Dimension, crushed and broken stone, sand and gravel.
1498 Other nonmetallic minerals, except fuels.

CONSTRUCTION

General building contractors and operative builders:

1510 General building contractors
1531 Operative builders.

Heavy construction contractors:

1611 Highway and street construction.
1620 Heavy construction, except highway

Special trade contractors:

1711 Plumbing, heating, and air conditioning
1721 Painting, paperhanging, and decorating
1731 Electrical work.
1740 Masonry, stonework, and plastering
1750 Carpentering and flooring.
1761 Roofing and sheet metal work
1771 Concrete work.
1781 Water well drilling.
1790 Miscellaneous special trade contractors.

MANUFACTURING

Food and kindred products:

2010 Meat products.
2020 Dairy products.
2030 Preserved fruits and vegetables
2040 Grain mill products.
2050 Bakery products.
2060 Sugar and confectionery products
2081 Malt liquors and malt.
2088 Alcoholic beverages, except malt liquors and malt.
2089 Bottled soft drinks and flavorings.
2096 Other food and kindred products
2100 Tobacco manufacturers.

Textile mill products:

2228 Weaving mills and textile finishing
2250 Knitting mills.
2298 Other textile mill products

Apparel and other textile products:

2315 Men's and boys' clothing.
2345 Women's and children's clothing.
2388 Hats, caps, millinery, fur goods, and other apparel and accessories.
2390 Misc. fabricated textile products.

Code

Lumber and wood products:

2415 Logging camps and logging contractors, sawmills, and planing mills.
2430 Millwork, plywood, and related products
2498 Other wood products, including wood buildings and mobile homes
2500 Furniture and fixtures.

Paper and allied products:

2625 Pulp, paper, and board mills.
2699 Other paper products.

Printing, publishing, and allied industries:

2710 Newspapers.
2720 Periodicals.
2735 Books, greeting cards, and miscellaneous publishing.
2799 Commercial and other printing, and printing trade services

Chemical and allied products:

2815 Industrial chemicals, plastics materials, and synthetics.
2830 Drugs.
2840 Soap, cleaners, and toilet goods
2850 Paints and allied products.
2898 Agricultural and other chemical products

Petroleum refining and related industries (including those integrated with extraction):

2910 Petroleum refining (including those integrated with extraction).
2998 Other petroleum and coal products

Rubber and misc. plastics products:

3050 Rubber products, plastics footwear, hose, and belting.
3070 Misc. plastics products.

Leather and leather products:

3140 Footwear, except rubber.
3198 Other leather and leather products.

Stone, clay, glass, and concrete products:

3225 Glass products.
3240 Cement, hydraulic.
3270 Concrete, gypsum, and plaster products
3298 Other nonmetallic mineral products.

Primary metal industries:

3370 Ferrous metal industries; miscellaneous primary metal products.
3380 Nonferrous metal industries.

Fabricated metal products, except machinery and transportation equipment:

3410 Metal cans and shipping containers.
3428 Cutlery, hand tools, and hardware; screw machine products, bolts, and similar products.
3430 Plumbing and heating, except electric and warm air.
3440 Fabricated structural metal products.
3460 Metal forgings and stampings.
3470 Coating, engraving, and allied services.
3480 Ordnance and accessories, except vehicles and guided missiles.
3490 Misc. fabricated metal products

Machinery, except electrical:

3520 Farm machinery.
3530 Construction, mining and materials handling machinery, and equipment.
3540 Metalworking machinery.
3550 Special industry machinery, except metalworking machinery.
3560 General industrial machinery.
3570 Office, computing, and accounting machines.
3598 Engines and turbines, service industry machinery, and other machinery, except electrical.

Code

Electrical and electronic machinery, equipment, and supplies:

3630 Household appliances.
3665 Radio, television, and communication equipment.
3670 Electronic components and accessories.
3698 Other electric equipment.

Transportation equipment:

3710 Motor vehicles and equipment.
3725 Aircraft, guided missiles, and parts.
3730 Ship and boat building and repairing
3798 Other transportation equipment.

Measuring and controlling instruments; photographic and medical goods, watches and clocks:

3815 Scientific instruments and measuring devices; watches, and clocks.
3845 Optical, medical, and ophthalmic goods.
3860 Photographic equipment and supplies.
3998 Other manufacturing products.

TRANSPORTATION, COMMUNICATION, ELECTRIC, GAS, SANITARY SERVICES

Transportation:

4000 Railroad transportation.

Local and interurban passenger transit:

4121 Taxicabs.
4189 Other passenger transportation

Trucking and warehousing:

4210 Trucking, local and long distance
4289 Public warehousing and trucking terminals.

Other transportation including transportation services:

4400 Water transportation.
4500 Transportation by air.
4600 Pipelines, except natural gas.
4722 Passenger transportation arrangement
4723 Freight transportation arrangement.
4799 Other transportation services

Communication:

4825 Telephone, telegraph, and other communication services.
4830 Radio and television broadcasting

Electric, gas, and sanitary services:

4910 Electric services.
4920 Gas production and distribution
4930 Combination utility services.
4990 Water supply and other sanitary services.

WHOLESALE TRADE

Durable:

5010 Motor vehicles and automotive equipment.
5020 Furniture and home furnishings.
5030 Lumber and construction materials.
5040 Sporting, recreational, photographic, and hobby goods, toys, and supplies.
5050 Metals and minerals, except petroleum and scrap.
5060 Electrical goods.
5070 Hardware, plumbing, and heating equipment.
5083 Farm machinery and equipment.
5089 Other machinery, equipment, and supplies.
5098 Other durable goods.

Nondurable:

5110 Paper and paper products.
5129 Drugs, drug proprietaries, and druggists' sundries.
5130 Apparel, piece goods, and notions.
5140 Groceries and related products, except meats and meat products.
5147 Meats and meat products.
5150 Farm product raw materials.
5160 Chemicals and allied products.
5170 Petroleum and petroleum products
5180 Alcoholic beverages.
5190 Miscellaneous nondurable goods.

Code

RETAIL TRADE

Building materials hardware, garden supply, and mobile home dealers:

5211 Lumber and other building materials dealers.
5231 Paint, glass and wallpaper stores.
5251 Hardware stores.
5261 Retail nurseries and garden stores
5271 Mobile home dealers

General merchandise:

5331 Variety stores.
5398 Other general merchandise stores

Food stores:

5411 Grocery stores.
5420 Meat and fish markets and freezer provisioners.
5431 Fruit stores and vegetable markets.
5441 Candy, nut, and confectionery stores
5451 Dairy products stores
5460 Retail bakeries.
5490 Other food stores.

Automotive dealers and service stations:

5511 New car dealers (franchised).
5521 Used car dealers.
5531 Auto and home supply stores
5541 Gasoline service stations.
5551 Boat dealers.
5561 Recreational vehicle dealers
5571 Motorcycle dealers.
5599 Aircraft and other automotive dealers

Apparel and accessory stores:

5611 Men's and boys' clothing and furnishings
5621 Women's ready-to-wear stores.
5631 Women's accessory and specialty stores
5641 Children's and infants' wear stores
5651 Family clothing stores.
5661 Shoe stores
5681 Furriers and fur shops.
5699 Other apparel and accessory stores

Furniture, home furnishings, and equipment stores:

5712 Furniture stores.
5713 Floor covering stores.
5714 Drapery, curtain, and upholstery stores
5719 Home furnishings, except appliances.
5722 Household appliance stores
5732 Radio and television stores
5733 Music stores.

Eating and drinking places:

5812 Eating places.
5813 Drinking places

Miscellaneous retail stores:

5912 Drug stores and proprietary stores
5921 Liquor stores.
5931 Used merchandise stores.
5941 Sporting goods stores and bicycle shops
5942 Book stores
5943 Stationery stores.
5944 Jewelry stores
5945 Hobby, toy, and game shops.
5946 Camera and photographic supply stores
5947 Gift, novelty, and souvenir shops.
5948 Luggage and leather goods stores.
5949 Sewing, needlework, and piece goods stores
5961 Mail order houses.
5962 Merchandising machine operators
5963 Direct selling organizations
5982 Fuel and ice dealers (except fuel oil and bottle gas dealers).
5983 Fuel oil dealers.
5984 Liquefied petroleum gas (bottled gas)
5992 Florists.
5993 Cigar stores and stands.
5994 News dealers and newsstands.
5996 Other miscellaneous retail stores

Code

FINANCE, INSURANCE, AND REAL ESTATE

Banking:

6030 Mutual savings banks
6060 Banking holding companies.
6090 Banks, except mutual savings banks and bank holding companies.

Credit agencies other than banks:

6120 Savings and loan associations
6140 Personal credit institutions.
6150 Business credit institutions
6199 Other credit agencies.

Security, commodity brokers, dealers, exchanges, and services:

6212 Security underwriting syndicates.
6218 Security brokers and dealers, except underwriting syndicates.
6299 Commodity contracts brokers and dealers, security and commodity exchanges; and allied services

Insurance:

6355 Life insurance.
6356 Mutual insurance, except life or marine and certain fire or flood insurance companies.
6359 Other insurance companies.
6411 Insurance agents, brokers, and services

Real estate:

6511 Real estate operators (except developers) and lessors of buildings.
6516 Lessors of mining, oil, and similar property.
6518 Lessors of railroad property and other real property.
6531 Real estate agents, brokers and managers
6541 Title abstract offices
6552 Subdividers and developers, except cemeteries.
6553 Cemetery subdividers and developers
6599 Other real estate.
6611 Combined real estate, insurance, loans and law offices.

Holding and other investment companies:

6742 Regulated investment companies
6743 Real estate investment trusts.
6744 Small business investment companies
6749 Holding and other investment companies, except bank holding companies.

SERVICES

Hotels and other lodging places:

7012 Hotels.
7013 Motels, motor hotels, and tourist courts
7021 Rooming and boarding houses.
7032 Sporting and recreational camps.
7033 Trailer parks and camp sites.
7041 Organizational hotels and lodging houses on a membership basis

Personal services:

7215 Coin-operated laundries and dry cleaning
7219 Other laundry, cleaning and garment services.
7221 Photographic studios, portrait
7231 Beauty shops.
7241 Barber shops
7251 Shoe repair and hat cleaning shops
7261 Funeral services and crematories
7299 Miscellaneous personal services

Business services:

7310 Advertising.
7340 Services to buildings
7370 Computer and data processing services
7392 Management, consulting, and public relations services.
7394 Equipment rental and leasing
7398 Other business services

Code

Automotive repair and services:

7510 Automotive rentals and leasing, without drivers.
7520 Automobile parking.
7531 Automobile top and body repair shops
7538 General automobile repair shops
7539 Other automobile repair shops.
7540 Automobile services, except repair

Miscellaneous repair services:

7622 Radio and TV repair shops.
7628 Electrical repair shops, except radio and TV
7641 Reupholstery and furniture repair
7680 Other miscellaneous repair shops

Motion pictures:

7812 Motion picture production, distribution, and services.
7830 Motion picture theaters.

Amusement and recreation services:

7920 Producers, orchestras, and entertainers
7932 Billiard and pool establishments.
7933 Bowling alleys.
7980 Other amusement and recreation services.

Medical and health services:

8011 Offices of physicians.
8021 Offices of dentists.
8031 Offices of osteopathic physicians
8041 Offices of chiropractors.
8042 Offices of optometrists.
8048 Registered and practical nurses.
8050 Nursing and personal care facilities
8060 Hospitals.
8071 Medical laboratories
8072 Dental laboratories.
8098 Other medical and health services

Other services:

8111 Legal services.
8200 Educational services.
8911 Engineering and architectural services
8932 Certified public accountants.
8933 Other accounting, auditing, and bookkeeping services
8999 Other services, not elsewhere classified

TAX-EXEMPT ORGANIZATIONS

9002 Church plans making an election under section 410(d) of the Internal Revenue Code.
9319 Other tax-exempt organizations.
9904 Governmental instrumentality or agency

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Form **5500-C**

Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefits Administration

Pension Benefit Guaranty Corporation

Return/Report of Employee Benefit Plan

(With fewer than 100 participants)

This form is required to be filed under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 and sections 6039D, 6057(b), and 6058(a) of the Internal Revenue Code, referred to as the Code.

OMB No. 1210-0016

1988

This Form is Open to Public Inspection.

For the calendar plan year 1988 or fiscal plan year beginning , 1988, and ending , 19

If your plan year changed since the last return/report filed, check this box ▶ . . . . . ☐

Type or print in ink all entries on the form, schedules, and attachments. If an item does not apply, enter "N/A." File the originals.

If *(i)* through *(iii)* do not apply to this year's return/report, leave the boxes unmarked. This return/report is:

(i) ☐ the first return/report filed for the plan; *(ii)* ☐ an amended return/report; or *(iii)* ☐ the final return/report filed for the plan.

▶ Welfare benefit plans and fringe benefit plans need only complete certain items or may not be required to file—see instructions "What to File."

▶ One-participant plans file Form 5500EZ for 1988.

▶ If you have been granted an extension of time to file this form, you must attach a copy of the approved extension to this form.

Use IRS label. Otherwise, please print or type.

1a Name of plan sponsor (employer, if for a single-employer plan)	1b Employer identification number
Address (number and street)	1c Telephone number of sponsor ( )
City or town, state, and ZIP code	1d Business code number

2a Name of plan administrator (if same as plan sponsor, enter "Same")	1e CUSIP issuer number
Address (number and street)	2b Administrator's employer identification no.
City or town, state, and ZIP code	2c Telephone number of administrator ( )

3 Are the name, address, and employer identification number (EIN) of the plan sponsor and/or plan administrator the same as they appeared on the last return/report filed for this plan? ☐ Yes ☐ No If "No," enter the information from the last return/report in a and/or b, and complete c.

a Sponsor ▶ _____ EIN _____ Plan number _____

b Administrator ▶ _____ EIN _____

c If a indicates a change in the sponsor's name and EIN, is this a change in sponsorship only? (See specific instructions for definition of sponsorship.) ☐ Yes ☐ No

4 Check box to indicate the type of plan entity (check only one box):

a ☐ Single-employer plan
b ☐ Plan of controlled group of corporations or common control employers
c ☐ Multiemployer plan
d ☐ Multiple-employer-collectively-bargained plan
e ☐ Multiple-employer plan (other)
f ☐ Exceptions to (b) and (e). (See instructions for line 4f.)

5a *(i)* Name of plan ▶ _____	5b Effective date of plan
(ii) ☐ Check if name of plan changed since the last return/report *(iii)* ☐ Check this box if this plan covers self-employed participants	5c Enter three-digit plan number . . . . ▶

6a ☐ Welfare benefit plan (plan numbers 501 through 999) must check applicable items A through P and 6c

(i) ☐ Type

A ☐ Health (other than dental or vision)
B ☐ Life insurance
C ☐ Supplemental unemployment
D ☐ Dental
E ☐ Vision
F ☐ Temporary disability (accident and sickness)
G ☐ Prepaid legal
H ☐ Long-term disability
I ☐ Severance pay
J ☐ Apprenticeship and training
K ☐ Scholarship (funded)
L ☐ Death benefits other than life insurance
M ☐ Code section 120 (group legal services plan)
N ☐ Code section 125 (cafeteria plan)
O ☐ Code section 127 (educational assistance plan)
P ☐ Other (specify) _____

(ii) If you checked M, N, or O, check if plan is: ☐ funded or ☐ unfunded

6b ☐ Pension benefit plan (plan numbers 001 through 500) must check applicable items in (i) through (vii) and answer 6c through 6f.

(i) ☐ Defined benefit plan

(ii) ☐ Defined contribution plan—(indicate type of defined contribution): (A) ☐ Profit-sharing (B) ☐ Stock bonus (C) ☐ Target benefit (D) ☐ Other money purchase (E) ☐ Other (specify) ▶ _____

(iii) ☐ Defined benefit plan with benefits based partly on balance of separate account of participant (Code section 414(k))

(iv) ☐ Annuity arrangement of certain exempt organizations (Code section 403(b)(1))

(v) ☐ Custodial account for regulated investment company stock (Code section 403(b)(7))

(vi) ☐ Pension plan utilizing individual retirement accounts or annuities (described in Code section 408) as the sole funding vehicle for providing benefits

(vii) ☐ Other (specify) ▶

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

Date ▶ _____ Signature of employer/plan sponsor ▶ _____

Date ▶ _____ Signature of plan administrator ▶ _____

For Paperwork Reduction Act Notice, see page 1 of the Instructions.

Form **5500-C** (1988)

		Yes	No
6c	Other plan features: *(i)* ☐ ESOP *(ii)* ☐ Leveraged ESOP *(iii)* ☐ Participant-directed account plan *(iv)* ☐ Pension plan maintained outside the United States *(v)* ☐ Master trust (see instructions) *(vi)* ☐ 103-12 investment entity (see instructions) *(vii)* ☐ Common/Collective trust *(viii)* ☐ Pooled separate account		
d	Single-employer plans enter the tax year end of the employer in which this plan year ends ▶ Month ____ Day ____ Year ____		
e	Is the employer a member of an affiliated service group?		
f	Does this plan contain a cash or deferred arrangement described in Code section 401(k)?		
7a	Total participants: *(i)* Beginning of plan year ____ *(ii)* End of plan year ____		
b	*(i)* Were any participants in the pension benefit plan separated from service with a deferred vested benefit for which a Schedule SSA (Form 5500) is required to be attached?		
	(ii) If "Yes," enter the number of separated participants required to be reported ▶		
8a	Were any plan amendments adopted during the plan year?		
b	Did any amendment result in the retroactive reduction of accrued benefits for any participant?		
c	Enter the date the most recent amendment was adopted ▶ Month ____ Day ____ Year ____		
d	If a is "Yes," did any amendment change the information contained in the latest summary plan descriptions or summary description of modifications available at the time of the amendment?		
e	Has a summary plan description or summary description of modifications that reflects the plan amendments referred to in d been furnished to participants and filed with the Department of Labor?		
9a	Was this plan terminated during this plan year or any prior plan year? If "Yes," enter year ▶ ____		
b	Were all plan assets either distributed to participants or beneficiaries, transferred to another plan, or brought under the control of PBGC?		
c	Was a resolution to terminate this plan adopted during this plan year or any prior plan year?		
d	If a or c is "Yes," have you received a favorable determination letter from IRS for the termination?		
e	If d is "No," has a determination letter been requested from IRS?		
f	If a or c is "Yes," have participants and beneficiaries been notified of the termination or the proposed termination?		
g	If a is "Yes" and the plan is covered by PBGC, is the plan continuing to file a PBGC Form 1 and pay premiums until the end of the plan year in which assets are distributed or brought under the control of PBGC?		
h	During this plan year, did any trust assets revert to the employer for which the Code section 4980 excise tax is due?		
i	If h is "Yes," enter the amount of tax paid with your Form 5330 ▶		
10a	Was this plan merged or consolidated into another plan(s), or were assets or liabilities transferred to another plan(s) since the end of the plan year covered by the last return/report Form 5500 or 5500-C which was filed for this plan (or during this plan year if this is the initial return/report)?		

If "Yes," identify the other plan(s):	c Employer identification number(s)	d Plan number(s)
b Name of plan(s) ▶		
e Has Form 5310 been filed?		☐ Yes ☐ No

			Yes	No
11	Enter the plan funding arrangement code (see instructions) ▶	12 Enter the plan benefit arrangement code (see instructions) ▶		
13	Is this a plan established or maintained pursuant to one or more collective bargaining agreements?			
14	If any benefits are provided by an insurance company, insurance service, or similar organization, enter the number of Schedules A (Form 5500), Insurance Information, that are attached. If none, enter "-0-" ▶			

Welfare Plans Do Not Complete Items 15 Through 28. Skip to item 29.

				Yes	No
15a	If this is a defined benefit plan, is it subject to the minimum funding standards for this plan year? If "Yes," attach Schedule B (Form 5500).				
b	If this is a defined contribution plan, i.e., money purchase or target benefit, is it subject to the minimum funding standards (if a waiver was granted, see instructions)?				
	If "Yes," complete *(i)*, *(ii)*, and *(iii)* below:				
	(i) Amount of employer contribution required for the plan year under Code section 412	(i)	$		
	(ii) Amount of contribution paid by the employer for the plan year	(ii)	$		
	Enter date of last payment by employer ▶ Month ____ Day ____ Year ____				
	(iii) If *(i)* is greater than *(ii)*, subtract *(ii)* from *(i)* and enter the funding deficiency here. Otherwise, enter zero. (If you have a funding deficiency, file Form 5330.)	(iii)	$		
16	Has the plan been top-heavy at any time beginning with the 1984 plan year?				
17	Has the plan accepted any transfers or rollovers with respect to a participant who has attained age 70½?				

Form 5500-C (1988) Page 3

		Yes	No
18a If the plan distributed any annuity contracts this year, did these contracts contain a requirement that the spouse consent before any distributions under the contract are made in a form other than a qualified joint and survivor annuity?	18a		
b Did the plan make distributions to participants or beneficiaries in a form other than a qualified joint and survivor annuity (a life annuity if a single person) or qualified preretirement survivor annuity (exclude deferred annuity contracts)?	b		
c Did the plan make distributions or loans to married participants and beneficiaries without the required consent of the participant's spouse?	c		
d Upon plan amendment or termination, do the accrued benefits of every participant include the subsidized benefits that the participant may become entitled to receive subsequent to the plan amendment or termination?	d		
19 Were distributions made in accordance with the requirements of Code section 417(e)? (See instructions.)	19		
20 Have any contributions been made or benefits accrued in excess of the Code section 415 limits, as amended by the Tax Reform Act of 1986?	20		
21 Has the plan made the required distributions in 1988 under Code section 401(a)(9)?	21		
22a Does the plan satisfy the percentage test of Code section 410(b)(1)(A)?	22a		

If a is "Yes," complete b through i. If "No," complete only b and c below and see Specific Instructions.

		Number
b *(i)* Number of employees who are aggregated with employees of the employer as a result of being an affiliated service group under Code section 414(b), (c), or (m)	(i)	
(ii) Number of individuals who performed services as leased employees under Code section 414(n) including leased employees of employers in (i)	(ii)	
c Total number of employees (including any employees aggregated in b)	c	
d Number of employees excluded under the plan because of *(i)* minimum age or years of service, *(ii)* employees on whose behalf retirement benefits were the subject of collective bargaining, or *(iii)* nonresident aliens who received no earned income from United States sources	d	
e Total number of employees not excluded (subtract d from c)	e	
f Employees ineligible (specify reason)	f	
g Employees eligible to participate (subtract f from e)	g	
h Employees eligible but not participating	h	
i Employees participating (subtract h from g)	i	

		Yes	No
23a Is it intended that this plan qualify under Code section 401(a)?	23a		
If "Yes," complete b and c.			
b Enter the date of the most recent IRS determination letter—Month _____ Year _____			
c Is a determination letter request pending with IRS?	c		
24a If this is a plan with Employee Stock Ownership features, was a current appraisal of the value of the stock made immediately before any contribution of stock or the purchase of the stock by the trust for the plan year covered by this return/report?	24a		
b If a is "Yes," was the appraisal made by an unrelated third party?	b		
25 Is this plan integrated with social security or railroad retirement?	25		
26 Does the employer/sponsor listed in 1a of this form maintain other qualified pension benefit plans?	26		
If "Yes," enter the total number of plans including this plan ▶			

27 Is this plan an adoption of a master, prototype or uniform plan? Indicate which type by checking the appropriate box:
a ☐ Master b ☐ Prototype plan c ☐ Uniform plan

28a Is the plan covered under the Pension Benefit Guaranty Corporation termination insurance program? ☐ Yes ☐ No ☐ Not determined

b If a is "Yes" or "Not determined," enter the employer identification number and the plan number used to identify it.
Employer identification number ▶ Plan number ▶

29 During the plan year:		Yes	No	Amount
a Was this plan covered by a fidelity bond?	29a			
b Was there any loss to the plan, whether or not reimbursed, caused by fraud or dishonesty?	b			
c Was there any sale, exchange, or lease of any property between the plan and the employer, any fiduciary, any of the five most highly paid employees of the employer, any owner of a 10% or more interest in the employer, or relatives of any such persons?	c			
d Was there any loan or extension of credit by the plan to the employer, any fiduciary, any of the five most highly paid employees of the employer, any owner of a 10% or more interest in the employer, or relatives of any such persons?	d			
e Did the plan acquire or hold any employer security or employer real property?	e			
f Has the plan granted an extension on any delinquent loan owed to the plan?	f			
g Has the employer owed contributions to the plan which are more than 3 months overdue?	g			
h Were any loans by the plan or fixed income obligations due the plan classified as uncollectible or in default as of the close of the plan year?	h			

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					Yes	No	Amount
l	Has any plan fiduciary had a financial interest in excess of 10% in any party providing services to the plan or received anything of value from any such party?			29l			
j	Did the plan at any time hold 20% or more of its assets in any single security, debt, mortgage, parcel of real estate, or partnership/joint venture interests?			j			
k	Did the plan at any time engage in any transaction or series of related transactions involving 20% or more of the current value of plan assets?			k			
l	Were there any noncash contributions made to the plan whose value was set without an appraisal by an independent third party?			l			
m	Were there any purchases of nonpublicly traded securities by the plan whose value was set without an appraisal by an independent third party?			m			
n	Has the plan failed to provide any benefit when due under the terms of the plan because of insufficient assets?			n			

30 Current value of plan assets and liabilities at the beginning and end of the plan year. Combine the value of plan assets held in more than one trust. Allocate the value of the plan's interest in a commingled trust containing the assets of more than one plan on a line-by-line basis unless the trust meets one of the specific exceptions described in the instructions. Do not enter the value of that portion of an insurance contract which guarantees during this plan year to pay a specific dollar benefit at a future date. Round off amounts to the nearest dollar.

		(a) Beginning of year	(b) End of year
Assets			
a	Cash	a	
b	Receivables	b	
c	Investments:		
	(i) U.S. Government securities	(I)	
	(ii) Corporate debt and equity instruments	(II)	
	(iii) Real estate and mortgages (other than to participants)	(III)	
	(iv) Loans to participants:		
	A Mortgages	A	
	B Other	B	
	(v) Other	(v)	
	(vi) Total investments (add (i) through (v))	(vi)	
d	Buildings and other property used in plan operations	d	
e	Other assets	e	
f	Total assets	f	
Liabilities			
g	Payables	g	
h	Acquisition indebtedness	h	
i	Other liabilities	i	
j	Total liabilities	j	
k	Net assets (f minus j)	k	

31 Plan income, expenses, and changes in net assets for the plan year. Include all income and expenses of the plan including any trust(s) or separately maintained fund(s) and payments/receipts to/from insurance carriers.

		(a) Amount	(b) Total
Income			
a	Contributions received or receivable in cash from:		
	(i) Employer(s) (including contributions on behalf of self-employed individuals)	(i)	
	(ii) Employees	(ii)	
	(iii) Others	(iii)	
b	Noncash contributions	b	
c	Earnings from investments (interest, dividends, rents, royalties)	c	
d	Net realized gain (loss) on sale or exchange of assets	d	
e	Other income (specify) ▶	e	
f	Total income (add a through e)	f	
Expenses			
g	Distribution of benefits and payments to provide benefits:		
	(i) Directly to participants or their beneficiaries	(i)	
	(ii) Other	(ii)	
h	Administrative expenses (salaries, fees, commissions, insurance premiums)	h	
i	Other expenses (specify) ▶	i	
j	Total expenses (add g through i)	j	
k	Net income (loss) (subtract j from f)	k	

★U.S.GPO:1989-0-205-302

Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefits Administration

Pension Benefit Guaranty Corporation

1988 Instructions for Form 5500-C

Return/Report of Employee Benefit Plan (With fewer than 100 participants)

(Code references are to the Internal Revenue Code. ERISA refers to the Employee Retirement Income Security Act of 1974.)

Paperwork Reduction Act Notice.—We ask for this information to carry out the law as specified in ERISA and Code section 6039D. We need it to determine whether the plan is operating according to the law. You are required to give us this information.

The time needed to complete and file the forms listed below reflect the combined requirements of the Internal Revenue Service, Department of Labor, Pension Benefit Guaranty Corporation and the Social Security Administration. These times will vary depending on individual circumstances. The estimated average times are:

	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form to IRS
Form 5500-C	52 hrs., 37 min.	7 hrs., 12 min.	10 hrs., 13 min.	32 min.
Schedule A (Form 5500)	17 hrs., 28 min.	28 min.	1 hr., 42 min.	16 min.
Schedule B (Form 5500)	25 hrs., 50 min.	1 hr.	1 hr., 27 min.	-----
Schedule P (Form 5500)	2 hrs., 9 min.	1 hr., 24 min.	1 hr., 29 min.	-----
Schedule SSA (Form 5500)	6 hrs., 42 min.	12 min.	19 min.	-----

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms more simple, we would be happy to hear from you. You can write to the **Internal Revenue Service,** Washington, DC 20224, Attention: IRS Reports Clearance Officer, TR:FP; or the **Office of Management and Budget,** Paperwork Reduction Project, Washington, DC 20503.

File 1988 forms for plan years that started in 1988. If the plan year differs from the calendar year, fill in the fiscal year space just under the form title. For a short plan year, see Section 1, instruction B.

Reminder: In addition to filing this form with IRS, plans covered by the Pension Benefit Guaranty Corporation termination insurance program must file their Annual Premium Payment, PBGC Form 1, directly with that agency.

Penalties.—ERISA and the Code provide for the assessment or imposition of penalties for not giving complete information and not filing statements and returns/reports. Certain penalties are administrative; that is, they may be imposed or assessed by one of the governmental agencies delegated to administer the collection of Form 5500 series data. Others require a legal conviction.

A. Administrative Penalties.—Listed below are various penalties for not meeting the Form 5500 series filing requirements. One or more of the following five penalties may be imposed or assessed in the event of incomplete filings and /or filings received after the date they are due unless it is determined that your explanation for failure to file properly is for reasonable cause:

1. A penalty of up to $1,000 a day for each day a plan administrator fails or refuses to file a complete return/report. See ERISA section 502(c)(2) and 29 CFR 2560.502c-2.
2. A penalty of $25 a day (up to $15,000) for not filing returns for certain plans of deferred compensation, certain trusts and annuities, and bond purchase plans by the due date(s). See Code section 6652(e). This penalty also applies to returns required to be filed under Code section 6039D.
3. A penalty of $1 a day (up to $5,000) for each participant for whom a registration statement (Schedule SSA (Form 5500)) is required but not filed. See Code section 6652(d)(1).
4. A penalty of $1 a day (up to $1,000) for not filing a notification of change of status of a plan. See Code section 6652(d)(2).
5. A penalty of $1,000 for not filing an actuarial statement. See Code section 6692.

B. Other Penalties.—

1. Any individual who willfully violates any provision of Part 1 of Title I of ERISA shall be fined not more than $5,000 or imprisoned not more than 1 year, or both. See ERISA section 501.
2. A penalty of up to $10,000, 5 years imprisonment, or both, for making any false statement or representation of fact, knowing it to be false, or for knowingly concealing or not disclosing any fact required by ERISA. See section 1027, Title 18, U.S. Code, as amended by section 111 of ERISA.

How To Use This Instruction Booklet

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Section 1

A. Who Must File.—Any administrator or sponsor of an employee benefit plan subject to ERISA must file information about each such plan **every year** (Code section 6058 and ERISA sections 104 and 4065). Also required to file, for each year, is every **employer** maintaining a specified fringe benefit plan as described in Code section 6039D. The Internal Revenue Service (IRS), Department of Labor (DOL), and Pension Benefit Guaranty Corporation (PBGC) have consolidated their returns and report forms to minimize the filing burden for plan administrators and employers. The chart on page 7 gives a brief guide to the type of return/report to be filed.

B. When To File.—File all required forms and schedules by the last day of the 7th month after the plan year ends. For a short plan year, file the form and applicable schedules by the last day of the 7th month after the short plan year ends. For purposes of this return/report, the short plan year ends upon the date of the change in accounting period or upon the complete distribution of the assets of the plan. (Also see Section 3.) If the current year Form 5500-C is not available before the due date of your short plan year return/report, use the latest year form available and change the date printed on the return/report to the current year. Also show the dates your short plan year began and ended.

Request for Extension of Time To File.—A one time extension of time up to 2½ months may be granted for filing returns/reports if **Form 5558,** Application for Extension of Time to File Certain Employee Plan Returns, is filed **before the normal due date of the return/report.**

Exception: *Single-employer plans and plans of a controlled group of corporations which file consolidated Federal income tax returns are automatically granted an extension of time to file Form 5500, 5500-C, or 5500-R to the due date of the Federal income tax return of the single employer or controlled group of corporations if all the following conditions are met:*

1. The plan year and the tax year coincide.

2. The single employer or the controlled group has been granted an extension of time to file its Federal income tax return to a date later than the normal due date for filing the Form 5500, 5500-C, or 5500-R.

3. A copy of the IRS extension of time to file the Federal income tax return is attached to each Form 5500, 5500-C, or 5500-R filed with IRS.

Note: *An extension of time to file the return/report does not operate as an extension of time to file the PBGC Form 1.*

C. Where To File.—Please file the return/report with the Internal Revenue Service Center indicated below. No street address is needed.

See page 5 for the filing address for investment arrangements filing directly with DOL.

If the principal office of the plan sponsor or the plan administrator is located in ▼	Use the following Internal Revenue Service Center address ▼
Connecticut, Delaware, District of Columbia, Foreign Address, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia	Holtsville, NY 00501
Alabama, Alaska, Arkansas, California, Florida, Georgia, Hawaii, Idaho, Louisiana, Mississippi, Nevada, North Carolina, Oregon, South Carolina, Tennessee, Washington	Atlanta, GA 39901
Arizona, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Utah, West Virginia, Wisconsin, Wyoming	Memphis, TN 37501
All Form 5500EZ filers	Andover, MA 05501

Section 2

A. Kinds of Plans.—Employee benefit plans include pension benefit plans and welfare benefit plans. File the applicable return/report for any of the following plans.

(a) Pension benefit plan.—This is an employee pension benefit plan covered by ERISA. The return/report is due whether or not the plan is qualified and even if benefits no longer accrue, contributions were not made this plan year, or contributions are no longer made ("frozen plan" or "wasting trust"). See Section 3, "Final Return/Report" on page 6.

Pension benefit plans required to file include defined benefit plans and defined contribution plans (e.g., profit-sharing, stock bonus, money purchase plans, etc.). The following are among the pension benefit plans for which a return/report must be filed:

(i) Annuity arrangements under Code section 403(b)(1).

(ii) Custodial account established under Code section 403(b)(7) for regulated investment company stock.

(iii) Individual retirement account established by an employer under Code section 408(c).

(iv) Pension benefit plan maintained outside the United States primarily for nonresident aliens if the employer who maintains the plan is:

(A) a domestic employer, or

(B) a foreign employer with income derived from sources within the U.S. (including foreign subsidiaries of domestic employers) and deducts contributions to the plan on its U.S. income tax return. See "Plans Excluded From Filing" below.

(v) Church plans electing coverage under Code section 410(d).

(vi) A plan that covers residents of Puerto Rico, the Virgin Islands, Guam, Wake Island, or American Samoa. This includes a plan that elects to have the provisions of section 1022(i)(2) of ERISA apply.

See "Items To Be Completed on Form 5500-C" on page 4 for more information about what questions need to be completed by pension plans.

(b) Welfare benefit plan.—This is an employee welfare benefit plan covered by Part 1 of Title I of ERISA. Welfare plans would provide benefits such as medical, dental, life insurance, apprenticeship training, educational assistance, severance pay, disability, etc.

See "Items To Be Completed on Form 5500-C" on page 4 for more information about what questions need to be completed for welfare benefit plans.

(c) Fringe benefit plan.—Group legal services plans described in Code section 120, cafeteria plans described in Code section 125, and educational assistance programs described in Code section 127 are considered fringe benefit plans and generally are required to file the annual information specified by Code section 6039D. However, Code section 127 educational assistance programs which provide only job-related training which is deductible under Code section 162 do not need to file Form 5500-C.

See "Items To Be Completed on Form 5500-C" on page 4 for more information about how to complete this form for a fringe benefit plan.

B. Plans Excluded From Filing (this does not apply to a fringe benefit plan required to file by Code section 6039D).—Do not file a return/report for an employee benefit plan that is any of the following:

(a) A welfare benefit plan which covers fewer than 100 participants as of the beginning of the plan year and is: (i) fully insured, (ii) unfunded, or (iii) a combination of insured and unfunded.

(1) An unfunded welfare benefit plan has its benefits paid as needed directly from the general assets of the employer or the employee organization that sponsors the plan.

(2) A fully insured welfare benefit plan has its benefits provided exclusively through insurance contracts or policies, the premiums of which must be paid directly by the employer or employee organization from its general assets or partly from its general assets and partly from contributions by its employees or members (which the employer or organization forwards within 3 months of receipt).

(3) A combination unfunded/insured welfare plan has its benefits provided partially as an unfunded plan and partially as a fully insured plan. An example of such a plan is a plan which requires the employer to reimburse an employee for hospital expenses with the first $1,000 per year of benefits paid from the general assets of the employer and any benefits above $1,000 paid from a stop loss insurance contract.

The insurance contracts or policies discussed above must be issued by an insurance company or similar organization (such as Blue Cross, Blue Shield or a health maintenance organization) that can legally do business in any state. A plan meeting (1) cannot have any assets at any time during the plan year.

"Directly," as used in (1) above, means that the plan cannot use a trust or separately maintained fund (including a Code section 501(c)(9) trust) to hold plan assets or to act as a conduit for the transfer of plan assets.

See 29 CFR 2520.104-20.

Note: *An "employees' association" as used in Code section 501(c)(9) should not be confused with the employee organization or employer which establishes and maintains (i.e., sponsors) the welfare benefit plan.*

(b) An unfunded pension benefit plan or an unfunded or combination unfunded and insured welfare benefit plan: (1) whose benefits go only to a select group of management or highly compensated employees, and (2) which meets the terms of Department of Labor Regulations 29 CFR 2520.104-23 (including the requirement that a notification statement be filed with DOL) or 29 CFR 2520.104-24.

(c) Plans maintained only to comply with workers' compensation, unemployment compensation, or disability insurance laws.

(d) An unfunded excess benefit plan.

(e) A welfare benefit plan maintained outside the United States primarily for persons substantially all of whom are nonresident aliens.

(f) A pension benefit plan maintained outside the United States if it is a qualified foreign plan within the meaning of Code section 404A(e) that does not qualify for the treatment provided in Code section 402(c).

(g) An annuity arrangement described in 29 CFR 2510.3-2(f).

(h) A simplified employee pension (SEP) described in Code section 408(k) which conforms to the alternative method of compliance described in 29 CFR 2520.104-48 or 29 CFR 104-49. A SEP is a pension plan which meets certain minimum qualifications regarding eligibility and employer contributions.

(i) A church plan not electing coverage under Code section 410(d) or a governmental plan.

(j) A welfare plan (other than a fringe benefit plan) that participates in a group insurance arrangement that files a return/report Form 5500 on its behalf. A group insurance arrangement is an arrangement which provides benefits to the employees of two or more unaffiliated employers (not in connection with a multi-employer plan or a multiple-employer-collectively-bargained plan), fully insures one or more welfare plans of each participating employer, and uses a trust (or other entity such as a trade association) as the holder of the insurance contracts and the conduit for payment of premiums to the insurance company. For further details, see 29 CFR 2520.104-43.

C. Kinds of Filers.—Item 4 on the Form 5500, 5500-C, and 5500-R lists the

different types of entities which file the forms. These entities are described below.

(a) Single-employer plan.—If one employer or one employee organization maintains a plan, file a separate return/report for the plan. If the employer or employee organization maintains more than one such plan, file a separate return/report for each plan.

If a member of either a controlled group of corporations or a group of trades or businesses under common control maintains a plan that does not involve other group members, file a separate return/report as a single-employer plan.

If several employers participate in a program of benefits wherein the funds attributable to each employer are available only to pay benefits to that employer's employees, each employer must file a separate return/report.

(b) Plan for controlled group of corporations or group of trades or businesses under common control.—These groups are defined in Code sections 414(b) and (c), and are referred to as controlled groups.

If the benefits are payable to participants from the plan's total assets without regard to contributions by each participant's employer, file one return/report for the plan. On the return/report for the plan, complete item 22 only for the controlled group's employees.

Exception: Employers who participate in a plan of one of the groups listed above but who are not members of the group must file a separate return/report. The return/report should be filed on Form 5500-C or 5500-R, as applicable (see "What To File" on page 4). On the Form 5500-C, complete only items 1, 2, 3, 4f, 5, 6, 9, and 22. On Form 5500-R, complete only items 1 through 3, 4f, and 5 through 8b.

If several employers participate in a program of benefits wherein the funds attributable to each employer are available only to pay benefits to that employer's employees, each employer must file a separate return/report as a single employer plan.

(c) Multiemployer plan.— Multiemployer plans are plans: (1) to which more than one employer is required to contribute; (2) which are maintained pursuant to one or more collective bargaining agreements, and (3) have not made the election under Code section 414(f)(5) and ERISA section 3(37)(E). File one return/ report for each such plan. Contributing employers do not file individually with respect to such plans. See Code section 414 for more information.

(d) Multiple-employer-collectively-bargained plan.—A multiple-employer-collectively-bargained plan involves more than one employer, is collectively bargained and collectively funded, and, if covered by PBGC termination insurance, has properly elected before 9-27-81 not to be treated as a multiemployer plan under Code section 414(f)(5) or ERISA sections 3(37)(E) and 4001(a)(3). File one return/report for each such plan. Participating employers do not file individually for these plans.

(e) Multiple-employer plan (other).—A multiple-employer plan (other) involves more than one employer and is not one of the plans already described. A multiple-employer plan (other) includes only plans whose contributions from individual employers are available to pay benefits to all participants. File one return/report for each such plan.

In addition, for pension benefit plans, each participating employer files either a Form 5500-C, regardless of the number of participants, or Form 5500-R. On Form 5500-C, complete only items 1, 2, 3, 4f, 5, 6, 9, and 22. On Form 5500-R, complete only items 1 through 3, 4f, and 5 through 8b.

Note: *If a participating employer is also the sponsor of the multiple-employer plan (other), the plan number on the return/report filed for the plan should be 333. The Form 5500-C or Form 5500-R filed by the participating employer should list his or her appropriate plan number.*

If more than one employer participates in the plan and the plan provides that each employer's contributions are available to pay benefits only for that employer's employees who are covered by the plan, one annual return/report must be filed for each participating employer. These filers will be considered single employers and should complete the entire form.

D. Investment Arrangements Filing Directly With DOL.—Some plans invest in certain trusts, accounts, and other investment arrangements which may file information concerning itself and its relationship with employee benefit plans (as specified on page 5) directly with DOL. Plans participating in an investment arrangement as described in paragraphs **a** through **c** below are required to attach certain additional information to the return/report filed with IRS as specified below.

a. Common/Collective Trust and Pooled Separate Account

(i) Definition. For reporting purposes, a common/collective trust is a trust maintained by a bank, trust company, or similar institution which is regulated, supervised, and subject to periodic examination by a state or Federal agency for the collective investment and reinvestment of assets contributed thereto from employee benefit plans maintained by more than one employer or controlled group of corporations, as the term is used in Code section 1563. For reporting purposes, a pooled separate account is an account maintained by an insurance carrier which is regulated, supervised, and subject to periodic examination by a state or Federal agency for the collective investment and reinvestment of assets contributed thereto from employee benefit plans maintained by more than one employer or controlled group of corporations, as the term is used in Code section 1563. See 29 CFR sections 2520.103-3, 2520.103-4, 2520.103-5, and 2520.103-9.

Note: *For reporting purposes, a separate account which is not considered to be holding plan assets pursuant to 29 CFR 2510.3-101(h)(1)(iii), shall not constitute a pooled separate account.*

(ii) Additional Information Required To Be Attached to the Form 5500-C for Plans Participating in Common/Collective Trusts and Pooled Separate Accounts. A plan participating in a common/collective trust or pooled separate account must complete the annual return/report in accordance with the specific instructions and attach either (1) the most recent statement of the assets and liabilities of any common/collective trust or pooled separate account, or (2) a certification that: (A) the statement of the assets and liabilities of the common/collective trust or pooled separate account has been submitted directly to DOL by the financial institution or insurance carrier; (B) the plan has received a copy of the statement; and (C) includes the EIN and other numbers used by the financial institution or insurance carrier to identify the trusts or accounts in the direct filing made with DOL.

b. Master Trust

(i) Definition. For reporting purposes, a master trust is a trust for which a regulated financial institution (as defined below) serves as trustee or custodian (regardless of whether such institution exercises discretionary authority or control with respect to the management of assets held in the trust), and in which assets of more than one plan sponsored by a single employer or by a group of employers under common control are held.

A "regulated financial institution" means a bank, trust company, or similar financial institution which is regulated, supervised, and subject to periodic examination by a state or Federal agency. Common control is determined on the basis of all relevant facts and circumstances (whether or not such employers are incorporated). See 29 CFR 2520.103-1(e).

For reporting purposes, the assets of a master trust are considered to be held in one or more "investment accounts." A master trust investment account may consist of a pool of assets or a single asset.

Each pool of assets held in a master trust must be treated as a separate master trust investment account if each plan which has an interest in the pool has the same fractional interest in each asset in the pool as its fractional interest in the pool, and if each such plan may not dispose of its interest in any asset in the pool without disposing of its interest in the pool. A master trust may also contain assets which are not held in such a pool. Each such asset must be treated as a separate master trust investment account.

Financial information must generally be provided with respect to each master trust investment account as specified on page 5.

(ii) Additional Information Required To Be Attached to the Form 5500-C for Plans Participating in Master Trusts. A plan participating in a master trust must complete the annual return/report and attach to it a schedule listing each master trust investment account in which the plan has an interest indicating the plan's name, EIN, and plan number and the name of the master trust used in the master trust information filed with DOL (see page 5). For each investment account you must show, in tabular format, the net value of the plan's interest in each investment account at the beginning and end of the plan year, and the net investment gain (or loss) allocated to the plan for the plan year from the investment account.

Note: *If a master trust investment account consists solely of one plan's asset(s) during the reporting period, the plan may report*

the(se) asset(s) either as an investment account to be reported as part of the master trust report filed directly with DOL or as a plan asset(s) which is not part of the master trust (and therefore subject to all instructions pertaining to assets not held in a master trust).

c. 103-12 Investment Entities

Definition. 29 CFR 2520.103-12 provides an alternative method of reporting for plans which invest in an entity (other than an investment arrangement filing with DOL described in **a** or **b** above), the underlying assets of which include "plan assets" (within the meaning of 29 CFR 2510.3-101) of two or more plans which are not members of a "related group" of employee benefit plans. For reporting purposes, a "related group" consists of each group of two or more employee benefit plans (1) each of which receives 10 percent or more of its aggregate contributions from the same employer or from a member of the same controlled group of corporations (as determined under Code section 1563(a), without regard to Code section 1563(a)(4) thereof); or (2) each of which is either maintained by, or maintained pursuant to a collective bargaining agreement negotiated by, the same employee organization or affiliated employee organizations. For purposes of this paragraph, an "affiliate" of an employee organization means any person controlling, controlled by, or under common control with such organization. See 29 CFR 2520.103-12.

For reporting purposes, the investment entities described above with respect to which the required information is filed directly with DOL constitute "103-12 investment entities" (103-12 IEs).

E. What To File.—The circumstances that dictate which form should be filed are described below. In addition, there are schedules that may need to be attached to the return/report. These are also described below. Finally, this section also contains a description of special filing requirements for plans that invest in certain investment arrangements. A brief guide illustrating which forms and schedules are required by different types of plans and filers may be found on page 7.

Forms

Form 5500.—File **Form 5500**, Annual Return/Report of Employee Benefit Plan, annually for each plan with 100 or more participants at the beginning of the plan year.

Form 5500-C.—File **Form 5500-C**, Return/Report of Employee Benefit Plan, for each pension benefit plan, welfare benefit plan, and fringe benefit plan (unless otherwise exempted) with fewer than 100 participants (one-participant plans see "Form 5500EZ" below) at the beginning of the plan year. File Form 5500-C for the first plan year, the year for which the final return/report is due, and for plan years in which a Form 5500-R is not filed as explained below.

Form 5500-R.—**Form 5500-R**, Registration Statement of Employee Benefit Plan (with fewer than 100 participants), may be filed instead of a Form 5500-C for this plan year provided (a) this is not the first plan year, (b) this is not a year for which the final return/report is due, and (c) a Form 5500-C has been filed for one of the prior 2 plan years. The Form 5500-R should not be filed if (a) this plan year is the first plan year, (b) this is the plan year for which a final return/report is due, or (c) the Form 5500-R has been filed for both of the prior 2 plan years.

Any plan may choose not to file the Form 5500-R if the plan files the Form 5500-C instead.

Note: *Generally, under the filing requirements explained above, if the number of plan participants increases from under 100 to 100 or more, or decreases from 100 or more to under 100, from one year to the next, you would have to file a different form from that filed the previous year. However, there is an exception to this rule. You may file the same form you filed last year, even if the number of participants changed, provided that at the beginning of this plan year the plan had at least 80 participants, but not more than 120.*

Form 5500EZ.—**Form 5500EZ**, Annual Return of One-Participant Pension Benefit Plan, should be filed by most one-participant plans.

A one-participant plan is: (1) a pension benefit plan that covers only an individual or an individual and his or her spouse who wholly own a trade or business, whether incorporated or unincorporated; or (2) a pension benefit plan for a partnership that covers only the partners or the partners and the partners' spouses.

See Form 5500EZ and its instructions to see if the plan meets the requirements for filing the form.

Items To Be Completed on Form 5500-C

Certain kinds of plans and certain kinds of filers that are required to submit Form 5500-C are **not** required to complete the entire form. These are described below, by type of plan. Check the list of headings to see if your plan is affected.

1. Welfare Benefit Plans—Welfare benefit plans generally must complete the following items on the Form 5500-C: 1 through 6c; 7a; 8a, c, d, and e; 9a, b, c, and f; 10a through d; 11 through 14; and 29 through 31.

Note: *If one Form 5500-C is filed for both a welfare plan and a fringe benefit plan, items 22c, 22g, and 22i must be completed in addition to the items listed above for welfare plans.*

2. Fringe Benefit Plans—A Form 5500-C filed only because of Code section 6039D (i.e., for a fringe benefit plan) need complete only items 1 through 6a, 7a, 9a, 9b, 22c, 22g, 22i, 31h, and 31j.

If the annual return/report is also for a welfare benefit plan (see "Who Must File" on page 1), complete the above items and those specified for welfare benefit plans in "1" above.

3. Pension Plans—In general, most pension plans (defined benefit and defined contribution) are required to complete all items on the form. However, some items need not be completed by certain types of pension plans, as described below.

a. Plans exclusively using a tax deferred annuity arrangement under Code section 403(b)(1). These plans need only complete items 1 through 5, 6b(iv), and 9.

b. Plans exclusively using a custodial account for regulated investment company stock under Code section 403(b)(7). These plans need only complete items 1 through 5, 6b(v), and 9.

c. Individual Retirement Account Plan.—A pension plan utilizing individual retirement accounts or annuities (as described in Code section 408) as the sole funding vehicle for providing benefits need only complete items 1 through 5, 6b(vi), and 9.

d. Fully Insured Pension Plan.—A pension benefit plan providing benefits exclusively through an insurance contract, or contracts that are fully guaranteed, and which meets all of the conditions of 29 CFR 2520.104-44 need only complete items 1 through 29b. A pension plan which includes both insurance contracts of the type described in 29 CFR 2520.104-44 as well as other assets should limit its reporting in items 30 and 31 to those other assets.

Note: *For purposes of the annual return/report and the alternative method of compliance set forth in 29 CFR 2520.104-44, a contract is considered to be "allocated" only if the insurance company or organization that issued the contract unconditionally guarantees, upon receipt of the required premium or consideration, to provide a retirement benefit of a specified amount, without adjustment for fluctuations in the market value of the underlying assets of the company or organization, to each participant, and each participant has a legal right to such benefits which is legally enforceable directly against the insurance company or organization.*

e. Nonqualified Plans Maintained Outside the U.S.—Nonqualified pension benefit plans maintained outside the United States primarily for nonresident aliens required to file a return/report (see "Who Must File" on page 1) need only complete items 1 through 8c, 9 through 12, and 15 through 17.

4. Plans of More Than One Employer—All plans of more than one employer (plans of a controlled group, multiemployer plans, multiple-employer-collectively-bargained plans, and multiple-employer-plan (other)) generally should complete all applicable (welfare or pension) items on the form except for item 6d. Only single-employer pension plans must complete this item. In addition, multiemployer and multiple-employer-collectively-bargained plans need not complete item 22 on the Form 5500-C.

Schedules

The various schedules to be attached to the return/report are listed below.

Note: *All attachments to the Forms 5500, 5500-C, and 5500-R must include the name of the plan and the EIN and plan number (PN) as found in items 5a, 1b, and 5c, respectively.*

Attach Schedule A (Form 5500), Insurance Information, to Form 5500, 5500-C, or 5500-R if any benefits under the plan are provided by an insurance company, insurance service, or other similar organization (such as Blue Cross, Blue Shield, or a health maintenance organization).

Exception: *Schedule A (Form 5500) is not needed if the plan covers: (1) only an individual, or an individual and his or her spouse, who wholly owns a trade or business, whether incorporated or unincorporated; or (2) a partner in a partnership, or a partner and his or her spouse.*

Do not file a Schedule A (Form 5500) with a Form 5500EZ.

Attach Schedule B (Form 5500), Actuarial Information, to Forms 5500, 5500-C, 5500-R, or 5500EZ for most defined benefit pension plans. See instructions for Schedule B.

Schedule SSA (Form 5500), Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits, may be needed for separated participants. See "When To Report Separated Participants" in the instructions for Schedule SSA.

Schedule P (Form 5500), Annual Return of Fiduciary of Employee Benefit Trust.—Any fiduciary (trustee or custodian) of an organization that is qualified under Code section 401(a) and exempt from tax under Code section 501(a) who wants to protect the organization under the statute of limitations provided in Code section 6501(a) must file a Schedule P (Form 5500).

File the Schedule P (Form 5500) as an attachment to Form 5500, 5500-C, 5500-R, or 5500EZ for the plan year in which the trust year ends.

Other Filings

Reporting Requirements for Investment Arrangements Filing Directly With DOL

Certain investment arrangements for employee benefit plans file financial information directly with DOL. These arrangements include common/collective trusts, pooled separate accounts, master trusts, and 103-12 IEs. Definitions of these investment arrangements may be found on page 3. Their DOL filing requirements are described below.

A. Common/Collective Trust and Pooled Separate Account Information To Be Filed Directly With DOL

Financial institutions and insurance carriers filing the statement of the assets and liabilities of a common/collective trust or pooled separate account should identify the trust or account by providing the EIN of the trust or account, or (if more than one trust or account is covered by the same EIN) both the EIN and any additional number assigned by the financial institution or insurance carrier (such as: 99-1234567 Trust No. 1); and a list of all plans participating in the trust or account, identified by the plan number, EIN, and name of the plan sponsor. The direct filing should be addressed to:

Common/Collective Trust (OR)
Pooled Separate Account
Pension and Welfare Benefits Administration
U.S. Department of Labor, Room N5644
200 Constitution Avenue, NW
Washington, DC 20210

B. Master Trust Information To Be Filed Directly With DOL

The following information with respect to a master trust must be filed with DOL by the plan administrator or by a designee, such as the administrator of another plan participating in the master trust or the financial institution serving as trustee of the master trust, no later than the date on which the plan's return/report is due. While only one copy of the required information should be filed for all plans participating in the master trust, the information is an integral part of the return/report of each participating plan, and the plan's return/report will not be deemed complete unless all the information is filed within the prescribed time.

Note: *If a master trust investment account consists solely of one plan's asset(s) during the reporting period, the plan may report the(se) asset(s) either as an investment account to be reported as part of the master trust report filed directly with DOL or as a plan asset(s) which is not part of the master trust (and therefore subject to all instructions pertaining to assets not held in a master trust).*

Each of the following statements and schedules must indicate the name of the master trust and the name of the master trust investment account. The information shall be filed with DOL by mailing it to:

Master Trust
Pension and Welfare Benefits Administration
U.S. Department of Labor, Room N5644
200 Constitution Avenue, NW
Washington, DC 20210

1. The name and fiscal year of the master trust and the name and address of the master trustee.

2. A list of all plans participating in the master trust, showing each plan's name, EIN, PN, and its percentage interest in each master trust investment account as of the beginning and end of the fiscal year of the master trust ending with or within the plan year.

3. A statement, in the same format as Part I of Schedule C (Form 5500), for each master trust investment account showing amounts of compensation paid during the fiscal year of the master trust ending with or within the plan year to persons providing services with respect to the investment account and subtracted from the gross income of the investment account in determining the net increase (decrease) in net assets of the investment account.

4. A statement for each master trust investment account showing the assets and liabilities of the investment account at the beginning and end of the fiscal year of the master trust ending with or within the plan year, grouped in the same categories as those specified in item 34 of Form 5500.

5. A statement for each master trust investment account showing the income and expenses, changes in net assets, and net increase (decrease) in net assets of each such investment account during the fiscal year of the master trust ending with or within the plan year, in the categories specified in item 35 of Form 5500. In place of item 35a, show the total of all transfers of assets into the investment account by participating plans. In place of item 35j, show the total of all transfers of assets out of the investment account by participating plans.

6. Schedules, in the format set forth in the instructions for item 30 of Form 5500, of the following items with respect to each master trust investment account for the fiscal year of the master trust ending with or within the plan year: assets held for investment, nonexempt party-in-interest transactions, defaulted or uncollectible loans and leases, and 5% transactions involving assets in the investment account. The 5% figure shall be determined by comparing the current value of the transaction at the transaction date with the current value of the investment account assets at the beginning of the applicable fiscal year of the master trust.

C. 103-12 IE Information To Be Filed Directly With DOL

The information described below must be filed with the DOL by the sponsor of the 103-12 IE no later than the date on which the plan's return/report is due before the plan administrator can elect the alternative method of reporting. While only one copy of the required information should be filed for the 103-12 IE, the information is an integral part of the return/report of each plan electing the alternative method of compliance.

The filing address is:

103-12 Investment Entity
Pension and Welfare Benefits Administration
U.S. Department of Labor, Room N5644
200 Constitution Avenue NW
Washington, DC 20210

1. The name, fiscal year, and EIN of the 103-12 IE and the name and address of the sponsor of the 103-12 IE. If more than one 103-12 IE is covered by the same EIN, they shall be sequentially numbered as follows: 99-1234567 Entity No. 1.

2. A list of all plans participating in the 103-12 IE, showing each plan's name, EIN, PN, and its percentage interest in the 103-12 IE as of the beginning and end of the fiscal year of the 103-12 IE ending with or within the plan year.

3. A statement, in the same format as Part I of Schedule C (Form 5500), for the 103-12 IE showing amounts of compensation paid during the fiscal year of the 103-12 IE ending with or within the plan year to persons providing services to the 103-12 IE.

4. A statement showing the assets and liabilities at the beginning and end of the fiscal year of the 103-12 IE ending with or within the plan year, grouped in the same categories as those specified in item 34 of Form 5500.

5. A statement showing the income and expenses, changes in net assets, and net increase (decrease) in net assets during the fiscal year of the 103-12 IE ending with or within the plan year, grouped in the same categories specified in item 35 of Form 5500. In place of item 35a, show the total of all transfers of assets into the 103-12 IE by participating plans. In place of item 35j, show the total of all transfers of assets out of the 103-12 IE by participating plans.

6. Schedules, in the format set forth in the instructions for item 30 of Form 5500 (except item 30c) with respect to the 103-12 IE for the fiscal year of the 103-12 IE investment entity ending with or within the plan year. Substitute the term "103-12 IE" in place of the word "plan" when completing the schedules.

7. A report of an independent qualified public accountant regarding the above items and other books and records of the 103-12 IE which meets the requirements of 29 CFR 2520.103-1(b)(5).

Page 5

Section 3
General Information

Final Return/Report.—If all assets under the plan (including insurance/annuity contracts) have been distributed to the participants and beneficiaries or distributed to another plan (and when all liabilities for which benefits may be paid under a welfare plan have been satisfied), check the "final return/report" box at the top of the form filed for such plan. The year of complete distribution is the last year a return/report must be filed for the plan. For purposes of this paragraph, a complete distribution will occur in the year in which the assets of a terminated plan are brought under the control of PBGC.

For a defined benefit plan covered by PBGC, a PBGC Form 1 must be filed and a premium must be paid until the end of the plan year in which the assets are distributed or brought under the control of PBGC.

Filing the return/report marked "final return" and indicating that the plan terminated satisfies the notification requirement of Code section 6057(b)(3).

Signature and Date.—The plan administrator must sign and date all returns/reports filed. In addition the employer must sign a return/report filed for a single-employer plan or a plan required to file only because of Code section 6039D.

When a joint employer-union board of trustees or committee is the plan sponsor or plan administrator, at least one employer representative and one union representative must sign and date the return/report.

Participating employers in a multiple-employer plan (other), who are required to file Form 5500-C or 5500-R, are required to sign the return/report. The plan administrator need not sign the Form 5500-C or 5500-R filed by the participating employer.

Reproductions.—Original forms are preferable, but a clear reproduction of the completed form is acceptable. Sign the return/report after it is reproduced. All signatures must be original.

Change in Plan Year.—Generally only defined contribution pension benefit plans need to get prior approval for a change in plan year. (See Code section 412(c)(5).) Rev. Proc. 87-27, 1987-1 C.B. 769 explains the procedure for automatic approval of a change in plan year. A pension benefit plan that would ordinarily need to obtain approval for a change in plan year under Code section 412(c)(5) is granted an automatic approval for a change in plan year if all the following criteria are met:

1. No plan year is more than 12 months long.

2. The change will not delay the time when the plan otherwise would have been required to conform to the requirements of any statute, regulation, or published position of the IRS.

3. The trust, if any, retains its exempt status for the short period required to effect the change, as well as for the taxable year immediately preceding the short period.

4. All actions necessary to implement the change in plan year, including plan amendment and a resolution of the board of directors (if applicable), have been taken on or before the last day of the short period.

5. No change in plan year has been made for any of the preceding plan years.

6. In the case of a defined benefit plan, deductions are taken in accordance with section 5 of Rev. Proc. 87-27.

For the first return/report that is filed following the change in plan year, check the box indicated on the second line under the title at the top of the form (or item 1d if Form 5500-R is being filed).

Amended Return/Report.—If you file an amended return/report, check the "(ii) and amended return/report" box at the top of the form. When filing an amended return, be sure to answer all questions and put a circle around the numbers of the items that have been amended.

How the Annual Return/Report Information May Be Used.—All Form 5500 series return/reports will be subjected to a computerized review. It is, therefore, in the filer's best interest that the responses accurately reflect the circumstances they were designed to report. Annual reports filed under Title I of ERISA must be made available by plan administrators to plan participants and by the Department of Labor to the public pursuant to ERISA section 104.

Section 4
Specific Instructions for Form 5500-C

Important: Answer all items on the Form 5500-C with respect to the plan year, unless otherwise explicitly stated in the item-by-item instructions or on the form itself. Therefore, your responses usually apply to the year entered or printed at the top of the first page of the form. Yes and no questions are to be marked either "yes" or "no" but not both. If neither "yes" nor "no" apply, enter "N/A."

Information To Be Completed at the Top of the Form

First Line at the top of the form—Complete the space for dates when: (1) the 12-month plan year is not a calendar year, or (2) the plan year is less than 12 months (a short plan year).

Second Line—Check the box if the plan year has been changed since the last return/report was filed.

Fourth Line—Check box (i) if this is the initial filing for this plan. Do not check this box if you have ever filed for this plan even if it was on a different form (Form 5500 vs. Form 5500-C or Form 5500-R).

Check box (ii) if you have already filed for the 1988 plan year and are now submitting an amended return/report to reflect errors and/or omissions on the previously filed return/report.

Check box (iii) if the plan no longer exists to provide benefits. See Section 3 for instructions concerning the requirement to file a final return/report.

The numbers of the following instructions are the same as the item numbers on the return/report.

1a. If you did not receive a preaddressed mailing label, enter the name and address of the plan sponsor. If the plan covers only the employees of one employer, enter the employer's name.

If you received a Form 5500-C with a preaddressed mailing label, please attach it in the name and address area of the form you file. If the name or address on the label is wrong, draw a line through the incorrect part and correct it.

The term "plan sponsor" means—

(i) the employer, for an employee benefit plan that a single employer established or maintains;

(ii) the employee organization in the case of a plan of an employee organization; or

(iii) the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan, if the plan is established or maintained jointly by one or more employers and one or more employee organizations, or by two or more employers.

Include enough information in 1(a) to describe the sponsor adequately, for example, "Joint Board of Trustees of Local 187 Machinists" rather than just "Joint Board of Trustees."

1b. Enter the 9-digit employer identification number (EIN) assigned to the plan sponsor/employer, i.e., 00-1234567.

Employers and plan administrators who do not have an EIN should apply for one on Form SS-4, available from most IRS or Social Security Administration offices. Send Form SS-4 to the same Internal Revenue Service Center to which this form will be sent.

Plan sponsors are reminded that they should use the trust EIN when opening a bank account or conducting other transactions for a plan that requires an employer identification number. The trust may apply for an EIN as explained in the preceding paragraph.

A plan of a controlled group of corporations whose sponsor is more than one of the members of the controlled group should insert only the EIN of one of the sponsoring members. This EIN must be used in all subsequent filings of the annual returns/reports for the controlled group unless there is a change in the sponsor.

If the plan administrator is a group of individuals, get a single EIN for the group. When you apply for a number, enter on line 1 of Form SS-4 the name of the group, such as "Joint Board of Trustees of the Local 187 Machinists' Retirement Plan."

Note: *Although Employer Identification Numbers (EINs) for funds (trusts or custodial accounts) associated with plans are not required to be furnished on the Form 5500 series returns/reports, the IRS will issue EINs for such funds for other reporting purposes. EINs may be obtained by filing Form SS-4 as explained above.*

1d. From the list of business codes on pages 13 and 14, enter the one that best describes the nature of the employer's business. If more than one employer is involved, enter the business code for the main business activity.

1e. Plans checking item 4a or 4b must enter the first six digits of the CUSIP (Committee on Uniform Securities Identification Procedures) number, "issuer number," if one has been assigned to the plan sponsor for purposes of issuing corporate securities. CUSIP issuer numbers are assigned to corporations and other entities which issue public securities listed on stock exchanges or traded over the counter. The CUSIP issuer number is the first six digits of the number assigned to the

individual securities which are traded. If the plan sponsor has no CUSIP issuer number, enter "N/A."

2a. If the document constituting the plan appoints or designates a plan administrator other than the sponsor, enter the administrator's name and address. If the plan administrator is also the sponsor, enter "Same." If 2a is the "Same," then items 2b and 2c should be left blank.

The term "administrator" means—

(i) the person or group of persons specified as the administrator by the instrument under which the plan is operated;

(ii) the plan sponsor/employer if an administrator is not so designated; or

(iii) any other person prescribed by regulations of the Secretary of Labor if an administrator is not designated and a plan sponsor cannot be identified.

2b. A plan administrator must have an EIN for reporting purposes. Enter the plan administrator's 9-digit EIN here. If the plan administrator has no EIN, apply for one as explained in 1b above.

Employees of an employer are not plan administrators unless so designated in the plan document, even though they engage in administrative functions of the plan. If an employee of the employer is designated as the plan administrator, that employee must get an EIN.

3. If you answer "No," enter the name, address, and EIN of the plan sponsor and/or the plan administrator shown on the prior return/report.

3c. Indicate if the change in 3a is only a change in sponsorship. "Change in sponsorship" means the plan's sponsor has been changed but no assets or liabilities have been transferred to another plan(s), the plan has not terminated or merged with any other plan, and so forth.

4a. Check for a single-employer plan. See "Kinds of Filers" for what is considered a single-employer plan.

4b. Check for a plan in which more than one employer participates, and some of the employers are members of a controlled group of corporations (Code section 414(b)) or a member of a group of employers under common control (Code section 414(c)).

4c. Check for a multiemployer plan as defined in Code section 414(f) and ERISA sections 3(37) and 4001(a)(3).

4d. Check for a multiple-employer-collectively-bargained plan as described under "Kinds of Filers."

4e. Check for a multiple-employer plan (other) if the plan administrator is filing for the plan as a whole.

4f. Exceptions to **b** and **e.** Each participating employer in a multiple-employer plan (other) pension benefit plan and nonmember employers participating in a plan of a controlled group of corporations or businesses need to file either the Form 5500-C or Form 5500-R, regardless of the number of participants. Complete items 1, 2, 3, 4f, 5, 6, 9, and 22 on the Form 5500-C, and items 1, 2, 3, 4f, 5, 6, 7, 8a, and 8b on the Form 5500-R.

5a. Enter the formal name of the plan or enough information to identify the plan.

5b. Enter the date the plan first became effective.

5c. Enter the 3-digit number the employer or plan administrator assigned to the plan. All welfare plan numbers and Code section 6039D plan numbers start at 501. All other plans start at 001.

Once you use a plan number, continue to use it for that plan on all future filings with IRS, DOL and PBGC reports. Do not use it for any other plan even if you terminated the first plan.

6a. Check every box that describes the welfare benefit plan for which this return/report is being filed. Example: If your plan provides health insurance, dental insurance, eye examinations, and life insurance, four boxes should be checked: 6a(i)(A), 6a(i)(B), 6a(i)(D), and 6a(i)(E).

If you checked box (M), (N), or (O), you must check one box in 6a(ii). Check "unfunded" if the plan is (1) unfunded, (2) fully insured, or (3) a combination of unfunded/insured as defined on page 2, Section 2B(a).

6b(i). For a defined benefit plan, check the box.

6b(ii). Check (C) for a money purchase plan if the contribution is determined by a target benefit calculation. Check (D) for all money purchase plans that do not have a target benefit calculation.

6c(ii). Check for an ESOP which acquires employer securities with borrowed money or other debt-financed techniques.

6c(iii). Check if the plan is a pension plan that provides for individual accounts and permits a participant or beneficiary to exercise independent control over the assets in his or her account (see ERISA section 404(c)).

6c(iv). Check this box for pension benefit plans maintained outside the United States primarily for nonresident aliens. See "Kinds of Filers" for more information.

6c(v). In the space provided following 6c(viii), enter name of the trust and bank or financial institution. Also enter city and state where the trust is maintained. (See page 3 for master trust instructions.)

6c(vi). In the space provided following 6c(viii), enter name and address of the 103-12 IE. (See page 5.)

6d. For single-employer plans enter the date the employer's tax year ends. For example, if the tax year is a calendar year, enter 12-31-88. For all plans with more than one employer, enter "N/A."

6e. Definition of Affiliated Service Group.—In general, Code section 414(m)(2) defines an affiliated service group as a first service organization (FSO) that has:

(1) a service organization (A-ORG) that is a shareholder or partner in the FSO and that regularly performs services for the FSO, or is regularly associated with the FSO in performing services for third persons, and/or

(2) any other organization (B-ORG) if:

(a) a significant portion of the business of that organization consists of performing services for the FSO or A-ORG of a type historically performed by employees in the service field of the FSO or A-ORG, and

(b) 10% or more of the interest of the B-ORG is held by persons who are highly compensated employees of the FSO or A-ORG.

An affiliated service group also includes a group consisting of an organization whose principal business is performing management functions for another organization (or one organization and other related organizations) on a regular and

Summary of Filing Requirements for Employers and Plan Administrators (File forms ONLY with IRS)

Type of plan	What to file	When to file
Most pension plans with only one participant or one participant and that participant's spouse	Form 5500EZ	File all required forms and schedules for each plan by the last day of the 7th month after the plan year ends.
Pension plan with fewer than 100 participants	Form 5500-C or 5500-R	
Pension plan with 100 or more participants	Form 5500	
Annuity under Code section 403(b)(1) or trust under Code section 408(c)	Form 5500, 5500-C, or 5500-R	
Custodial account under Code section 403(b)(7)	Form 5500, 5500-C, or 5500-R	
Welfare benefit plan with 100 or more participants*	Form 5500	
Welfare benefit plan with fewer than 100 participants (see exception on page 1 of these instructions)*	Form 5500-C or 5500-R	
Pension or welfare plan with 100 or more participants (see Form 5500 instructions)	Financial statements, schedules, and accountant's opinion	
Pension or welfare plan with benefits provided by an insurance company	Schedule A (Form 5500)	
Pension plan that requires actuarial information	Schedule B (Form 5500)	
Plan with 100 or more participants	Schedule C (Form 5500)	
Pension plan filing a registration statement identifying separated participants with deferred vested benefits from a pension plan	Schedule SSA (Form 5500)	

*This includes Code section 6039D filers.

continuing basis, and the organization for which such functions are so performed by the organization. For a plan maintained by more than one employer, check "Yes" if any such employer is a member of an affiliated service group.

6f. A cash or deferred arrangement described under Code section 401(k) is a part of a qualified defined contribution plan which provides for an election by employees to defer part of their compensation or receive these amounts in cash.

7. The description of "participant" in the instructions below is only for purposes of item 7 of this form.

For welfare plans, dependents are considered to be neither participants nor beneficiaries. For pension benefit plans, "alternate payees" entitled to benefits under a qualified domestic relations order are not to be counted as participants for this item.

"Participant" means any individual who is included in one of the categories below.

Active participants include any individuals who are currently in employment covered by a plan and who are earning or retaining credited service under a plan. This category includes any individuals who are: (i) currently below the integration level in a plan that is integrated with social security, and/or (ii) eligible to elect to have the employer make payments to a code section 401(k) qualified cash or deferred arrangement. Active participants also include any nonvested individuals who are earning or retaining credited service under a plan. This category **does not** include nonvested former employees who have incurred the greater of 5 consecutive one year breaks in service or the break in service period specified in the plan.

For determining if active participants are fully vested, partially vested, or nonvested, consider vesting in employer contributions only.

For purposes of Code section 6039D, "participant" means any individual who, for a plan year, has had at least one dollar excluded from income by reason of Code section 120, 125, or 127. If you are filing Form 5500-C for a welfare plan that is required to file under Title I of ERISA and under Code section 6039D, the preceding sentence does not apply.

Inactive participants receiving benefits are any individuals who are retired or separated from employment covered by the plan and who are receiving benefits under the plan. This includes former employees who are receiving group health continuation coverage benefits pursuant to Part 6 of ERISA and who are covered by the employee welfare benefit plan. This category does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

Inactive participants entitled to future benefits are individuals who are retired or separated from employment covered by the plan and who are entitled to begin receiving benefits under the plan in the future. This category does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

Deceased participants are any deceased individuals who have one or more beneficiaries who are receiving or are entitled to receive benefits under the plan. This category does not include an individual if an insurance company has made an irrevocable commitment to pay all the benefits to which the beneficiaries of that individual are entitled under the plan.

7b(i). If "Yes," file Schedule SSA (Form 5500) as an attachment to the Form 5500-C. **Plan administrators:** Code section 6057(e) provides that the plan administrator must give each participant a statement showing the same information for that participant as is reported on Schedule SSA.

8a. Check "Yes" if an amendment to the plan was adopted in this plan year, regardless of the effective date of the amendment.

8b. Check "Yes" only if the accrued benefits were retroactively reduced. For example, a plan provides a benefit of 2% for each year of service, but the plan is amended to change the benefit to 1½% a year for all years of service under the plan.

8c. Enter the date the most recent amendment was adopted regardless of the date of the amendent or the effective date of the amendment.

8d. Check "Yes" only if an amendment changed the information previously provided to participants by the summary plan description or summary description of modifications.

8e. A revised summary plan description or summary description of modifications must be filed with DOL and distributed to all participants and pension plan beneficiaries no later than 210 days after the close of the plan year, in which the amendment(s) was adopted. If the material was distributed and filed since the amendments were adopted (even if after the end of the plan year), check "Yes" to item 8e.

9a. Check "Yes" if the plan was terminated or if the plan was merged or consolidated into another plan. Enter year of termination if applicable. If you checked 6a(i)(M), (N), or (O) and indicated that this is an unfunded plan and you also answered 9a "Yes," you must also check 9b "Yes."

9b. If the plan was terminated and all plan assets were not distributed, file a return/report for each year the plan has assets. In that case, the return/report must be filed by the plan administrator, if designated, or by the person or persons who actually control the plan's property.

If all assets were used to buy individual annuity contracts and the contracts were distributed to the participants, check "Yes."

If all the trust assets were transferred to another plan, check "Yes."

Do not check "Yes" for a welfare plan which is still liable to pay benefits for claims which were incurred prior to the termination date but not yet paid. See 29 CFR 2520.104b-2(g)(2)(ii).

9h. The Code provides for a nondeductible excise tax on a reversion of assets from a qualified plan.

9i. The employer must report the reversion by filing Form 5330 and pay any applicable tax. The tax will not be imposed upon employers who are tax-exempt entities under Code section 501(a). See instructions for Form 5330.

10a. If this plan was merged or consolidated into another plan(s), or plan assets or liabilities were transferred to another plan(s), indicate which other plan or plans were involved.

10c. Enter the EIN of the sponsor (employer, if for a single-employer plan) of the other plan.

10e. Pension benefit plans must file Form 5310 at least 30 days before any plan merger or consolidation or any transfer of plan assets or liabilities to another plan.

Caution: *There is a penalty for not filing Form 5310 on time.*

11. Enter the code for the **funding arrangement** used by the plan from the list below.

The "funding arrangement" is the method used for the receipt, holding, investment, and transmittal of plan assets prior to the time the plan actually provides the benefits promised under the plan. For purposes of items 11 and 12, the term "trust" includes any fund or account which receives, holds, transmits, or invests plan assets other than an account or policy of an insurance company.

	Funding Arrangement Codes
Trust	1
Trust and insurance	2
Insurance	3
Exclusively from general assets of sponsor (unfunded)	4
Partially insured and partially from general assets of sponsor	5
Other	6

12. Enter the code for the **benefit arrangement** used by the plan from the list below.

The "benefit arrangement" is the method by which benefits are actually provided to participants by the plan. For example, when a participant retires, the plan might purchase an annuity from an insurance company for that individual to provide the actual benefits promised by the plan. In this example, the annuity would be the benefit arrangement.

Using the chart below, the plan in the above example would enter a "3" to indicate the benefit arrangement.

	Benefit Arrangement Codes
Trust	1
Trust and insurance	2
Insurance	3
Exclusively from general assets of sponsor (unfunded)	4
Partially insured and partially from general assets of sponsor	5
Other	6

13. Check "Yes" if either the contributions to the plan or the benefits paid by the plan are subject to the collective bargaining process, even if the plan is not established and administered by a joint board of trustees. Check "Yes" even if only some of those covered by the plan are members of a collective bargaining unit which negotiates benefit levels on its own behalf. The benefit schedules need not be identical for all employees under the plan.

14. If either the funding arrangement code (item 11) and/or the benefit arrangement code (item 12) is 2, 3, or 5, at least one Schedule A (Form 5500) must be attached to the Form 5500-C filed for pension and welfare plans. The insurance company (or similar organization) which provides benefits is required to provide the plan administrator with the information needed to complete the return/report, pursuant to ERISA section 103 (a)(2). If you do not receive this information in a timely manner, contact the insurance company (or similar organization). If information is missing on Schedule A (Form 5500) due to a refusal to provide this information, note this on the Schedule A. If there are no Schedule(s) A attached, enter "0."

15b. If a waived funding deficiency is being amortized in the current plan year, do not complete (i), (ii), and (iii), but complete 1, 2, 3, 7, and 9 of Schedule B (Form 5500). An enrolled actuary need not sign Schedule B under these circumstances.

15b(iii). File Form 5330 with IRS to pay the excise tax on the funding deficiency. **Caution:** *There is a penalty for not filing Form 5330 on time.*

16. A "top-heavy plan" is a plan which during any plan year is:

(1) any defined benefit plan if, as of the determination date, the present value of the cumulative accrued benefits under the plan for key employees exceeds 60% of the present value of the cumulative accrued benefits under the plan for all employees; and

(2) any defined contribution plan if, as of the determination date, the aggregate of the accounts of key employees under the plan exceeds 60% of the aggregate of the accounts of all employees under the plan.

Each plan of an employer included in a required aggregation group is to be treated as a top-heavy plan if such group is a top-heavy group. See definitions of required aggregation and top-heavy groups below.

Key Employee —A key employee is any participant in an employer plan who at any time during the plan year, or any of the 2 preceding years, is:

(1) an officer of the employer having an annual compensation greater than 50% of the amount in effect under Code section 415(c)(1)(A) for any such plan year,

(2) one of the 10 employees having annual compensation from the employer of more than the limitation in effect under Code section 415(c)(1)(A) and owning (or considered as owning within the meaning of Code section 318) both more than ½% interest and the largest interests in the employer,

(3) a 5% owner of the employer, or

(4) a 1% owner of the employer having an annual compensation from the employer of more than $150,000.

In determining whether an individual is an officer of the employer, no more than 50 employees, or, if less, the greater of 3 employees or 10% of the employees, are to be treated as officers. See Code section 416(i) and T-12 of Regulations section 1.416. A key employee will not include any officer or employee of a governmental plan under Code section 414(d).

Required Aggregation Group—A required aggregation group consists of:

(1) each plan of the employer in which a key employee is or was a participant, and

(2) each other plan of the employer which enables a plan to meet the requirements for nondiscrimination in contributions or benefits under Code section 401(a)(4), or the participation requirements under Code section 410.

Top-Heavy Group—A top-heavy group is an aggregation group if, as of the determination date, the sum of the present value of the cumulative accrued benefits for key employees under all defined benefit plans included in such group and the aggregate of the accounts of key employees under all defined contribution plans in such group exceeds 60% of a similar sum determined for all employees. To determine if a plan is top-heavy, include distributions made in the 5-year period ending on the determination date. However, do not take into account accrued benefits for an individual who hasn't performed services for the employer during the 5-year period ending on the determination date.

18a. If the plan distributes an annuity contract, whether or not deferred and whether or not upon termination, that contract must provide that all distributions from it will meet the participant and spousal consent requirements of Code section 417. Consent is not needed for the distribution of the contract itself. Check "No" if the plan did not distribute any annuity contracts.

18b. In general, distributions must be made in the form of a qualified joint and survivor annuity for life or a qualified preretirement survivor annuity. An annuity distribution to a single individual is a qualified joint and survivor annuity. Check "Yes" if distributions in other forms were made, even if such distributions were permissible, e.g., because consent was obtained or was not needed.

18c. Generally, within the 90 days prior to the date of any benefit payment or the making of a loan to a participant, you must get the spouse's consent to the payment of the benefit or the use of the accrued benefit for the making of the loan. However, there are some circumstances where obtaining this spousal consent is not required. The following is a partial listing of circumstances where spousal consent is not required:

(1) The participant is not married and no spouse is required to be treated as a current spouse under a qualified domestic relations order issued by a court.

(2) The participant's accrued benefit in the plan never had a present value of more than $3,500.

(3) The benefit is paid in the form of a qualified joint and survivor annuity, i.e., an annuity for the life of the participant with a survivor annuity for the life of the spouse which is not less than 50% of (and is not greater than 100% of) the amount of the annuity which is payable during the joint lives of the participant and the spouse. See Code section 417(b).

(4) The payout is from a profit-sharing or stock bonus plan that pays the spouse the participant's full account balance upon the participant's death, an annuity payment is not elected by the participant, and the profit-sharing or stock bonus plan is not a transferee plan with respect to the participant (i.e., had not received a transfer from a plan that was subject to the consent requirements with respect to the participant).

(5) The participant had no service under the plan after August 22, 1984.

18d. A plan may not eliminate a subsidized benefit or a retirement option by plan amendment or plan termination.

19. For purposes of determining the present value of a participant's accrued benefits and the amount of any distribution, a qualified plan must use a rate no higher than "the applicable interest rate." The "applicable interest rate" means the interest rate which would be used (as of the date of distributions) by the PBGC for determining the present value of a lump sum distribution on termination of the plan.

a. If the present value of the vested accrued benefit is no more than $25,000, the amount to be distributed is calculated using the PBGC rate.

b. If the present value of the vested accrued benefit exceeds $25,000 (using the PBGC rate), the total amount to be distributed is determined using an interest rate no greater than 120% of the applicable interest rate that would be used by the PBGC upon the plan's termination. In such a case the value will be no less than $25,000.

20. The Tax Reform Act of 1986 amended Code section 415 to provide that the maximum annual benefit that may be provided under a defined benefit plan may not exceed the lesser of $90,000 or 100% of compensation. However, if benefits begin before the social security retirement age, the $90,000 limit must be reduced as described in Notice 87-21, 1987-1 C.B. 458.

In addition, the dollar limitations will be reduced for participants with fewer than 10 years of participation in a defined benefit plan, i.e., a 10% reduction for each year under 10 years of participation.

For defined contribution plans, Code section 415 now provides that the dollar limit on annual additions to a qualified plan may not exceed the greater of $30,000 or 25% of the defined benefit dollar limit for such limitation year. The defined contribution dollar limit will not be increased until the defined benefit dollar limit, as increased by cost of living adjustments, equals or exceeds $120,000. (For years beginning after December 31, 1987, the $90,000 defined benefit limit will be adjusted to reflect post-1986 cost of living increases.) The defined contribution dollar limit will then be increased to an amount equal to 25% of the defined benefit limit.

Annual additions to a defined contribution plan will, for years beginning after December 31, 1986, include 100% of all after-tax employee contributions. For participants in plans of tax-exempt organizations, the pre-Tax Reform Act limits remain in effect.

The Tax Reform Act of 1986 also provides that a participant's previously accrued benefit won't be reduced merely because of the reduction in dollar limits or increases in required periods of participation. The transitional rule applies to an individual who was a participant prior to January 1, 1987, in a plan in existence

on May 5, 1986. If this participant's current accrued benefit exceeds the dollar limit under the Tax Reform Act of 1986, but complies with prior law, then the applicable dollar limit for the participant is equal to the current accrued benefit. The term "current accrued benefit" is defined as the participant's accrued benefit as of the close of the last limitation year beginning before January 1, 1987, and expressed as an annual benefit. To compute the defined benefit fraction, the current accrued benefit would replace the dollar limit otherwise used in the denominator of the fraction. The current accrued benefit is also reflected in the numerator of the defined benefit fraction.

21. In the calendar year in which the employee attains age 70 ½, the employee must begin to receive minimum distributions pursuant to Code section 401(a)(9) by April 1 of the following calendar year. Once begun, minimal distributions must continue each calendar year.

22. For purposes of filing required only because of Code section 6039D, complete only items 22c, 22g, and 22i.

22a. If you do not claim to meet the percentage tests of Code section 410(b)(1)(A), attach an explanation indicating how your plan meets the coverage requirements of Code section 410(b)(1)(B).

22b. Provide information for all employers of a controlled group, a group under common control, or an affiliated service group even if they do not participate in the plan. Also, leased employees (described in Code section 414(n)(2)) of any such employer(s) are to be included as employees unless the leasing organization maintains a "safe harbor" plan described in Code section 414(n)(5) for the leased employees. See below for more information regarding a "safe harbor" plan.

Generally, leased employees are individuals who are employees of a leasing organization, but who during the course of their employment perform services for a trade or business other than the leasing organization on a substantially full-time basis for a period of at least one year.

Service is to include any period during which the employee would have been a leased employee, but for the requirement that substantially full-time service be performed for at least one year. Such leased employees are to be considered employees of their recipient organization at certain times and for certain qualification requirements unless the leasing organization adopts and maintains the type of qualified plan specified in Code section 414(n)(5).

A *safe harbor* plan is a money purchase pension plan maintained by the leasing organization which provides with respect to a leased employee:

(A) a nonintegrated employer contribution rate of at least 10%, and

(B) immediate participation and full and immediate vesting.

The plan must cover all employees of the leasing organization other than those who are not "leased out" and cover those whose compensation from the leasing organization is less than $1,000 per year during a plan year and each of the prior 3 plan years. The safe harbor plan must provide the 10% of compensation allocation regardless of the number of hours of service during the year, age, or whether the employee is employed on a specific date.

In general, if leased employees make up more than 20% of the nonhighly compensated work force of the recipient, such employees must be covered by the recipient's pension plan regardless of the safe harbor plan. Recipient includes employers aggregated under Code section 414(b), (c), or (m). Under the 20% rule, "leased employees" include all persons who performed services as a "nonemployee."

Therefore, the total number of employees entered in 22c, the breakdown of excluded employees shown in 22d, and the ineligible employees shown in 22f should also include the employees of the controlled group, employees of employers under common control, or other employees in the affiliated service group or leased employees as described above.

Do not complete 22 for multiemployer plans described in Code section 414(f) or for multiple-employer-collectively-bargained plans.

24b. An independent appraiser must be used to ascertain the value of securities acquired by a plan after December 31, 1986, if the securities aren't readily tradable on an established securities market.

28a. If you are uncertain as to whether the plan is covered under the PBGC termination insurance program, check the box "Not determined" and contact the PBGC and request a coverage determination.

29. Check "Yes" or "No" and enter the total amount (except 29i) for all "Yes" responses. Round off all amounts to the nearest dollar.

29a. Check "Yes" and indicate the aggregate amount of coverage available for all claims if every plan official who handles plan funds is covered by a bond. Otherwise, check "No." Generally, every plan official of an employee benefit plan who "handles" funds or other property of such plan must be bonded. A plan administrator, officer, or employee shall be deemed to be "handling" funds or other property of a plan, so as to require bonding, whenever his or her duties or activities with respect to given funds are such that there is a risk that such funds could be lost in the event of fraud or dishonesty on the part of such person, acting either alone or in collusion with others. Section 412 of ERISA and the regulations found at 29 CFR 2580 provide the bonding requirements including the definition of "handling" (29 CFR 2580.412-6), the permissible forms of bonds (29 CFR 2580.412-10), and certain exemptions such as the exemption for unfunded plans, banks and insurance companies (ERISA section 412) and the exemption allowing plan officials to purchase bonds from surety companies authorized by the Secretary of the Treasury as acceptable reinsurers on Federal bonds (29 CFR 2580.412-23).

Check "Yes" only if the plan itself (as opposed to the plan sponsor) is a named insured under a fidelity bond covering plan officials.

Plans are permitted under certain conditions to purchase fiduciary liability insurance. These policies do not protect the plan from dishonest acts and are not bonds which should be reported in item 29.

29b. If item 29a is answered "Yes," this must be answered. Check "Yes" to item 29b if the plan has suffered or discovered any loss as the result of a dishonest or fraudulent act(s). If "Yes," enter the full amount of the loss. If the full amount of the loss has not yet been determined, provide and disclose that the figure is an estimate, such as "approximately $1,000."

Note: *Wilful failure to report is a criminal offense. See ERISA section 501.*

29c. For purposes of item 29, the term "employer" includes affiliates of the employer. In determining the five most highly paid employees, use all compensation paid including cash, bonuses, and noncash payments (e.g., use of a car). A fiduciary is a person with respect to a plan to the extent: (1) he or she exercises any discretionary authority or discretionary control with respect to the management of such plan or exercises any authority or control with respect to the management or disposition of its assets, (2) he or she renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority or responsibility to do so, or (3) he or she has any discretionary authority or discretionary responsibility in the administration of such plan.

29d. Relatives include spouses, siblings, ancestors, lineal descendents (e.g., children, grandchildren, etc.) and spouses of lineal descendents. If 29c is answered "Yes," enter the total amount of these transactions.

29e. An "employer security" is a security issued by an employer (including affiliates) of employees covered by the plan. These may include common stocks, preferred stocks, bonds, zero coupon bonds, debentures, convertible debentures, notes, and commercial paper.

Employer real property is any real property (and related personal property) owned by the plan and leased to the employer of employees covered by the plan. This may include land, warehouses, office buildings, etc. If item 29e is "Yes," enter the total amount of employer securities and/or employer real property held or acquired.

29f. Generally, a loan requires that both the principal and interest be paid according to a pre-established repayment schedule. If the principal and/or interest has not been paid in accordance with the original repayment schedule and the period for repayment of the principal and/or interest has been extended, or the loan has been renegotiated after it has not met the original repayment schedule, a "Yes" must be checked and the total amount of the delinquent loan must be entered. Otherwise check "No."

29h. Check "Yes," for obligations where the required payments have not been made by the due date. With respect to notes and loans, the due date, payment amount and conditions for default are usually contained in the note or loan document. Defaults can

occur at any time for those obligations that require periodic repayment. Generally, loans and fixed income obligations are considered uncollectible when payment has not been made and there is little probability that payment will be made. A loan by the plan is in default when the borrower is unable to pay the obligation upon maturity. A fixed income obligation has a fixed maturity date at a specified interest rate. If item 29h is "Yes," enter the total amount of loans by the plan or fixed income obligations that are uncollectible or in default as of the plan year end.

29i. Consider all fiduciaries and parties providing services to the plan, including: (1) persons who are fiduciaries by reason of their relationship to a master trust investment account or 103-12 IE in which the plan has an interest or the assets in such an investment account or 103-12 IE; and (2) parties providing services rendered with respect to assets held in master trusts and 103-12 IEs.

See item 29c above for the definition of fiduciary.

29j. Include as a single security all securities of the same issue. For the purposes of item 29j, do not check "Yes" for securities issued by the U.S. Government or its agencies. If item 29j is "Yes," enter the total.

29k. In determining the 20% figure, subtract the current value of plan assets held in any master trust or 103-12 IE from the current value of the plan's total assets at the beginning of the plan year. Check "Yes" if the plan had:

1. A single transaction within the plan year in excess of 20% of the current value of the plan assets;

2. Any series of transactions with, or in conjunction with, the same person, involving property other than securities, which amount in the aggregate within the plan year (regardless of the category of asset and the gain or loss on any transaction) to more than 20% of the current value of plan assets;

3. Any transaction within the plan year involving securities of the same issue if within the plan year any series of transactions with respect to such securities amount in the aggregate to more than 20% of the current value of the plan assets; or

4. Any transaction within the plan year with respect to securities with, or in conjunction with, a person if any prior or subsequent single transaction within the plan year with such person, with respect to securities, exceeds 20% of the current value of plan assets. The 20% figure is determined by comparing the current value of the transaction at the transaction date with the current value of the plan assets at the beginning of the plan year.

If the assets of two or more plans are maintained in one trust, the plan's allocable portion of the transactions of the trust shall be combined with the other transactions of the plan, if any, to determine which transactions (or series of transactions) are reportable (20%) transactions.

Exception: For investments in common/collective trusts, pooled separate accounts, 103-12 IEs, and registered investment companies, determine the 20% figure by comparing the transaction date value of the acquisition and/or disposition of units of participation or shares in the entity with the current value of the plan assets at the beginning of the plan year. Check "No" if all plan funds are held in a master trust. Do not include individual transactions of common/collective trusts, pooled separate accounts, 103-12 IEs and registered investment companies.

If item 29k is answered "Yes," enter the amount.

29l. Check "No" if the plan received all of its contributions in cash. Generally, as it relates to this question, an appraisal by an unrelated third party is an evaluation of the value of the asset contributed prepared by an individual or firm who knows how to judge the value of the asset and does not have an ongoing relationship with the plan or plan fiduciaries except for preparing the appraisal. If item 29l is checked "Yes," enter the value of the asset as established by the plan.

29m. Nonpublicly traded securities are generally held by few people and not traded on a stock exchange. Generally, as it relates to this question, an appraisal by an unrelated third party is an evaluation of the value of the security prepared by an individual or firm who knows how to judge the value of the security and does not have an ongoing relationship with the plan or plan fiduciaries except for preparing the appraisal. If item 29m is answered "Yes," enter the value of the security as established by the plan.

30 and 31. You can use either the cash, modified accrual, or accrual basis for recognition of transactions in items 30 and 31, as long as you use one method consistently.

"Current value" means fair market value where available. Otherwise, it means the fair value as determined in good faith under the terms of the plan by a trustee or a named fiduciary, assuming an orderly liquidation at the time of the determination.

If the assets of two or more plans are maintained in one trust, such as when an employer has two plans which are funded through a single trust (except investment arrangements filing with DOL as specified below), complete items 30 and 31 by entering the plan's allocable part of each line item.

If assets of one plan are maintained in two or more trust funds, report the combined financial information in 30 and 31.

A fully insured pension plan meeting the conditions of 29 CFR 2520.104-44 need not complete items 30 and 31. For more details, see page 4 of the instructions under "Items To Be Completed on Form 5500-C."

Plan assets may include, among other things:

(1) Cash both interest and noninterest bearing. This includes all cash on hand or in a financial institution including money market funds.

(2) All contributions due to the plan from the employer and participants, income earned, but not yet received by the plan and receivables from any other source.

(3) Investments securities (stocks, bonds, U. S. Government obligations, municipal obligations, etc.); real property (land, buildings, gold, furniture, equipment, etc.); loans (mortgages, promissory notes, etc.) and all other investments (certificates of deposit, repurchase agreements, land contracts, units of participation in common/collective trusts and pooled separate accounts, shares of registered investment companies (mutual funds), interests in master trusts and 103-12 IE's, etc.).

Plans holding units of participation in common/collective trusts and/or pooled separate accounts must attach to the return/report either the statement of assets and liabilities of the common/collective trust and/or pooled separate account or the certification discussed on page 3 of these instructions. For details, see 29 CFR sections 2520.103-3, 2520.103-4, 2520.103-5, and 2520.103-9.

Plans in a master trust must include the value of the plan's interest in the master trust which is the sum of the net values of the plan's interest in all of the master trust investment accounts (see page 3 for the definition of master trust investment account). The net values of such interests are obtained by multiplying the plan's percentage interest in each master trust investment account by the net assets of the investment account (total assets minus total liabilities) at the beginning and end of the plan year.

30c. Investments in securities of the U.S. Government should be included in c(i).

You can use the same method for determining the value of the insurance contracts reported in 30 that you used for line 6e of the Schedule A (Form 5500) as long as the contract values are stated as of the beginning and end of the plan year.

Liabilities include among other things:

(1) Benefit claims payable—claims that have been processed and approved for payment but have not been paid.

(2) Accounts payable—obligations owed by the plan that were incurred in the normal operations of the plan and have been approved for payment but not been paid.

(3) Other liabilities—such as acquisition indebtedness and any other amount owed by the plan.

Liabilities. Do not include the value of future pension payments .

30g. Enter total amount of claims which have been processed and approved for payment directly from the trust but have not been paid. Do not include the value of future pension payments.

30h. Acquisition Indebtedness.—Acquisition indebtedness, for debt-financed property other than real property, means the outstanding amount of the principal debt incurred:

(1) by the organization in acquiring or improving the property;

(2) before the acquisition or improvement of the property if the debt was incurred only to acquire or improve the property; or

(3) after the acquisition or improvement of the property if the debt was incurred only to acquire or improve the property and was reasonably foreseeable at the time of such acquisition or improvement.

For further explanation, see Code section 514(c).

31a(i). If the plan is on the accrual basis, enter the amount of contributions received or accrued.

31b. Show current value, at date contributed, of securities or other noncash property contributed to the plan.

31g. If distributions include securities or other property, show the current value at date distributed in this figure.

31h. Report all administrative expenses paid by or charged to the plan, including those which were not subtracted from the gross income of master trust investment accounts and 103-12 IEs in determining their net investment gain(s) or loss(es).

For purposes of a filing required only because of Code section 6039D, do not include overhead expenses such as utilities and photocopying expenses. Also, if filing for an educational assistance program described in Code section 127, do not include expenses for job-related training which are deductible under Code section 162.

Codes for Principal Business Activity and Principal Product or Service

These industry titles and definitions are based, in general, on the Enterprise Standard Industrial Classification System authorized by the Regulatory and Statistical Analysis Division, Office of Information and Regulatory Affairs, Office of Management and Budget, to classify enterprises by type of activity in which they are engaged.

Code

AGRICULTURE, FORESTRY, AND FISHING

0120 Field crop.
0150 Fruit, tree nut, and vegetable.
0180 Horticultural specialty.
0230 Livestock.
0270 Animal specialty.

Agricultural services and forestry:

0740 Veterinary services.
0750 Animal services, except veterinary.
0780 Landscape and horticultural services.
0790 Other agricultural services.
0800 Forestry.

Farms:

Fishing, hunting, and trapping:

0930 Commercial fishing, hatcheries, and preserves.
0970 Hunting, trapping, and game propagation.

MINING

Metal mining:

1010 Iron ores.
1070 Copper, lead and zinc, gold and silver ores.
1098 Other metal mining.
1150 Coal mining.

Oil and gas extraction:

1330 Crude petroleum, natural gas, and natural gas liquids.
1380 Oil and gas field services.

Nonmetallic minerals (except fuels) mining:

1430 Dimension, crushed and broken stone; sand and gravel.
1498 Other nonmetallic minerals, except fuels.

CONSTRUCTION

General building contractors and operative builders:

1510 General building contractors.
1531 Operative builders.

Heavy construction contractors:

1611 Highway and street construction.
1620 Heavy construction, except highway.

Special trade contractors:

1711 Plumbing, heating, and air conditioning.
1721 Painting, paperhanging, and decorating.
1731 Electrical work.
1740 Masonry, stonework, and plastering.
1750 Carpentering and flooring.
1761 Roofing and sheet metal work.
1771 Concrete work.
1781 Water well drilling.
1790 Miscellaneous special trade contractors.

MANUFACTURING

Food and kindred products:

2010 Meat products.
2020 Dairy products.
2030 Preserved fruits and vegetables.
2040 Grain mill products.
2050 Bakery products.
2060 Sugar and confectionery products.
2081 Malt liquors and malt.
2088 Alcoholic beverages, except malt liquors and malt.
2089 Bottled soft drinks and flavorings.
2096 Other food and kindred products.
2100 Tobacco manufacturers.

Textile mill products:

2228 Weaving mills and textile finishing.
2250 Knitting mills.
2298 Other textile mill products.

Apparel and other textile products:

2315 Men's and boys' clothing.
2345 Women's and children's clothing.
2388 Hats, caps, millinery, fur goods, and other apparel and accessories.
2390 Misc. fabricated textile products.

Code

Lumber and wood products:

2415 Logging camps and logging contractors, sawmills, and planing mills.
2430 Millwork, plywood, and related products.
2498 Other wood products, including wood buildings and mobile homes.
2500 Furniture and fixtures.

Paper and allied products:

2625 Pulp, paper, and board mills.
2699 Other paper products.

Printing, publishing, and allied industries:

2710 Newspapers.
2720 Periodicals.
2735 Books, greeting cards, and miscellaneous publishing.
2799 Commercial and other printing, and printing trade services.

Chemical and allied products:

2815 Industrial chemicals, plastics materials, and synthetics.
2830 Drugs.
2840 Soap, cleaners, and toilet goods.
2850 Paints and allied products.
2898 Agricultural and other chemical products.

Petroleum refining and related industries (including those integrated with extraction):

2910 Petroleum refining (including those integrated with extraction).
2998 Other petroleum and coal products.

Rubber and misc. plastics products:

3050 Rubber products, plastics footwear, hose, and belting.
3070 Misc. plastics products.

Leather and leather products:

3140 Footwear, except rubber.
3198 Other leather and leather products.

Stone, clay, glass, and concrete products:

3225 Glass products.
3240 Cement, hydraulic.
3270 Concrete, gypsum, and plaster products.
3298 Other nonmetallic mineral products.

Primary metal industries:

3370 Ferrous metal industries; miscellaneous primary metal products.
3380 Nonferrous metal industries.

Fabricated metal products, except machinery and transportation equipment:

3410 Metal cans and shipping containers.
3428 Cutlery, hand tools, and hardware; screw machine products, bolts, and similar products.
3430 Plumbing and heating, except electric and warm air.
3440 Fabricated structural metal products.
3460 Metal forgings and stampings.
3470 Coating, engraving, and allied services.
3480 Ordnance and accessories, except vehicles and guided missiles.
3490 Misc. fabricated metal products.

Machinery, except electrical:

3520 Farm machinery.
3530 Construction, mining and materials handling machinery, and equipment.
3540 Metalworking machinery.
3550 Special industry machinery, except metalworking machinery.
3560 General industrial machinery.
3570 Office, computing, and accounting machines.
3598 Engines and turbines, service industry machinery, and other machinery, except electrical.

Code

Electrical and electronic machinery, equipment, and supplies:

3630 Household appliances.
3665 Radio, television, and communication equipment.
3670 Electronic components and accessories.
3698 Other electric equipment.

Transportation equipment:

3710 Motor vehicles and equipment.
3725 Aircraft, guided missiles, and parts.
3730 Ship and boat building and repairing.
3798 Other transportation equipment.

Measuring and controlling instruments; photographic and medical goods, watches and clocks:

3815 Scientific instruments and measuring devices; watches, and clocks.
3845 Optical, medical, and ophthalmic goods.
3860 Photographic equipment and supplies.
3998 Other manufacturing products.

TRANSPORTATION, COMMUNICATION, ELECTRIC, GAS, SANITARY SERVICES

Transportation:

4000 Railroad transportation.

Local and interurban passenger transit:

4121 Taxicabs.
4189 Other passenger transportation.

Trucking and warehousing:

4210 Trucking, local and long distance.
4289 Public warehousing and trucking terminals.

Other transportation including transportation services:

4400 Water transportation.
4500 Transportation by air.
4600 Pipelines, except natural gas.
4722 Passenger transportation arrangement.
4723 Freight transportation arrangement.
4799 Other transportation services.

Communication:

4825 Telephone, telegraph, and other communication services.
4830 Radio and television broadcasting.

Electric, gas, and sanitary services:

4910 Electric services.
4920 Gas production and distribution.
4930 Combination utility services.
4990 Water supply and other sanitary services.

WHOLESALE TRADE

Durable:

5010 Motor vehicles and automotive equipment.
5020 Furniture and home furnishings.
5030 Lumber and construction materials.
5040 Sporting, recreational, photographic, and hobby goods; toys, and supplies.
5050 Metals and minerals, except petroleum and scrap.
5060 Electrical goods.
5070 Hardware, plumbing, and heating equipment.
5083 Farm machinery and equipment.
5089 Other machinery, equipment, and supplies.
5098 Other durable goods.

Nondurable:

5110 Paper and paper products.
5129 Drugs, drug proprietaries, and druggists' sundries.
5130 Apparel, piece goods, and notions.
5140 Groceries and related products, except meats and meat products.
5147 Meats and meat products.
5150 Farm product raw materials.
5160 Chemicals and allied products.
5170 Petroleum and petroleum products.
5180 Alcoholic beverages.
5190 Miscellaneous nondurable goods.

Code

RETAIL TRADE

Building materials hardware, garden supply, and mobile home dealers:

5211 Lumber and other building materials dealers.
5231 Paint, glass and wallpaper stores.
5251 Hardware stores.
5261 Retail nurseries and garden stores.
5271 Mobile home dealers.

General merchandise:

5331 Variety stores.
5398 Other general merchandise stores.

Food stores:

5411 Grocery stores.
5420 Meat and fish markets and freezer provisioners.
5431 Fruit stores and vegetable markets.
5441 Candy, nut, and confectionery stores.
5451 Dairy products stores.
5460 Retail bakeries.
5490 Other food stores.

Automotive dealers and service stations:

5511 New car dealers (franchised).
5521 Used car dealers.
5531 Auto and home supply stores.
5541 Gasoline service stations.
5551 Boat dealers.
5561 Recreational vehicle dealers.
5571 Motorcycle dealers.
5599 Aircraft and other automotive dealers.

Apparel and accessory stores:

5611 Men's and boys' clothing and furnishings.
5621 Women's ready-to-wear stores.
5631 Women's accessory and specialty stores.
5641 Children's and infants' wear stores.
5651 Family clothing stores.
5661 Shoe stores.
5681 Furriers and fur shops.
5699 Other apparel and accessory stores.

Furniture, home furnishings, and equipment stores:

5712 Furniture stores.
5713 Floor covering stores.
5714 Drapery, curtain, and upholstery stores.
5719 Home furnishings, except appliances.
5722 Household appliance stores.
5732 Radio and television stores.
5733 Music stores.

Eating and drinking places:

5812 Eating places.
5813 Drinking places.

Miscellaneous retail stores:

5912 Drug stores and proprietary stores.
5921 Liquor stores.
5931 Used merchandise stores.
5941 Sporting goods stores and bicycle shops.
5942 Book stores.
5943 Stationery stores.
5944 Jewelry stores.
5945 Hobby, toy, and game shops.
5946 Camera and photographic supply stores.
5947 Gift, novelty, and souvenir shops.
5948 Luggage and leather goods stores.
5949 Sewing, needlework, and piece goods stores.
5961 Mail order houses.
5962 Merchandising machine operators.
5963 Direct selling organizations.
5982 Fuel and ice dealers (except fuel oil and bottle gas dealers).
5983 Fuel oil dealers.
5984 Liquefied petroleum gas (bottled gas).
5992 Florists.
5993 Cigar stores and stands.
5994 News dealers and newsstands.
5996 Other miscellaneous retail stores.

Code

FINANCE, INSURANCE, AND REAL ESTATE

Banking:

6030 Mutual savings banks.
6060 Banking holding companies.
6090 Banks, except mutual savings banks and bank holding companies.

Credit agencies other than banks:

6120 Savings and loan associations.
6140 Personal credit institutions.
6150 Business credit institutions.
6199 Other credit agencies.

Security, commodity brokers, dealers, exchanges, and services:

6212 Security underwriting syndicates.
6218 Security brokers and dealers, except underwriting syndicates.
6299 Commodity contracts brokers and dealers; security and commodity exchanges; and allied services.

Insurance:

6355 Life insurance.
6356 Mutual insurance, except life or marine and certain fire or flood insurance companies.
6359 Other insurance companies.
6411 Insurance agents, brokers, and services.

Real estate:

6511 Real estate operators (except developers) and lessors of buildings.
6516 Lessors of mining, oil, and similar property.
6518 Lessors of railroad property and other real property.
6531 Real estate agents, brokers and managers.
6541 Title abstract offices.
6552 Subdividers and developers, except cemeteries.
6553 Cemetery subdividers and developers.
6599 Other real estate.
6611 Combined real estate, insurance, loans and law offices.

Holding and other investment companies:

6742 Regulated investment companies.
6743 Real estate investment trusts.
6744 Small business investment companies.
6749 Holding and other investment companies, except bank holding companies.

SERVICES

Hotels and other lodging places:

7012 Hotels.
7013 Motels, motor hotels, and tourist courts.
7021 Rooming and boarding houses.
7032 Sporting and recreational camps.
7033 Trailer parks and camp sites.
7041 Organizational hotels and lodging houses on a membership basis.

Personal services:

7215 Coin-operated laundries and dry cleaning.
7219 Other laundry, cleaning and garment services.
7221 Photographic studios, portrait.
7231 Beauty shops.
7241 Barber shops.
7251 Shoe repair and hat cleaning shops.
7261 Funeral services and crematories.
7299 Miscellaneous personal services.

Business services:

7310 Advertising.
7340 Services to buildings.
7370 Computer and data processing services.
7392 Management, consulting, and public relations services.
7394 Equipment rental and leasing.
7398 Other business services.

Code

Automotive repair and services:

7510 Automotive rentals and leasing, without drivers.
7520 Automobile parking.
7531 Automobile top and body repair shops.
7538 General automobile repair shops.
7539 Other automobile repair shops.
7540 Automobile services, except repair.

Miscellaneous repair services:

7622 Radio and TV repair shops.
7628 Electrical repair shops, except radio and TV.
7641 Reupholstery and furniture repair.
7680 Other miscellaneous repair shops.

Motion pictures:

7812 Motion picture production, distribution, and services.
7830 Motion picture theaters.

Amusement and recreation services:

7920 Producers, orchestras, and entertainers.
7932 Billiard and pool establishments.
7933 Bowling alleys.
7980 Other amusement and recreation services.

Medical and health services:

8011 Offices of physicians.
8021 Offices of dentists.
8031 Offices of osteopathic physicians.
8041 Offices of chiropractors.
8042 Offices of optometrists.
8048 Registered and practical nurses.
8050 Nursing and personal care facilities.
8060 Hospitals.
8071 Medical laboratories.
8072 Dental laboratories.
8098 Other medical and health services.

Other services:

8111 Legal services.
8200 Educational services.
8911 Engineering and architectural services.
8932 Certified public accountants.
8933 Other accounting, auditing, and bookkeeping services.
8999 Other services, not elsewhere classified.

TAX-EXEMPT ORGANIZATIONS

9002 Church plans making an election under section 410(d) of the Internal Revenue Code.
9319 Other tax-exempt organizations.
9904 Governmental instrumentality or agency.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1989 - 205-303

Form **5500-R**
Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefits Administration

Pension Benefit Guaranty Corporation

Registration Statement of Employee Benefit Plan

(With fewer than 100 participants)

This form is required to be filed under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 and sections 6039D and 6058 of the Internal Revenue Code.

OMB No. 1210-0016

1988

Amended ☐

This Form is Open to Public Inspection

For the calendar plan year 1988 or fiscal plan year beginning , 1988, and ending , 19

One-participant plans file Form 5500EZ (see the instructions).

Plans described in Code section 6039D, complete the applicable box 6d, 6e, or 6f, and see the instructions.

Do NOT file this form for the plan's first year or for the plan's final return/report. Instead file Form 5500-C.

Check this box if an extension of time to file this return is attached . . . . . ▶ ☐

▶ **If you have been granted an extension of time to file this form, you must attach a copy of the approved extension to this form.**

▶ **Type or complete in ink and file the original. If any item does not apply, enter "N/A."**

Use IRS label. Otherwise, please print or type.

1a Name of plan sponsor (employer, if for a single employer plan)

1b Employer identification number

Address (number and street)

1c Sponsor's telephone number ( )

City or town, state, and ZIP code

1d If plan year changed since last return/report, check here . . ▶ ☐

2a Name of plan administrator (if same as plan sponsor, enter "Same")

2b Administrator's employer identification number

Address (number and street)

2c Administrator's telephone number ( )

City or town, state, and ZIP code

3 Are the name, address, and identification number of the plan sponsor and/or plan administrator the same as they appeared on the last return/report filed for this plan? . . . . . ☐ Yes ☐ No

If "No," enter the information from the last return/report in a and/or b, and complete c.

a Sponsor ▶ _____ EIN _____ Plan number _____

b Administrator ▶ _____ EIN _____

c If a is completed, is this a change in sponsorship only? (See specific instructions for definition of sponsorship.) ☐ Yes ☐ No

4 Check appropriate box to indicate the type of plan entity (check only one box):

a ☐ Single-employer plan
b ☐ Plan of controlled group of corporations or common control employers
c ☐ Multiemployer plan
d ☐ Multiple-employer-collectively-bargained plan
e ☐ Multiple-employer plan (other)
f ☐ Exceptions to (b) and (e). (See instructions for line 4f.)

5a(i) Name of plan ▶ _____

5b Effective date of plan ▶

(ii) ☐ Check if name of plan changed since last return/report

(iii) ☐ Check this box if this plan covers self-employed participants

5c Enter three-digit plan number . . . ▶

6 Type of plan (check applicable boxes):

a ☐ Defined benefit
b ☐ Defined contribution (money purchase or profit-sharing)
c ☐ Welfare benefit
d ☐ Code section 120 (group legal services plan)
e ☐ Code section 125 (cafeteria plan)
f ☐ Code section 127 (educational assistance program)
g ☐ Master trust
h ☐ Common/collective trust
i ☐ Pooled separate account
j ☐ Other (specify) ▶ _____
k If you checked d, e, or f, check if plan is: ☐ funded or ☐ unfunded

		Yes	No
7a Total participants: (i) Beginning of plan year _____ (ii) End of plan year _____			
b (i) Was any pension benefit plan participant(s) separated from service with deferred vested benefits for which a Schedule SSA (Form 5500) is required to be attached to this form?	7b(i)		
(ii) If "Yes," enter the number of separated participants required to be reported ▶			

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete.

Date ▶ _____ Signature of employer/plan sponsor ▶ _____

Date ▶ Signature of plan administrator ▶

For Paperwork Reduction Act Notice, see page 1 of Form 5500-R instructions.

Form **5500-R** (1988)

Form 5500-R (1988) Page 2

			Yes	No
8a	Was this plan terminated during this plan year or any prior plan year? If "Yes," enter the year	8a		
b	Were all the plan assets either distributed to participants or beneficiaries, transferred to another plan, or brought under the control of PBGC?	8b		
c	If a is "Yes" and the plan is covered by PBGC, is the plan continuing to file PBGC Form 1 and pay premiums until the end of the plan year in which assets are distributed or brought under the control of PBGC?	8c		
9	Is this a plan established or maintained pursuant to one or more collective bargaining agreements?	9		
10	If any benefits are provided by an insurance company, insurance service, or similar organization, enter the number of Schedules A (Form 5500), Insurance Information, that are attached. (If none, enter "-0-") ▶			
11a	Were any plan amendments adopted during the plan year?	11a		
b	If a is "Yes," did any amendment result in a retroactive reduction of accrued benefits for any participant?	11b		
c	If a is "Yes," did any amendment change the information contained in the latest summary plan description or summary description of modifications available at the time of the amendment?	11c		
d	Has a summary plan description or summary description of modifications that reflects the plan amendments referred to in 11c been furnished to participants and filed with the Department of Labor?	11d		
12a	If this is a pension benefit plan subject to the minimum funding standards, has the plan experienced a funding deficiency for this plan year (defined benefit plans must answer this question and, attach Schedule B (Form 5500))?	12a		
b	If a is "Yes," have you filed Form 5330 to pay the excise tax?	12b		

13a	Total plan assets as of the beginning	and end	of the plan year.	
b	Total liabilities as of the beginning	and end	of the plan year.	
c	Net assets as of the beginning	and end	of the plan year.	

14 For this plan year, enter: a Plan income .....
b Expenses ..... c Net income (loss) .....
d Plan contributions e Total benefits paid

			Yes	No	Amount
15	During this plan year:				
a	Was this plan covered by a fidelity bond?	15a			
b	Was there any loss to the plan, whether or not reimbursed, caused by fraud or dishonesty?	15b			
c	Was there any sale, exchange, or lease of any property between the plan and the employer, any fiduciary, any of the five most highly paid employees of the employer, any owner of a 10% or more interest in the employer, or relatives of any such persons?	15c			
d	Was there any loan or extension of credit by the plan to the employer, any fiduciary, any of the five most highly paid employees of the employer, any owner of a 10% or more interest in the employer, or relatives of any such persons?	15d			
e	Did the plan acquire or hold any employer security or employer real property?	15e			
f	Has the plan granted an extension on any delinquent loan owed to the plan?	15f			
g	Has the employer owed contributions to the plan which are more than 3 months overdue?	15g			
h	Were any loans by the plan or fixed income obligations due the plan classified as uncollectible or in default as of the close of the plan year?	15h			
i	Has any plan fiduciary had a financial interest in excess of 10% in any party providing services to the plan or received anything of value from any such party?	15i			
j	Did the plan hold at any time 20% or more of its assets in any single security, debt, mortgage, parcel of real estate, or partnership/joint venture interests?	15j			
k	Did the plan at any time engage in any transaction or series of related transactions involving 20% or more of the current value of plan assets?	15k			
l	Were there any noncash contributions made to the plan the value of which was set without an appraisal by an independent third party?	15l			
m	Were there any purchases of nonpublicly traded securities by the plan the value of which was set without an appraisal by an independent third party?	15m			
n	Has the plan failed to provide any benefit when due under the terms of the plan because of insufficient assets?	15n			

16a Is the plan covered under the Pension Benefit Guaranty Corporation termination insurance program?
☐ Yes ☐ No ☐ Not determined

b If a is "Yes" or "Not determined," enter the employer identification number and the plan number used to identify it.
Employer identification number ▶ Plan number ▶

* U.S. GPO: 1988 — 205-306

Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefits Administration

Pension Benefit Guaranty Corporation

1988 Instructions for Form 5500-R

Registration Statement of Employee Benefit Plan (With fewer than 100 participants)

(Code references are to the Internal Revenue Code. ERISA refers to the Employee Retirement Income Security Act of 1974.)

Paperwork Reduction Act Notice.—We ask for this information to carry out the law as specified in ERISA and Code section 6039D. We need it to determine whether the plan is operating according to the law. You are required to give us this information.

The time needed to complete and file the forms listed below reflect the combined requirements of the Internal Revenue Service, Department of Labor, Pension Benefit Guaranty Corporation and the Social Security Administration. These times will vary depending on individual circumstances. The estimated average times are:

	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form to IRS
Form 5500-R	13 hrs., 26 min.	3 hrs., 37 min.	5 hrs., 50 min.	32 min.
Schedule A (Form 5500)	17 hrs., 28 min.	28 min.	1 hr., 42 min.	16 min.
Schedule B (Form 5500)	25 hrs., 50 min.	1 hr.	1 hr., 27 min.	-----
Schedule P (Form 5500)	2 hrs., 9 min.	1 hr., 24 min.	1 hr., 29 min.	-----
Schedule SSA (Form 5500)	6 hrs., 42 min.	12 min.	19 min.	-----

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms more simple, we would be happy to hear from you. You can write to the **Internal Revenue Service,** Washington, DC 20224, Attention: IRS Reports Clearance Officer, TR:FP; or the **Office of Management and Budget,** Paperwork Reduction Project, Washington, DC 20503.

File 1988 forms for plan years that started in 1988. If the plan year differs from the calendar year, fill in the fiscal year space just under the form title. For a short plan year, see instruction B, Section 1.

Reminder: In addition to filing this form with IRS, plans covered by the Pension Benefit Guaranty Corporation termination insurance must file their Annual Premium Payment, PBGC Form 1, directly with that agency.

Penalties.—ERISA and the Code provide for the assessment and imposition of penalties for not giving complete information and not filing statements and returns/reports. Certain penalties are administrative; that is, they may be imposed or assessed by one of the governmental agencies delegated to administer the collection of Form 5500 series data. Others require a legal conviction.

A. Administrative Penalties.—Listed below are various penalties for not meeting the Form 5500 series filing requirements. One or more of the following five penalties may be imposed or assessed in the event of incomplete filings and/or filings received after the date they are due unless it is determined that your explanation for failure to file properly is for reasonable cause:

1. A penalty of up to $1,000 a day for each day a plan administrator fails or refuses to file a complete return/report. See ERISA section 502(c)(2) and 29 CFR 2560.502c-2.

2. A penalty of $25 a day (up to $15,000) for not filing returns for certain plans of deferred compensation, certain trusts and annuities, and bond purchase plans by the due date(s). See Code section 6652(e). This penalty also applies to returns required to be filed under Code section 6039D.

3. A penalty of $1 a day (up to $5,000) for each participant for whom a registration statement (Schedule SSA (Form 5500)) is required but not filed. See Code section 6652(d)(1).

4. A penalty of $1 a day (up to $1,000) for not filing a notification of change of status of a plan. See Code section 6652(d)(2).

5. A penalty of $1,000 for not filing an actuarial statement. See Code section 6692.

B. Other Penalties.

1. Any individual who willfully violates any provision of Part 1 of Title I of ERISA shall be fined not more than $5,000 or imprisoned not more than 1 year, or both. See ERISA section 501.

2. A penalty up to $10,000, 5 years imprisonment, or both, for making any false statement or representation of fact, knowing it to be false, or for knowingly concealing or not disclosing any fact required by ERISA. See section 1027, Title 18, U.S. Code, as amended by section 111 of ERISA.

How To Use This Instruction Booklet

The instructions are divided into four main sections.

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General Information—Final return/report; signature and date; reproductions; change in plan year; and amended return/report	3
Section 4	
Specific Instructions for Form 5500-R listed in numerical sequence	3

Section 1

A. Who Must File.—Any administrator or sponsor of an employee benefit plan subject to ERISA must file information about each such plan **every year** (Code section 6058 and ERISA sections 104 and 4065). Also required to file, for each year, is every employer maintaining a specified fringe benefit plan as described in Code section 6039D. The Internal Revenue Service (IRS), Department of Labor (DOL), and Pension Benefit Guaranty Corporation (PBGC) have consolidated their returns and report forms to minimize the filing burden for plan administrators and employers. The chart on page 4 gives a brief guide to the type of return/report to be filed.

Reminder. Form 5500-R cannot be filed unless the plan has filed a Form 5500-C for at least one of the two immediately preceding plan years. The exclusions from the filing requirements for Form 5500-R and Form 5500-C are identical. See Form 5500-C instructions.

B. When To File.—File all required forms and schedules by the last day of the 7th month after the plan year ends. For a short plan year, file the form and applicable schedules by the last day of the 7th month after the short plan year ends. For purposes of this return/report, the short plan year ends upon the date of the change in accounting period or upon the complete distribution of the assets of the plan. (Also see Section 3.) If the current year Form 5500-R is not available before the due date of your short plan year return/report, use the latest year form available and change the date printed on the return/report to the current year. Also show the dates your short plan year began and ended.

Request for Extension of Time To File.—An extension of time up to 2½ months may be granted for filing returns/reports if **Form 5558,** Application for Extension of Time To File Certain Employee Plan Returns, is filed before the normal due date of the return/report.

Exception. *Single-employer plans and plans of a controlled group of corporations that file consolidated Federal income tax returns are automatically granted an extension of time to file Form 5500, 5500-C, or 5500-R to the due date of the Federal income tax return of the single employer or controlled group of corporations if all the following conditions are met:*

1. The plan year and the tax year coincide.

2. The single employer or the controlled group has been granted an extension of time to file its Federal income tax return to a date later than the normal due date for filing the Form 5500, 5500-C, or 5500-R.

3. A copy of the IRS extension of time to file the Federal income tax return is attached to each Form 5500, 5500-C, or 5500-R filed with IRS.

Note: *An extension of time to file the return/report does not operate as an extension of time to file the PBGC Form 1.*

C. Where To File.—Please file the return/report with the Internal Revenue Service Center indicated below. No street address is needed.

If the principal office of the plan sponsor or the plan administrator is located in ▼	Use the following Internal Revenue Service Center address ▼
Connecticut, Delaware, District of Columbia, Foreign Address, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia	Holtsville, NY 00501
Alabama, Alaska, Arkansas, California, Florida, Georgia, Hawaii, Idaho, Louisiana, Mississippi, Nevada, North Carolina, Oregon, South Carolina, Tennessee, Washington	Atlanta, GA 39901
Arizona, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Utah, West Virginia, Wisconsin, Wyoming	Memphis, TN 37501
All Form 5500EZ filers	Andover, MA 05501

Investment arrangements filing directly with DOL should file using the applicable address:

(1) Common/Collective Trust (OR)
Pooled Separate Account
Pension and Welfare Benefits Administration
U.S. Department of Labor
Room N5644
200 Constitution Avenue, NW.
Washington, DC 20210

(2) Master Trust
Pension and Welfare Benefits Administration
U. S. Department of Labor
Room N5644
200 Constitution Avenue, NW.
Washington, DC 20210

(3) 103-12 Investment Entity
Pension and Welfare Benefits Administration
U. S. Department of Labor
Room N5644
200 Constitution Avenue NW.
Washington, DC 20210

Section 2

What To File

The circumstances that dictate which form should be filed are described below. In addition, there are schedules that may need to be attached to the return/report. These are also described below. A brief guide illustrating which forms and schedules are required by different types of plans and filers may be found on page 4. Finally, this section also contains a description of special filing requirements for plans that invest in certain investment arrangements.

Forms

Form 5500.—File **Form 5500**, Annual Return/Report of Employee Benefit Plan, annually for each plan with 100 or more participants at the beginning of the plan year.

Form 5500-C.—File **Form 5500-C,** Return/Report of Employee Benefit Plan, for each pension benefit plan, welfare benefit plan, and fringe benefit plan (unless otherwise exempted) with fewer than 100 participants (one-participant plans see "Form 5500EZ", below) at the beginning of the plan year. File Form 5500-C for the first plan year, the year for which the final return/report is due, and for plan years in which a Form 5500-R is not filed as explained below.

Form 5500EZ.—**Form 5500EZ**, Annual Return of One-Participant Pension Benefit Plan, should be filed by most one-participant plans.

A one-participant plan is: (1) a pension benefit plan that covers only an individual or an individual and his or her spouse who wholly own a trade or business, whether incorporated or unincorporated; or (2) a pension benefit plan for a partnership that covers only the partners or the partners and the partners' spouses.

See Form 5500EZ and its instructions to see if the plan meets the requirements for filing the form.

Form 5500-R.—**Form 5500-R,** Registration Statement of Employee Benefit Plan (with fewer than 100 participants), may be filed instead of a Form 5500-C for this plan year provided: (a) this is not the first plan year, (b) this is not a year for which the final return/report is due, and (c) a Form 5500-C has been filed for one of the prior 2 plan years. The Form 5500-R should not be filed if: (a) this plan year is the first plan year, (b) this is the plan year for which a final return/report is due, or (c) the Form 5500-R has been filed for both of the prior 2 plan years.

Any plan may choose not to file Form 5500-R if the plan files the Form 5500-C instead.

Note: *Generally, under the filing requirements explained above, if the number of plan participants increases from under 100 to 100 or more, or decreases from 100 or more to under 100, from one year to the next, you would have to file a different form from that filed the previous year. However, there is an exception to this rule. You may file the same form you filed last year, even if the number of participants changed, provided that at the beginning of this plan year the plan had at least 80 participants, but not more than 120.*

Items To Be Completed on Form 5500-R

Certain kinds of plans and certain kinds of filers that are required to submit Form 5500-R are not required to complete the entire form. These are described below, by type of plan. Check the list of headings to see if your plan is affected.

1. Welfare Benefit Plans.—Welfare benefit plans must complete the following items on the Form 5500-R: 1 through 6c; 7a; 8a and b; 9; 10; 11; and 13 through 15.

2. Fringe Benefit Plans—A Form 5500-R filed only because of Code section 6039D (i.e., for a fringe benefit plan) need complete only items 1 through 6, 7a, and 14b.

If the plan is also a welfare benefit plan required to file a Form 5500-R (see "Who Must File" on page 1), complete the above items and those specified for welfare benefit plans in "1" above.

3. Pension Plans—In general, most pension plans (defined benefit and defined contribution) are required to complete all items on the form. However, some items need not be completed by certain types of pension plans, as described below.

a. Plans exclusively using a tax deferred annuity arrangement under Code section 403(b)(1). These plans need only complete items 1 through 5, 6b, and 8.

b. Plans exclusively using a custodial account for regulated investment company stock under Code section 403(b)(7). These plans need only complete items 1 through 5, 6b, and 8.

c. Individual retirement account plan. A pension plan utilizing individual retirement accounts or annuities (as described in Code section 408) as the sole funding vehicle for providing benefits need only complete items 1 through 5, 6b, and 8.

d. Fully insured pension plan. A pension benefit plan providing benefits exclusively through an insurance contract, or contracts that are fully guaranteed, and that meets all of the conditions of 29 CFR 2520.104-44 need only complete items 1 through 12, 14, and 15a and b. A pension plan that includes both insurance contracts of the type described in 29 CFR 2520.104-44 as well as other assets should limit its reporting in item 13 to those other assets.

For purposes of the annual return/report and the alternative method of compliance set forth in 29 CFR 2520.104-44, a contract is considered to be "allocated" only if the insurance company or organization that issued the contract unconditionally guarantees, upon receipt of the required premium or consideration, to provide a retirement benefit of a specified amount, without adjustment for fluctuations in the market value of the underlying assets of the company or organization, to each participant, and each participant has a legal right to such benefits that is legally enforceable directly against the insurance company or organization.

e. Nonqualified plans maintained outside the U.S. — Nonqualified pension benefit plans maintained outside the United States primarily for nonresident aliens required to file a return/report need only complete items 1 through 8 and 11 through 15.

Schedules

The various schedules to be attached to the return/report are listed below.

Note: *All attachments to the Forms 5500, 5500-C, and 5500-R must include the name of the plan and the EIN and plan number as found in items 5a, 1b, and 5c, respectively.*

Attach Schedule A (Form 5500), Insurance Information, to Form 5500, 5500-C, or 5500-R if any benefits under the plan are provided by an insurance company, insurance service, or other similar organization (such as Blue Cross, Blue Shield, or a health maintenance organization).

Exception. *Schedule A (Form 5500) is not needed if the plan covers: (1) only an individual, or an individual and his or her spouse, who wholly owns a trade or business, whether incorporated or*

unincorporated; or (2) a partner in a partnership, or a partner and his or her spouse.

Do not file a Schedule A (Form 5500) with a Form 5500EZ.

Attach Schedule B (Form 5500), Actuarial Information, to Forms 5500, 5500-C, 5500-R, or 5500EZ for most defined benefit pension plans. See instructions for Schedule B.

Schedule SSA (Form 5500), Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits, may be needed for separated participants. See "When To Report Separated Participants" in the instructions for Schedule SSA.

Schedule P (Form 5500), Annual Return of Fiduciary of Employee Benefit Trust, Any fiduciary (trustee or custodian) of an organization that is qualified under Code section 401(a) and exempt from tax under Code section 501(a) who wants to protect the organization under the statute of limitations provided in Code section 6501(a) must file a Schedule P (Form 5500).

File the Schedule P (Form 5500) as an attachment to Form 5500, 5500-C, 5500-R, or 5500EZ for the plan year in which the trust year ends.

Other Filings

Reporting requirements for investment arrangements filing with the Department of Labor (master trusts, common/collective trusts, pooled separate accounts, etc.) are printed in the Form 5500-C instructions under "Other Filings."

Section 3
General Information

Final Return/Report.—If all assets under the plan (including insurance/annuity contracts) have been distributed to the participants and beneficiaries or distributed to another plan (and when all liabilities for which benefits may be paid under a welfare plan have been satisfied), check the "final return" box at the top of the Form 5500 or Form 5500-C filed for such plan. The year of complete distribution is the last year a return/report must be filed for the plan. For purposes of this paragraph, a complete distribution will occur in the year in which the assets of a terminated plan are brought under the control of PBGC.

For a defined benefit plan covered by PBGC, a PBGC Form 1 must be filed and a premium must be paid until the end of the plan year in which the assets are distributed or brought under the control of PBGC.

Filing the return/report marked "final return" and indicating that the plan terminated satisfies the notification requirement of Code section 6057(b)(3).

Signature and Date.—The plan administrator must sign and date all returns/reports filed. In addition the sponsoring employer must sign a return/report filed for a single-employer plan or a plan required to file only because of Code section 6039D.

When a joint employer-union board or committee is the plan sponsor or plan administrator, at least one employer representative and one union representative must sign and date the return/report.

Participating employers in a multiple-employer plan (other), who are required to file Form 5500-C or 5500-R, are required to sign the return/report. The plan administrator need not sign the Form 5500-C or 5500-R filed by the participating employer.

Reproductions.—Original forms are preferable, but a clear reproduction of the completed form is acceptable. Sign the return after it is reproduced. All signatures must be original.

Change in Plan Year.—Generally only defined benefit pension plans need to get prior approval for a change in plan year. (See Code section 412(c)(5).) Rev. Proc.87-27, 1987 CB-1 769 explains the procedure for automatic approval of a change in plan year. A pension benefit plan that would ordinarily need to obtain approval for a change in plan year under Code section 412(c)(5) is granted an automatic approval for a change in plan year if all the following criteria are met:

1. No plan year is more than 12 months long.

2. The change will not delay the time when the plan would otherwise have been required to conform to the requirements of any statute, regulation, or published position of the IRS.

3. The trust, if any, retains its exempt status for the short period required to effect the change, as well as for the taxable year immediately preceding the short period.

4. All actions necessary to implement the change in plan year, including plan amendment and a resolution of the board of directors (if applicable), have been taken on or before the last day of the short period.

5. No change in plan year has been made for any of the preceding plan years.

6. In the case of a defined benefit plan, deductions are taken in accordance with section 5 of Rev. Proc. 87-27.

For the first return/report that is filed following the change in plan year, check item 1d if Form 5500-R is being filed.

Amended Return/Report.—If you file an amended return/report, check the "amended" box at the top of the form. When filing an amended return, be sure to answer all questions and put a circle around the numbers of the items that have been amended.

How the Annual Return/Report Information May Be Used.—All Form 5500 series returns/reports will be subjected to a computerized review. It is, therefore, in the filer's best interest that the responses accurately reflect the circumstances they were designed to report. Annual reports filed under Title I of ERISA must be made available by plan administrators to plan participants and by the Department of Labor to the public pursuant to ERISA section 104.

Section 4
Specific Instructions for Form 5500-R

Important: Complete all items on the Form 5500-R with respect to the plan year, unless otherwise explicitly stated in these item-by-item instructions or on the form itself. Therefore, your responses usually apply to the year entered or printed at the top of the first page of the form.

First Item at the Top of the Form.—Complete the space for dates when:

(1) the 12-month plan year is not a calendar year, or (2) the plan year is less than 12 months (short plan year).

1a. If you did not receive a preaddressed mailing label, enter the name and address of the plan sponsor. If the plan covers only the employees of one employer, enter the employer's name.

If you received a Form 5500-R with a preaddressed mailing label, please attach it in the name and address area of the form you file. If the name or address on the label is wrong, draw a line through the incorrect part and correct it.

The term "plan sponsor" means—

(i) the employer, for an employee benefit plan that a single employer established or maintains;

(ii) the employee organization in the case of a plan of an employee organization; or

(iii) the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan, if the plan is established or maintained jointly by one or more employers and one or more employee organizations, or by two or more employers.

Include enough information in 1(a) to describe the sponsor adequately. For example, "Joint Board of Trustees of Local 187 Machinists" rather than just "Joint Board of Trustees."

1b. Enter the 9-digit employer identification number (EIN) assigned to the plan sponsor/employer. For example, 00-1234567.

Employers and plan administrators who do not have an EIN should apply for one on Form SS-4, available from most IRS or Social Security Administration offices. Send Form SS-4 to the same Internal Revenue Service Center to which this form will be sent.

Plan sponsors are reminded that they should use the trust EIN when opening a bank account or conducting other transactions for a plan that requires an employer identification number. The trust may apply for an EIN as explained in the preceding paragraph.

A plan of a controlled group of corporations whose sponsor is more than one of the members of the controlled group should insert only the EIN of one of the sponsoring members. This EIN must be used in all subsequent filings.

If the plan administrator is a group of individuals, get a single EIN for the group. When you apply for a number, enter on line 1 of Form SS-4 the name of the group, such as "Joint Board of Trustees of the Local 187 Machinists' Retirement Plan."

Note: *Although Employer Identification Numbers (EINs) for funds (trusts or custodial accounts) associated with plans are not required to be furnished on the Form 5500 series returns/reports, the IRS will issue EINs for such funds for other reporting purposes. EINs may be obtained by filing Form SS-4 as explained in 1b above.*

2a. If the document constituting the plan appoints or designates a plan administrator other than the sponsor, enter the administrator's name and address. If the plan administrator is also the sponsor, enter "Same." If filing as a group insurance arrangement, enter "Same." If 2a is the "Same," then items 2b and 2c should be left blank.

The term "administrator" means—

(i) the person or group of persons specified as the administrator by the instrument under which the plan is operated;

(ii) the plan sponsor/employer if an administrator is not so designated; or

(iii) any other person prescribed by regulations of the Secretary of Labor if an administrator is not designated and a plan sponsor cannot be identified.

2b. A plan administrator must have an EIN for reporting purposes. Enter the plan administrator's 9-digit EIN here. If the plan administrator has no EIN, apply for one as explained in 1b above.

Employees of an employer are not plan administrators unless so designated in the plan document, even though they engage in administrative functions of the plan. If an employee of the employer is designated as the plan administrator, that employee must get an EIN.

3. If you answer "No," enter the name, address, and EIN of the plan sponsor and/or the plan administrator shown on the prior return/report.

3c. Indicate if the change in 3a is only a change in sponsorship. "Change in sponsorship" means the plan's sponsor has been changed but no assets or liabilities have been transferred to another plan(s), the plan has not terminated or merged with any other plan, and so forth.

4b. Check for a plan in which more than one employer participates, and some of the employees are members of a controlled group of corporations (Code section 414(b)) or members of a group of employers under common control (Code section 414(c)).

4c. Check for a multiemployer plan as defined in Code section 414(f) and ERISA sections 3(37) and 4001(a)(3).

4e. Check for a multiple-employer plan (other) filed by the plan administrator for the plan as a whole.

4f. Exceptions to b and e. Each participating employer in a multiple-employer plan (other) pension benefit plan and nonmember employers participating in a plan of a controlled group of corporations or businesses need to file either Form 5500-C or Form 5500-R, regardless of the number of participants. Complete items 1, 2, 3, 4f, 5, 6, 9, and 22 on Form 5500-C, and items 1, 2, 3, 4f, 5, 6, 7, 8a, and 8b on Form 5500-R.

5a. Enter the formal name of the plan, or enough information to identify the plan.

5b. Enter the date the plan first became effective.

5c. Enter the 3-digit number the employer or plan administrator assigned to the plan. All welfare plan numbers and Code section 6039D plan numbers start at 501. All other plans start at 001.

Once you use a plan number, continue to use it for that plan on all future returns/reports. Do not use it for any other plan even if you terminated the first plan.

6a. Defined benefit plan means a pension benefit plan other than a defined contribution plan.

6b. Defined contribution plan means a plan which provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, and any income, expenses, gains and losses, and any forfeitures of accounts of other participants that may be allocated to such participant's account. Examples of defined contribution plans are profit-sharing, stock bonus, and money purchase plans.

6d, e, and f. Plans described in Code section 120 (group legal services plans), check box 6d. Plans described in Code section 125 (cafeteria plans), check box 6e. Programs described in Code section 127 (educational assistance programs), check box 6f.

6j. If your pension plan is not included in 6a or b, check j and specify the applicable Code section. For example, Code section 403(b)(1) annuity arrangements and Code section 408(c) individual retirement account trusts of employers, would check j and enter the applicable Code section 403(b)(1) or 408(c).

6k. Check "unfunded" if the plan is (1) unfunded, (2) fully insured, or (3) a combination of unfunded/insured. For further information, see page 2, section 2B(a) of the Form 5500-C instructions.

7. The definition of "participant" in the instructions below is only for purposes of item 7 of this form.

For welfare plans, dependents are considered to be neither participants nor beneficiaries. For pension benefit plans, "alternate payees" entitled to benefits under a qualified domestic relations order are not to be counted as participants for this item.

"Participant" means any individual who is included in one of the categories below.

(i) Active participants include any individuals who are currently in employment covered by a plan and who are earning or retaining credited service under a plan. This category includes any individuals who are: (A) currently below the integration level in a plan that is integrated with social security, and/or (B) eligible to elect to have the employer make payments to a Code section 401(k) qualified cash or deferred arrangement. Active participants also include any nonvested individuals who are earning or retaining credited service under a plan. This category does not include nonvested former employees who have incurred the greater of 5 consecutive 1 year breaks in service or the break in service period specified in the plan.

For determining if active participants are fully vested, partially vested, or nonvested, consider vesting in employer contributions only.

For purposes of Code section 6039D, "participant" means any individual who, for a plan year, has had at least one dollar excluded from income by reason of Code section 120, 125, or 127. If you are filing Form 5500-R for a plan that is required to file under Title I of ERISA and under Code section 6039D, the preceding sentence does not apply.

Summary of Filing Requirements for Employers and Plan Administrators (File forms ONLY with IRS)

Type of plan	What to file	When to file
Most pension plans with only one participant or one participant and that participant's spouse	Form 5500EZ	File all required forms and schedules for each plan by the last day of the 7th month after the plan year ends.
Pension plan with fewer than 100 participants	Form 5500-C or 5500-R	
Pension plan with 100 or more participants	Form 5500	
Annuity under Code section 403(b)(1) or trust under Code section 408(c)	Form 5500, 5500-C, or 5500-R	
Custodial account under Code section 403(b)(7)	Form 5500, 5500-C, or 5500-R	
Welfare benefit plan with 100 or more participants*	Form 5500	
Welfare benefit plan with fewer than 100 participants (see exception on page 1 of these instructions)*	Form 5500-C or 5500-R	
Pension or welfare plan with 100 or more participants (see Form 5500 instructions)	Financial statements, schedules, and accountant's opinion	
Pension or welfare plan with benefits provided by an insurance company	Schedule A (Form 5500)	
Pension plan that requires actuarial information	Schedule B (Form 5500)	
Plans with 100 or more participants	Schedule C (Form 5500)	
Pension plan filing a registration statement identifying separated participants with deferred vested benefits from a pension plan	Schedule SSA (Form 5500)	

*This includes Code section 6039D filers.

(ii) Inactive participants receiving benefits are any individuals who are retired or separated from employment covered by the plan and who are receiving benefits under the plan. This includes former employees who are receiving group health continuation coverage benefits pursuant to Part 6 of ERISA who are covered by the employee welfare benefit plan. This category does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

(iii) Inactive participants entitled to future benefits are individuals who are retired or separated from employment covered by the plan and who are entitled to begin receiving benefits under the plan in the future. This category does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

(iv) Deceased participants are any deceased individuals who have one or more beneficiaries who are receiving or are entitled to receive benefits under the plan. This category does not include an individual if an insurance company has made an irrevocable commitment to pay all the benefits to which the beneficiaries of that individual are entitled under the plan.

7b(i). If "Yes," file Schedule SSA (Form 5500) as an attachment to Form 5500-R.

Plan administrators: Code section 6057(e) provides that the plan administrator must give each participant a statement showing the same information for that participant as is reported on Schedule SSA.

8a. Check "Yes" if the plan was terminated or if the plan was merged or consolidated into another plan. Enter year of termination if applicable.

8b. If the plan was terminated and all trust assets were not distributed, file a return/report for each year the trust has assets. In that case, the return/report must be filed by the plan administrator, if designated, or by the person or persons who actually control the plan's property.

If all assets were used to buy individual annuity contracts and the contracts were distributed to the participants, check "Yes."

If all the trust assets were transferred to another plan, check "Yes."

9. Check "Yes" if either the contributions to the plan or the benefits paid by the plan are subject to the collective bargaining process, even if the plan is not established and administered by a joint board of trustees. Check "Yes" even if only some of those covered by the plan are members of a collective bargaining unit which negotiates benefit levels on its own behalf. The benefit schedules need not be identical for all employees under the plan.

10. The insurance company (or similar organization) which provides benefits is required to provide the plan administrator with the information needed to complete the return/report, pursuant to ERISA section 103(a)(2). If you do not receive this information in a timely manner, contact the insurance company (or similar organization). If information is missing on Schedule A due to a refusal to provide this information, note this on Schedule A. If there are no Schedule(s) A attached, enter "0."

11a. Check "Yes" if an amendment to the plan was adopted in this plan year, regardless of the effective date of the amendment.

11b. Check "Yes" only if the accrued benefits were retroactively reduced. For example, a plan provides a benefit of 2% for each year of service, but the plan is amended to change the benefit to 1½% a year for all years of service under the plan.

11c. Check "Yes" only if an amendment changed the information previously provided to participants by the summary plan description or summary description of modifications.

11d. A revised summary plan description or summary description of modifications must be filed with DOL and distributed to all plan participants and pension plan beneficiaries no later than 210 days after the close of the plan year in which the amendment(s) was adopted. If the material was distributed and filed since the amendments were adopted (even if after the end of the plan year), check "Yes" to item 11d.

12a. Check "Yes" if this is a pension plan subject to minimum funding standards that has experienced a funding deficiency. If item 12a is answered "Yes," and item 6a indicates this is a defined benefit pension plan, complete and attach Schedule B (Form 5500) to this registration statement. All defined benefit plans are subject to minimum funding standards except fully insured plans, church plans, governmental plans, and certain other plans covered by Code section 412(h). Code section 412 describes the minimum funding standards applicable to defined contribution plans qualified under Code section 401(a) or 403(a). A funding deficiency occurs if the amount of required employer contribution for the plan year exceeds the actual contribution paid by the employer for the plan year.

12b. If item 12a is answered "Yes," this item must be answered. If a funding deficiency occurs, Form 5330 must be filed with the IRS to pay the excise tax on the amount of the deficiency.

13 and 14. Use either the cash, modified accrual, or accrual basis for recognition of transactions in items 13 and 14, as long as one method is used consistently. Round off all amounts in items 13 and 14 to the nearest dollar. Where it is used in these instructions, "current value" means fair market value where available. Otherwise, it means the fair value as determined in good faith under the terms of the plan by a trustee or a named fiduciary, assuming an orderly liquidation at the time of the determination.

If the assets of two or more plans are maintained in one trust, such as when an employer has two plans that are funded through a single trust (except investment arrangements filing directly with DOL), complete items 13 and 14 by entering the plan's allocable part of each line item.

If assets of one plan are maintained in two or more trust funds, report the combined financial information in 13 and 14. Fully insured defined benefit or defined contribution pension plans meeting the conditions of 29 CFR 2520.104-44 need not complete items 13 and 14.

For purposes of the annual return/report and the alternative method of compliance set forth in 29 CFR 2520.104-44, a contract is considered to be "allocated" only if the insurance company or organization that issued the contract unconditionally guarantees, upon receipt of the required premium or consideration, to provide a retirement benefit of a specified amount, without adjustment for fluctuations in the market value of the underlying assets of the company or organization, to each participant, and each participant has a legal right to such benefits which is legally enforceable directly against the insurance company or organization.

13a. Enter the total plan assets at the beginning and end of the plan year. Plan assets may include, among other things:

(1) Cash including both interest and noninterest bearing. This includes all cash on hand or in a financial institution including money market funds.

(2) Receivables including all contributions due to the plan from the employer and participants, income earned, but not yet received by the plan and receivables from any other source.

(3) Investments including securities (stocks, bonds, U.S. Government obligations, municipal obligations, etc.); real property (land, buildings, gold, furniture, equipment, etc.); loans (mortgages, promissory notes, etc.); and all other investments (certificates of deposit, repurchase agreements, land contracts, units of participation in common/collective trusts and pooled separate accounts, shares of registered investment companies (mutual funds), interests in master trusts and 103-12 IEs, etc.).

Plans holding units of participation in common/collective trusts and/or pooled separate accounts must attach to the Form 5500-R either the statement of assets and liabilities of the common/collective trust and/or pooled separate account or the required certification. For details, see 29 CFR sections 2520.103-3, 2520.103-4, 2520.103-5, and 2520.103-9.

Plans in a master trust must include the value of the plan's interest in the master trust which is the sum of the net values of the plan's interest in all of the master trust investment accounts. The net values of such interests are obtained by multiplying the plan's percentage interest in each master trust investment account by the net assets of the investment account (total assets minus total liabilities) at the beginning and end of the plan year.

13b. Enter the total liabilities at the beginning and end of the plan year. Liabilities to be entered here do not include the value of future pension payments to plan participants; however, the amount to be entered in item 13b for accrual basis filers includes, among other things:

(1) Benefit claims that have been processed but have not been paid,

(2) Accounts payable obligations owed by the plan that were incurred in the normal operations of the plan but have not been paid,

(3) Other liabilities such as acquisition indebtedness and any other amount owed by the plan.

13c. Enter the net assets as of the beginning and end of the plan year. Subtract item 13b from item 13a.

14a. Enter all plan income during the year. Plan income received and/or receivable may include, among other things:

(1) Interest on investments (including money market funds, sweep accounts, STIF accounts, etc.)

(2) Dividends. (Accrual basis plans should include dividends declared for all stock held by the plan even if the dividends have not been received as of the end of the plan year.)

(3) Rents from income producing property owned by the plan.

(4) Royalties.

(5) Contributions including securities or other noncash property contributed to the plan.

(6) Net gains or loss from the sale of assets.

(7) Other income such as unrealized appreciation (depreciation) in plan assets. To compute this amount subtract the current value of all assets at the beginning of the year plus the cost of any assets acquired during the plan year from the current value of all assets at the end of the year minus assets disposed of during the plan year. A negative figure should be placed in parentheses.

14b. Enter all the expenses of the plan during the year. Expenses (paid and/or payable) may include, among others:

(1) Direct payments made to participants or beneficiaries in cash, securities or other property. If the securities or other property are distributed to plan participants or beneficiaries, include the fair market value (or a good faith estimate if fair market value is not available) on the date the property was distributed.

(2) Payments to insurance carriers and similar organizations (including Blue Cross, Blue Shield and health maintenance organizations).

(3) Payments to provide benefits for such things as legal services, day care services, training and apprenticeship services.

(4) Administrative expenses including:

(A) Salaries to employees of the plan.

(B) Expenses for accounting, actuarial, legal, and investment services.

(C) Fees and expenses for trustees including reimbursement for travel, seminars and meeting expenses.

(D) Fees paid for valuations and appraisals.

If this Form 5500-R is filed only for purposes of fulfilling the requirements of Code section 6039D, i.e., for a fringe benefit plan but not for a welfare benefit plan, do not include overhead expenses such as utilities and photocopying expenses. If this filing is only for an educational assistance program described in Code section 127, do not include expenses for job-related training that are deductible under Code section 162.

14c. Enter the net income (loss). Subtract item 14b from item 14a. If the result is a negative number, enter it in parentheses.

14d. Enter the total cash contributions received and (for accrual basis plans) due to be received from the employer, participants and/or any other source.

14e. Include payments made (and for accrual basis filers payments due) to participants or beneficiaries in cash, securities or other property and to insurance carriers (or similar organizations such as Blue Cross, Blue Shield, and health maintenance organizations, etc.). If securities or other property are distributed to plan participants or beneficiaries, include the fair market value (or a good faith estimate if fair market value is not available) on the date of distribution.

15. Check "Yes" or "No" and enter the total amount (except 15i) for all "Yes" responses. Round off all amounts to the nearest dollar.

15a. Check "Yes" and indicate the aggregate amount of coverage available for all claims if every plan official who handles plan funds is covered by a bond. Otherwise, check "No." Generally, every plan official of an employee benefit plan who "handles" funds or other property of such plan must be bonded. A plan administrator, officer, or employee shall be deemed to be "handling" funds or other property of a plan, so as to require bonding, whenever his or her duties or activities with respect to given funds are such that there is a risk that such funds could be lost in the event of fraud or dishonesty on the part of such person, acting either alone or in collusion with others. Section 412 of ERISA and the regulations found at 29 CFR 2580 provide the bonding requirements including the definition of "handling" (29 CFR 2580.412-6), the permissible forms of bonds (29 CFR 2580.412-10), and certain exemptions such as the exemption for unfunded plans, banks and insurance companies (ERISA section 412) and the exemption allowing plan officials to purchase bonds from surety companies authorized by the Secretary of the Treasury as acceptable reinsurers on Federal bonds (29 CFR 2580.412-23).

Check "Yes" only if the plan itself (as opposed to the plan sponsor) is a named insured under a fidelity bond covering plan officials.

Plans are permitted under certain conditions to purchase fiduciary liability insurance. These policies do not protect the plan from dishonest acts and are not bonds which should be reported in item 15.

15b. If item 15a is answered "Yes," this must be answered. Check "Yes" to item 15b if the plan has suffered or discovered any loss as the result of a dishonest or fraudulent act(s). If "Yes," enter the full amount of the loss. If the full amount of the loss has not yet been determined, provide and disclose that the figure is an estimate, such as "approximately $1,000."

Note: *Willful failure to report is a criminal offense. See ERISA section 501.*

15c. For purposes of item 15, the term "employer" includes affiliates of the employer. In determining the five most highly paid employees, use all compensation paid including cash, bonuses, and noncash payments (e.g., the use of a car). A fiduciary is a person with respect to a plan to the extent: (1) he or she exercises any discretionary authority or discretionary control with respect to the management of such plan or exercises any authority or control with respect to the management or disposition of its assets, (2) he or she renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority or responsibility to do so, or (3) he or she has any discretionary authority or discretionary responsibility in the administration of such plan.

15d. Relatives include spouses, siblings, ancestors, lineal descendents (e.g., children, grandchildren, etc.) and spouses of lineal descendents. If 15c is answered "Yes," enter the total amount of these transactions.

15e. An "employer security" is a security issued by an employer (including affiliates) of employees covered by the plan. These may include common stocks, preferred stocks, bonds, zero coupon bonds, debentures, convertible debentures, notes, and commercial paper.

Employer real property is any real property (and related personal property) owned by the plan and leased to the employer of employees covered by the plan. This may include land, warehouses, office buildings, etc. If item 15e is "Yes," enter the total amount of employer securities and/or employer real property held or acquired.

15f. Generally, a loan requires that both the principal and interest be paid according to a pre-established repayment schedule. If the principal and/or interest has not been paid in accordance with the original repayment schedule and the period for repayment of the principal and/or interest has been extended, or the loan has been renegotiated after the original repayment schedule has not been met, a "Yes" must be checked and the total amount of the delinquent loan must be entered. Otherwise check "No."

15h. Check "Yes" for obligations where the required payments have not been made by the due date. With respect to notes and loans, the due date, payment amount and conditions for default are usually contained in the note or loan document. Defaults can occur at any time for those obligations that require periodic repayment. Generally, loans and fixed income obligations are considered uncollectible when payment has not been made and there is little probability that payment will be made. A loan by the plan is in default when the borrower is unable to pay the obligation upon maturity. A fixed income obligation has a fixed maturity date at a specified interest rate. If item 15h is "Yes," enter the total amount of loans by the plan or fixed income obligations that are uncollectible or in default as of the plan year end.

15l. Consider all fiduciaries and parties providing services to the plan, including (1) persons who are fiduciaries by reason of their relationship to a master trust investment account or 103-12 IE in which the plan has an interest or the assets in such an investment account or 103-12 IE; and (2) parties providing services rendered with respect to assets held in master trusts and 103-12 IEs.

See item 15c above for the definition of fiduciary.

15j. Include as a single security all securities of the same issue. For the purposes of item 15j, do not check "Yes" for securities issued by the U.S. Government or its agencies. If item 15j is "Yes," enter the total.

15k. In determining the 20% figure, subtract the current value of plan assets held in any master trust or 103-12 IE from the current value of the plan's total assets at the beginning of the plan year. Check "Yes" if the plan had:

1. A single transaction within the plan year in excess of 20% of the current value of the plan assets;

2. Any series of transactions with, or in conjunction with, the same person, involving property other than securities, which amount in the aggregate within the plan year (regardless of the category of asset and the gain or loss on any transaction) to more than 20% of the current value of plan assets;

3. Any transaction within the plan year involving securities of the same issue if within the plan year any series of transactions with respect to such securities amount in the aggregate to more than 20% of the current value of the plan assets; or

4. Any transaction within the plan year with respect to securities with, or in conjunction with, a person if any prior or subsequent single transaction within the plan year with such person, with respect to securities, exceeds 20% of the current value of plan assets. The 20% figure is determined by comparing the current value of the transaction at the transaction date with the current value of the plan assets at the beginning of the plan year.

If the assets of two or more plans are maintained in one trust, the plan's allocable portion of the transactions of the trust shall be combined with the other transactions of the plan, if any, to determine which transactions (or series of transactions) are reportable (20%) transactions.

Exception. For investments in common/collective trusts, pooled separate accounts, 103-12 IEs, and registered investment companies, determine the 20% figure by comparing the transaction date value of the acquisition and/or disposition of units of participation or shares in the entity with the current value of the plan assets at the beginning of the plan year. Check "No" if all plan funds are held in a master trust. Do not include individual transactions of common/collective trusts, pooled separate accounts, 103-12 IEs, and registered investment companies.

If item 15k is answered "Yes," enter the amount.

15l. Check "No" if the plan received all of its contributions in cash. Generally, as it relates to this question, an appraisal by an unrelated third party is an evaluation of the value of the asset contributed prepared by an individual or firm who knows how to judge the value of the asset and does not have an ongoing relationship with the plan or plan fiduciaries except for preparing the appraisal. If item 15l is checked "Yes," enter the value of the asset as established by the plan.

15m. Non-publicly traded securities are generally held by few people and not traded on a stock exchange. Generally, as it relates to this question, an appraisal by an unrelated third party is an evaluation of the value of the security prepared by an individual or firm who knows how to judge the value of the security and does not have an ongoing relationship with the plan or plan fiduciaries except for preparing the appraisal. If item 15m is answered "Yes," enter the value of the security as established by the plan.

16a. If you are uncertain as to whether the plan is covered under the PBGC termination insurance program, check the box "Not determined" and contact the PBGC and request a coverage determination. Welfare and fringe benefit plans do not complete this item.

*U.S. GOVERNMENT PRINTING OFFICE : 1989 245-497

SCHEDULE A (Form 5500)
Department of the Treasury
Internal Revenue Service
Department of Labor
Pension and Welfare Benefits Administration
Pension Benefit Guaranty Corporation

Insurance Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974.

▶ **File as an Attachment to Forms 5500, 5500-C, or 5500-R.**

▶ Insurance companies are required to provide this information as per ERISA section 103(a)(2).

OMB No. 1210-0016

1988

This Form Is Open to Public Inspection

For calendar year 1988 or fiscal plan year beginning , 1988 and ending , 19

▶ **Part I must be completed for all plans required to file this schedule.**
▶ **Part II must be completed for all insured pension plans.**
▶ **Part III must be completed for all insured welfare plans.**

▶ **Enter master trust or 103-12 IE name in place of "sponsor" and specify investment account or 103-12 IE in place of "plan" if filing with DOL for a master trust or 103-12 IE.**

Name of plan sponsor as shown on line 1a of Form 5500, 5500-C, or 5500-R | **Employer identification number**

Name of plan | Enter three-digit plan number ▶

Part I Summary of All Insurance Contracts Included in Parts II and III

Group all contracts in the same manner as in Parts II and III.

1 Check appropriate box: a ☐ Welfare plan b ☐ Pension plan c ☐ Combination pension and welfare plan

2 Coverage: (a) Name of insurance carrier	(b) Contract or identification number	(c) Approximate number of persons covered at end of policy or contract year	Policy or contract year (d) From	(e) To

3 Insurance fees and commissions paid to agents and brokers: (a) Contract or identification number	(b) Name and address of the agents or brokers to whom commissions or fees were paid	(c) Amount of commissions paid	(d) Fees paid: Amount	Purpose
Total				

4 Premiums due and unpaid at end of the plan year ▶ $: Contract or identification number ▶

Part II Insured Pension Plans

Provide information for each contract on a separate Part II. Where individual contracts are provided, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

▶ Contract or identification number ▶

5 Contracts with allocated funds, for example, individual policies or group deferred annuity contracts:
- a State the basis of premium rates ▶
- b Total premiums paid to carrier
- c If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, other than reported in 3 above, enter amount. Specify nature of costs ▶

6 Contracts with unallocated funds, for example, deposit administration or immediate participation guarantee contracts. Do not include portions of these contracts maintained in separate accounts:
- a Balance at the end of the previous policy year
- b Additions: *(i)* Contributions deposited during year
  - *(ii)* Dividends and credits
  - *(iii)* Interest credited during the year
  - *(iv)* Transferred from separate account
  - *(v)* Other (specify) ▶
  - *(vi)* Total additions
- c Total of balance and additions, add a and b(vi)
- d Deductions:
  - *(i)* Disbursed from fund to pay benefits or purchase annuities during year
  - *(ii)* Administration charge made by carrier
  - *(iii)* Transferred to separate account
  - *(iv)* Other (specify) ▶
  - *(v)* Total deductions
- e Balance at end of current policy year, subtract d(v) from c

7 Separate accounts: Current value of plan's interest in separate accounts at year end

Schedule A (Form 5500) 1988 Page 2

Part III **Insured Welfare Plans**

Provide information for each contract on a separate Part III. If more than one contract covers the same group of employees of the same employer(s) or members of the same employee organization(s), the information may be combined for reporting purposes if such contracts are experience-rated as a unit. Where individual contracts are provided, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

8	(a) Contract or identification number	(b) Type of benefit	(c) List gross premium for each contract	(d) Premium rate or subscription charge

9	Experience-rated contracts: **a** Premiums: *(i)* Amount received	
	(ii) Increase (decrease) in amount due but unpaid	
	(iii) Increase (decrease) in unearned premium reserve	
	(iv) Premiums earned, add (i) and (ii), and subtract (iii)	
	b Benefit charges: *(i)* Claims paid	
	(ii) Increase (decrease) in claim reserves	
	(iii) Incurred claims, add (i) and (ii)	
	(iv) Claims charged	
	c Remainder of premium: *(i)* Retention charges (on an accrual basis)—(A) Commissions	
	(B) Administrative service or other fees	
	(C) Other specific acquisition costs	
	(D) Other expenses	
	(E) Taxes	
	(F) Charges for risks or contingencies	
	(G) Other retention charges	
	(H) Total retention	
	(ii) Dividends or retroactive rate refunds. (These amounts were ☐ paid in cash, or ☐ credited.)	
	d Status of policyholder reserves at end of year: *(i)* Amount held to provide benefits after retirement	
	(ii) Claim reserves	
	(iii) Other reserves	
	e Dividends or retroactive rate refunds due (do not include amount entered in c(ii))	
10	Nonexperience-rated contracts: **a** Total premiums or subscription charges paid to carrier	
	b If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, other than reported in 3 above, report amount	
	Specify nature of costs ▶	

If additional space is required for any item, attach additional sheets the same size as this form.

General Instructions

This schedule must be attached to Form 5500, 5500-C, or 5500-R for every defined benefit, defined contribution, and welfare benefit plan where any benefits under the plan are provided by an insurance company, insurance service, or other similar organization.

Specific Instructions

(References are to the line items on the form.)

Include only contracts with policy or contract years ending with or within the plan year (for reporting purposes a year cannot exceed 12 months). Data on Schedule A (Form 5500) should be reported only for such policy or contract years. **Exception:** *If the insurance company maintains records on the basis of a plan year rather than policy or contract year, data on Schedule A (Form 5500) may be reported for the plan year.*

Include only the contracts issued to the plan for which this return/report is being filed.

Plans Participating in Master Trust(s) and 103-12 IEs—See the Form 5500 or Form 5500-C instructions for "Reporting Requirements for Investment Arrangements Filing With DOL."

2(c).—Since the plan coverage may fluctuate during the year, the number of persons entered should be that which the administrator determines will most reasonably reflect the number covered by the plan at the end of the policy or contract year.

Where contracts covering individual employees are grouped, entries should be determined as of the end of the plan year.

2(d) and (e).—Enter the beginning and ending dates of the policy year for each contract listed under column (b). Where separate contracts covering individual employees are grouped, enter "N/A" in column (d).

3.—All sales commissions are to be reported in column (c) regardless of the identity of the recipient. Override commissions, salaries, bonuses, etc., paid to a general agent or manager for managing an agency, or for performing other administrative functions, are not to be reported.

Fees to be reported in column (d) represent payments by insurance carriers to agents and brokers for items other than commissions (e.g., service fees, consulting fees, and finders fees).

Note: *For purposes of this item, commissions and fees include amounts paid by an insurance company on the basis of the aggregate value (e.g., policy amounts, premiums) of contracts or policies (or classes thereof) placed or retained. The amount (or pro rata share of the total) of such commissions or fees attributable to the contract or policy placed with or retained by the plan must be reported in column (c) or (d), as appropriate.*

Fees paid by insurance carriers to persons other than agents and brokers should be reported in Parts II and III on Schedule A (Form 5500) as acquisition costs, administrative charges, etc., as appropriate. For plans with 100 or more participants, fees paid by employee benefit plans to agents, brokers, and other persons are to be reported on Schedule C (Form 5500).

5a.—The rate information called for here may be furnished by attachment of appropriate schedules of current rates filed with appropriate state insurance departments or by a statement as to the basis of the rates.

6.—Show deposit fund amounts rather than experience credit records when both are maintained.

8(d).—The rate information called for here may be furnished by attachment of appropriate schedules of current rates or by a statement as to the basis of the rates.

SCHEDULE B (Form 5500)
Department of the Treasury
Internal Revenue Service
Department of Labor
Pension and Welfare Benefits Administration
Pension Benefit Guaranty Corporation

Actuarial Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974, referred to as ERISA, and section 6059(a) of the Internal Revenue Code, referred to as the Code.

► **Attach to Forms 5500, 5500-C, 5500-R, or 5500EZ if applicable.**

OMB No. 1210-0016

1988

This Form is Open to Public Inspection

For calendar plan year 1988 or fiscal plan year beginning , 1988, and ending 19

► **Please complete every item on this form. If an item does not apply, enter "N/A."** ► **Round off amounts to nearest dollar.**

► **Caution:** A penalty of $1,000 will be assessed for late filing of this report unless reasonable cause is established.

Name of plan sponsor as shown on line 1a of Form 5500, 5500-C, 5500-R, or 5500EZ | **Employer identification number**

Name of plan | Enter three-digit plan number ►

	Yes	No
1 Has a waiver of a funding deficiency for this plan been approved by the IRS? If "Yes," attach a copy of the IRS approval letter.		
2 Is a waived funding deficiency of a prior plan year being amortized in this plan year?		
3 Have any of the periods of amortization for charges described in Code section 412(b)(2)(B) been extended by IRS? If "Yes," attach a copy of the IRS approval letter.		
4a Was the shortfall funding method the basis for this plan year's funding standard account computations?		
b Is this plan a multiemployer plan which is, for this plan year, in reorganization as described in Code section 418 or ERISA section 4241? If "Yes," you are required to attach the information described in the instructions.		
5 Has a change in funding method for this plan year been made? If "Yes," attach either a copy of the letter showing IRS approval or state applicable Revenue Procedure authorizing approval if used.		

6 Operational information:

a Enter most recent actuarial valuation date ►

b Enter date(s) and amount of contributions received this plan year for prior plan years and not previously reported:
Date(s) ► Amount ►

c Current value of the assets accumulated in the plan as of the beginning of the plan year

d Present value of vested benefits as of the beginning of the plan year:
(i) For retired participants and beneficiaries receiving payments
(ii) For other participants
(iii) Total

e Present value of nonvested accrued benefits as of the beginning of the plan year

f Number of persons covered (included in the most recent actuarial valuation):
(i) Active participants
(ii) Terminated participants with vested benefits
(iii) Retired participants and beneficiaries of deceased participants

7 Contributions made to the plan for the plan year by employer(s) and employees:

(a) Month Year	(b) Amount paid by employer	(c) Amount paid by employees	(a) Month Year	(b) Amount paid by employer	(c) Amount paid by employees
			Total		

Statement by Enrolled Actuary (see instructions before signing):

To the best of my knowledge, the information supplied in this schedule and on the accompanying statement, if any, is complete and accurate, and in my opinion the assumptions used in the aggregate (a) are reasonably related to the experience of the plan and to reasonable expectations, and (b) represent my best estimate of anticipated experience under the plan.

Signature of actuary — Date

Print or type name of actuary — Enrollment number

Name and address — Telephone number (including area code)

Schedule B (Form 5500) 1988 Page 2

8 Funding standard account and other information:
- a Accrued liabilities as determined for funding standard account as of (enter date) ▶
- b Value of assets as determined for funding standard account as of (enter date) ▶
- c Unfunded liability for spread-gain methods with bases as of (enter date) ▶
- d (i) Actuarial gains or (losses) for period ending ▶
  (ii) Shortfall gains or (losses) for period ending ▶
- e Amount of contribution certified by the actuary as necessary to reduce the funding deficiency to zero, from 9m or 10h (or the attachment for 4b if required)

9 Funding standard account statement for this plan year ending ▶

Charges to funding standard account:
- a Prior year funding deficiency, if any
- b Employer's normal cost for plan year as of mo. ____ day ____ yr. ____
- c Amortization charges
  (i) Funding waivers (outstanding balance as of mo. ____ day ____ yr. ____ ▶ $ ____)
  (ii) Other than waivers (outstanding balance as of mo. ____ day ____ yr. ____ ▶ $ ____)
- d Interest as applicable to the end of the plan year on a, b, and c
- e Total charges (add a through d)

Credits to funding standard account:
- f Prior year credit balance, if any
- g Employer contributions (total from column (b) of item 7)
- h Amortization credits (outstanding balance as of mo. ____ day ____ yr. ____ ▶ $ ____)
- i Interest as applicable to end of plan year on f, g, and h
- j Other (specify) ▶
- k Total credits (add f through j)

Balance:
- l Credit balance: if k is greater than e, enter the difference
- m Funding deficiency: if e is greater than k, enter the difference

10 Alternative minimum funding standard account (omit if not used):
- a Was the entry age normal cost method used to determine entries in item 9 above? ☐ Yes ☐ No
  If "No," do not complete b through h.
- b Prior year alternate funding deficiency, if any
- c Normal cost
- d Excess, if any, of value of accrued benefits over market value of assets
- e Interest on b, c, and d
- f Employer contributions (total from column (b) of item 7)
- g Interest on f
- h Funding deficiency: if the sum of b through e is greater than the sum of f and g, enter difference

11 Actuarial cost method used as the basis for this plan year's funding standard account computation:
- a ☐ Attained age normal
- b ☐ Entry age normal
- c ☐ Accrued benefit (unit credit)
- d ☐ Aggregate
- e ☐ Frozen initial liability
- f ☐ Individual level premium
- g ☐ Other (specify) ▶

12 Checklist of certain actuarial assumptions:

	A Used for items 6d and e—value of accrued benefits		B Used for items 8, 9, or 10—funding standard account	
	Pre-retirement	Post-retirement	Pre-retirement	Post-retirement
a Rates specified in insurance or annuity contracts	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
b Mortality table code				
(i) Males				
(ii) Females				
c Interest rate	%	%	%	%
d Retirement age				
e Expense loading	%	%	%	%
f Annual withdrawal rate:	Male / Female		Male / Female	
(i) Age 25	% / %		% / %	
(ii) Age 40	% / %		% / %	
(iii) Age 55	% / %		% / %	
g Ratio of salary at normal retirement to salary at.				
(i) Age 25			% / %	
(ii) Age 40			% / %	
(iii) Age 55			% / %	

h Investment return on actuarial value of plan assets for the year ending on the valuation date %

*U.S. Government Printing Office: 1989-205-297

Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefits Administration

Pension Benefit Guaranty Corporation

1988 Instructions for Schedule B (Form 5500)

Actuarial Information

(Code references are to the Internal Revenue Code. ERISA refers to the Employee Retirement Income Security Act of 1974.)

General Instructions

Who Must File.—The employer or plan administrator of a defined benefit plan that is subject to the minimum funding standards (see Code section 412 and Part 3 of Title I of ERISA) must file this schedule as an attachment to the return/report filed for this plan year.

For split-funded plans, the costs and contributions reported on Schedule B should include those relating to both trust funds and insurance carriers.

Statement by Enrolled Actuary.—An enrolled actuary must sign the Schedule B. The signature of the enrolled actuary may be qualified to state that it is subject to attached qualifications. See Code section 301.6059-1(d) for permitted qualifications. A stamped or machine produced signature is not acceptable. In addition, the actuary may offer any other comments related to the information contained in Schedule B.

Specific Instructions

(References are to line items on the form.)

4a. Only certain collectively bargained plans may elect the shortfall funding method (see regulations under Code section 412). Advance approval from the IRS of the election of the shortfall method of funding is NOT required if it is first adopted for the first plan year to which Code section 412 applies. However, advance approval from IRS is required if the shortfall funding method is adopted at a later time, if a specific computation method is changed, or if the shortfall method is discontinued.

4b. Attach an explanation of the basis for the determination that the plan is in reorganization for this plan year. Also attach a worksheet showing for this plan year (i) the amounts considered contributed by employers, (ii) any amount waived by IRS, (iii) the development of the minimum contribution requirement (taking into account the applicable overburden credit, cash-flow amount, contribution bases and limitation on required increases on the rate of employer contributions), and (iv) the resulting accumulated funding deficiency, if any, which is to be reported on line 8e in lieu of an amount from line 9m.

5. Changes in funding methods include changes in actuarial cost method, changes in asset valuation method, and changes in the valuation date of plan costs and liabilities or of plan assets. Generally, these changes require IRS approval. If approval was granted by an individual ruling letter for this plan, attach a copy of the letter. If approval was granted pursuant to a regulation, class ruling, or revenue procedure, attach a copy of the items required by the applicable regulation, ruling, or procedure.

6a. The valuation for a plan year may be as of any date in the year, including the first and last. Valuations must be performed within the period specified by ERISA section 103(d) and Code section 412(c)(9).

6b. This item does not apply to the first plan year to which the minimum funding standards apply.

6c. Enter the current value of total assets as of the beginning of the plan year, as shown on Form 5500 or Form 5500-C.

6d and e. All plans regardless of the number of participants must provide the information indicated in accordance with these instructions. The term "accrued benefit" means the individual's accrued benefit determined under the plan as required by ERISA section 204.

With the exception of the interest rate, each actuarial assumption used in calculating the present value of accrued benefits reported in item 12 should reflect the best estimate of the plan's future experience solely with respect to that assumption applicable to the plan on an ongoing (rather than a terminating) basis. The actuary shall take into account rates of early retirement and the plan's early retirement provisions as they relate to the accrued benefits, where these would significantly affect the results. No salary scale projections should be used in computing the present values. See instructions for item 12 for further requirements concerning actuarial assumptions.

The interest rate used to compute the present values must be within 10 percent of the weighted average of the 30-year Treasury bond rate as published by the IRS.

Note: *The above values do not necessarily represent the current liability of the plan as that term is defined in Code section 412(l)(7). Published guidance will specify what benefits are taken into account in determining current liability.*

The present value of accrued benefits for both d and e shall be increased by the present value of any subsidized early retirement benefits, disability benefits, and death benefits which are related to the accrued benefit. The present value of accrued benefits should also be increased by the present value of a cost-of-living clause if such a clause is currently part of the benefit formula. The present value should not include the value of unpredictable contingent event benefits (e.g., plant shutdown benefits) unless the event has occurred.

Omit from items 6d and e liabilities fully funded by annuity and insurance contracts other than any contract funds not allocated to individuals.

6d. Include the present value of all vested accrued benefits that are vested as of the beginning of the plan year. Item 6d(i) should include the present value of vested benefits for all retired participants; 6d(ii) should include the present value of vested benefits for other participants; and 6d(iii) is the sum of 6d(i) and (ii). Normally, withdrawal rates would not be used in these calculations.

6e. Include the present value of the excess of the accrued benefits over the vested benefits included in 6d.

7. Show all employer and employee contributions for the plan year, and employer contributions made not later than 2½ months (or such later date allowed under Code section 412(c)(10) and ERISA section 302(c)(10)) after the end of the plan year. Show only contributions actually made to the plan by the date Schedule B is signed.

8a. If the attained age normal, aggregate, or frozen initial liability or other method that does not develop an accrued liability is used, enter "N/A."

8b. Enter the value of assets determined in accordance with Code section 412(c)(2) or ERISA section 302(c)(2).

8d(ii). For the methods to be used to determine the shortfall gain (loss) see the regulations under Code section 412.

8e. Insert amount from item 9m. However, if the alternative method is elected and item 10h is smaller than item 9m, enter the amount from item 10h. Multiemployer plans in reorganization, see instruction 4b. File Form 5330 with the IRS to pay 5% excise tax on the funding deficiency.

9. Under the shortfall method of funding, the *normal cost* in the funding standard account is the charge per unit of production (or per unit of service) multiplied by the actual number of units of production (or units of service) which occurred during the plan year. Each amortization installment in the funding standard account is similarly calculated.

9b. If no valuation was made for the current year, enter the normal cost calculated in the most recent actuarial valuation or the estimated cost for the current year based on such valuation. If amounts are not as of the date of the most recent actuarial valuation, indicate in the Statement of Actuarial Assumptions how the amounts shown were determined.

9c and h. The outstanding balance may be as of any day in this plan year.

9j. Report a credit for a waived funding deficiency (Code section 412(d)(3)(C)) or a full funding credit (Code section 412(c)(6)) as a credit to the funding standard account. If a waiver of a funding deficiency is pending, it is not to be reported as a credit but as a funding deficiency. If the waiver is granted, an amended Schedule B (Form 5500) should be filed to report it.

10a. If the entry age normal cost method was not used to determine the entries in item 9, the alternative minimum funding standard account may not be used.

10d. The value of accrued benefits should exclude benefits accrued for the current plan year. The market value of assets should be reduced by the amount of any contributions for the current plan year.

11. Enter only the primary method used. If the plan uses one actuarial cost method in one year as the basis of establishing an accrued liability for use under the frozen initial liability method in subsequent years, answer as if the frozen initial liability method were used in all years.

For a modified individual level premium method for which actuarial gains and losses are spread as a part of future normal cost, check box g and describe the cost method. For the shortfall funding method, check the appropriate box for the underlying actuarial cost method used to determine the annual computation charge.

12. If gender-based statistics are used in developing plan costs, enter such rates where appropriate in item 12. Note that requests for gender-based cost information do not suggest that gender-based benefits are legal. Complete all blanks. Enter "N/A" if not applicable. If the assumptions listed under columns A and B differ, explain, in an attached Statement of Actuarial Assumptions, the reasons for the differences.

If unisex tables are used, enter the values in both the male and female columns.

Attach a statement of actuarial assumptions used (if not fully described by item 12), actuarial methods used to calculate (i) the figures shown in items 6, 8, 9, 10 (if not fully described by item 11), and (ii) the value of assets shown on line 8b. The statement is to include a summary of the principal eligibility and benefit provisions upon which the valuation was based, an identification of benefits not included in the calculation, and other facts, such as any change in actuarial assumptions or cost methods and justifications for any such change. Include also such other information, if any, needed to fully and fairly disclose the actuarial position of the plan.

12a. Check "Yes" if the rates in the contract were used (e.g., purchase rates at retirement).

12b. Enter code as follows:

Table	Code
1937 Standard Annuity	1
a-1949 Table	2
Progressive Annuity Table	3
1951 Group Annuity	4
1971 Group Annuity Mortality	5
1971 Individual Annuity Mortality	6
UP-1984	7
1983 I.A.M.	8
1983 G.A.M.	9
Other	10
None	11

Where an indicated table consists of separate tables for males and females, add F to the female table (e.g., 4F). When a projection is used with a table, follow the code with "P" and the year of projection (omit year if the projection is unrelated to a single calendar year); the identity of the projection scale should be omitted. When an age setback or setforward is used, indicate with "–" or "+" and the years. For example, if for females the 1951 Group Annuity Table with Projection C to 1971 is used with a 5-year setback, enter "4P71-5." If the table is not one of those listed, enter "10" with no further notation. If the valuation assumes a maturity value to provide the post-retirement income without separately identifying the mortality, interest and expense elements under "post-retirement," enter on 12b the value of $1.00 of monthly pension beginning at the age shown on 12d, assuming the normal form of annuity for an unmarried person; in this case enter "N/A" on 12c and 12e.

12c. For column A enter the interest rate that is within ten percent of the weighted average of the 30-year Treasury Bond rate used to determine the present value in item 6d. For column B enter assumption as to expected interest rate (investment return). If the assumed rate varies with the year, enter the weighted average of the assumed rate for 20 years following the valuation date.

12d. If each participant is assumed to retire at his/her normal retirement age, enter the age specified in the plan as normal retirement age; do not enter "NRA." Otherwise, enter the assumed retirement age. If the valuation uses rates of retirement at various ages, enter the estimated average whole age at which participants are assumed to retire.

12e. If there is no expense loading, enter "-0-". If there is a single expense loading not separately identified as pre-retirement or post-retirement, enter it under pre-retirement and enter "N/A" under post-retirement. Where expenses are assumed other than as a percent of plan costs or liabilities, enter the assumed expense as a percent of the calculated normal cost.

12f. Enter rates to nearest 0.1%. If select and ultimate rates which vary with both age and years of service are used, enter rates for a new participant at the age shown and enter "S" before the rate.

12g. Enter salary ratio for the age indicated to the nearest 1%.

12h. Enter the rate of return on the actuarial value of plan assets for the one year period ending on the valuation date. For this purpose, the rate of return should be the dollar rate of return using the formula $2I/(A+B-i)$, where i is the investment return under this asset valuation method used for the plan, A is the actuarial value of the assets one year ago, and B is the actuarial value of the assets on the current valuation date.

SCHEDULE C (Form 5500)
Department of the Treasury
Internal Revenue Service
Department of Labor
Pension and Welfare Benefits Administration
Pension Benefit Guaranty Corporation

Service Provider and Trustee Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974.

► **File as an Attachment to Form 5500.**

Additional Schedules C (Form 5500) may be used, if needed, to provide additional information for Parts I, II, and/or III.

OMB No. 1210-0016

1988

This Form Is Open to Public Inspection

For the calendar year 1988 or fiscal plan year beginning , 1988, and ending , 19

Name of plan sponsor as shown on line **1a** of Form 5500 | **Employer identification number**

Name of plan | Enter three-digit plan number ►

Part I Service Provider Information (see instructions)

(a) Name	(b) Employer identification number (see instructions)	(c) Official plan position	(d) Relationship to employer, employee organization, or person known to be a party-in-interest	(e) Gross salary or allowances paid by plan	(f) Fees and commissions paid by plan	(g) Nature of service code (see instructions)
(1)		Contract administrator				13
(2)						
(3)						
(4)						
(5)						
(6)						
(7)						
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(38)						
(39)						
(40)						

Part II Trustee Information Enter the name and address of all trustees who served during the plan year. If more space is required to supply this information, attach additional Schedules C (Form 5500).

Name Address	Name Address
Name Address	Name Address
Name Address	Name Address
Name Address	Name Address
Name Address	Name Address
Name Address	Name Address
Name Address	Name Address
Name Address	Name Address

Part III Termination Information (see instructions)

(a) Name	(b) EIN	(c) Position	(d) Address	(e) Telephone No.

(1) Explanation:

(a) Name	(b) EIN	(c) Position	(d) Address	(e) Telephone No.

(2) Explanation:

(a) Name	(b) EIN	(c) Position	(d) Address	(e) Telephone No.

(3) Explanation:

Part I Instructions— Service Provider Information

A. General Instructions

Form 5500 filers complete Part I to report all persons receiving, directly or indirectly, $5,000 or more in compensation for all services rendered to the plan during the plan year except:

(1) employees of the plan who were paid less than $1,000 for each month of employment during the plan year,

(2) employees of the plan sponsor who received no direct or indirect compensation from the plan,

(3) employees of a business entity (e.g., corporation, partnership, etc.), other than the plan sponsor, which provided service to the plan, or

(4) persons whose only compensation in relation to the plan consists of insurance fees and commissions listed in Schedule A (Form 5500).

Generally, indirect compensation would not include compensation which would have been received had the service not been rendered and which cannot be reasonably allocated to the services performed. Indirect compensation includes, among other things, the payment of "finders' fees" or other fees and commissions by a service provider to an independent agent or employee for a transaction or service involving the plan.

B. Specific Instructions

On line (1), include any individual, trade or business, whether incorporated or unincorporated, responsible for managing the clerical operations (e.g., handling membership rosters, claims payments, maintaining books and records) of the plan on a contractual basis that is required to be reported in Part I except for salaried staff or employees of the plan or banks or insurance carriers.

On the remaining lines (2 through 40) and additional Schedules C (Form 5500) if needed, list all other persons required to be reported in Part I who provided services to the plan in the order of compensation received, starting with the most highly compensated and ending with the lowest compensated.

Column (b). An EIN must be entered in column (b). If an individual is listed in column (a), the EIN to be entered in column (b) should be the EIN of the individual's employer.

Column (c). For example, employee, trustee account, attorney, etc.

Column (d). For example, employee, vice-president, union president, etc.

Columns (e) and (f).

Include the plan's share of amounts of compensation for services paid during the year to a master trust or 103-12 IE trustee, and to persons providing services to the master trust or 103-12 IE, if such compensation is not subtracted from the gross income of the master trust or 103-12 IE in determining the net investment gain (or loss). Amounts of compensation subtracted from gross income in determining the net investment gain (or loss) of the master trust or 103-12 IE must be reported as part of the report of the master trust or 103-12 IE filed with DOL.

Include brokerage commissions or fees only if the broker is granted some discretion (see 29 CFR 2510.3-21, paragraph (d), regarding "discretion"). Include all other commissions and fees on investments, whether or not they are capitalized as investment costs.

Column (g). From the list below, select the code that best describes the nature of services provided to the plan, and enter the number. If more than one service was provided, enter only the code of the primary service.

Code	Service
10	Accounting (including auditing)
11	Actuarial
13	Administration
14	Brokerage (real estate)
15	Brokerage (stocks, bonds, commodities)
16	Computing, tabulating, ADP, etc.
17	Consulting (general)
18	Custodial (securities)
19	Insurance agents and brokers
20	Investment advisory
21	Investment management
22	Legal
23	Printing and duplicating
24	Recordkeeping
25	Trustee (individual)
26	Trustee (corporate)
27	Pension insurance adviser
28	Valuation services (appraisals, asset valuations, etc.)
29	Investment evaluations
99	Other (specify)

Part III Instructions.— Termination Information

Explain the reason for the change in appointment and provide the name, EIN, position, address, and telephone number of the person(s) listed in item 28d of Form 5500 whose appointment has been terminated. List them in the order of the boxes which are checked in item 28d , i.e., accountants first, enrolled actuaries next, etc. Include in this explanation a description of any disagreement for which item 28e of the Form 5500 is marked "Yes," even if the disagreement was resolved prior to the termination. If an individual is listed, the EIN to be entered should be the EIN of the individual's employer.

Additional Schedules C (Form 5500) may be used, if needed, to list additional persons.

☆U.S. Government Printing Office: 989-342-571/80048

SCHEDULE P (Form 5500)
Department of the Treasury
Internal Revenue Service

Annual Return of Fiduciary of Employee Benefit Trust

▶ File as an attachment to Form 5500, 5500-C, 5500-R, or 5500EZ.
▶ For the Paperwork Reduction Notice, see page 1 of the Form 5500 instructions.

OMB No. 1210-0016

1988

For trust calendar year 1988 or fiscal year beginning , 1988, and ending 19

Please type or print

1 a Name of trustee or custodian

b Address (number and street)

c City or town, state, and ZIP code

2 Name of trust

3 Name of plan if different from name of trust

4 Have you furnished the participating employee benefit plan(s) with the trust financial information required to be reported by the plan(s)? . . . . . ☐ Yes ☐ No

5 Enter the plan sponsor's employer identification number as shown on the form to which this schedule is attached . . . . . ▶

Under penalties of perjury, I declare that I have examined this schedule, and to the best of my knowledge and belief it is true, correct, and complete.

Date ▶ Signature of fiduciary ▶

Instructions

(Section references are to the Internal Revenue Code.)

A. Purpose of Form

You may use this schedule to satisfy the requirements under section 6033(a) for an annual information return from every section 401(a) organization exempt from tax under section 501(a).

The filing of this form will also start the running of the statute of limitations under section 6501(a) for any trust described in section 401(a) which is exempt from tax under section 501(a).

B. Who May File

(1) Every trustee of a trust described in section 401(a) which was created as part of an employee benefit plan.
(2) Every custodian of a custodial account described in section 401(f).

C. How To File

File Schedule P (Form 5500) for the trust year ending with or within any participating plan's plan year as an attachment to the Form 5500, 5500-C, 5500-R, or 5500EZ filed by the plan for that plan year.

Schedule P (Form 5500) may be filed only as an attachment to a Form 5500, 5500-C, 5500-R, or 5500EZ. A separately filed Schedule P (Form 5500) will not be accepted.

If the trust or custodial account is used by more than one plan, file only one Schedule P (Form 5500). It must be filed as an attachment to one of the participating plan's returns/reports. If a plan uses more than one trust or custodial account for its funds, file one Schedule P (Form 5500) for each trust or custodial account.

D. Signature

The fiduciary (trustee or custodian) must sign this schedule. If there is more than one fiduciary, one of them, authorized by the others, may sign.

E. Other Returns and Forms That May Be Required

(1) Form 990-T.—For trusts described in section 401(a), a tax is imposed on income derived from business that is unrelated to the purpose for which the trust received a tax exemption. Report such income and tax on **Form 990-T,** Exempt Organization Business Income Tax Return. (See sections 511 through 514 and related regulations.)

(2) Forms W-2P and 1099-R.—If you made payments or distributions to individual beneficiaries of a plan, report these payments on Forms W-2P or 1099-R. (See sections 6041 and 6047 and related regulations.)

(3) Forms 941 or 941E.—If you made payments of distributions to individual beneficiaries of a plan, you are required to withhold income tax from those payments unless the payee elects not to have the tax withheld. Report this withholding on Form 941 or 941E. (See Forms 941 or 941E and Circular E, Publication 15.)

#U.S. Government Printing Office: 1988-205-300

SCHEDULE SSA (Form 5500)

Department of the Treasury
Internal Revenue Service

Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits

Under Section 6057(a) of the Internal Revenue Code

▶ **File as an attachment to Form 5500, 5500-C, or 5500-R.**

▶ **For Paperwork Reduction Act Notice, see page 1 of the instructions for Form 5500 or 5500-C.**

OMB No. 1210-0016

1988

This Form is NOT Open to Public Inspection

For the calendar year 1988 or fiscal plan year beginning , 1988, and ending 19

▶ **This form must be filed for each plan year in which one or more participants with deferred vested benefit rights separated from the service covered by the plan. See instructions on when to report a separated employee.**

1a Name of sponsor (employer if for a single employer plan)

1b Sponsor's employer identification number

Address (number and street)

1c Is this a plan to which more than one employer contributes? ☐ Yes ☐ No

City or town, state, and ZIP code

2a Name of plan administrator (if other than sponsor)

2b Administrator's employer identification no.

Address (number and street)

City or town, state, and ZIP code

3a Name of plan

3b Plan number ▶

4 Have you notified each separated participant of his or her deferred benefit? ☐ Yes ☐ No

5 Separated participants with deferred vested benefits (if additional space is required, see instruction, "What To File"):

(a) Social Security Number	(b) Name of participant	Enter code for nature and form of benefit		Amount of vested benefit			(h) Plan year in which participant separated
		(c) Type of annuity	(d) Payment frequency	(e) Defined benefit plan—periodic payment	Defined contribution plan (f) Units or shares	Defined contribution plan (g) Total value of account	

The Following Information is Optional (See Specific Instruction 6)

6 Use this item to report (i) separated participants with deferred vested benefits who were previously reported on Schedule SSA (Form 5500) and who have received part or all of their vested benefits or who have forfeited their benefits during the plan year for which this form is being filed, and (ii) to delete participants erroneously reported on a prior Schedule SSA (Form 5500):

Note: *Participants listed in this item, because they have received part of their vested benefits, must also be reported in item 5 above listing their remaining vested benefits.*

(a) Social Security Number	(b) Name of participant	Enter code for nature and form of benefit		Amount of vested benefit			(h) Plan year in which participant separated
		(c) Type of annuity	(d) Payment frequency	(e) Defined benefit plan—periodic payment	Defined contribution plan (f) Units or shares	Defined contribution plan (g) Total value of account	

Under penalties of perjury, I declare that I have examined this report, and to the best of my knowledge and belief, it is true, correct, and complete.

Date

Signature of plan administrator

General Instructions

Note: *Please type or print all information and submit original copy only.*

Who Must File.—The plan administrator must file this form for any plan year for which a separated plan participant is reported under "When To Report a Separated Participant" below.

What To File.—File this schedule and complete all items. If you need more space, use additional copies of Schedule SSA, completing only items 1, 3, 5, and 6 of the additional copies.

A machine-generated computer listing showing the information required in items 5 and 6 may be submitted in lieu of completing items 5 and 6 on the schedule. Complete items 1 through 4 on Schedule SSA and enter in items 5 and 6 a statement that a list is attached. On each page of the computer list, enter the name of the sponsor, the EIN, the plan name, and the plan number. The list must be in the same format as items 5 and 6.

How To File.—File as an attachment to Form 5500, 5500-C, or 5500-R.

When To Report a Separated Participant.—

In general, ***for a plan to which only one employer contributes,*** a participant must be reported on Schedule SSA if:

(1) The participant separates from service covered by the plan in a plan year, and

(2) The participant is entitled to a deferred vested benefit under the plan.

The separated participant must be reported no later than on the Schedule SSA filed for the plan year following the plan year in which separation occurred. The participant may be reported earlier (i.e., on the Schedule SSA filed for the plan year in which separation occurred). Once separated participants have been reported on a Schedule SSA they should not be reported on a subsequent year's Schedule SSA.

However, a participant is not required to be reported on Schedule SSA if, before the date the Schedule SSA is required to be filed (including any extension of time for filing), the participant:

(1) Is paid some or all of the deferred vested retirement benefit,

(2) Returns to service covered by the plan, or

(3) Forfeits all of the deferred vested retirement benefit.

In general, ***for a plan to which more than one employer contributes,*** a participant must be reported on Schedule SSA if:

(1) The participant incurs two successive one-year breaks in service (as defined in the plan for vesting purposes) in service computation periods, and

(2) The participant is (or may be) entitled to a deferred vested benefit under the plan.

The participant must be reported no later than on the Schedule SSA filed for the plan year in which the participant completed the second of the two consecutive one-year breaks in service. The participant may be reported earlier (i.e., on the Schedule SSA filed for the plan year in which he or she separated from service or completed the first one-year break in service).

However, a participant is not required to be reported on Schedule SSA if, before the date the Schedule SSA is required to be filed (including any extension of time for filing), the participant:

(1) Is paid some or all of the deferred vested retirement benefit,

(2) Accrues additional retirement benefits under the plan, or

(3) Forfeits all of the deferred vested retirement benefit.

Cessation of Payment of Benefits.—As described above in "When To Report a Separated Participant," a participant is not required to be reported on Schedule SSA if, before the date the Schedule SSA is required to be filed, some of the deferred vested benefit to which the participant is entitled is paid to the participant. If payment of the deferred vested benefit ceases before all of the benefit is paid to the participant, the benefit to which the participant remains entitled must be reported on the Schedule SSA filed for the plan year following the last plan year within which any of the benefit was paid to the participant. However, a participant is not required to be reported on Schedule SSA on account of a cessation of payment of benefits if, before the date the schedule is required to be filed (including any extension of time for filing), the participant:

(1) Returns to service covered by the plan,

(2) Accrues additional retirement benefits under the plan, or

(3) Forfeits the remaining benefit.

Separation of a Re-employed Employee.— The deferred vested benefit reported on the current Schedule SSA for a re-employed employee who is again separated from service must include only the benefit not previously reported in or for prior years. Generally, the benefit to be shown on the current filing will be the benefit earned during the re-employment period.

Caution: *A penalty may be assessed if Schedule SSA (Form 5500) is not timely filed.*

Specific Instructions

4. Check "Yes" if you have complied with the requirements of Code section 6057(e). The notification to each participant must include the information set forth on this schedule and the information with respect to any contributions made by the participant and not withdrawn by the end of the plan year. Any benefits that are forfeitable if the participant dies before a certain date must be shown on the statement.

5(a). Please be careful to enter the exact social security number of each participant listed.

If the participant is a foreign national employed outside of the United States who does not have a social security number, enter the participant's nationality.

5(b). Enter each participant's name exactly as it appears on the participant's social security card or the employer's payroll records for purposes of reporting to the Social Security Administration.

5(c). From the following list, select the code that describes the type of annuity that will be provided for the participant. The type of annuity to be entered is the type that normally accrues under the plan at the time of the participant's separation from service covered by the plan (or for a plan to which more than one employer contributes at the time the participant incurs the second consecutive one-year break in service under the plan).

- **A** A single sum
- **B** Annuity payable over fixed number of years
- **C** Life annuity
- **D** Life annuity with period certain
- **E** Cash refund life annuity
- **F** Modified cash refund life annuity
- **G** Joint and last survivor life annuity
- **M** Other

5(d). From the following list, select the code that describes the benefit payment frequency during a 12-month period.

- **A** Lump sum
- **B** Annually
- **C** Semiannually
- **D** Quarterly
- **E** Monthly
- **M** Other

5(e). For a defined benefit plan, enter the amount of the periodic payment that a participant would normally be entitled to receive under 5(c), commencing at normal retirement age. However, if it is more expedient to show the amount of periodic payment the participant would be entitled to receive at early retirement date, enter that amount.

For a plan to which more than one employer contributes, if the amount of the periodic payment cannot be accurately determined because the plan administrator does not maintain complete records of covered service, enter an estimated amount and add the letter "X" in column 5(c) in addition to the annuity code to indicate that it is an estimate. If, from records maintained by the plan administrator, it cannot be determined whether the participant is entitled to any deferred vested benefit, but there is reason to believe he or she may be entitled, leave column 5(e) blank and enter "Y" in column 5(c) in addition to the annuity code.

5(f). For a defined contribution plan, if the plan states that a participant's share of the fund will be determined on the basis of units, enter the number of units credited to the participant.

If, under the plan, participation is determined on the basis of shares of stock of the employer, enter the number of shares and add the letter "S" to indicate shares. A number without the "S" will be interpreted to mean units.

5(g). For defined contribution plans, enter the value of the participant's account at the time of separation.

6. If, after a participant has been reported on Schedule SSA, the participant:

(1) is paid some or all of the deferred vested retirement benefit, or

(2) forfeits all of the deferred vested retirement benefit,

the plan administrator may, at its option, request that the participant's deferred vested benefit be deleted from Social Security Administration's records. Information reported in item 6, columns (a) through (g), is to be the exact information previously reported on Schedule SSA for the participant.

If this option is chosen because the participant is paid some of the deferred vested benefit, the reporting requirements described in "Cessation of Payment of Benefits" above apply if payment of the benefit ceases before all of the benefit is paid to the participant.

Also, if a person was erroneously reported on a prior Schedule SSA, use item 6 to delete this information from Social Security Administration's records.

Signature.—This form must be signed by the plan administrator. If more than one Schedule SSA is filed for one plan, only page one should be signed.

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

[FR Doc. 89-4681 Filed 2-28-89; 8:45 am]

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federal register

Wednesday
March 1, 1989

Part III

Department of Education

Office of Elementary and Secondary Education

34 CFR Parts 76, 77, and 298

Federal, State, and Local Partnership for Educational Improvement; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Parts 76, 77, and 298

Federal, State, and Local Partnership for Educational Improvement

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to issue regulations in Part 298 to implement the program entitled "Federal, State, and Local Partnership for Educational Improvement" in Chapter 2 of Title I of the Elementary and Secondary Education Act of 1965, as amended. This program replaces Chapter 2 of the Education Consolidation and Improvement Act of 1981. The Secretary also proposes to make certain provisions of the Education Department General Administrative Regulations (EDGAR) applicable to these proposed regulations. Accordingly, the Secretary proposes to make conforming changes to several sections in Parts 76 and 77.

DATES: Comments must be received on or before May 1, 1989.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Alicia Coro, Director, School Improvement Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Mail Stop 6329, Washington, DC 20202.

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: Zulla Toney, Division of Formula Grants, School Improvement Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW. (Room 2040), Washington, DC 20202, (202) 732–4156.

SUPPLEMENTARY INFORMATION: On April 28, 1988, the President signed into law the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, Pub. L. 100–297. Title I of that act amends the Elementary and Secondary Education Act of 1965 (ESEA) to include a number of new and reauthorized Federal education programs. Chapter 2 of Title I of the ESEA, entitled "Federal, State, and Local Partnership for Educational Improvement," reauthorizes Chapter 2 of the Education Consolidation and Improvement Act of 1981 (ECIA).

Chapter 2 of the ECIA consolidated over forty Federal education programs into a single authorization of grants to States for the same purposes as the antecedent programs but to be used in accordance with the educational needs and priorities of State and local educational agencies as determined by those agencies. State educational agencies (SEAs) have the basic responsibility for the administration of Chapter 2 funds. Responsibility for the design and implementation of Chapter 2 programs, however, rests mainly with local educational agencies (LEAs), school superintendents and principals, and classroom teachers and supporting personnel.

In reauthorizing Chapter 2, Congress recognized that the program "has been successful in achieving the goals of increasing local flexibility, reducing administrative burden, providing services for private school students, encouraging innovation, and contributing to the improvement of elementary and secondary education programs." 20 U.S.C. 2911(a). As a result, Congress retained the basic framework of Chapter 2, which places decisionmaking at the State and local levels. At the same time, however, Congress responded to criticism that Chapter 2 was unfocused, provided insufficient accountability, and sometimes resulted in funds being used for general education purposes. Accordingly, Congress sought to make Chapter 2 "a better vehicle for school improvement by recasting the uses of funds in general terms, but with an identifiable theme of improving quality and promoting innovation." H.R. Rept. 95, 100th Cong., 1st Sess. 50 (1987). Specifically, Congress identified six broad purposes for which Chapter 2 funds must now be targeted: programs for at-risk students; programs to acquire and use instructional materials to improve the quality of instruction; innovative programs for schoolwide improvements, including effective schools programs; programs of training and professional development; programs to enhance personal excellence of students and student achievement; and other innovative projects to enhance the educational program and climate of the school. Among these areas, however, State and local educational agencies retain the flexibility to decide how to use their Chapter 2 funds.

Summary of Significant Changes Resulting from Reauthorization

Allocation of Chapter 2 Funds to LEAs

Section 298.7 of the proposed regulations implements a number of changes contained in section 1512 of Chapter 2 concerning how Chapter 2 funds are to be allocated to LEAs. First, an SEA must calculate relative enrollments on the basis of the total number of children enrolled (for the fiscal year preceding the fiscal year in which the calculation is made) in public schools and in private, nonprofit schools that desire that their students participate in Chapter 2 programs. Second, an SEA may provide adjusted allocations for high-cost children only to those LEAs that serve the greatest numbers or prcentages of those children. The SEA may determine, however, which LEAs qualify for adjusted allocations. Third, an SEA may only use the three criteria specified in section 1512(b)(2)(A) to adjust its allocations: children living in areas with high concentrations of low-income families; children from low-income families; and children living in sparsely populated areas. The SEA may decide, however, how these criteria are defined and which criteria to use. The SEA may select one or more of the criteria. In addition, the SEA may continue to determine what percentage of funds is to be allocated on an adjusted basis. In its application to the Secretary, the SEA must include a description of how it adjusted its formula. The Secretary approves the SEA's criteria if the criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within the LEAs in the State.

Targeted Assistance Programs

Section 298.12 of the proposed regulations implements section 1531 of Chapter 2, which describes six broad categories of programs for which Chapter 2 funds may be used. In reauthorizing Chapter 2, Congress was concerned that Chapter 2 funds not be considered part of the general revenue of an LEA or SEA but, rather, be used to address specific needs that are unmet by State and local expenditures. As a result, Congress sought to enhance the effectiveness of Chapter 2 funds by targeting the use of those funds. As the Senate Report states, "a more targeted definition of permissible use of funds under Chapter 2 will make clear that the goals of Chapter 2 should be consistent with the traditional federal role in education: that of protecting underserved populations and addressing

national priorities, including reform and improvement." S. Rept. 222, 100th Cong., 1st Sess. 25 (1987). Within the broad categories specified in section 1531, however, SEAs and LEAs still have considerable flexibility in deciding what programs would best address their specific educational needs and priorities.

Consistent with section 1531 of the Act, § 298.12(a) requires that Chapter 2 funds be used for targeted assistance *programs*. At both the State and local levels, these programs must be planned in advance. At the State level, for example, a State's applications must contain the planned allocation of funds reserved for the State's use among the targeted assistance programs and must describe the "programs, projects, and activities which are designed to carry out such targeted assistance, together with the reasons for the selection of such programs, projects, and activities." The State advisory committee must review the State's proposed use of funds. An LEA must include similar information in its Chapter 2 application to the SEA, including a description of how its proposed use of Chapter 2 funds will contribute to improving student achievement or improving the quality of education for students. Moreover, the effectiveness of the targeted assistance programs must be measured in accordance with § 298.15.

Section 298.12(b) of the proposed regulations makes clear that, with the exception of using Chapter 2 funds to purchase computer hardware to be used for instructional purposes, the use of Chapter 2 funds to purchase equipment as a program in and of itself is no longer authorized by the Act. Chapter 2 funds, however, may be used to purchase equipment that is used as a part of a targeted assistance program.

Use of Funds by SEAs

Section 298.13 of the proposed regulations implements the provisions in section 1521 of Chapter 2 concerning how Chapter 2 funds reserved for State use may be used by SEAs. As indicated in § 298.13(a), section 1521 authorizes three broad categories for using Chapter 2 funds: State administration of Chapter 2 programs; assistance to LEAs with respect to targeted assistance under section 1531; and assistance to LEAs and statewide activities to carry out effective schools programs under sections 1541–1542. Chapter 2 activities at the SEA level must fit into one of these three categories. No longer are "State strengthening" activities allowable merely because they were previously authorized under Part B of Title V of the Elementary and Secondary Education Act of 1965 or section 577(5) of Chapter 2 of the ECIA.

Section 298.13(b) contains two limitations on an SEA's use of Chapter 2 funds. First, an SEA may use no more than 25 percent of the Chapter 2 funds reserved for State use for administration of Chapter 2 programs. Second, an SEA must use at least 20 percent of the Chapter 2 funds reserved for State use in any fiscal year for assistance to LEAs and statewide activities to carry out effective schools programs, unless a waiver is granted.

Section 298.14 of the proposed regulations implements the provisions in sections 1531–1532 of Chapter 2 concerning how Chapter 2 funds may be used by LEAs. In general, § 298.14 provides an LEA broad flexibility in using Chapter 2 funds to support one or more of the targeted assistance programs under § 298.12.

In the case of an LEA that receives additional Chapter 2 funds based on an adjusted allocation under § 298.7(b)(2)(ii), § 298.14(b) describes two options available to the LEA regarding the use of those funds. The LEA may use those funds to provide services to children in public and private, nonprofit schools in accordance with the practice under Chapter 2 of the ECIA—that is, to provide services from the LEA's total allocation that are commensurate with the respective numbers of children within the school district of the LEA, whether in public or private, nonprofit schools, without regard to whether those children generated the additional funds. Under this option, an LEA may not take into account the extent to which children in private schools generated a portion of the LEA's allocation under § 298.7(b)(2)(ii). Rather, the LEA must generally expend equal per pupil amounts for services for public and private school children. However, in accordance with § 298.34(a)(2)(ii), the LEA may take into account differences in the costs per child of meeting the needs of the children to be served and other factors that relate to those expenditures. For example, an LEA may decide to use Chapter 2 funds to meet the remedial reading needs of educationally deprived public school children through small group instruction. If the per pupil costs of providing remedial reading instruction are greater than the per pupil costs of meeting the needs of private school children, established through consultation with private school officials, then the LEA may expend un-equal amounts. Of course, the converse is also allowable. In either case, the services provided to public and private school children must be equitable.

Alternatively, the LEA may use the additional funds it receives to provide services only to children enrolled in schools—both public and private—in which children counted in the adjusted allocation are enrolled. If an LEA elects this second option, the LEA must use all funds received under its adjusted allocation in that manner and must use in each school the amount generated by children counted in the adjusted allocation who are enrolled in that school. However, an LEA is not required to use the additional Chapter 2 funds received under its adjusted allocation to provide services to the children who generated those funds.

Evaluations and Reports

Section 298.15 of the proposed regulations implements sections 1522(a)(6) and 1573 of Chapter 2 concerning evaluations and reports. Congress identified the lack of descriptive and evaluative information on how funds were used as one of the shortcomings of Chapter 2 of the ECIA. To remedy this problem and to obtain more uniform accountability, Congress has added several specific evaluation and reporting requirements. As indicated in § 298.15(a), an LEA must report annually to the SEA on the LEA's use of Chapter 2 funds. Further, an SEA is required to submit annually to the Secretary a report covering the use of Chapter 2 funds by the SEA and its LEAs including the types of services provided and the children to whom the services were provided. In addition, in fiscal year 1992, the SEA must evaluate the effectiveness of State and local programs conducted with Chapter 2 funds. The Secretary will work with SEAs to develop nonbinding guidelines for implementing these requirements.

Participation of Children in Private Schools

Most provisions to ensure the equitable participation of private school children in programs conducted under Chapter 2 remain the same. Section 298.32(a) of the proposed regulations, however, implements a new provision in section 1512(b)(1) of Chapter 2. This provision makes explicit the practice under Chapter 2 of the ECIA that an LEA must annually contact appropriate officials from private schools within the area served by the LEA to determine whether those officials desire that their students participate in Chapter 2 programs. In addition, the procedures for implementing a bypass have been deleted from these regulations. Instead,

the Secretary has proposed in another document (53 FR 41466, 41491–92 (Oct. 21, 1988)) that bypass procedures be added to 34 CFR Part 76.

Applicability of EDGAR

In order to provide additional guidance and to ensure that Chapter 2 funds are spent only for authorized program purposes, the Secretary proposes to make certain provisions of the Education Department General Administrative Regulations (EDGAR) applicable to programs under this part. In determining which of those provisions to apply, the Secretary has carefully balanced the need for basic program accountability with the important principle of minimal Federal interference in State and local affairs.

The Secretary does not propose to make Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) applicable to programs under this part. Rather, the proposed regulations would require States to adopt their own written fiscal and administrative requirements for expending and accounting for all funds received by SEAs and LEAs under this part. These requirements would have to meet three general criteria, set forth in § 298.2(b)(1)(i)–(iii), that are designed to ensure the minimal standards necessary for proper management of Chapter 2 funds. A State may adopt new procedures, or may adopt accountability procedures applicable to the use of its own funds. In the alternative, as indicated in § 298.2(b)(2), a State may adopt the provisions in Part 80 and certain provisions in Part 75 to satisfy this requirement. A State has complete discretion to choose among these alternatives. A State's procedures would not have to be approved by the Department, but would be available for Federal inspection. In the event a State's requirements are determined to be insufficient, the enforcement provisions in Part E of GEPA would apply, including the due process provisions in that part.

In addition, the Secretary proposes to apply only a limited number of provisions from Part 76 (State-Administered Programs). For the most part, the Secretary proposes to apply sections in Part 76 that are statutorily required. For example, because Chapter 2 contains a supplement-not-supplant requirement, the Secretary proposes to apply § 76.563, which requires an SEA or LEA to use a restricted indirect cost rate, computed in accordance with 34 CFR 75.564–75.568, if the SEA or LEA charges indirect costs to Chapter 2. The Secretary believes that a restricted indirect cost rate is necessary to avoid a violation of the supplement-not-supplant requirement and that there are no alternative ways that a State which chooses to use an indirect cost rate could meet the requirement. The Secretary also proposes to apply § 76.707, which defines when an obligation is made under a number of circumstances. This regulation is needed to determine compliance with the carryover provision in section 412(b) of the General Education Provisions Act. The Secretary believes this provision is neither restrictive nor burdensome.

In addition, the Secretary proposes to apply a few sections that are not required by statute but that provide important rights to SEAs and LEAs that would not be available without the regulations. For example, the Secretary proposes to apply §§ 76.703–76.704, which would permit States and subgrantees, respectively, to begin to obligate Chapter 2 funds on the date their applications are submitted in substantially approvable form.

To facilitate review of this proposal regarding the applicability of Part 76 of EDGAR, the Secretary will provide to SEAs, and make available to other interested parties upon request, a mark-up of Part 76 illustrating those sections he proposes to apply. The Secretary also proposes to apply selected definitions in Part 77 (Definitions That Apply to Department Regulations) and the due process procedures in Part 78 (Education Appeal Board). Regulations implementing the new enforcement provisions in Part E of the General Education Provisions Act (GEPA) would also apply when those regulations are promulgated in final. (See the notice of proposed rulemaking published in the **Federal Register** on December 2, 1988, 53 FR 48866.)

This proposal to make selected provisions of EDGAR applicable to Chapter 2 responds to a need for additional guidance. During the seven years that EDGAR has not been applicable to Chapter 2 of the ECIA, a number of States have incurred audit exceptions concerning fiscal control and fund accountability. Further, SEAs and LEAs have asked the Department numerous questions that are answered by the provisions of EDGAR. Congress identified lack of accountability as one of the primary deficiencies under Chapter 2 of the ECIA. S. Rept. 222, 100th Cong., 1st Sess. 25 (1987)

The Secretary believes that making selected provisions of EDGAR applicable to programs under this part will address the need for better guidance and accountability. Moreover, the Secretary does not believe this action will create additional burden for SEAs and LEAs. The provisions of EDGAR referenced apply to other State-administered education programs. The EDGAR provisions have been recently reviewed with respect to federalism issues and burden reduction, and unduly burdensome requirements have been revised or removed. The Secretary specifically invites comments on § 298.2(a), including comments on whether any specific sections in EDGAR should or should not be applied to Chapter 2.

Enforcement Procedures

Section 3501 of the Hawkins-Stafford Act amended Part E of GEPA to provide for new enforcement procedures. The amended Part E requires the Secretary to establish an Office of Administrative Law Judges (OALJ) to replace the existing Education Appeal Board and sets out new hearing procedures. 20 U.S.C. 1234–1234i. With the exception of provisions regarding withholding actions and judicial review of those actions, which are superseded by section 1433 and 1434 of the Act (made applicable to Chapter 2 by section 1574(d) of the Act), Part E applies to the Chapter 2 program. As a result, appeals from cost disallowance decisions, received by an SEA on or after October 25, 1988, as well as most other enforcement proceedings under the Chapter 2 program, will be heard by the OALJ. Future proposed regulations implementing Part E will address whether withholding actions under the Chapter 2 program will also be heard by the OALJ. The Education Appeal Board will continue to hear appeals from determinations under the Chapter 2 program received by an SEA before October 25, 1988.

Executive Order 12291

These proposed 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.

Executive Order 12606

The Secretary certifies that these proposed regulations have been reviewed in accordance with Executive Order 12606 and that they do not have a significant negative impact on family formation, maintenance, and general well-being. To the contrary, the program governed by these regulations supports and strengthens the family by providing for systematic consultation with the parents of children attending elementary

and secondary schools in the design, planning, and implementation of the program. Moreover, funds under this program may be used to foster parental involvement through such activities as conducting parent workshops, training parents to work with their children at home, and facilitating parent participation in school activities.

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 small entities that would be affected by these proposed regulations are small LEAs receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the small LEAs affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 298.5, 298.6, 298.7, 287.15, and 298.22 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: James D. Houser.

Invitation to Comment

Interested persons are 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 2040, 400 Maryland Avenue SW., Washington, DC, 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 these proposed regulations.

List of Subjects in 34 CFR Part 298

Administrative practice and procedure, education, Elementary and secondary Education, Grant programs—education, Private schools, Reporting and recordkeeping requirements, State-administered programs.

Dated: February 24, 1989.

Lauro F. Cavazos,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.151, Federal, State, and Local Partnership of Educational Improvement)

The Secretary proposes to amend Parts 76 and 77 and revise 298 of Title 34 of the Code of Federal Regulations as follows:

1. Part 298 is revised to read as follows:

PART 298—FEDERAL, STATE, AND LOCAL PARTNERSHIP FOR EDUCATIONAL IMPROVEMENT

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(Authority: 20 U.S.C. 2911–2952, 2971–2976, unless otherwise noted)

Subpart A—How a State or Local Educational Agency Obtains Funds

§ 298.1 Purpose.

Under the Federal, State, or Local Partnership for Educational Improvement program (referred to in this part as the Chapter 2 program), the Secretary provides Federal financial assistance to State and local educational agencies to—

(a) Provide the initial funding to implement promising educational programs that can be supported with State and local funds after those programs have been demonstrated to be effective;

(b) Provide a continuing source of innovation, educational improvement, and support for library and instructional materials;

(c) Meet the special educational needs of at-risk and high-cost students;

(d) Enhance the quality of teaching and learning through initiating and expanding effective schools programs; and

(e) Meet their educational needs and priorities for targeted assistance.

(Authority: 20 U.S.C. 2911(b))

§ 298.2 Applicable regulations.

(a) The following regulations apply to the Chapter 2 program:

(1) The Education Department General Administrative Regulations (EDGAR) as follows:

(i) 34 CFR Part 76 (State-Administered Programs) as follows:

(A) Subpart A (General).

(B) Sections 76.125–76.137 (Consolidated Grant Applications for Insular Areas).

(C) Section 76.401 (Disapproval of an application—opportunity for a hearing).

(D) Subpart F (What Conditions Must Be Met by the State and Its Subgrantees?) as follows:

(*1*) Section 76.500 (Federal statutes and regulations on nondiscrimination).

(*2*) Section 76.532 (Use of funds for religion prohibited).

(*3*) Section 76.533 (Acquisition of real property; construction).

(*4*) Section 76.534 (Use of tuition and fees restricted).

(*5*) Section 76.563 (Restricted indirect cost rate—programs covered).

(*6*) Section 76.592 (Federal evaluation—satisfying requirement for State or subgrantee evaluation).

(*7*) 34 CFR 75.601–75.602, 75.609–75.611, 75.613, and 75.616–75.617 concerning construction, incorporated by reference in § 76.600 (Where to find construction regulations).

(8) Section 76.682 (Treatment of animals).

(E) Subpart G (What Are the Administrative Responsibilities of the State and Its Subgrantees?) as follows:

(1) Section 76.703 (When a State may begin to obligate funds).

(2) Section 76.704 (When certain subgrantees may begin to obligate funds).

(3) Section 76.705 (Funds may be obligated during a "carryover period").

(4) Section 76.706 (Obligations made during a carryover period are subject to current statutes, regulations, and applications).

(5) Section 76.707 (When obligations are made).

(6) Section 76.730 (Records related to grant funds).

(7) Section 76.734 (Record retention period).

(8) Section 76.740 (Protection of and accessibility to student records).

(9) Section 76.760 (More than one program may assist a single activity).

(10) Section 76.783 (State educational agency action—subgrantee's opportunity for a hearing).

(F) Section 76.901 (Education Appeal Board).

(ii) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(iii) 34 CFR Part 78 (Education Appeal Board).

(2) The regulations in this Part 298.

(b)(1) A State shall formally adopt fiscal and administrative requirements for expending and accounting for all funds received by SEAs and LEAs under this part. These requirements must be available for Federal inspection and must—

(i) Be sufficiently specific to ensure that funds received under this part are used in compliance with all applicable statutory and regulatory provisions;

(ii) Ensure that funds received under this part are only spent for reasonable and necessary costs of operating programs under this part; and

(iii) Ensure that funds received under this part are not used for general expenses required to carry out other responsibilities of State or local governments.

(2) A State may satisfy this requirement by adopting the provisions in 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) and in 34 CFR 75.603–75.608, 75.612, and 75.614–75.615 (concerning construction).

(Authority: 20 U.S.C. 2911–2952, 2971–2976)

§ 298.3 Definitions.

(a) *Definitions in the Elementary and Secondary Education Act of 1965.* The following terms used in this part are defined in section 1471 of the Act: Construction, Elementary school, Equipment, Free public education, Local educational agency (LEA), Parent, Pupil services, Pupil services personnel, School facilities, Secondary school, Secretary, State, State educational agency (SEA).

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1: Application, EDGAR, Fiscal year, Grant, Minor remodeling, Nonprofit, Private, Public.

(c) *Other definitions.* The following definitions also apply to this part:

"Act" means the Elementary and Secondary Education Act of 1965, as amended (ESEA).

"Chapter 2" means Chapter 2 of Title I of the Act. "Educational personnel" includes, but is not limited to, teachers, librarians, school counselors and other pupil services personnel, and administrators and school board members.

(Authority: 20 U.S.C. 2891, 2911–2952, 2971–2976)

§ 298.4 State advisory committee.

(a) Any State that desires to receive a grant under this part shall establish an advisory committee that meets the requirements in section 1522(a)(2) of the Act.

(b) An existing organization, including a State board of education, may be the advisory committee for the purpose of paragraph (a) of this section if the organization—

(1) Is not the SEA under State law;

(2) Is appointed by the Governor to be the advisory committee; and

(3) Meets the representation requirements of section 1522(a)(2) of the Act.

(c) The State advisory committee advises the SEA on—

(1) The allocation among targeted programs under § 298.12 of funds reserved for State use under section 1512(a) of the Act;

(2) The formula for the allocation of funds to LEAs; and

(3) The planning, development, support, implementation, and evaluation of State programs assisted under this part.

(Authority: 20 U.S.C. 2932(a)(2))

§ 298.5 State applications.

(a)(1) Any State that desires to receive a grant under this part shall submit an application to the Secretary that meets the requirements in section 1522 of the Act.

(2) The application may be submitted in any form that the State determines is appropriate.

(b)(1) A State shall file its Chapter 2 application for a period not to exceed three years.

(2) If the State that submits an application covering more than one year makes any substantial changes in its application, the State shall—

(i) File a new application; or

(ii) Annually amend its current application to reflect those changes.

(Authority: 20 U.S.C. 2932)

§ 298.6 LEA applications.

(a) An LEA may receive its allocation of funds under this part of any year for which—

(1) The LEA has an application on file with the SEA; and

(2) The SEA has certified that the application meets the requirements in section 1533(a) of the Act.

(b)(1) An LEA shall file its application for a period not to exceed three years.

(2) If an LEA that submits an application covering more than one year makes any substantial changes in its application, the LEA shall—

(i) File a new application; or

(ii) Annually amend its current application to reflect those changes.

(c) In addition to the other requirements in section 1533(a) of the Act, an LEA's application must provide for systematic consultation, in the allocation of funds for programs authorized by Chapter 2 and in the design, planning, and implementation of those programs, with—

(1) Parents of children attending elementary and secondary schools in the area served by the LEA;

(2) Teachers and administrative personnel in those schools; and

(3) Other groups involved in the implementation of Chapter 2 (such as librarians, school counselors, and other pupil services personnel) as the LEA deems appropriate.

(d) An LEA may apply for Chapter 2 funds by itself or with a consortium of LEAs.

(Authority: 20 U.S.C. 2943)

§298.7 Allocation of Chapter 2 funds to LEAs.

(a) An SEA shall distribute to each LEA that has submitted an application as required in §298.6 the amount of its allocation as determined under paragraph (b) of this section.

(b)(1) From the funds made available to an SEA each year under Chapter 2,

the SEA shall distribute not less than 80 percent to LEAs within the State according to the relative enrollments in public and private, nonprofit schools within the school districts of those agencies.

(2) The SEA shall—

(i) Calculate relative enrollments within each LEA on the basis of the total number of children enrolled for the fiscal year preceding the fiscal year in which the determination is made in—

(A) Public schools in the LEA; and

(B) Private, nonprofit schools in the LEA that desire that their students participate in Chapter 2 programs; and

(ii) Adjust those relative enrollments, in accordance with criteria approved by the Secretary under paragraph (d) of this section, to provide higher per pupil allocations only to LEAs that serve the greatest numbers or percentages of—

(A) Children living in areas with high concentrations of low-income families;

(B) Children from low-income families; or

(C) Children living in sparsely populated areas.

(c) The State shall include in the application under §298.5 the following information concerning adjustments under paragraph (b)(2)(ii) of this section:

(1) How the State adjusted its formula.

(2) How children under paragraph (b)(2)(ii) of this section are defined.

(3) The basis on which the State determined which LEAs serve the greatest numbers or percentages of the children described in paragraph (b)(2)(ii) of this section.

(4) The percentage of the funds for LEAs that the State proposes to allot on an adjusted basis.

(d) The Secretary reviews and approves the State's criteria for adjusting allocations to LEAs if the criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within the State's LEAs based on the factors contained in paragraph (b)(2)(ii) of this section.

(Authority: 20 U.S.C. 2922)

§298.8 Reallocation.

(a) An SEA may reallocate to other LEAs Chapter 2 funds—

(1) From an LEA that—

(i) Does not participate in the Chapter 2 program; or

(ii) Has Chapter 2 funds that exceed the amount required to—

(A) Operate its Chapter 2 projects during the current fiscal year in accordance with its approved application; and

(B) Provide a prudent and justifiable reserve of Chapter 2 funds for operating its Chapter 2 projects effectively during the next fiscal year; or

(2) That are recovered by the State based on a determination by the State that the LEA has failed to spend Chapter 2 funds in accordance with applicable law.

(b) A reallocation of funds under this section—

(1) May be made only during the fiscal year for which the funds were appropriated or during the succeeding fiscal year;

(2) Must be made in accordance with the purposes of Chapter 2; and

(3) Must be spent in accordance with the requirements in Chapter 2 and the regulations in this part.

(Authority: 20 U.S.C. 2922)

§§298.9–298.10 [Reserved]

Subpart B—Project Requirements That a State or Local Educational Agency Must Meet

§298.11 General responsibilities of State and local educational agencies.

(a) *State educational agencies.* (1) (i) Except as provided in paragraph (a) (1) (ii) of this section, an SEA has the basic responsibility for the administration and supervision of programs assisted with Chapter 2 funds. This responsibility must be carried out with a minimum of paperwork.

(ii) Apart from providing technical and advisory assistance and monitoring compliance with Chapter 2, an SEA may not exercise any influence in the decisionmaking processes of an LEA concerning the expenditures described in the LEA's application.

(2) To carry out its responsibilities, an SEA may, in accordance with State law, issue rules, regulations, or policies relating to the administration and operation of programs funded under this part provided that those rules, regulations, or policies do not conflict with the provisions of—

(i) Chapter 2;

(ii) The regulations in this part, including the discretion granted to LEAs under paragraph (b) of this section; or

(iii) Other applicable Federal statutes and regulations.

(b) *Local educational agencies.* (1) An LEA has complete discretion, subject only to the limitations and requirements of Chapter 2, in determining how funds the agency receives under section 1512(a) of the Act are distributed among the areas of targeted assistance in accordance with the LEA's Chapter 2 application.

(2) In exercising this discretion, the LEA shall ensure that each expenditure of Chapter 2 funds—

(i) Carries out the purposes of Chapter 2; and

(ii) Meets the educational needs within the schools of that LEA.

(Authority: 20 U.S.C. 2911(c), 2932, 2943(c))

§ 298.12 Targeted assistance programs.

(a) Consistent with paragraphs (b) and (c) of this section, Chapter 2, funds may be used for the planning, development, operation, and expansion of the following:

(1) Programs to meet the educational needs of—

(i) Students at risk of failure in school;

(ii) Students at risk of dropping out of school; and

(iii) Students for whom providing an education entails higher than average costs.

(2) Programs for the acquisition and use of instructional and educational materials.

(3) Innovative programs designed to carry out schoolwide improvements, including effective schools programs under sections 1541–1542 of the Act.

(4) Programs of training and professional development to enhance the knowledge and skills of educational personnel.

(5) Programs designed to enhance personal excellence of students and student achievement.

(6) Innovative projects to enhance the educational program and climate of the school.

(b) Except to purchase computer hardware for instructional purposes under section 1531(b)(2) of the Act, Chapter 2 funds may not be used to purchase equipment unless that equipment is used as a part of a program under paragraph (a) of this section.

(Authority: 20 U.S.C. 2941–2942, 2951–2952)

§ 298.13 Use of funds by SEAs.

(a) *Authorized activities.* An SEA may use Chapter 2 funds reserved for State use only for—

(1) State administration of Chapter 2 programs, subject to paragraph (b)(1) of this section, including—

(i) Supervising the allocation of Chapter 2 funds to LEAs;

(ii) Planning, supervising, and processing Chapter 2 funds reserved for State use;

(iii) Monitoring and evaluating Chapter 2 programs and activities; and

(iv) Operating the State advisory committee.

(2) Assistance to LEAs to provide targeted assistance under § 298.12 in the form of—

(i) Direct grants to LEAs;

(ii) Statewide activities; and

(iii) Technical assistance; and

(3) Assistance to LEAs and statewide activities, in accordance with paragraph (b)(2) of this section, to carry out effective schools programs under sections 1541–1542 of the Act.

(b) *Limitations.* (1) *State administration.* An SEA may not use more than 25 percent of the Chapter 2 funds reserved for State use in any fiscal year for State administration under paragraph (a)(1) of this section.

(2) *Effective schools programs.* (i) Except as provided in paragraph (b)(2)(ii) of this section, an SEA shall use at least 20 percent of the Chapter 2 funds reserved for State use in any fiscal year for effective schools programs under sections 1541–1542 of the Act.

(ii) If an SEA is spending from non-Federal funds an amount equal to twice the amount the SEA is required to use under paragraph (b)(2)(i) of this section, the SEA may request the Secretary to waive the requirement in that paragraph by submitting a written request that includes—

(A) The amount the SEA is spending from non-Federal funds for effective schools programs; and

(B) A description of those effective schools programs that addresses the factors in Section 1542 of the Act.

(Authority: 20 U.S.C. 2931, 2941–2942, 2951–2952; H.R. Rept. 95, 100th Cong., 1st. Sess. 54 (1987))

§ 298.14 Use of funds by LEAs.

(a) *General.* An LEA may use Chapter 2 funds to support one or more of the targeted assistance programs under § 298.12.

(b) *Special rules.* (1) If an LEA receives additional Chapter 2 funds as a result of adjusted allocations under § 298.7(b)(2)(ii), the LEA may, at its discretion, use those funds either—

(i) To provide services to children enrolled in public and private, nonprofit schools in accordance with § 298.34(a)(2); or

(ii) To provide services only to children enrolled in schools—both public and private—in which children described in § 298.7(b)(2)(ii) are enrolled.

(2) If, in any fiscal year, an LEA uses Chapter 2 funds under paragraph (b)(1)(ii) of this section, the LEA shall—

(i) Use all funds received as a result of adjusted allocations in that manner; and

(ii) Use in each school with children described in § 298.7(b)(2)(ii) the amount generated by those children who are enrolled in that school.

(3) An LEA is not required to use Chapter 2 funds received under § 298.7(b)(2)(ii) to provide services to the children who generated those funds.

(Authority: 20 U.S.C. 2922(c)(2), 2941–2942, 2951–2952; H.R. Rept. 95, 100th Cong., 1st Sess. 53–54 (1987))

§ 298.15 Evaluations and reports.

(a) *LEA responsibilities.* (1) An LEA shall—

(i) Report annually to the SEA on the LEA's use of funds under § 298.14; and

(ii) Make that report available to the public.

(2) The LEA shall provide other information to the SEA as reasonably may be required for program evaluation consistent with the SEA's responsibilities under paragraph (b) of this section.

(b) *SEA responsibilities.* (1) An SEA shall submit annually to the Secretary data on—

(i) The use of Chapter 2 funds by the SEA and LEAs;

(ii) The types of services provided; and

(iii) The children to whom services were provided.

(2) In fiscal year 1992, the SEA shall—

(i) Evaluate the effectiveness of State and local programs conducted under this part;

(ii) Submit the evaluation to the State advisory committee for review and comment;

(iii) Make the evaluation available to the public; and

(iv) Submit a copy of the evaluation and a summary of the LEAs' report under paragraph (a)(1) of this section to the Secretary.

(3) The SEA shall provide other information to the Secretary as may be required for program evaluation.

(Authority: 20 U.S.C 2932(a)(6)–(7), 2943(a)(4), 2973)

§§ 298.16—298.20 [Reserved]

Subpart C—Fiscal Requirements That a State or Local Educational Agency Must Meet

§ 298.21 Maintenance of effort.

(a) *Basic standard.* (1) Except as provided in § 298.22, the Secretary pays a State its full allocation of funds under this part if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of the combined fiscal effort per student or of the aggregate expenditures for the second preceding fiscal year.

(2) *Meaning of "preceding fiscal year."* For purposes of determining maintenance of effort, the "preceding fiscal year" is the Federal fiscal year or the twelve-month fiscal period most commonly used in a State for official reporting purposes prior to the beginning of the Federal fiscal year in which funds are available.

Example: For funds first made available on July 1, 1989, if a State is using the Federal fiscal year, the "preceding fiscal year" is fiscal year 1988 (which began on October 1, 1987) and the "second preceding fiscal year" is fiscal year 1987 (which began on October 1, 1986). If a State is using a fiscal year that begins on July 1, 1989, the "preceding fiscal year" is the twelve-month fiscal period ending on June 30, 1988 and the "second preceding fiscal year" is the period ending on June 30, 1987.

(3)(i) *Expenditures to be considered.* The expenditures the Secretary considers in determining a State's compliance with the maintenance of effort requirement in this paragraph are State and local expenditures for free public education. These include expenditures for administration, instruction, attendance, health services, pupil transportation, plant operation and maintenance, fixed charges, and net expenditures to cover deficits for food services and student body activities.

(11) *Expenditures not to be considered.* The Secretary does not consider the following expenditures in determining a State's compliance with the maintenance of effort requirement in this paragraph:

(A) Any expenditures for community services, capital outlay, or debt service.

(B) Any expenditures of Federal funds.

(b) *Failure to maintain effort.* (1) If a State fails to maintain effort and a waiver under § 298.22 is not appropriate, the Secretary reduces the State's allocation of funds under this part in the exact proportion by which the State fails to meet 90 percent of both the State's combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the State) for the second preceding fiscal year.

(2) In determining maintenance of effort for the fiscal year immediately following the fiscal year in which the State failed to maintain effort, the Secretary considers the fiscal effort for the second preceding fiscal year to be no less than 90 percent of the combined fiscal effort per student or aggregate expenditures (using the measure most favorable to the State) for the third preceding fiscal year.

Example: In Federal fiscal year 1990, a State fails to maintain effort because its fiscal effort in the preceding fiscal year (1988) is less than 90 percent of its fiscal effort in the second preceding fiscal year (1987). In assessing whether the State maintained effort during the next fiscal year (1991), the Secretary considers the State's expenditures for the second preceding fiscal year (1988)

(the year that caused the State's failure to maintain effort) to be no less than 90 percent of the State's expenditures in the prior fiscal year (1987).

(Authority: 20 U.S.C. 2971(a))

§ 298.22 Waiver of the maintenance of effort requirement

(a) *Waiver request.* A State that has not maintained its fiscal effort as required in § 298.21(a) may ask the Secretary to grant a waiver of that requirement by submitting a waiver request that includes—

(1) A statement of the combined fiscal effort per student and the aggregate expenditures for the two fiscal years being compared; and

(2) A description of the circumstances that the State considers to be exceptional or uncontrollable.

(b) *Secretary's criteria.* (1) The Secretary may grant a waiver, for one year only, of the maintenance of effort requirement in § 298.21(a) if the Secretary determines that the waiver is equitable due to exceptional or uncontrollable circumstances. Exceptional or uncontrollable circumstances include—

(i) A natural disaster;

(ii) A precipitous and unforeseen decline in the financial resources of the State; or

(iii) Other exceptional or uncontrollable circumstances.

(2) The Secretary does not consider tax initiatives or referenda to be exceptional or uncontrollable circumstances.

(c) *Effect of a waiver.* (1) If the Secretary grants a waiver under paragraph (b) of this section, the Secretary allocates to the affected State its full allocation of Chapter 2 funds.

(2) In determining maintenance of effort for the fiscal year immediately following the fiscal year for which the waiver was granted, the Secretary considers the fiscal effort for the second preceding fiscal year to be no less than 90 percent of the combined fiscal effort per student or aggregate expenditures (using the measure most favorable to the State) for the third preceding fiscal year.

Example. In Federal fiscal year 1990, a State secures a waiver because its fiscal effort in the preceding fiscal year (1988) is less than 90 percent of its fiscal effort in the second preceding fiscal year (1987) due to exceptional or uncontrollable circumstances. In assessing whether the State maintained effort during the next fiscal year (1991), the Secretary considers the State's expenditures for the second preceding fiscal year (1988) (the year for which the State needed a waiver) to be no less than 90 percent of the State's expenditures in the prior fiscal year (1987).

(Authority: 20 U.S.C. 2971(a))

§ 298.23 Supplement-not-supplant.

An SEA or LEA that receives Chapter 2 funds—

(a) May use and allocate those funds only to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under Chapter 2, be made available from non-Federal sources; and

(b) May not use Chapter 2 funds to supplant funds from non-Federal sources.

(Authority: 20 U.S.C. 2971(b))

§§ 298.24–298.30 [Reserved]

Subpart D—How Children Enrolled in Private Schools Participate

§ 298.31 Responsibility of SEAs and LEAs.

(a)(1) An LEA shall provide children enrolled in private schools in that LEA with secular, neutral, and nonideological services, materials, and equipment or other benefits that will ensure equitable (as compared to children enrolled in public schools) participation of private school children in the purposes and benefits of Chapter 2 in accordance with the requirements in §§ 298.32–298.37 and section 1572 of the Act.

(2) The LEA shall provide the opportunity to participate in a manner that is consistent with the number and needs of private school children in the school district of the LEA.

(3) The LEA shall exercise administrative direction and control over Chapter 2 funds and property that benefit children enrolled in private schools.

(4)(i) Provision of services to children enrolled in private schools must be provided by employees of a public agency or through contract by the public agency with a person, association, agency, or corporation that, in the provision of those services, is independent of the private school and of any religious organization.

(ii) This employment or contract must be under the control and supervision of the public agency.

(b)(1) An SEA shall—

(i) Ensure that each LEA complies with the requirements of §§ 298.32–298.37; or

(ii) If no Chapter 2 project is carried out by an LEA, make arrangements—such as through contracts with nonprofit agencies or organizations—under which children in private schools in that LEA are provided with services and materials to the extent that would have occurred if the LEA had received Chapter 2 funds.

(2) If an SEA conducts instructional programs or personnel training programs, it shall comply with these requirements as if it were an LEA.

(c) Under sections 1522(a)(3)(B) and 1533(a)(1)(B) of the Act, an application by an SEA or LEA must contain the planned allocation of funds required to implement section 1572.

(d) In accordance with section 1572(a)(1) of the Act, the regulations in this subpart only apply to children enrolled in private, nonprofit elementary and secondary schools.

(Authority: 20 U.S.C. 2972)

§ 298.32 Consultation with private school officials.

In order to receive Chapter 2 funds, an LEA shall—

(a) Contact annually appropriate officials from private schools within the area served by the LEA to determine whether those officials desire that their students participate in the Chapter 2 program; and

(b) With respect to those officials in schools with children who will participate, consult regarding the development and implementation of the Chapter 2 program before the LEA makes any decision that affects the opportunities of private school children to participate in the program.

(Authority: 20 U.S.C. 2922(b)(1), 2972)

§ 298.33 Needs, number of children, and types of services.

An LEA shall determine the following matters on a basis comparable to that used by the LEA in providing for participation of public school children:

(a) The needs of children enrolled in private schools.

(b) The number of those children who will participate in the Chapter 2 program.

(c) The Chapter 2 services that the LEA will provide to those children.

(Authority: 20 U.S.C. 2972)

§ 298.34 Factors used in determining equitable participation.

(a) *Equal expenditures.* (1) Expenditures for Chapter 2 programs for children enrolled in private schools must be equal (consistent with the number of children to be served) to expenditures for Chapter 2 programs for children enrolled in the public schools of an LEA, taking into account the needs of the individual children and other factors that relate to such expenditures.

(2) Except as provided in § 298.14(b)(1)(ii), in determining whether expenditures are equal under paragraph (a)(1) of this section, an LEA—

(i) May not take into account the extent to which children in private

schools generated a portion of the LEA's allocation under § 298.7(b)(2)(ii); but

(ii) May take into account differences in the costs per child of meeting the needs of the individual children to be served and other factors that relate to these expenditures, as provided in paragraph (a)(1) of this section.

(b) *Services on an equitable basis.* (1) In addition to meeting the equal expenditures requirement in paragraph (a) of this section, an LEA shall provide for the participation in the Chapter 2 program of children enrolled in private schools on an equitable basis.

(2)(i) In determining whether an LEA is providing for participation on an equitable basis, the services provided to private school children and the services provided to public school children are considered.

(ii) If an LEA uses Chapter 2 funds to concentrate programs for public school children on a particular group, attendance area, or grade or age level, the LEA shall ensure equitable opportunities for participation by children enrolled in private schools who—

(A) Have the same needs as the public school children to be served; and

(B) Are in that group, attendance area, or grade or age level.

(iii) If the needs of children enrolled in private schools are different from the needs of children enrolled in public schools, an LEA shall provide Chapter 2 services for the private school children that address their needs on an equitable basis.

(Authority: 20 U.S.C. 2972)

§ 298.35 Funds not to benefit a private school.

(a) An LEA may only use Chapter 2 funds to provide services that supplement the level of services that would, in the absence of Chapter 2 services, be available to children enrolled in a private school.

(b) An LEA shall use Chapter 2 funds to meet the needs of children enrolled in a private school, but not for the purpose of aiding the private school.

(Authority: 20 U.S.C. 2972)

§ 298.36 Equipment and supplies.

(a) To meet the requirements of section 1572(c) of the Act, a public agency must keep title to and exercise continuing administrative control of all equipment and supplies that the LEA acquires with Chapter 2 funds.

(b) The public agency may place equipment and supplies in a private school for the period of time needed for the program.

(c) The public agency shall ensure that the equipment or supplies placed in a private school—

(1) Are used for Chapter 2 purposes;

(2) Are used for secular, neutral, and nonideological purposes; and

(3) Can be removed from the private school without remodeling the private school facility.

(d) The public agency shall remove equipment or supplies from a private school if—

(1) The equipment or supplies are no longer needed for Chapter 2 purposes; or

(2) Removal is necessary to avoid unauthorized use of the equipment or supplies for other than Chapter 2 purposes.

(e) For the purpose of this section, the term "public agency" includes the LEA.

(Authority: 20 U.S.C. 2972)

§ 298.37 Construction.

(a) No Chapter 2 funds may be used to perform repairs, minor remodeling or construction of private school facilities.

(b) An LEA may use Chapter 2 funds to perform repairs, minor remodeling, or construction of public facilities as may be necessary to carry out its responsibilities under this subpart.

(Authority: 20 U.S.C. 2972)

§ 298.38 Bypass.

(a) The Secretary implements a bypass if an SEA or LEA—

(1) Is prohibited by law from providing Chapter 2 services for private school children on an equitable basis; or

(2) Has substantially failed, or is unwilling, to provide services for private school children on an equitable basis.

(b) If the Secretary implements a bypass, the Secretary—

(1) Waives an SEA's or LEA's responsibility for providing Chapter 2 services for private school children and arranges to provide the required services;

(2) Consults with appropriate public and private school officials; and

(3) Deducts the cost of these services, including any administrative costs, from the appropriate allotment of Chapter 2 funds provided to the State.

(c) Pending the final resolution of an investigation or a complaint that could result in a bypass action, the Secretary may withhold from the allocation of the affected SEA or LEA the amount the Secretary estimates is necessary to pay the cost of the services referred to in paragraph (b) of this section.

(Authority: 20 U.S.C. 2972 (d), (e), (g))

§§ 298.39–298.40 [Reserved]

PART 76—STATE-ADMINISTERED PROGRAMS

2. The authority citation for Part 76 is revised to read as follows:

Authority: 20 U.S.C. 1221e–3(a)(1), 2974(b), and 3474, unless otherwise noted.

§ 76.1 [Amended]

3. Section 76.1 is amended by removing paragraph (c) and adding the following authority citation at the end of the section:

(Authority: 20 U.S.C. 1221e–3(a)(1), 2974(b), and 3474)

4. Section 76.401 as set forth at 53 FR 31603, August 18, 1988, is amended by adding, as the second item in the chart in paragraph (a), an entry to read as follows:

§ 76.401 Disapproval of an application—opportunity for a hearing.

(a) * * *

Federal, State, and local Partnership for Educational Improvement.	Chapter 2 of Title I, Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 2911 *et seq.*).	298

* * * * *

5. Section 76.563 is revised to read as follows:

§ 76.563 Restricted indirect cost rate—programs covered.

If a State or a subgrantee decides to charge indirect costs to a program that has a statutory requirement prohibiting the use of Federal funds to supplant non-Federal funds, the State or subgrantee shall use a restricted indirect cost rate computed under 34 CFR 75.564–75.568.

(Authority: 20 U.S.C. 1221e–3(a)(1), 2974(b), 3474)

§ 76.734 [Amended]

6. Section 76.734 is amended by removing "Unless a longer period is required under 34 CFR Part 74, a" and adding "A" in its place.

§§ 76.2, 76.50, 76.51, 76.401, 76.500, 76.532, 76.533, 76.534, 76.592, 76.600, 76.703, 76.704, 76.707, 76.740 and 76.760 [Amended]

7. The authority citations for the following sections are amended by adding ", 2974(b)" before the final parenthesis: §§ 76.2, 76.50, 76.51, 76.401, 76.500, 76.532, 76.533, 76.534, 76.592,

76.600, 76.703, 76.704, 76.707, 76.740, 76.760.

§ 76.125 [Amended]

8. The authority citation for § 76.125 as set forth at 53 FR 31602, August 18, 1988, is amended by removing "and" and adding, in its place, ", 2974(b)".

§ 76.707 [Amended]

9. The table in § 76.707 is amended by removing "under the cost principles in appendices C–F to 45 CFR Part 74" in paragraph (h).

PART 77—[AMENDED]

10. The following undesignated cross-references are removed from Part 76:

§§ 76.50, 76.140, 76.305, 76.600 through 76.690, 76.702, 76.730 through 76.734, 76.770 through 76.772 and 76.900 through 76.902 [Amended]

a. The cross-references following §§ 76.50, 76.305, 76.702, and 76.734.

b. The cross-references preceding §§ 76.140 through 76.142, 76.600, 76.681 through 76.690, 76.730 through 76.734, 76.770 through 76.792, and 76.900 through 76.902 (Subpart H).

§ 77.1 [Amended]

11. The authority citation for Part 77 (following § 77.1) is revised to read as follows:

(Authority: 20 U.S.C. 1221e–3(a)(1), 2974(b), and 3474, unless otherwise noted.)

[FR Doc. 89–4777 Filed 2–28–89; 8:45 am]
BILLING CODE 4000–01–M

Federal Register

Wednesday
March 1, 1989

Part IV

Interstate Commerce Commission

49 CFR Part 1135

Railroad Cost Recovery Procedures; Notice of Interpretation of Rule

Part IV

Interstate Commerce Commission

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1135

[Ex Parte No. 290 (Sub-No. 2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of interpretation of rule.

SUMMARY: The Commission is adopting an interest element for inclusion in the quarterly rail cost adjustment factor in order to add more accuracy to that calculation. The methodology for calculating the interest element will be based on changes in interest rates. The original proposal was contained in a notice served February 13, 1987, 52 FR 4790 (February 17, 1987). Interest rates will be calculated by dividing interest payments by average total debt. The weight of the interest component will be the percentage of operating expenses, rents, taxes and interest represented by interest payments. Class I railroad Annual Report Form R–1 data will be used for the calculation.

DATES: The interest element shall be included beginning with the second quarter 1989 submission.

FOR FURTHER INFORMATION CONTACT: William T. Bono, (202) 275–7354 or Robert C. Hasek, (202) 275–0938 or 275–7354. 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, or telephone (202) 289–4357. Assistance for the hearing impaired is available through TDD services (202) 275–1721 or by pickup from Dynamic Concepts Inc., Room 2229 at Commission headquarters.

This action will not affect either the quality of the human environment or energy conservation. It will not have a significant adverse impact on a substantial number of small entities.

Dated: February 8, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Simmons, Lamboley. Vice Chairman Simmons would have applied the new standard beginning with the second quarter of 1985.

Noreta R. McGee,

Secretary.

[FR Doc. 89–4742 Filed 2–28–89; 8:45 am]

BILLING CODE 7035–01–M

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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.**

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—MARCH 1989

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
March 1	March 16	March 31	April 17	May 1	May 30
March 2	March 17	April 3	April 17	May 1	May 31
March 3	March 20	April 3	April 17	May 2	June 1
March 6	March 21	April 5	April 20	May 5	June 5
March 7	March 22	April 6	April 21	May 8	June 5
March 8	March 23	April 7	April 24	May 8	June 6
March 9	March 24	April 10	April 24	May 8	June 7
March 10	March 27	April 10	April 24	May 9	June 8
March 13	March 28	April 12	April 27	May 12	June 12
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March 17	April 3	April 17	May 1	May 16	June 15
March 20	April 4	April 19	May 4	May 19	June 19
March 21	April 5	April 20	May 5	May 22	June 19
March 22	April 6	April 21	May 8	May 22	June 20
March 23	April 7	April 24	May 8	May 22	June 21
March 24	April 10	April 24	May 8	May 23	June 22
March 27	April 11	April 26	May 11	May 26	June 26
March 28	April 12	April 27	May 12	May 30	June 26
March 29	April 13	April 28	May 15	May 30	June 27
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March 31	April 17	May 1	May 15	May 30	June 29