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Thursday
March 9, 1989

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WHO: The Office of the Federal Register.

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WHERE: State Office Building Auditorium, Capitol Hill, Salt Lake City, UT
RESERVATIONS: Call the Utah Department of Administrative Services, 801–538–3010

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

Animal Drugs, Feeds and Related Products: Sponsor Name and Address Changes

CFR Correction

In Title 21 of the Code of Federal Regulations, Parts 500 to 599, revised as of April 1, 1988, portions of the table in § 510.600(c)(1) appeared incorrectly.

§ 510.600 [Corrected]

On page 101, in the second column, the drug labeler codes in the table in paragraph (c)(1) beginning with the firm name "Solvay Veterinary, Inc." and continuing through and including "Steris Laboratories, Inc." are corrected to read "053501", "001800", "049685", "035955", "036108", "000003", "017153", "017032" and "000402" respectively.

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 11

[Order No. 1322-89]

Offset of Debts Owed the United States

AGENCY: Department of Justice.

ACTION: Interim final rule.

SUMMARY: The Department of Justice amends Part 11 of Title 28 of the Code of Federal Regulations by establishing procedures for referring to the Secretary of the Treasury debts that have been reduced to judgment for collection by offset against Federal income tax refunds. This regulation contains safeguards for the debtor while strengthening the ability of the Department to collect outstanding debts.

EFFECTIVE DATE: March 9, 1989.

FOR FURTHER INFORMATION CONTACT: Robert C. Niffenegger, United States Department of Justice, Justice Management Division, Room 1121, 10th Street and Constitution Avenue NW., Washington, DC 20530; (202) 633-5345. (This is not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

Section 2653 of the Deficit Reduction Act, 31 U.S.C. 3720A, authorizes the Secretary of the Treasury to offset a delinquent debt owed to the Federal Government from the income tax refund due a taxpayer when other collection efforts have failed to recover the amount due. The purpose of the Act is to improve the ability of the Government to collect money owned it while adding certain notice requirements and other protections for the debtor.

The Department published a Notice of Proposed Rulemaking to implement 31 U.S.C. 3720A on June 13, 1988 (53 FR 22026). No comments were received. At the time of the initial notice publication, the Debt Collection Act provisions on tax refund offsets were to expire on July 1, 1988. The effective date of the Act was extended from July 1, 1988 to January 10, 1994 by sec. 701 of the Family Support Act of 1988, enacted October 13, 1988 (Pub. L. 100-485, 102 Stat. 2343).

The rule provides for referral of judgment debts of individuals to the Department of the Treasury for offset. (A complete discussion of the rule is contained in the **Federal Register** notice of June 13, 1988 [53 FR 22026].)

The Department is considering expanding its use of the tax offset program to include procedures for the collection of debts not reduced to judgment. For that reason, this rule is being published as an interim final rule. In the event that the Department determines that such expansion is warranted, the Department will publish a new notice of proposed rulemaking.

Other Matters

This is not a major rule within the meaning of section 1(b) of Executive Order 12291. The Department certifies that this regulation will not have a significant economic impact on a substantial number of small entities. These procedures will only apply to named individuals. Thus, the regulation will not affect any small entities. Accordingly, this rule is exempt from requirements to the Regulatory Flexibility Act, 5 U.S.C. 601-612 (Supp. 1988). This rule contains no reporting and recordkeeping requirements subject to the Paperwork Reduction Act of 1980.

List of Subjects in 28 CFR Part 11

Claims.

By virtue of the authority vested in me as Attorney General by 31 U.S.C. 3720A and 28 U.S.C. 301, 509 and 510, Part 11 of Title 28 of the Code of Federal Regulations is hereby amended:

PART 11—[AMENDED]

1. The authority citation for 28 CFR Part 11 is revised to read as follows:

Authority: 28 U.S.C. 301, 509, 510, 31 U.S.C. 3718, 3720A.

2. A new Subpart B is added and reserved to read as follows:

Subpart B—[Reserved]

3. A new Subpart C is added consisting of § 11.10 to read as follows:

Subpart C—Tax Refund Offsets

Sec.
§ 11.10 Procedures for tax refund offsets for the collection of judgments.

Subpart C—Tax Refund Offsets

11.10 Procedures for tax refund offsets for the collection of judgments.

(a) The Department may refer any past-due, non-paid final civil or criminal judgment debts imposed by a court of the United States against an individual to the Secretary of the Treasury for offset. (Judgments in amounts lower than $25.00 or outstanding for longer than ten years are not subject to referral.)

(b) The Department will provide the civil or criminal judgment debtor with written notice of its intent to offset before initiating the offset. Notice will be mailed to the debtor at the current address of the debtor, as determined from information obtained from the IRS' prior year's tax records or from information regarding the debt maintained by the Department of Justice. The notice sent to the debtor will inform the debtor that:

(1) The civil or criminal judgment debt is past due;

(2) The Department intends to refer the civil or criminal judgment to the Secretary of the Treasury for offset from income tax refunds that may be due to individuals;

(3) The debtor, within 65 days of the date on the written notice, has an opportunity to:

(i) Present evidence that all or part of a civil judgment debt or a criminal fine and/or assessment is not past-due;

(ii) Present evidence that the amount of the civil judgment debt or criminal fine and/or assessment, as reported to the IRS, is not the amount currently owed;

(iii) Present evidence that the judgment debt has been stayed or satisfied.

(4) If the civil or criminal judgment debtor wishes to contest the offset, he or she must present evidence set forth under paragraph (b)(3) of this section by a date specified in the notice. The debtor must present such evidence to the Assistant Attorney General for Administration at the address specified in the notice. The Assistant Attorney General for Administration will review the evidence and make a determination whether to terminate efforts to offset the judgment, modify the amount to be referred, or refer for offset the amount stated in the notice, and notify the debtor in writing. There is no appeal of this decision.

(5) The authority of the Assistant Attorney General for Administration may be redelegated to subordinate officials as appropriate.

Date: February 6, 1989.

Dick Thornburgh,

Attorney General.

[FR Doc. 89-5477 Filed 3-8-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

New Mexico Permanent Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSMRE is announcing the approval of an amendment to the New Mexico permanent regulatory program (hereinafter referred to as the New Mexico program), as administered by the New Mexico Mining and Minerals Division (MMD), under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment pertains to the training, examination, and certification of blasters; annual reports; regarding and stabilizing of rills and gullies; inspection and enforcement; permit conditions, applications and fees; backfilling and grading; support facilities; and disposal of noncoal waste. The amendment revises the State program to be consistent with the corresponding Federal regulations and to incorporate additional flexibility afforded by revised Federal regulations.

EFFECTIVE DATE: March 9, 1989.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue SW., Suite 310, Albuquerque, NM 87102; Telephone (505) 766-1486.

SUPPLEMENTARY INFORMATION:

I. Background on the New Mexico Program

On December 31, 1980, the Secretary of the Interior conditionally approved the New Mexico program. Information regarding the general background of the New Mexico program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval can be found in the December 31, 1980, **Federal Register** (45 FR 86459). Actions taken subsequent to approval are found in 30 CFR 931.12, 931.13, 931.15, 931.16, and 931.30.

II. Discussion of the Amendment

By letter dated June 17, 1987, New Mexico submitted to OSMRE a proposed amendment to certain provisions of Coal Surface Mining Commission (CSMC) Rule 80-1 (Administrative Record No. NM-356). OSMRE published a notice in the July 28, 1987 **Federal Register** (52 FR 28162) announcing receipt of the proposed amendment and inviting public comment on its adequacy. After reviewing the proposed amendment and all comments OSMRE notified New Mexico by letter dated November 10, 1987, of several provisions that appeared to be inconsistent with the Federal regulations (Administrative Record No. NM-390). By letter dated February 18, 1988 (Administrative Record No. NM-393) New Mexico clarified and revised those provisions which pertain to hydrologic balance protection, disposal of noncoal waste, inspection and enforcement, and backfilling and regarding of rills and gullies. To allow the public an opportunity to comment on the additional material, OSMRE reopened and extended the comment period to April 15, 1988, in a **Federal Register** notice dated March 31, 1988 (53 FR 10398). On August 10, 1988, New Mexico withdrew the proposed revisions concerning protection of the hydrologic balance at CSMC Rule 80-1-20-42(a) (3), (5), (6) and (8) (Administrative Record No. NM-438).

III. Director's Findings

The Director finds, in accordance with SMCRA, 30 CFR 732.15, and 30 CFR 732.17, that the proposed amendment submitted by New Mexico on June 17, 1987, as subsequently revised and clarified on February 18, 1988 and August 10, 1988, meets the requirements of SMCRA and 30 CFR Chapter VII as discussed below.

1. Training, Examination, and Certification of Blasters

(a) *General.* Under 30 CFR 850.12 (a) and (b), States are required to develop and adopt a program to examine and certify persons directly responsible for blasting in surface coal mining and reclamation operations. To satisfy this requirement and its State-specific counterpart at 30 CFR 931.16(a), New Mexico is adding a new Part 33 to CSMC Rule 80-1 to establish a State blaster certification program. For the reasons discussed below, the Director finds that the New Mexico submission meets the requirements of and is no less effective than the Federal rules governing State blaster training, examination and certification programs in 30 CFR Part 850.

(b) *Training examination and experience requirements.* CSMC Rule 80-12-33-13 specifies minimum training requirements for certification identical to those in the corresponding Federal rule at 30 CFR 850.13. However, New Mexico does not plan to conduct either a training or an examination program. Instead, section 33-14 requires all candidates for State certification to be certified under another OSMRE-approved State or Federal blasters certification program. Paragraph 33-14(a) requires the MMD Director to verify that any such program requires training in the topics specified in section 33-13. The Director also must verify that the applicant successfully completed this training program and passed an examination on the topics. Paragraph 33-14(b) further requires candidates for certification to have at least one year of practical field experience, thus satisfying the requirement of 30 CFR

850.15(a)(2) that applicants have an adequate level of experience.

The Federal standards for State blaster certification programs in 30 CFR 850.14 include specific requirements, such as a written examination, that are not included in the New Mexico rule. However, under the proposed rule, New Mexico cannot and will not certify candidates unless they are already certified under an OSMRE-approved program in another State. Therefore, it is not necessary for New Mexico to adopt all the specific examination and experience standards of 30 CFR 850.14 since candidates will already have met those requirements in another State.

(c) *Certificate issuance, maintenance, renewal, suspension and revocation.* CSMC Rule 80–1–33–15 authorizes the MMD Director to enforce all certification conditions and requirements placed on the applicant by the State in which he or she is certified. Also, persons certified under Section 33–14 must meet all requirements for recertification and demonstration of continued competency in the other State(s) in which they are certified if they desire to maintain their New Mexico certification. The State rules thus meet the certification and recertification requirements of 30 CFR 850.15 (a) and (c).

New Mexico's provisions for protection, suspension and revocation of blasters' certificates in paragraphs 33–15 (c) and (d) include all requirements of the corresponding Federal regulations in 30 CFR 850.15 (b) and (d). In addition, if the Director of MMD suspends or revokes a certificate, the State rule requires that he notify all other States in which the individual is certified.

(d) *Conditions for maintaining certification.* CSMC Rule 80–1–33–15(3) specifies that, to maintain certification, a blaster must immediately exhibit his certificate to an authorized representative of the MMD Director upon request, and refrain from assigning or transferring his or her certification or delegating blasting responsibility to any individual who is not a certified blaster. The corresponding Federal regulation at 30 CFR 850.15(e) requires three similar conditions, which differ from the State conditions only in that the Federal rules, unlike the State rules, require that the blaster exhibit his or her certificate to an authorized representative of OSMRE upon request.

In correspondence with OSMRE, New Mexico has stated that it is not necessary for State regulations to require blasters to exhibit certificates to an authorized representative of OSMRE (Administrative Record No. NM–348). New Mexico believes that OSMRE has authority under 30 CFR 842.13(a)(2) to require exhibition of blasters certificates to OSMRE representatives.

Under 30 CFR 842.13(a)(2), OSMRE has access to, and the authority to copy, any records of a surface coal mining operation. The Director finds that while it would provide clarity in the New Mexico program to require that the blaster exhibit his or her certificate to an authorized representative of OSMRE, the lack of such a provision does not render the program less effective than the Federal rules because OSMRE has such authority under the Federal regulations at 30 CFR 842.13(a)(2).

Since, except as noted above, CSMC Rule 80–1–33–15(e) is identical to 30 CFR 850.15(e), the Director finds that the State rule is no less effective than, and meets the requirements of, its Federal counterpart.

2. Annual Reports

New Mexico proposes to add to CSMC Rule 80–1 a new section 5–26 to require an annual report from a permittee detailing reclamation measures taken during the previous year. This report, due every March 1, would include a map showing permit boundaries, mine facilities, roads, drainage features, impoundment features, coal waste disposal areas, soil stock piles, and reclaimed areas. Each subsequent annual report would show updates from the previous year and would thus provide an additional means of monitoring operator compliance with the approved permit.

There is no comparable requirement in SMCRA or the Federal regulations. Under 30 CFR 730.11(b), any State regulation which provides for more stringent control or regulation of surface coal mining and reclamation operations than the Federal regulations shall not be construed to be inconsistent with the Federal regulations. Adoption of the annual report requirement will not adversely affect other provisions of the program.

Therefore, the Director finds that New Mexico's requirement for annual reports is not inconsistent with SMCRA and the Federal regulations.

3. Regrading and Stabilizing Rills and Gullies

CSMC Rule 80–1–20–106 requires the stabilization of certain rills and gullies that form in areas which have been regraded and topsoiled. New Meixco is amending section 20–106(a) to add a general requirement that regraded and topsoiled areas be protected and stabilized to effectively control erosion and air pollution attendant to erosion. The added erosion control requirement is identical to the corresponding Federal erosion control requirement in 30 CFR 816.95(a).

Section 20–106 also is amended to remove the specific requirement that rills and gullies deeper than nine inches be filled or stabilized. This requirement is being replaced with a new requirement in section 20–106(b) to fill, regrade or otherwise stabilize, topsoil and revegetate rills and gullies which disrupt the postmining land use or the reestablishment of the vegetative cover, or which cause or contribute to a violation of water quality standards. Revised section 20–106(b) is identical to the corresponding Federal provisions in 30 CFR 816.95(b).

As currently approved, CSMC Rule 80–1–20–106(b) includes a "State window" provision allowing the MMD Director to waive rill and gully repair requirements if it is demonstrated that erosion on the reclaimed lands does not exceed erosion levels on similar unmined lands in the area, and if the rills and gullies do not and would not adversely affect compliance with other specific provisions of the New Mexico regulation. The amendment recodified this provision as paragraph (c) and revises it to require a demonstration that the unrepaired rills and gullies will not affect compliance with "all applicable parts of these rules and regulations." Thus, the revised wording broadens the environmental protection provided by this rule.

For the reasons discussed above, the Director finds revised CSMC Rule 80–1–20–106 no less effective than the Federal regulations and no less stringent than the requirements of SMCRA.

4. Permit Conditions

New Mexico is amending CSMC Rule 80–1–11–27 to add a new subsection (d). The new subsection requires each New Mexico permittee to notify the MMD Director, in writing, of his or her intention to begin operations at least 10 days prior to initial surface disturbance.

There is no direct Federal counterpart to the New Mexico notification requirement. However, this reporting requirement will improve New Mexico's ability to monitor mining activity and it will not adversely affect other requirements of the State program. Therefore, the Director finds that the amendment is not inconsistent with the requirements of SMCRA and the Federal regulations.

5. Disposal of Noncoal Waste

New Mexico is amending CSMC Rule 80–1–20–89 to include a new subsection (e). This subsection provides that any

noncoal mine waste defined as "hazardous" under section 3001 of the Federal Resource Conservation and Recovery Act (RCRA) and 40 CFR Part 261 shall be handled in accordance with Subtitle C of RCRA, the New Mexico Hazardous Waste Act, and regulations associated with either Act.

The New Mexico requirement is identical to 30 CFR 816.89(d) and 817.89(d) to the extent that it requires compliance with RCRA. The requirement for compliance with the New Mexico Hazardous Waste Act and associated regulations represents an additional State requirement authorized under 30 CFR 730.11(b). The Federal regulations at 30 CFR 816.89(d) and 817.89(d) were suspended on November 20, 1986, (51 FR 41952) to implement the decision of the U.S. District Court for the District of Columbia in *In re: Permanent Surface Mining Regulation Litigation (II)* (Civil Action No. 79–1144, July 15, 1985). The court remanded these rules because OSMRE failed to comply with the public notice and public comment requirements of the Administrative Procedure Act in promulgation of the regulations. No substantive issues were involved. Since New Mexico is not subject to the Administrative Procedures Act, failure to comply with this Act need not be considered in evaluating this proposed amendment.

Therefore, for the reasons discussed above, the Director finds that CSMC Rule 80–1–20–89(e) is no less stringent than SMCRA and no less effective than the Federal regulations.

6. Permit Fees

Revised CSMC Rule 80–1–5–25(b) deletes the minimum annual permit acreage fee of $1,000 and provides for determination of the amount based on disturbed acreage, without establishing a minimum fee. Although 30 CFR 777.17 provides for the assessment of permit application fees, the method for determining the amount of such fees is left to the discretion of the regulatory authority. Therefore, the Director finds that New Mexico's revised permit fee schedule is not inconsistent with any Federal requirements.

7. Support Facilities and Utility Installations

New Mexico is amending CSMC Rule 80–1–20–181(a) to include fuel, chemical and lubricant storage facilities as activities subject to the coal surface mining performance standards. Subsection 80–1–20–181(a) is also being modified editorially to eliminate paragraphs (1) and (2) while retaining the same language as a continuation of paragraph (a).

The Federal regulations for support facilities at 30 CFR 816/817.181 do not specifically mention fuel, chemical and lubricant storage, although storage areas, in general, are included under other Federal provisions. The New Mexico requirement adds specificity to CSMC Rule 80–1–20–181(a); therefore, the Director finds that the revised rule is not inconsistent with SMCRA and the Federal requirements.

8. Cut-and-Fill Terraces

New Mexico is amending its backfilling and grading requirements at CSMC Rule 80–1–20–102(b)(3) by deleting a requirement that the outslopes of cut-and-fill terraces have a minimum static safety factor of 1.3.

The Federal rules concerning cut-and-fill terraces at 30 CFR 816/817.102(g) do not include the specific provision that terrace outslopes have a 1.3 static safety factor. Since New Mexico's rules and the Federal regulations at 30 CFR 816/817.102(g) both include requirements that all backfilled areas attain a minimum static safety factor of 1.3, the separate requirement of CSMC Rule 80–1–20–102(b)(3) is redundant. Therefore, the Director finds that New Mexico's revised rule is no less effective than the Federal regulations at 30 CFR 816/817.102(g).

9. Covering Coal and Acid and Toxic-Forming Materials

New Mexico is amending CSMC Rule 80–1–20–103(a) by adding a new paragraph (2) and recodifying current paragraph (2) as paragraph (3). The revised rule allows the Director of MMD to specify thicker amounts of backfill to isolate coal seams and acid and toxic-forming and combustible materials. The Federal regulations require similar safeguards at 30 CFR 816/817.41 and 816/817.102(f). Therefore, the Director finds that the revised New Mexico rule is no less effective than the Federal regulations.

10. Inspections

CSMC Rule 80–1–29–11 is being amended to provide for aerial partial inspections, reduce the inspection frequency for inactive surface mining operations, and provide for quarterly inspections for permitted operations that have not commenced operations.

New Mexico's currently approved program requires all inspections to be on-the-ground inspections and does not distinguish between active and inactive operations with regard to inspection frequency. The procedures for aerial inspections at CSMC Rule 80–1–29–11(a) are similar to 30 CFR 840.11 (a) and (d); therefore, the Director finds the revised New Mexico rule regarding aerial inspections to be no less effective than the Federal regulations.

Revised CSMC Rule 80–1–29–11(b) defines inactive operations and provides for quarterly complete inspections of such sites in a manner similar to 30 CFR 840.11 (b) and (f). Although not specifically mentioned, the Director of New Mexico MMD also has the authority to require such partial inspections of inactive coal surface mining operations as are necessary to ensure effective enforcement consistent with the Federal rule at 30 CFR 840.11(a). Both the Federal and New Mexico rules establish minimum inspection frequencies but neither limits additional inspections which may be performed. Therefore, the Director finds New Mexico's procedures and requirements for inspecting inactive coal surface mining operations to be no less effective than the Federal regulations.

New Mexico is adding a new subsection (c) to CSMC Rule 80–1–29–11. This new paragraph requires quarterly inspections of undisturbed permits until the permittee notifies the MMD it is commencing operations. Since a permit is not subject to the inspection criteria of 30 CFR Part 842 until disturbed, the Director finds New Mexico's rule is not inconsistent with the Federal requirements and provides the necessary safeguards to monitor the commencement of new operations. The Director notes that in revising CSMC Rule 80–1–29–11 New Mexico added a new subsection (c) but did not redesignate existing subsection (c) or the paragraphs that follow. Therefore, New Mexico will have two paragraphs codified as (c) under Rule 80–1–29–11 when this program amendment becomes effective. The Director expects that New Mexico will correct this editorial error during its next rulemaking.

11. Miscellaneous Provisions

The amendment includes two additional changes. CSMC Rule 80–1–8–11 is being amended to add a provision that information on premining resources will be used during evaluation of the permit application.

Although the corresponding Federal rules at 30 CFR 779.11 and 783.11 lack a similar provision, the Director finds that, by implication, they have a similar purpose. Therefore, the revised New Mexico rule is no less effective than the cited Federal rules.

CSMC Rule 80–1–9–18(b)(4) is being revised for clarity by changing the word "topdressing" to "topsoil". Since this is a nonsubstantive change, the Director finds that it does not render the New

Mexico program less effective than the Federal requirements.

IV. Summary and Disposition of Comments

No public comments were received. Pursuant to Section 503(b) of SMCRA and 30 CFR 732.17(h)(11), comments were solicited from various Federal and State agencies with an actual or potential interest in the New Mexico program.

The Environmental Protection Agency (EPA) submitted comments (Administrative Record No. NM–403) on the proposed regulations concerning water quality standards. Based on EPA's comments and other considerations, New Mexico withdrew all proposed amendments concerning water quality standards (Administrative Record No. NM–438). EPA's comments are, therefore, no longer applicable to this rulemaking. EPA did not comment on the remainder of the proposed regulations.

The New Mexico Office of Cultural Affairs and Historical Preservation recommended that cultural resources information, such as mitigation stipulations, known site information, and a summary of completed and anticipated work be included in the annual report (Administrative Record No. NM–368). As noted in Finding 2 above, there is no Federal requirement for an annual report. Therefore, OSMRE cannot require the State to include specific items in the report. Other sections of the New Mexico program either contain or are being amended to include all the mandatory cultural resource requirements.

V. Director's Decision

The Director, based on the above findings, is approving the amendment submitted by New Mexico on June 17, 1987, as revised and clarified on February 18, 1988, and August 10, 1988. The Director is approving these rules provided that they are adopted in a form identical to that submitted to and reviewed by OSMRE and the public.

The Director is amending 30 CFR Part 931 to reflect his approval of this amendment and the removal of a required program amendment concerning blaster training, examination, and certification. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to conform their programs to Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Matters

1. Compliance with National Environmental Policy Act

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

2. Executive Order No. 12291 and the Regulatory Flexibility Act

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

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

3. Paperwork Reduction Act

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

List of Subjects in 30 CFR Part 931

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

Date: March 3, 1989.

Robert H. Gentile,

Director, Office of Surface Mining Reclamation and Enforcement.

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

PART 931—NEW MEXICO

1. The authority citation for Part 931 continues to read as follows:

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

2. In § 931.15, a new paragraph (h) is added to read as follows:

§ 931.15 Approval of amendments to State regulatory program.

* * * * *

(h) The following amendment is approved effective March 9, 1989. Revisions to or addition of the following portions of New Mexico Coal Surface Mining Commission (CSMC) Rule 80–1, as submitted on June 17, 1987, and clarified and modified on February 18, 1988, and August 10, 1988, provided New Mexico promulgates these rules in a form identical to that in which they were reviewed by OSMRE:

Section 5–25 Permit Fees.
Section 5–26 Annual Reports.
Section 8–11 General Requirements for Permit Applications.
Section 9–18 General Requirements for Reclamation Plan.
Section 11–27 Permit Conditions.
Section 20–89 Disposal of Noncoal Waste.
Section 20–102 Cut-and-Fill Terraces.
Section 20–103 Covering Coal and Acid and Toxic-Forming Materials.
Section 20–106 Regrading and Stabilizing Rills and Gullies.
Section 20–181 Support Facilities and Utility Installations.
Section 29–11 Inspections.

Part 33 Training, Examination, and Certification of Blasters.

§ 931.16 [Removed and Reserved]

3. Section 931.16 is removed and reserved.

[FR Doc. 89–5476 Filed 3–8–89; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 45

[DoD Instruction 1336.1]

Certificate of Release or Discharge From Active Duty (DD Form 214/5 Series)

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document amends 32 CFR Part 45 to incorporate the correct pages of Appendix A of this part. On February 21, 1989, the Department of Defense published in the **Federal Register** this final rule. Appendix A was not accurately displayed, therefore, we are revising Appendix A.

EFFECTIVE DATE: January 6, 1989.

FOR FURTHER INFORMATION CONTACT: Lt. Col. T. Sutherland, Office of the Assistant Secretary of Defense (Force Management and Personnel), the Pentagon, Washington, DC 20301, telephone 202–695–6312.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 45

Armed forces reserves, Military personnel.

Accordingly, 32 CFR Part 45 is amended as follows:

1. The authority citation continues to read as follows:

Authority: 10 U.S.C. 1168 and 972.

2. Appendix A is revised as follows:

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

March 3, 1989.

BILLING CODE 3810-01-M

Appendix A–DD Form 214

CAUTION: NOT TO BE USED FOR IDENTIFICATION PURPOSES

THIS IS AN IMPORTANT RECORD. SAFEGUARD IT.

ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

1. NAME (Last, First, Middle)	2. DEPARTMENT, COMPONENT AND BRANCH	3. SOCIAL SECURITY NO.

4.a. GRADE, RATE OR RANK	4.b. PAY GRADE	5. DATE OF BIRTH (YYMMDD)	6. RESERVE OBLIG. TERM. DATE		
			Year	Month	Day

7.a. PLACE OF ENTRY INTO ACTIVE DUTY	7.b. HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known)

8.a. LAST DUTY ASSIGNMENT AND MAJOR COMMAND	8.b. STATION WHERE SEPARATED

9. COMMAND TO WHICH TRANSFERRED	10. SGLI COVERAGE ☐ None Amount: $

11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.)	12. RECORD OF SERVICE	Year(s)	Month(s)	Day(s)
	a. Date Entered AD This Period			
	b. Separation Date This Period			
	c. Net Active Service This Period			
	d. Total Prior Active Service			
	e. Total Prior Inactive Service			
	f. Foreign Service			
	g. Sea Service			
	h. Effective Date of Pay Grade			

13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service)

14. MILITARY EDUCATION (Course title, number of weeks, and month and year completed)

15.a. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM	Yes	No	15.b. HIGH SCHOOL GRADUATE OR EQUIVALENT	Yes	No	16. DAYS ACCRUED LEAVE PAID

17. MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION ☐ Yes ☐ No

18. REMARKS

19.a. MAILING ADDRESS AFTER SEPARATION (Include Zip Code)	19.b. NEAREST RELATIVE (Name and address - include Zip Code)

20. MEMBER REQUESTS COPY 6 BE SENT TO DIR. OF VET AFFAIRS ☐ Yes ☐ No	22. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade, title and signature)
21. SIGNATURE OF MEMBER BEING SEPARATED	

DD Form 214, NOV 88 *Previous editions are obsolete.* MEMBER - 1

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8.a. LAST DUTY ASSIGNMENT AND MAJOR COMMAND	8.b. STATION WHERE SEPARATED

9. COMMAND TO WHICH TRANSFERRED	10. SGLI COVERAGE ☐ None Amount: $

11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.)	12. RECORD OF SERVICE	Year(s)	Month(s)	Day(s)
	a. Date Entered AD This Period			
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	e. Total Prior Inactive Service			
	f. Foreign Service			
	g. Sea Service			
	h. Effective Date of Pay Grade			

13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service)

14. MILITARY EDUCATION (Course title, number of weeks, and month and year completed)

15.a. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM	Yes	No	15.b. HIGH SCHOOL GRADUATE OR EQUIVALENT	Yes	No	16. DAYS ACCRUED LEAVE PAID

17. MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION ☐ Yes ☐ No

18. REMARKS

19.a. MAILING ADDRESS AFTER SEPARATION (Include Zip Code)	19.b. NEAREST RELATIVE (Name and address - include Zip Code)

20. MEMBER REQUESTS COPY 6 BE SENT TO DIR. OF VET AFFAIRS ☐ Yes ☐ No	22. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade, title and signature)
21. SIGNATURE OF MEMBER BEING SEPARATED	

SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)

23. TYPE OF SEPARATION	24. CHARACTER OF SERVICE (Include upgrades)	
25. SEPARATION AUTHORITY	26. SEPARATION CODE	27. REENTRY CODE
28. NARRATIVE REASON FOR SEPARATION		
29. DATES OF TIME LOST DURING THIS PERIOD		30. MEMBER REQUESTS COPY 4 Initials

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4.a. GRADE, RATE OR RANK	4.b. PAY GRADE	5. DATE OF BIRTH (YYMMDD)	6. RESERVE OBLIG. TERM. DATE Year	Month	Day

7.a. PLACE OF ENTRY INTO ACTIVE DUTY	7.b. HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known)

8.a. LAST DUTY ASSIGNMENT AND MAJOR COMMAND	8.b. STATION WHERE SEPARATED

9. COMMAND TO WHICH TRANSFERRED	10. SGLI COVERAGE ☐ None Amount: $

11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.)	12. RECORD OF SERVICE	Year(s)	Month(s)	Day(s)
	a. Date Entered AD This Period			
	b. Separation Date This Period			
	c. Net Active Service This Period			
	d. Total Prior Active Service			
	e. Total Prior Inactive Service			
	f. Foreign Service			
	g. Sea Service			
	h. Effective Date of Pay Grade			

13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service)

14. MILITARY EDUCATION (Course title, number of weeks, and month and year completed)

15.a. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM	Yes	No	15.b. HIGH SCHOOL GRADUATE OR EQUIVALENT	Yes	No	16. DAYS ACCRUED LEAVE PAID

17. MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION ☐ Yes ☐ No

18. REMARKS

19.a. MAILING ADDRESS AFTER SEPARATION (Include Zip Code)	19.b. NEAREST RELATIVE (Name and address - include Zip Code)

20. MEMBER REQUESTS COPY 6 BE SENT TO _____ DIR. OF VET AFFAIRS ☐ Yes ☐ No	22. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade, title and signature)
21. SIGNATURE OF MEMBER BEING SEPARATED	

SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)

23. TYPE OF SEPARATION	24. CHARACTER OF SERVICE (Include upgrades)

28. NARRATIVE REASON FOR SEPARATION

29. DATES OF TIME LOST DURING THIS PERIOD	30. MEMBER REQUESTS COPY 4 _____ Initials

DD Form 214, NOV 88 *Previous editions are obsolete.*

COPY DESIGNATION *(Printed in lower right margin)*

MEMBER - 1

SERVICE - 2

VETERANS ADMINISTRATION - 3

MEMBER - 4

DEPARTMENT OF LABOR - 5

STATE DIRECTOR OF VETERANS AFFAIRS - 6

SERVICE - 7

SERVICE - 8

Copy 1 (the original) does not have Items 23 - 30, and the page ends after Item 22.
Copies 2, 4, 7, and 8 contain all items.
Copies 3, 5, and 6 contain all items, but Items 25 through 27 are blacked out.

[FR Doc. 89-5435 Filed 3-8-89; 8:45 am]
BILLING CODE 3810-01-C

32 CFR Part 358

[DoD Directive 5105.41]

Defense Advanced Research Projects Agency (DARPA)

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document revises 32 CFR Part 358 to reflect placement of the Defense Advanced Research Projects Agency under the authority, direction, and control of the Under Secretary of Defense for Acquisition; to change the title of the Assistant Secretary of Defense (Comptroller) to Comptroller of the Department of Defense pursuant to 10 U.S.C. 131; and to make minor editorial changes.

EFFECTIVE DATE: January 25, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. R., Furtner, 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 358

Organization and management.

Accordingly, Title 32 CFR Part 358 is revised as follows:

PART 358—DEFENSE ADVANCED RESEARCH PROJECTS AGENCY

Sec.

358.1 Purpose.
358.2 Mission.
358.3 Organization and Management.
358.4 Responsibilities and Functions.
358.5 Authority.
358.6 Relationships.
358.7 Administration.

Appendix—Delegation of Authority

Authority: 10 U.S.C. 133

§ 358.1 Purpose.

Pursuant to the authority vested in the Secretary of Defense under Title 10 U.S.C., this document revises 32 CFR Part 358 to update the responsibilities, functions, relationships, and authorities of the Defense Advanced Research Projects Agency (DARPA).

§ 358.2 Mission.

As the central research and development organization of the Department of Defense with a primary responsibility to maintain U.S. technological superiority over potential adversaries, DARPA shall:

(a) Pursue imaginative and innovative research and development projects offering significant military utility.

(b) Manage and direct the conduct of basic and applied research and development that exploits scientific breakthroughs and demonstrates the feasibility of revolutionary approaches for improved cost and performance of advanced technology for future military applications.

(c) Stimulate a greater emphasis on prototyping in defense systems by conducting prototype projects that embody technology that might be incorporated in joint programs, programs in support of deployed U.S. Forces (including the Unified and Specified Commands), or selected Military Department programs, and on request, assist the Military Departments in their own prototyping programs.

§ 358.3 Organization and Management.

DARPA is established as a separate Agency of the Department of Defense under the direction, authority, and control of the Under Secretary of Defense (Acquisition) (USD(A)), in accordance with 32 CFR Part 382. It shall consist of a Director and such subordinate elements as are established by the Director within resources authorized by the Secretary of Defense.

§ 358.4 Responsibilities and Functions.

The *Director, DARPA*, shall:

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

(b) Provide guidance and assistance, as appropriate, to all DoD Components and other U.S. Government activities on matters pertaining to the projects assigned to DARPA.

(c) Recommend to the Secretary of Defense, through the USD(A)), the assignment of research projects to DARPA.

(d) Arrange for the performance of, and supervise the work connected with, DARPA projects assigned to the Military Departments, other U.S. Government activities, individuals, private business entities, educational institutions, or research institutions, giving consideration to the primary functions of the Military Departments.

(e) Engage in assigned advanced research projects.

(f) Keep the USD(A), the Military Departments, the Joint Chiefs of Staff (JCS), and other DoD Agencies informed, as appropriate, on significant new developments, breakthroughs, and technological advances within assigned projects and on the status of such projects to facilitate early operational assignment.

(g) Prepare and submit to the Comptroller of the Department of Defense, in accordance with established procedures, the DARPA annual program budget estimates, to include the assignment of appropriation program priorities.

(h) Perform such other functions as may be assigned by the USD(A).

§ 358.5 Authority.

The Director, DARPA, is specifically delegated authority to:

(a) Place funded work orders with Military Departments and other DoD Components or directly with subordinate levels of the Military Departments, after clearance with the Secretary of the Military Department concerned.

(b) Authorize the allocation, as appropriate, of funds made available to DARPA for assigned advanced projects.

(c) Establish for DARPA, the Military Departments, and other R&D activities, procedures required in connection with work being performed for DARPA, consistent with policies and instructions governing the Department of Defense.

(d) Serve as head of an Agency and Contracting Activity within the meaning of, and subject to the limitations of, FAR Subpart 2.1, April 1, 1984, as supplemented by DFARS Subpart 202.1.

(e) Prosecute assigned advanced research projects by contract, grant, cooperative agreement, or any other authorized means.

(f) Acquire or construct, directly or through a Military Department or other U.S. Government Agency, such research, development, and test facilities and equipment required to carry out assignments that may be approved by the Secretary of Defense in accordance with applicable statutes and DoD Directives.

(g) Obtain reports and information, consistent with the policies and criteria of DoD Directive 7750.5 and advice and assistance from other DoD Components, as necessary, to carry out DARPA functions and responsibilities.

(h) Exercise the administrative authorities in the Appendix to this part.

§ 358.6 Relationships.

(a) In the performance of assigned functions, the Director, DARPA, shall:

(1) Maintain appropriate liaison for the exchange of information and advice in the field of assigned responsibility with other DoD Components, Agencies of the executive branch, foreign research activities, and non-DoD R&D activities including private business entities and educational institutions.

(2) Ensure that appropriate staff elements of the Office of the Secretary of Defense (OSD), the Joint Chiefs of Staff and the Joint Staff, the Military Departments, and other DoD Components are kept fully informed concerning DARPA activities with which they have substantive concern.

(3) Make appropriate use of established facilities and services in the Department of Defense or other governmental Agencies, wherever practicable, to achieve maximum efficiency and economy.

(b) The Secretaries of the Military Departments and heads of other DoD Components shall:

(1) Provide assistance and support, in their respective fields of responsibility and within available resources, to the Director, DARPA, as may be necessary to carry out the responsibilities and functions assigned to DARPA.

(2) Coordinate with the Director, DARPA, on all matters related to responsibilities and functions assigned to DARPA.

§ 358.7 Administration.

(a) The Director, DARPA, shall be a civilian selected by the Secretary of Defense.

(b) DARPA shall be authorized such personnel, facilities, funds, and other administrative support as the Secretary of Defense deems necessary.

(c) The Military Departments shall assign personnel to DARPA in accordance with approved authorizations and procedures for assignment to joint duty.

(d) Administrative support required for DARPA shall be provided by the Director, Washington Headquarters Services (WHS), and other DoD Components, as appropriate.

Appendix—Delegations of Authority

Pursuant to the authority vested in the Secretary of Defense, and subject to the direction, authority, and control of the Secretary of Defense, and in accordance with DoD policies, Directives, and Instructions, the Director, DARPA, or in the absence of the Director, the person acting for the Director, is hereby delegated authority as required in the administration and operation of DARPA to:

1. Designate any position in DARPA as a "sensitive" position, in accordance with 5 U.S.C. 7532; Executive Orders 10450, 12333, and 12356; and DoD Directive 5200.2, "DoD Personnel Security Program," December 20, 1979, as appropriate.

2. Authorize and approve overtime work for DARPA civilian officers and employees in accordance with 5 U.S.C. Chapter 55, Subchapter V, and applicable OPM regulations.

3. Authorize and approve:

a. Travel for DARPA civilian officers and employees in accordance with Joint Travel Regulations, Volume, 2, "DoD Civilian Personnel."

b. Temporary duty travel for military personnel assigned or detailed to DARPA in accordance with Joint Travel Regulations, Volume I, "Members of Uniformed Services."

c. Invitational travel to persons serving without compensation whose consultive, advisory, or other highly specialized technical services are required in a capacity that is directly related to, or is in connection with, DARPA activities, pursuant to 5 U.S.C. 5703.

4. Approve the expenditure of funds available for travel by military personnel assigned or detailed to DARPA for expenses incident to attendance at meetings of technical, scientific, professional or other similar organizations in such instances where the approval of the Secretary of Defense, or designee, is required by law (37 U.S.C. 412 and 5 U.S.C. 4110 and 4111). This authority cannot be redelegated.

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

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

7. Enter into and administer grants, cooperative agreements, and other authorized transactions with any Agency, university, non-profit corporation or other organization to carry out or support work required to execute any assigned advanced research project.

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

9. Authorize the publication of advertisements, notices, or proposals in newspapers, magazines, or other public periodicals as required for the effective administration and operation of DARPA consistent with 44 U.S.C. 3702.

10. Promulgate the necessary security regulations for the protection of property and places under the jurisdiction of the Director, DARPA, pursuant to DoD Directive 5200.8, "Security of Military Installations and Resources," July 29, 1980.

11. Establish and maintain, for the functions assigned, an appropriate publications system for the promulgation of common supply and service regulations, instructions, and reference documents, and changes thereto, pursuant to the policies and procedures in DoD 5025.1–M, "Department of Defense Directives System Procedures," April 1981.

12. In coordination with the Director of Administration and Management, enter into support and service agreements with the Military Departments, other DoD Components, or other Government Agencies, as required for the effective performance of DARPA functions and responsibilities.

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

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

March 6, 1989.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–5517 Filed 3–8–89; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

32 CFR Part 518

[Army Reg. 340–17]

Release of Information and Records From Army Files

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Army is amending its rule for administering the Freedom of Information Act by revising Initial Denial Authorities' responsibilities.

DATE: Effective on March 9, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. William A. Walker, Policy and Strategy Directorate, Office of the Director of Information Systems for Command, Control, Communications and Computers, Office of the Secretary of the Army, Washington, DC 20310–0107.

SUPPLEMENTARY INFORMATION: This amendment shifts responsibilities for initial denial authority held by the Administrative Assistant to the Secretary of the Army, by designating new initial denial authorities as follow: Assistant Secretary of the Army (Financial Management) for finance and accounting records; Assistant Secretary of the Army (Research, Development and Acquisition) for procurement records; and, Director of Information Systems for Command, Control, Communications and Computers for information resources management related records. It also provides that special initial denial authority may be designated in cases that do not specifically fall under an existing initial denial authority purview. This rule is not a "major rule" as defined by

Executive Order 12291. Therefore, no regulatory impact analysis has been prepared. The Department of the Army certifies that this document will not have an impact on a significant number of small entities under the Regulatory Flexibility Act (5 U.S.C. *et seq.*) Therefore, no regulatory flexibility analysis has been prepared. The rule has no collection of information requirements and therefore does not require the approval of OMB under 44 U.S.C. 3501 *et. seq.*

Lists of Subjects in 32 CFR Part 518

Information, Archives and records. Privacy, Freedom of information.

Dated: March 1, 1989.

John O. Roach,

Department of the Army Liaison Officer with the Federal Register.

PART 518—[AMENDED]

32 CFR Part 518 is amended to read as follows:

Subpart E—Release and Processing Procedures

1. 32 CFR Part 518.15 is amended by revising paragraphs (a)(4) (i) through (xxiv) as follows:

§ 518.15 Initial determinations.

(a) * * *

(4) * * *

(i) The Administrative Assistant to the Secretary of the Army is authorized to act for the Secretary of the Army (SA) on requests for all records maintained by the Office of the Secretary of the Army and its serviced activities, except those specified in paragraphs (a)(4) (ii) through (vi) of this section, as well as those requests requiring the personal attention of the SA.

(ii) The Assistant Secretary of the Army, (Financial Management) is authorized to act on requests for finance and accounting records.

(iii) The Assistant Secretary of the Army, (Research, Development and Acquisition), is authorized to act on requests for procurement records, other than those under the purview of the Chief of Engineers and the Commander, U.S. Army Materiel Command.

(iv) The Director of Information Systems for Command, Control, Communications and Computers is authorized to act on requests for records pertaining to the Army Information Resources Management Program (automation, telecommunications, visual-information, records management, publications and printing, and libraries).

(v) The Inspector General is authorized to act on requests for all Inspector General records under Army Regulation 20–1.

(vi) The Auditor General is authorized to act on requests for records relating to audits done by the U.S. Army Audit Agency under Army Regulation 10–2. This includes requests for related records developed by the Audit Agency.

(vii) The Deputy Chief of Staff for Operations and Plans is authorized to act on requests for records relating to strategy formulation; force development, individual and unit training policy, strategic and tactical command and control systems, nuclear and chemical matters, use of DA forces, and military police records and reports, prisoner confinement, and correctional records.

(viii) The Deputy Chief of Staff for Personnel is authorized to act on requests for case summaries; letters of instruction to boards; behavioral science records, general education records, and alcohol and drug prevention and control records. Excluding individual treatment/test records; which is a responsibility of The Surgeon General.

(ix) The Deputy Chief of Staff for Logistics is authorized to act on requests for records to DA logistical requirements and determinations, policy concerning materiel maintenance and use, equipment standards, and logistical readiness.

(x) The Chief of Engineers is authorized to act on requests for records involving civil works, military construction, engineer procurement, and ecology; and the records of the U.S. Army Engineer divisions, districts, laboratories, and field operating agencies.

(xi) The Surgeon General is authorized to act on requests for medical research and development records, and the medical records of active duty military personnel, dependents, and persons given physical examinations or treatment at DA medical facilities; to include alcohol and drug treatment/test records.

(xii) The Chief of Chaplains is authorized to act on requests for records involving ecclesiastical relationships, rites performed by DA chaplains, and non-privileged communications relating to clergy and active duty chaplains military personnel files.

(xiii) The Judge Advocate General (TJAG) is authorized to act on requests for records relating to claims, courts-martial, legal services, and similar legal-type records. TJAG is also authorized to act on requests for records described elsewhere in this AR, if those records relate to litigation in which the United States has an interest. In addition, TJAG is authorized to act on requests for records that are not within the functional areas of responsibility of any other IDA.

(xiv) The Chief, National Guard Bureau is authorized to act on requests for all Army National Guard records, unless such records clearly fall within another IDA's responsibility. This includes National Guard organization and training files, plans, operations, and readiness files, policy files, historical files, and files relating to National Guard military support and civil disturbance activities.

(xv) The Chief of Army Reserve is authorized to act on requests for all personnel and medical records of retired, separated, discharged, deceased, and reserve component military personnel, and all Army reserve (USAR) records, unless such records clearly fall within another IDA's responsibility. This includes records relating to USAR plans, policies and operations, changes in the organizational status of USAR units; mobilization and demobilization policies, active duty tours, and the Individual Mobilization Augmentation Program.

(xvi) The Commander, United States Army Material Command (AMC) is authorized to act on requests for the records of AMC headquarters and its subordinate commands, units, and activities that relate to procurement, logistics, research and development, and supply and maintenance operations.

(xvii) The Commander, United States Army Criminal Investigation Command (USACIDC), is authorized to act on requests for criminal investigative records of USACIDC headquarters and its subordinate activities. This includes criminal investigation records, investigation-in-progress records, and military police reports that result in criminal investigation reports.

(xix) The Commander, United States Total Army Personnel Command, is authorized to act on requests for military personnel files relating to active duty (other than those of reserve and retired personnel) military personnel matters, personnel locator, physical disability determinations, and other military personnel administration records; records relating to military

casualty and memorialization activities; heraldic activities, voting, records relating to identification cards, naturalization, citizenship, commercial solicitation, Military Postal Service Agency and Army postal and unofficial mail service, civilian personnel records, other civilian personnel matters and personnel administration records.

(xx) The Commander, United States Army Community and Family Support Center is authorized to act on requests for records relating to morale, welfare and recreation activities; nonappropriated funds, child development centers, community life programs, family action programs, retired activities, club management, Army emergency relief, consumer protection, retiree survival benefits, and records dealing with DA relationships and social security, veterans' affairs, United Service Organization, U.S. Soldiers' and Airmen's Home, and American Red Cross.

(xxi) The Commander, United States Army Intelligence and Security Command is authorized to act on requests for intelligence and investigation and security records, foreign scientific technological information, intelligence training, mapping and geodesy information, ground surveillance records, intelligence threat assessments, and missile intelligence data relating to tactical land warfare systems.

(xxii) The General Counsel, Army and Air Force Exchange Service (AAFES) is authorized to act on requests for AAFES records, under Army Regulation 60–201/ Air Force Regulation 147–14.

(xxiii) The Commander, Forces Command, as a specified commander, is authorized to act on requests for specified command records that are unique to Forces Command under DOD 5400.7–R, paragraph 1–510.

(xxiv) Special IDA authority for time-event related records may be designated on a case-by-case basis. These will be published in the **Federal Register.** Current information on special delegations may be obtained from the Office of the Director of Information Systems for Command, Control, Communications and Computers, Attention: SAIS–PSP, Washington, DC 20310–0107 (697–5796).

* * * * *

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 89–5458 Filed 3–8–89; 8:45 am]

BILLING CODE 37 10-08-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3495-8; NC-021]

Approval and Promulgation of Implementation Plans North Carolina Stack Height Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY OF ACTION: In this action, EPA is approving North Carolina's stack height regulations. This action will approve the original stack height regulations (2D.0533) proposed on March 29, 1983 (48 FR 13052). It will also approve revisions to rule 2H.0603 proposed on October 17, 1984 (49 FR 40607), and revisions to rule 2D.0533 proposed on May 26, 1987 (52 FR 19539). These regulations satisfy EPA's stack height requirements.

Although EPA generally approves North Carolina's stack height rules on the grounds that they satisfy 40 CFR Part 51, this action may be subject to modification when EPA completes rulemaking in response to the decision in *NRDC* vs *Thomas*, 838 F.2d 1224 (D.C. Cir. 1988). If EPA's response to the NRDC remand modifies the July 8, 1985, stack height regulations, EPA will notify the State of North Carolina 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 North Carolina and source owners or operators.

DATE: These actions are effective April 10, 1989.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

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

North Carolina Department of Natural Resources and Community Development, P.O. Box 27687, Raleigh, North Carolina 27611.

FOR FURTHER INFORMATION CONTACT: Beverly T. Hudson, EPA Region IV, Air Programs Branch at the above listed address, telephone (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 8, 1985 (50 FR 27892), EPA published final regulations to implement Section 123 of the Clean Air Act (CAA), which regulates the manner in which dispersion of pollutants from a source may be considered in setting emission limitations. Pursuant to these regulations and the Clean Air Act Amendments of 1977, all states were required to (1) review and revise, as necessary, their state implementation plans (SIPs) to include provisions that limit stack height credit and dispersion techniques in accordance with the revised regulations and (2) review all existing emission limitations to determine whether these limitations have been affected by stack height credits above GEP or any other dispersion techniques. For any limitations so affected, states were to prepare revised limitations consistent with their revised SIPs. All SIP revisions and revised emission limits were to be submitted to EPA within nine months of promulgation.

State Submission

On September 24, 1982 North Carolina submitted to EPA a new regulation (2D.0533) on stack heights, which was intended to satisfy EPA's February 8, 1982, stack height requirements (see 47 FR 5858). On March 29, 1983 (48 FR 13052), EPA proposed to approve the regulation provided the State submitted appropriate provision for public comment in cases where fluid modeling would be used to allow stack height credit in excess of good engineering practice (GEP).

North Carolina submitted an additional regulation change (2H.0603) on April 17, 1984, which would satisfy the public comment requirement of EPA's stack height regulations. This additional change was presumed to make regulation 2D.0533 fully approvable under the Agency's 1982 requirements. EPA proposed to approve the revision to 2H.0603 on October 17, 1984 (49 FR 40607).

The Sierra Club vs. EPA court decision substantially revised EPA's stack height regulations and North Carolina was required to revise 2D.0533 to make it consistent with the new federal requirements. A revision to 2D.0533 was submitted to EPA on February 25, 1986, and was proposed for approval on May 26, 1987 (52 FR 19539). The regulations apply to both new and existing sources, thereby satisfying requirements for state new source review regulations in 40 CFR 51.164. The regulations apply to all stacks not in existence on December 31, 1970, and all

dispersion techniques implemented since December 31, 1970.

EPA's stack height regulations were challenged in *NRDC* vs. *Thomas*, 838 F2d 1224 (D.C. Cir. 1988). On January 22, 1988, the U.S. Court of Appeals for the D.C. Circuit issued a decision affirming the regulations in large part, but remanding three provisions to EPA for reconsideration:

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 multi-flue stacks [40 CFR 51.100(hh)(2)(ii)(A)].

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

If EPA's response to the NRDC remand modifies the July 8, 1985, stack height regulations, EPA will notify the State of North Carolina 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 North Carolina and source owners or operators.

Public Comment

EPA received one comment on the North Carolina stack height regulations (2D.0533) proposal of March 29, 1983 (48 FR 13052). This comment objected to the regulations because their effect would be to increase stack heights, causing pollution problems and greater danger of acid rain.

The purpose of the stack height regulations is to prohibit stacks taller than good engineering practice (GEP) height and other dispersion techniques from affecting the emission limitation required to meet the National Ambient Air Quality Standards (NAAQS) or Prevention of Significant Deterioration air quality increments (PSD increments). These regulations were promulgated to implement section 123 of the Clean Air Act. Although they do not limit actual stack height, they would also not lead sources to construct stacks heigher than GEP. On the contrary, approval of stack height regulations will tend to lead to lower stacks than would exist in the absence of such regulations. Furthermore, EPA has no mandate in section 123 to consider the effect of stack heights on acid precipitation, but is required only to assure that dispersion is not used instead of control to bring ground-level concentration of criteria pollutants within the NAAQS.

Final Action

EPA is approving North Carolina's stack height regulations and associated regulatory revisions. These revisions are consistent with EPA's stack height requirements as Part 51 of Chapter I, Title 40 of the Code of Federal Regulations.

However, EPA points out again that this action may be subject to modification when EPA completes rulemaking to respond to the decision in *NRDC* vs. *Thomas*, 838 F.2d 1224 (D.C. Cir. 1988). If EPA's response to the NRDC remand modifies the July 8, 1985, stack height regulations, EPA will notify the State of North Carolina 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 North Carolina and source owners or operators.

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 8, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

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

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Incorporation by reference.

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

Date: December 15, 1988.

Lee M. Thomas,

Administrator

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

PART 52—[AMENDED]

Subpart II—North Carolina

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1770 is amended by adding paragraph (c)(50) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(50) Stack Height regulations were submitted to EPA on September 24, 1982, April 17, 1984, and February 25, 1986, by the North Carolina Department of Natural Resources and Community Development.

(i) Incorporation by reference. (A) Regulations 15NCAC 2D.0533 (Stack Height) adopted on September 9, 1982 and Regulations 15NCAC 2H.0603 (Applications) adopted on February 13, 1986 and April 12, 1984, by the Environmental Management Commission.

(ii) Other material—none.

[FR Doc. 89–5543 Filed 3–8–89; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[FRL–3534–3; NC–010]

Approval and Promulgation of Implementation Plans; North Carolina; SO_2 SIP Revision for Alba Waldensian and Valdese Manufacturing

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Today, EPA is approving a source-specific revision to the North Carolina State Implementation Plan (SIP) for sulfur dioxide (SO_2), which was proposed on November 3, 1988 (53 FR 44495). No comments were received. Ambient air quality modeling to support this SIP relaxation was submitted to EPA by the State on April 2, 1986. The modeling demonstrated that a less stringent SO_2 limit is approvable for Alba Waldensian, Inc., and Valdese Manufacturing Company and that the National Ambient Air Quality Standards (NAAQS) for SO_2 will be protected. No interstate impacts or attainment problems are expected as a result of approving this SIP revision.

DATES: This action is effective April 10, 1989.

ADDRESSES: Copies of the State's submittals are available for review during normal business hours at the following locations:

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

Air Quality Section, Division of Environmental Management, North Carolina Department of Natural Resources and Community Development, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina 27611.

Air Programs Branch, Region IV, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Rosalyn Hughes of the Region IV EPA Air Programs Branch, at the above address and the following phone: (404) 347-2864, or (FTS) 257-2864.

SUPPLEMENTARY INFORMATION: On December 7, 1982 (47 FR 54934), EPA approved, for all but 24 sources in the State of North Carolina, a revision to the State's regulation 2D.0516 which relaxed the SO_2 limit for fuel-burning sources. The original version of 2D.0516 prescribed a stepdown in SO_2 emissions for all fuel-burning sources (from 2.3 pounds per million BTU (lb/MBTU) to 1.6 lb/MBTU) by July 1, 1980. Air quality dispersion modeling submitted by the State in 1982 indicated that removal of the SO_2 stepdown requirement was approvable for all but 24 sources.

EPA indicated in the December 7, 1982, **Federal Register** notice that if future modeling could show that the relaxed SO_2 limit of 2.3 lb/MBTU was adequate to protect the NAAQS, then the stepdown requirement could be eliminated for other sources as well.

Alba Waldensian, Inc., and Valdese Manufacturing Company were two of the sources excluded from EPA's approval of the revised fuel-burning regulation. On April 2, 1986, North Carolina submitted the ambient air quality analysis necessary to show the Alba Waldensian and Valdese Manufacturing Company could be allowed to emit 2.3 lb SO_2/MBTU without jeopardizing the NAAQS. On November 3, 1988 (53 FR 44495), EPA proposed approval and no comments were received.

The modeling analysis differs from the modeling submitted January 11, 1982, in that the load capacities for the Alba Waldensian facilities and the Valdese Manufacturing plant have been reduced. The new load capacities for the Alba Waldensian facilities are contained in permits No. 4766 and No. 4920. The new Valdese Manufacturing load capacities are in permit number 504R3. EPA will incorporate the permits into the SIP so that the reduced load capacities will become federally enforceable.

The VALLEY dispersion model was used to estimate the ambient impact of the allowable SO_2 emission limit because the sources are located close together in complex terrain. The results of the analysis showed a maximum 24-hour concentration of 346 ug/m^3, which is below the 24-hour NAAQS of 365 ug/m^3. Demonstration of attainment with the 3-hour and annual ambient SO_2 standards was also made. In addition, the ISCST model was used to determine the downwash effects of nearby buildings on SO_2 concentrations near the two facilities. The maximum impacts predicted by this model were well below the NAAQS for SO_2.

The modeling techniques supporting the demonstration are primarily based on modeling guidance in place at the time that the analysis was performed, i.e., the EPA Guidance of Air Quality Modeling (1978). Since that time, revisions to the modeling guidance have been promulgated (51 FR 32176, September 9, 1986, and 53 FR 592, January 6, 1988). Since the modeling was completed and reviewed by EPA prior to publication of the revised guidance, EPA accepts the analysis.

In its review of the State's submittal for these two sources, EPA became aware of deficiencies in North Carolina's compliance test method for SO_2. The State has revised their compliance test method. The new method was approved by EPA on June 9, 1988 (53 FR 21638).

Actual SO_2 emissions at the two facilities have not increased as a result of eliminating the SO_2 stepdown requirement. Therefore, EPA's Prevention of Significant Deterioration (PSD) regulations (August 7, 1980, 45 FR 52676) do not apply to this SIP revision.

No analysis is required for compliance with the Good Engineering Stack Height rule revision because the stacks of both sources are below 65 meters. Also, there are no merged plume issues associated with this source-specific SIP revision.

EPA has also reviewed this SIP revision for consistency with Section 110(a)(2)(E) of the Clean Air Act, and has found that the interstate impact of these sources will be significantly less than the significant impact concentrations for each averaging period. Due to present limitations on air quality modeling, the ambient analysis was limited to a 50 km radius around the Alba Waldensian and Valdese Manufacturing facilities. Both plants are located further than 50 km from any interstate boundary. Also, as shown in the technical Support Document for this SIP revision, the VALLEY model demonstrate that the 3-hour and 24-hour ambient SO_2 concentrations resulting from these two sources' emissions woud decrease markedly a short distance from the plant and the predicted ambient concentrations would fall in every case below the SO_2 standards. Therefore, in EPA's judgment, the revision will not contribute to SO_2 nonattainment in Tennessee, South Carolina, Virginia or more distant states. Neither will this revision interfere with PSD measures in the states surrounding North Carolina.

Final Action

Based on the foregoing, EPA hereby approves the revision to North Carolina regulation 2D.0516, submitted to EPA on March 22, 1977, as it applies to Alba Waldensian and Valdese Manufacturing. This will replace the existing federally approved limit of 1.6 lb SO_2/MBTU with the limit of 2.6 lb SO_2/MBTU for these two sources.

For further discussion of these issues and the air quality modeling analysis, please consult the Technical Support Document, which is available for public inspection at the EPA Region IV Office in Atlanta, Georgia.

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 8, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

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

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Incorporation by reference, Sulfur oxides.

Note: Incorporation by reference of the State Implementation Plan for the State of North Carolina was approved by the Director of the Federal Register on July 1, 1982.

Date: February 15, 1989.

Lee A DeHihns, III,

Acting Regional Administrator.

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

PART 52—[AMENDED]

Subpart II—North Carolina

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

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

2. Section 52.1770 is amended by adding paragraph (c)(45) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(45) SO_2 revisions for Alba Waldensian and Valdese Manufacturing which were submitted by the North Carolina Department of Natural Resources and Community Development on April 2, 1986.

(i) Incorporation by reference. (A) Letter of April 2, 1986, from the North Carolina Department of Natural

Resources and Community Development.

(B) Permits for Alba Waldensian (2 plants) and Valdese Manufacturing which were issued by the Environmental Management Commission on July 23, 1986, March 11, 1987, and August 1, 1985, respectively.

(ii) Additional material—none.

[FR Doc. 89-5332 Filed 3-8-89; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

42 CFR Part 1001

Medicare and Medicaid Programs: Fraud and Abuse; Administrative Adjudication of Certain Health Care Exclusion Cases

AGENCY: Office of the Secretary, HHS; Office of Inspector General (OIG).

ACTION: Final rule.

SUMMARY: This final rule will allow for the administrative hearings and administrative appeal of certain health care exclusion cases governed by 42 CFR part 1001 to be handled by the Departmental Appeals Board of this Department. The purpose of this final rule is to conform existing regulations in this Part to the delegations of authority made by the Secretary on June 16, 1988 to handle these hearings and appeals.

EFFECTIVE DATE: These regulations are effective on March 9, 1989.

FOR FURTHER INFORMATION CONTACT: Joel J. Schaer, Office of Inspector General, Legislation, Regulations and Public Affairs Staff, (202) 472-5270.

SUPPLEMENTARY INFORMATION:

I. Background

42 CFR Part 1001 currently contains the substantive and procedural regulations for implementing sections 1128, 1842(j), 1862(e), and former section 1862(d) of the Social Security Act. These statutory provisions constitute some of the authorities that provide for exclusions under the Medicare and Medicaid programs. The procedures for conducting hearings and appeals of cases arising under these statutory provisions are set forth in regulations at 42 CFR 1001.107(c) and 1001.128 (b) and (c). In the past, hearings in these cases have been conducted by administrative law judges assigned to the Office of Hearings and Appeals of the Social Security Administration, while the administrative appeals of these cases have been handled by the Appeals Council also of the Social Security Administration. In all cases, subsequent judicial review is available in United States District Court.

On June 16, 1988, the Secretary delegated to the administrative law judges assigned or detailed to the Departmental Appeals Board the authority to conduct administrative hearings for a number of statutory authorities, including those governed by 42 CFR Part 1001. In addition, the Secretary delegated to the Departmental Appeals Board the authority to hear administrative appeals of these cases. (53 FR 25543, July 7, 1988.)

II. Provisions of the Regulation

This final rule is designed to conform existing regulations governing the administrative adjudication of certain types of health care exclusion cases to the June 16, 1988 delegations of authority made by the Secretary. Specifically, the revisions to 42 CFR Part 1001 provide that hearings in these type cases may be conducted by administrative law judges assigned or detailed to the Departmental Appeals Board. These regulations further provide that administrative appeals of such cases may be decided by the members of the Departmental Appeals Board. At the discretion of the Secretary, these changes to the regulations may be applied to cases pending in administrative adjudication.

These regulations are rules of agency procedure and practice exempt from the notice and comment rulemaking requirement (5 U.S.C. 553(b)).

III. Impact Analysis

Executive Order 12291

We have determined that these regulations do not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. Under those criteria, a rule is classified as major if it would have an annual effect on the economy of $100 million or more; cause a major increase in costs or prices for consumers, government agencies, industry or a geographic region; or cause significant adverse effects on business.

Regulatory Flexibility Analysis

These regulations do not constitute a rule as defined under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601(2)).

List of Subjects in 42 CFR Part 1001

Administrative practice and procedure, Fraud, Health facilities, Health professions, Medicare.

42 CFR Chapter V, Part 1001 is amended as set forth below:

PART 1001—PROGRAM INTEGRITY

1. The authority citation for Part 1001 continues to read as follows:

Authority: Secs. 1102, 1128, 1842(j), 1862(d), 1862(e), 1866(b)(2) (D), (E) and (F), and 1871 of the Social Security Act (42 U.S.C. 1302, 1320a-7, 1395u(j), 1395y(d), 1395y(e), 1395cc(b)(2) (D), (E) and (F), and 1395hh), unless otherwise noted.

2. Section 1001.107 is amended by revising paragraph (c) to read as follows:

§ 1001.107 Notice of exclusion or termination to affected party.

* * * * *

(c) This decision and notice constitute an "initial determination" and a "notice of initial determination" for purposes of the administrative appeals procedures specified in Subparts D and E of Part 498 of this title, except that (1) the authority to conduct hearings and render decisions may be exercised by administrative law judges assigned to, or detailed to, the Departmental Appeals Board, and (2) the authority to render final determinations may be exercised by the Departmental Appeals Board.

3. Section 1001.128 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1001.128 Appeal procedures.

* * * * *

(b) A hearing under this section will be conducted in accordance with procedures set forth in Subpart D of Part 498 of this title, except that the authority to conduct hearings and render decisions may be exercised by administrative law judges assigned to, or detailed to, the Departmental Appeals Board.

(c) If any party to the hearing is dissatisfied with the hearing decision, that party is entitled to request review of the decision as specified in Subpart E of Part 498 of this title, except that the authority to render final determinations may be exercised by the Departmental Appeals Board. A suspended party may also seek judicial review of the final administrative decision.

Dated: November 28, 1988.

Richard P. Kusserow,

Inspector General, Department of Health and Human Services.

Approved: January 18, 1989.

Otis R. Bowen,

Secretary.

[FR Doc. 89-5488 Filed 3-8-89; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[FCC 89-19]

Non-Government Use of the Tracking and Data Relay Satellite System

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this action the Commission is adopting a new United States footnote to permit non-Government space stations to transmit to National Aeronautical and Space Administration's (NASA) Tracking and Data Relay Satellite System (TDRSS) in the 14.896–15.121 GHz band. This action is necessary to facilitate the expansion of commercial space ventures by providing lower-cost, more efficient radiocommunications to and from earth. By taking this action the Commission will be furthering the President's directive to remove regulatory obstacles to non-Government space activities.

EFFECTIVE DATE: March 31, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Damon C. Ladson, Frequency Allocations Branch, Office of Engineering and Technology, (202) 653–8106.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 2

Radio.

This is a summary of the Commission's order, FCC 89–19, adopted January 27, 1989, and released February 15, 1989.

The full text of the Commission's decisions are available for inspection and copying during normal business hours in the FCC dockets branch (room 230), 1919 M Street Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street Northwest, Suite 140, Washington, DC 20037.

Summary of Order

1. The Commission is amending § 2.106, 47 CFR Part 2, by adding a new United States footnote to permit non-Government space stations to transmit to NASA's Tracking and Data Relay Satellite System in the 14.896–15.121 GHz band. The footnote also provides power flux density limits consistent with recommendations of the International Radio Consultative Committee (CCIR). The 14.896–15.121 GHz band is currently allocated for Government fixed and mobile services on a primary basis and Government space research on a secondary basis. Presently, there is no non-Government allocation in this band.

2. On February 11, 1988, the President issued a revised directive on national space policy, calling upon the Government to identify and eliminate regulatory impediments to non-Government space sector activities. In order to further that directive, NTIA has requested that the Commission adopt a footnote to permit commercial users access to the 14.896–15.121 GHz NASA TDRSS frequencies. This footnote will provide that access. Since there are no other non-Government operations in the 14.896–15.121 GHz band, this action will not affect other non-Government spectrum users.

Ordering Clause

This action is taken pursuant to 47 U.S.C. 154(i), 303(c), 303(f), 303(g) and 303(r).

Rule Changes

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation in Part 2 continues to read:

Authority: Sec. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations, is amended by listing footnote US310 in column 4 for the 14.7145–15.1365 GHz band, and column 5 for the 14.50–15.35 GHz band and adding the text of footnote US310 to the list at the end of the table as follows:

§ 2.106 Table of frequency allocations.

United States table	
Government Allocation (GHz) (4)	Non-Government Allocation (GHz) (5)
• • •	• • •
14.5000–14.7145 FIXED. Mobile. Space Research. 14.7145–15.1365.	14.50–15.35
MOBILE. Fixed. Space Research. US310 G119. 15.1365–15.35. FIXED. Mobile. Space Research.	
720 US211	720 US211 US310
• • •	• • •

* * * * *

United States (US) Footnotes

* * * * *

US310 In the band 14.896–15.121 GHz, non-Government space stations in the space research service may be authorized on a secondary basis to transmit to Tracking and Data Relay Satellites subject to such conditions as may be applied on a case-by-case basis. Such transmissions shall not cause harmful interference to authorized Government stations. The power flux density at the earth's surface from such non-Government stations shall not exceed −138 to −148 dBW/m²/kHz, depending on the angle of arrival, in accordance with CCIR Recommendation 510–1.

* * * * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–5465 Filed 3–8–89; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 15

[General Docket 86–422; FCC 89–50]

Control and Security Alarm Devices

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action denies a petition for reconsideration filed by the National Academy of Science's Committee On Radio Frequencies (CORF) and the National Radio Astronomy Observatory (NRAO), requesting certain changes to the Report and Order in General Docket 86–422. Based on this action, the limits specified in the subject report and order will remain in effect.

EFFECTIVE DATE: March 9, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John A. Reed, telephone (202) 653–7313.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in General Docket 86–422, adopted February 10, 1989, and released February 27, 1989. The full text of the Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order

1. In the *Report and Order (Order)* in General Docket 86–422, adopted March 9, 1988, FCC 88–101 [53 FR 11861, April 11, 1988], the Commission, among other things, limited the emissions permitted in certain restricted bands above 1000 MHz, to a level of 500 uV/m at a distance of 3 meters. This level was established after considering the need to minimize the potential for interference to sensitive radio services authorized to operate in those bands.

2. On May 12, 1988, the National Academy of Science's Committee on Radio Frequencies (CORF) and the National Radio Astronomy Observatory (NRAO) filed a petition for reconsideration. CORF/NRAO requested that the Commission set aside its decision and revert to a previously established limit of 125 uV/m at 3 meters in four radio astronomy bands: 1400–1427 MHz, 1660–1668.5 MHz, 2690–2700 MHz and 4990–5000 MHz. Although this limit had been established in a proceeding prior to the initiation of General Docket 86–422, it was not enforced due to a partial stay of the rules and a waiver with regard to the requirement to measure unwanted emissions above 1000 MHz. This resulted in a stituation where, for all practical purposes, there were no limits on the level of emissions permitted in the restricted bands above 1000 MHz, for control and security alarm devices including the frequency bands of concern to CORF/NRAO.

3. Oppositions to the CORF/NRAO petition were filed by Interactive Technologies, Inc. ("ITI"), Pittway Corporation ("Pittway"), Linear Corporation ("Linear"), The Door Operator and Remote Controls Manufacturers Association ("DORCMA"), The Chamberlain Group ("Chamberlain"), and Rollins, Inc. ("Rollins"). They believe that there should be no stay in the effectiveness of the Report and Order in this proceeding, and that the Commission should re-affirm its findings. There were no filings in support of the petition.

4. In the *Order*, the Commission pointed out that the objective in establishing emission limits in the restricted frequency bands is to minimize the potential for interference to the sensitive radio services, including radio astronomy, authorized to operate in those bands. The 500 uV/m at 3 meter limit was established as a balance between the desire for interference control and the economic difficulty of producing devices to comply with the limit.

5. The Commission observed that there are numerous potential sources of unwanted emissions, in addition to Part 15 control and security devices which could affect operations possibly within the radio astronomy bands. CORF/NRAO was unable to identify a single source of interference to their operations; whether from Part 15 devices or from transmitters operated in the authorized services. It is important to note that unwanted emissions from equipment used in the authorized services are permitted to be more than 1000 times greater than unwanted emissions from Part 15 devices, and these greater emissions are also permitted within the radio astronomy bands. Since unwanted emissions from equipment used in the authorized services are permitted within the radio astronomy bands, and at a much higher level than those permitted to be radiated from Part 15 devices, the Commission must recognize the probability that the unidentified interference referenced by CORF/NRAO may be caused by emissions from equipment used in the authorized services. Therefore, the Commission cannot accept speculation that significant interference has been caused by Part 15 devices.

6. The Commission finds that CORF/NRAO have not presented any new information in their petition for reconsideration that had not been considered previously by the Commission in reaching the decision in this proceeding. Furthermore, the Commission finds that the CORF/NRAO petition does not contain any persuasive arguments or evidence to warrant a change in the emission limit of 500 uV/m at 3 meters for emissions in the restricted bands above 1000 MHz, caused by control and security alarm devices operated under the provisions of Part 15 of the Rules. For these reasons, and in light of the above discussion, the Commission is not persuaded by the arguments set forth in CORF/NRAO's request for reconsideration of the decisions in the Report and Order in General Docket 86–422.

Ordering Clause

7. Accordingly, *It Is Ordered* that the petition for reconsideration filed by the National Academy of Science, through its Committee on Radio Frequencies, and the National Radio Astronomy Observatory *is denied*.

List of Subjects in 47 CFR Part 15

Control and security alarm equipment.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–5125 Filed 3–8–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 88–29; RM–5798]

Radio Broadcasting Services; Anchorage, AK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 277C2 for Channel 276A at Anchorage, Alaska, and modifies the Class A license of Korlyn Broadcasting, Inc. for Station KXDZ(FM), as requested, to specify operation on the higher class channel. This will provide Anchorage with an additional expanded coverage area FM service. Reference coordinates for Channel 277C2 at Anchorage are 61–09–58 and 149–49–34. With this action, the proceeding is terminated.

EFFECTIVE DATE: April 17, 1989.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88–29, adopted February 8, 1989, and released March 3, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Alaska, is amended by amending the entry for Anchorage by removing Channel 276A and adding Channel 277C2.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-5469 Filed 3-8-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-236; RM-5725]

Radio Broadcasting Services; Carthage, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 221B for Channel 221A and modifies the license of Station WCAZ(FM) at Carthage, Illinois, to specify the higher class channel, at the request of Bryan Broadcasting, Inc., licensee of Station WCAZ(FM). A *Report and Order* was issued in this proceeding on November 4, 1988, dismissing the petition for rule making for lack of interest. According to petitioner timely comments were filed but were never received by Commission staff responsible for acting on petitions. Petitioner's late expression of interest has been accepted for the purpose of substituting Channel 221B1 for Channel 221A at Carthage, Illinois. The restricted site coordinates for Channel 221B1 are 40-18-01 and 91-11-54. With this action, this proceeding is terminated.

EFFECTIVE DATE: April 17, 1989.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, MM Docket No. 88-236, adopted February 8, 1989, and released March 3, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Illinois is amended by adding Channel 221B1 and removing Channel 221A at Carthage.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-5467 Filed 3-8-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-325; RM-5901]

Radio Broadcasting Services; Ocean Springs, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 276C2 for Channel 276A at Ocean Springs, Mississippi, in response to a petition filed by Charles H. Cooper. In accordance with § 1.420(g) of the Commission's Rules, we have also modified the license for Station WOSM(FM), Ocean Springs, to specify operation on Channel 276C2 in lieu of Channel 276A, at the current site of Station WOSM(FM). The coordinates for Channel 276C2 at Ocean Springs are 30-24-34 and 88-42-23. With this action, this proceeding is terminated.

EFFECTIVE DATE: April 17, 1989.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-325, adopted February 8, 1989, and released March 3, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments under Mississippi is amended by removing Channel 276A and adding Channel 276C2 at Ocean Springs.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-5466 Filed 3-8-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-23; RM-6106]

Radio Broadcasting Services; Ashland, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 244C2 for Channel 244A Ashland, Wisconsin, and modifies the license of Station WJJH(FM) to specify operation on the higher powered frequency, as requested by Bay Broadcasting Corp. The current transmitter site of Station WJJH(FM) at coordinates 46-34-23 and 90-51-56 can be used. The Canadian government has concurred in the allotment. With this action, this proceeding is terminated.

EFFECTIVE DATE: April 17, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No 88-23, adopted February 8, 1989, and released March 3, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Wisconsin, by adding Channel 244C2 and removing Channel 244A at Ashland.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-5468 Filed 3-8-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 73 and 76

[MM Docket No. 87-154; FCC 89-344]

Broadcast Television and Cable Television Service; Cross-Interest Policy

AGENCY: Federal Communications Commission.

ACTION: Policy statement.

SUMMARY: Through this decision the Commission reduces the scope and applicability of its cross-interest policy. The cross-interest policy essentially prevents individuals or entities from having "meaningful" relationships in two competing media outlets serving the same area. The meaningful relationships which have been considered by the Commission to be encompassed by this policy include: (1) Consulting positions; (2) joint ventures; (3) time brokerage arrangements; (4) advertising agencies; (5) nonattributable equity interests; and (6) key employee relationships. The cross interest policy was originally developed as a supplement to the Commission's duopoly rule and, in later years, was extended through case-by-case adjudication as a corollary to the Commission's other ownership rules. Like these rules, the cross-interest policy was aimed at ensuring the public's access to a diversity of viewpoints and at preventing undue concentration of economic power in broadcast licensees.

The Commission believes, for a variety of reasons, that the cross-interest policy, as it has applied to consulting positions, time brokerage arrangements and advertising agency relationships, is not longer essential to maximize diversity of viewpoints or to prevent undue concentration of economic power in broadcast markets. First, the substantial growth of media outlets across markets of all sizes has vastly emeliorated diversity concerns. Second, the new attribution provisions in the ownership rules amply define those relationships which create program and economic diversity concerns and those which do not. In many respects, these new rules duplicate, or are more extensive than the cross-interest policy, thereby rendering it superfluous. Third, other legal remedies exist that reduce or deter potential anticompetitive consequences which the cross-interest policy is designed to curb. Finally, our analysis indicates that the cross-interest policy imposes costs and burdens on the public, as well as the Commission, that are especially difficult to justify given the reduced need for the policy. At the same time that the Commission issues this decision reducing the scope of the cross-interest policy, it is also issuing a separate *Further Notice of Inquiry/Notice of Proposed Rulemaking* inviting further comment for a more extensive record before determining whether to eliminate the cross-interest policy as it applies to key employees, certain nonattributable equity interests and joint ventures. Thus, until this proceeding is completed, the cross-interest policy remains in effect as it applies to these relationships.

EFFECTIVE DATE: April 6, 1989.

ADDRESS: Federal Communication Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Douglas Minster, Mass Media Bureau, Policy and Rules Division, (202) 632-7792.

List of Subjects

47 CFR Part 73

Radio broadcasting, Television broadcasting.

47 CFR Part 76

Cable television.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Policy Statement

Adopted: October 27, 1988; Released: February 28, 1989.

By the Commission:

Introduction

1. On May 14, 1987, we instituted a *Notice of Inquiry* (*Notice*) into the cross-interest policy, which essentially prevents individuals or entities from having "meaningful" cross-interests in two broadcast stations, or a daily newspaper and a broadcast station, or a cable television system and a television broadcast station, serving substantially the same area.[1] As a result of our comprehensive review of the cross-interest policy, we are today issuing this Policy Statement reducing the scope and applicability of that policy. A careful review of the record, our considerable regulatory experience in administering this policy, and our analysis of the public interest costs and benefits, convince us that continued review of many relationships within the cross-interest policy can no longer be justified as a matter of sound policy. Because issues remain with respect to the policy as it applies to key employee relationships, certain nonattributable equity interests and certain joint ventures, we are issuing a *Further Notice of Inquiry/Notice of Proposed Rulemaking* requesting additional comment on those matters.

Purpose and Scope of Inquiry

2. In the *Notice* in this proceeding, we sought comment on the possible elimination of the cross-interest policy.[2] Based on our experience in applying the policy and the developments in the communications marketplace, we expressed skepticism that the cross-interest policy, as applied on an *ad hoc* adjudicatory basis, continued to serve the public interest. Our *Notice* solicited comment on whether retention of the cross-interest policy is necessary to prevent anticompetitive abuses from occurring, whether alternative policing mechanisms exist to assure competition, and whether continued regulation of relationships not specifically addressed by the Commission's rules is necessary. More specifically, we requested commenters to discuss the role of market forces, private remedies, and the antitrust laws to deter anticompetitive misconduct and to ensure competitive communications markets. In addition, we asked whether we should amend our attribution rules to include key employees.

3. In the *Notice*, we identified certain relationships to be within the ambit of the cross-interest policy. These relationships involve key employees, consulting positions, advertising agency representative relationships, time brokerage arrangements, sales representative relationships, nonattributable equity interests, and joint ventures. We observed that the concerns relating to certain cross-interest relationships had either been eliminated or specifically addressed by the Commission's rules. In particular, we

[1] *Reexamination of the Commission's Cross-Interest Policy*, 2 FCC Rcd 3699 (1987).

[2] *Id.* at 3702.

noted that sales representative relationships had been stricken from the cross-interest policy because we found the examination of such relationships unnecessary to promote economic competition and that, to the extent that abuses arose, they could be addressed more adequately by remedies other than regulatory intervention. We further noted that certain minority stock interests and positional interests, such as officers and directors, were now encompassed by the local ownership rules and, therefore, the need to address these interests in the context of our existing cross-interest policy was unnecessary. Accordingly, based upon the considerations described above, we proposed to eliminate most of the remainder of the existing policy.

4. We conclude that retention of our policies relating to consulting positions, advertising agency representative relationships and time brokerage arrangements are no longer warranted in the public interest.[3] Before discussing the reasons for this determination, we shall initially describe the different types of cross-interests addressed in this *Policy Statement* which have created regulatory concern under our existing policy, provide an overview of the policy's evolution, and summarize the comments filed in this proceeding. We shall then focus our attention on the reasons which, considered together, persuade us that these parts of our cross-interest policy are no longer essential to promote economic competition or diversity of viewpoint or otherwise necessary to serve the public interest.

Background

1. Cross-Interests Proscribed Under Policy

5. The cross-interest policy is designed to address instances in which an individual or entity has a "meaningful" relationship in two competing media outlets serving substantially the same area. The meaningful relationships which the Commission has determined to be encompassed under the policy are set forth below.[4]

6. *Consulting Positions.* The Review Board has applied the cross-interest policy where a consultant who provides advice and/or has what would now be an attributable interest in one media outlet in the market also provides advice to other competing stations in the same market.[5] For example, the policy was applied where a spouse of the sole owner of one radio station was to serve as an accountant/bookkeeper or program director for that station as well as serve in a consulting capacity for competing radio stations in the same market. The Review Board reasoned that the consultant had access to confidential finanical or programming information of competitors and, therefore, had the potential to impair arms-length competition.[6]

7. *Time Brokerage Arrangements.* The cross-interest policy has also been considered in instances where a radio station proposes to enter into a "time brokerage" arrangement to purchase varying amounts of time from a competing station in the same market in order to air programming and sell advertising during those segments. Generally, the Commission has found that such proposals implicate the cross-interest policy because of the potential for diminution of competition arising from owning and programming one station and making programming decisions at an independently-owned station.[7]

8. *Advertising agencies.* The cross-interest policy is also triggered when an individual has ownership interests in both a broadcast station and an advertising agency, and the ad agency purchases advertising time on behalf of its clients on other stations in the same service in the same market as the commonly owned station. In these instances, the Commission reasoned that the ad agency may be in a position to favor the commonly-owned station as against competing stations in the placement of advertising. In the past, hearings were held to determine whether such cross-interests implicated the policy.[8]

2. Development of the Cross-Interest Policy

9. The cross-interest policy has evolved almost entirely through case-by-case adjudication. The cross-interest policy was developed in the 1940's as a supplement to the "duopoly" rule, which then prohibited the common ownership, operation, or control of two stations in the same broadcast service covering substantially the same area.[9] At that time, either actual working control or ownership of fifty percent or more of the stock of the licensee were necessary to meet the "ownership, operation or control" requirement of the "duopoly" rule.[10] This phrase, therefore, did not

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[3] As indicated above, our inquiry also included examination of our cross-interest policy as it relates to joint ventures, key employee relationships, and nonattributable equity interests. In order to develop a fuller record, however, we are issuing a separate notice requesting additional comment on these issues.

[4] In addition to determining what constitutes a "meaningful" cross-interest, it is also necessary to ascertain when media outlets serve substantially the same area. Generally, the policy applies to stations or media outlets located in the same community or substantially in the same market. *See, e.g., Farmville Broadcasting Co.*, 47 FCC 2d 463, 464 (1974); *Guy S. Erway*, 90 FCC 2d 750, 752 (Rev. Bd. 1980). The cross-interest policy has not been applied, however, in situations that merely involve a minimal overlap of the 1 mV/m contours of the stations because such stations are not considered to be in the same market. *See, e.g., United Community Enterprises, Inc.*, 37 FCC 2d 953 (Rev. Bd. 1972).

[5] Consultants, as distinguished from key employees, usually involve relationships with the licensee that are limited in duration and scope and generally confined to providing advice, which can either be accepted or rejected by the licensee. In general, consultants are not considered, and hence do not serve, as "employees" of the licensee but rather as independent contractors who are hired for their expertise in one or a number of areas. For example, a consultant may be hired to prepare audience surveys and, based on these surveys, report findings and recommend a course, of action. Thus, while consultants may be engaged by licensees to make findings and recommendations regarding aspects of a station's management, operations or direction, they would not have the final say as to whether the recommendations should be implemented. Rather, such matters would usually be undertaken by officers or directors of the licensee.

[6] *See, e.g., Lexington County Broadcasters, Inc.*, 42 FCC 2d 581 (Rev. Bd. 1973); *Guy S. Erway*, 90 FCC 2d at 750.

[7] *WCVL, Inc.*, 55 FCC 2d 879 (1975); *Station WWSM*, 31 FCC 2d 584 (1971).

[8] *Eastern Broadcasting Corp.*, 30 FCC 2d 745 (Rev. Bd. 1971) (specific allegations of fact were sufficient to raise questions as to whether applicant's interest in an advertising agency and proposed broadcast station serving the same area were contrary to the public interest). *Cf. Atlantic Broadcasting Co. (WUST)*, 5 FCC 2d 717 (1966) (cross-interest issue not warranted because of absence of specific allegations of fact that the interest would be contrary to the public interest).

[9] The "duopoly" rule currently prohibits the common ownership, operation, or control of two commercial broadcast stations in the same broadcast service which serve the same local area. It accomplishes this goal by prohibiting the overlap of the 3.16 mV/m contours of commonly-owned FM stations, the 5 mV/m contours of commonly-owned AM stations, or the Grade B contours of commonly-owned television stations. *See* 47 CFR 73.3555(a) (1986). The "duopoly" rule, as well as the one-to-a-market rule (47 CFR 73.3555(b) (1987)), *see infra* note 19, have recently been reexamined in a separate proceeding. *See Amendment of § 73.3555 of the Commission's Rules, the Broadcast Multiple Ownership Rules*, ___ FCC Rcd ___ (1988) *(First Report and Order* in MM Docket No. 87-7, adopted October 27, 1988) (Radio Duopoly Rule). *Amendment of § 73.3555 of the Commission's Rules, the Broadcast Multiple Ownership Rules*, ___ FCC Rcd ___ (1988) (*Second Report and Order* in MM Docket No. 87-7, adopted December 12, 1988) (One-to-a-Market-rule).

[10] *Rules Governing Standard and High Frequency Broadcast Stations*, 5 Fed. Reg. 2,382, 2,384 (1940) (FM and Television Duopoly); *Rules Governing Standard and High Frequency Broadcast Stations*, 8 Fed. Reg. 16,065 (1943) (AM Duopoly).

encompass minority stock interests or positional interests such as being an officer, a director or a manager.[11] Thus, situations in which the owner of one station obtained an interest in another station in the same area through a position as an officer, director, manager or minority stockholder were not prohibited by the "duopoly" rule then in effect. Even though these cross-interests were not covered by the "duopoly" rule, they were perceived to create the same kind of anticompetitive concerns addressed by the rule. To address these concerns, the Commission applied a policy which went beyond the scope of the "duopoly" rule by limiting "cross-interests" in more than one broadcast service covering substantially the same area.

10. One of the earliest cases where this new policy was applied involved an entity which had a controlling interest in one television station and a minority stock interest at another television station in the same community.[12] In a similar vein, this policy was invoked by the Commission where principals proposed to be officers or directors of competing stations in the same market.[13] In both instances, the Commission noted that the underlying purpose served was to promote and maintain full competition between stations located in the same city.[14] Further, the Commission indicated that prevention, not correction, of anticompetitive practices was the goal sought. In subsequent decisions, the Commission expanded the purpose underlying the cross-interest policy beyond its original intent by stating that it was designed to restrict not only those relationships having the potential to threaten economic competition but also those having the potential to lessen diversity of viewpoint.[15]

11. In an effort to promote the dual goals of competition and diversity, the cross-interest policy was invoked, in 1969, to prohibit a national or regional sales representative company that was wholly or partially owned by a licensee of a broadcast station from representing and soliciting advertising for competing stations in the same service in the same area.[16] This policy known as the *Golden West* policy, was based upon the concern that such a "sales rep" could impair competition by colluding or price fixing in the sale of advertising time, or placing the station it did not own at a competitive disadvantage. The Commission also expressed concern that this type of relationship was antithetical to the promotion of diversity of viewpoint. In 1981, the Commission instituted a rulemaking proceeding in which it questioned the regulatory wisdom underlying the *Golden West* policy. Finding that limiting these types of relationships did not appear necessary to further the goals of promoting diversity of viewpoint or economic competition, the Commission eliminated the policy.[17] The Commission concluded that the operation of market forces and application of the antitrust laws would be adequate to deter anticompetitive practices that the policy sought to address.

12. Although the cross-interest policy was originally developed as an intra-service supplement to the duopoly rule, it was subsequently extended to the Commission's other local ownership rules,[18] including the broadcast one-to-a-market rule,[19] and the broadcast/newspaper [20] and cable/television cross-ownership rules.[21] Subsequent case-by-case adjudications, under the cross-interest policy, have resulted in creation of additional restraints beyond those expressly prohibited by the local ownership rules.[22]

13. At the time the policy developed, and for much of its history, the attribution rules were narrow, leaving many relationships outside their purview.[23] Under the former rules only the duopoly provisions were in effect. Thus, only the cross-interest policy prevented an owner of one station from holding a position as an officer, director, manager, or minority stockholder in a competitor. In 1953, the attribution rules were revised, as they applied to the national ownership limit, to include all minority interests, partners, and officers and directors.[24] Recently, the attribution rules were further modified to exempt from their scope holders of less than five percent of the voting stock of the licensee and limited partners.[25] In addition, relief from attribution was provided to certain officers and directors whose duties are unrelated to broadcast operations. Thus, under the revised attribution rules, ownership of as little as five percent of the voting stock of a broadcasting station is treated

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[11] *See e.g., Radio Athens, Inc. (WATH) v. FCC*, 401 F.2d 398 (D.C. Cir. 1968).

[12] *See Minnesota Broadcasting Corp.*, 13 FCC 672 (1949). *See also Macon Broadcasting Co.*, 10 FCC 444 (1945), in which the Commission conditioned its grant of a construction permit for a new AM station upon the applicant's two majority shareholders divesting themselves of "any connection" with a competing AM station in the same community.

[13] *Shenandoah Life Insurance Co.*, 19 RR 1 (1959). The cross-interests addressed in both *Minnesota Broadcasting* and *Shenandoah Life Insurance* are now prohibited by our local ownership rules.

[14] *Id.* at 2.

[15] *Compare Minnesota Broadcasting Corp.*, 13 FCC at 672 (singular purpose of economic competition) *with United Community Enterprises, Inc.*, 37 FCC 2d at 953 (dual purpose of economic competition and diversity of viewpoint).

[16] *Golden West Broadcasters*, 16 FCC 2d 918 (1969).

[17] *Golden West Policy*, 87 FCC 2d 668 (1981) (Report and Order in BC Docket No. 80-438).

[18] These rules, described below, including the duopoly rule, will be collectively referred to hereinafter as "the local ownership rules."

[19] *See, e.g., Cleveland Television Corp.*, 91 FCC 2d 1129 (Rev. Bd. 1982), *rev. denied*, FCC 83-235 (released May 18, 1983), *affirmed sub nom. Cleveland Television Corp. v. FCC*, 732 F.2d 962 (D.C. Cir. 1984) (radio-television cross-interest case). Unlike the "duopoly" rule, the "one-to-a-market" rule restricts common ownership between commercial stations in different broadcast services. In essence, it restricts a party to one AM-FM combination or one television station in a market. *See* 47 CFR 73.3555(b) (1986).

[20] The broadcast/newspaper cross-ownership rule prohibits common interests in a broadcast station and a daily newspaper if the broadcast station's relevant service contour would encompass the entire community in which such newspaper is published. *See* 47 CFR 73.3555(c) (1986). *See Wisconsin Television, Ltd.*, 59 RR 2d 193 (1985) (television-newspaper cross-interest case). Although recent appropriations legislation circumscribes Commission authority in the area of newspaper cross-ownership, the legislation is inapplicable to the non-attributable relationships discussed herein. *See Making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the Fiscal Year Ending September 30, 1989, and for Other Purposes*, Pub. L. No. 100-459 (signed October 1, 1988).

[21] *News International, PLC*, 97 FCC 2d 349, 367-71 (1984) (cross-interests between cable television systems and television stations in same market). The cable/broadcast cross-ownership rule prohibits, *inter alia*, the common ownership of a cable television system and a television broadcast station whose predicted Grade B contour covers any portion of the service area of the cable television system. *See* 47 CFR 76.501(a)(2) (1986). This provision of the cable/broadcast cross-ownership rule was recently codified in the Cable Communications Policy Act of 1984, Pub. L. No. 98-549, 98 Stat. 2779, 2785 (codified at 47 U.S.C. 553(a) (Supp. II 1984)).

[22] For example, even though the multiple ownership rules permit the common ownership of colocated commercial AM and FM stations, the cross-interest policy has been invoked where cross-interests exist between separately controlled AM and FM stations in the same market. *See, e.g., Lexington County Broadcasters, Inc.*, 42 FCC 2d 581 (Rev. Bd. 1973).

[23] The attribution provisions are contained in notes appended to the local ownership rules and, in essence, constitute the means by which the local ownership rules are implemented. Currently, they provide that, *inter alia*, partnership and direct ownership interests of voting stock of five percent or more will be cognizable as ownership interests significant enough to invoke the rule. They also provide that officers and directors of a licensee are positions which entail an amount of control great enough to require prohibition under the rule. 47 CFR 73.3555, Note 2(a) (1986). Exempted from attributable interest are passive investor interests under ten percent, holders of nonvoting stock, limited partners and certain officers and directors who certify that they are not materially involved in the management or operation of the licensee. 47 CFR 73.3555, Note 2(c), (f), (g)(1), and (h) (1986).

[24] *Amendment of the Multiple Ownership Rules*, 18 FCC 288 (1953).

[25] *See* 47 CFR 73.3555, 76.501, Notes 1, 2 (1986).

the same as majority ownership for purposes of applying the local ownership rules. As a result of these intervening revisions, the attribution rules now proscribe many of the interests that originally led to the adoption of the cross-interest policy.[26] For example, interests of officers and directors, and of minority stockholders that were originally prohibited by the cross-interest policy alone now come within the purview of Commission rules. Similarly, where voting ownership interests at or above five percent are involved, the rules, instead of the policy, now apply.

Summary of Comments

14. The majority of commenters agree with the initial views expressed in the *Notice* that the cross-interest policy no longer serves the public interest and should be eliminated.[27] Commenters supporting elimination of the policy, including NAB, Group W, Morgan Stanley, and Cox, cite the confusion and uncertainty created by the cross-interest policy as it relates to the multiple ownership rules. They express concern with the *ad hoc* application of the policy that fails to provide the kind of clear guidelines which the rules provide in this area. They maintain that the unpredictable application of the cross-interest policy may require evaluation whether a relationship permitted by the Commission's rules will be transformed into one which is prohibited pursuant to the cross-interest policy. Such a determination is difficult for a licensee to make in light of the varying case law, and any conclusion in this area often lacks certainty, thus impeding efficient decision making. Commenters further assert that the concerns underlying the policy are now addressed by either market forces or alternative rules and remedies. They argue that market pressure creates incentives for licensees to meet the needs and desires of the public rather than enter into relationships which would have a deleterious effect on competition and diversity. Audience reaction aside, commenters maintain that state and federal antitrust actions, as well as remedies based on contracts between parties, will discourage abuses and provide relief should any such abuse occur. Thus, they conclude that the public interest can be protected through means less restrictive and more certain than the cross-interest policy.

15. Specifically, these commenters argue that retention of the policy harms the public interest through delay and, in many instances, discouragement of investment in media properties. They assert that the risk of a cross-interest challenge always exists even if the relationship is structured to comport with Commission rules. They stress that this uncertainty hampers the ability of broadcasters to enter into relationships which may improve existing facilities or provide new facilities.

16. These commenters assert that the policy is no longer necessary to promote competition and viewpoint diversity due to the growth of the marketplace. They maintain that the proliferation of media outlets has attenuated the need for Commission-imposed restraints to ensure against anti-competitive abuses. They assert further that, in the event such abuses do occur, marketplace forces should correct the misconduct without Commission intervention. They argue that the cross-interest policy is an artificial and unnecessary impediment to the functioning of the marketplace which, due to competitive pressure, polices itself. They conclude that practices that are anticompetitive and reduce diversity are simply too difficult to coordinate due to the number of outlets and, therefore, will be ineffective. Further, stations must try to optimize performance in order to retain a share of the market, and that effort could be thwarted by an adverse reaction, from their audience or competitors, to any anticompetitive practices.

17. All commenters who support elimination of the cross-interest policy also argue that the local ownership rules, particularly the attribution provisions, include the majority of relationships sought to be addressed by the cross-interest policy. They point out that the local ownership rules and the attribution provisions are the product of extensive rulemaking proceedings designed to determine which interests create a level of concern sufficient to require proscription. They maintain that relationships falling outside of the rules are of minimal significance and have, therefore, been deemed nonattributable. They further assert that the cross-interest policy undercuts the purpose of these rulemakings by creating uncertainty where the rules strive for clarity. Commenters, therefore, conclude that the local ownership rules and the attribution provisions should stand as the Commission's determination of what relationships are inconsistent with the public interest. To the extent that the multiple ownership rules do not address all relationships contemplated by the policy, commenters reiterate their contention that alternative policing mechanisms exist in the marketplace which would discourage anticompetitive misconduct before it occurs, or provide a remedy in the event such abuse arises.

18. In opposing elimination of the cross-interest policy, CFA/TRAC argue that while streamlining the policy is desirable, elimination is unwarranted. They point to what they characterize as an overwhelming desire of the Commission to eliminate all multiple ownership rules as demonstrated by a recent rule making proceeding inquiring into the duopoly and one-to-a-market rules.[28] These commenters specifically take issue with the Commission's assertion, in the *Notice*, that revisions of the attribution rules have abrogated the need for the cross-interest policy in many instances. They argue that, in light of the duopoly rulemaking proceeding, it is disingenuous for the Commission to rely on the local ownership rules and the attribution provisions as support for eliminating the cross-interest policy. CFA/TRAC points out that the Commission has previously predicated repeal of one policy on the existence of another even as the latter faces repeal, and is following a similar course in the instant proceeding. They assert that repeal of the one-to-a-market rule[29] has already been accomplished through a liberal policy of granting stays of outstanding divestiture obligations. Thus, in conjunction with the Commission's lack of commitment to the ownership rules, repeal of the cross-interest policy will leave unchecked relationships which will lead to an increase in predatory practices resulting in a diminution of competition and a reduction in program options. They conclude that retention of the policy in a clarified form is, therefore, required to promote the public interest.

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[26] *See Attribution of Ownership Interests*, 97 FCC 2d at 999 n.4.

[27] Comments supporting elimination of the cross-interest policy were filed by the National Association of Broadcasters (NAB), Westinghouse Broadcasting, Inc. (Group W), Morgan Stanley & Co., Inc. (Morgan Stanley), and Cox Enterprises, Inc. (Cox). London Bridge Broadcasting, Inc. (London Bridge) filed comments which generally support elimination of the cross-interest policy except as it applies to key employee positions. Comments opposing elimination of the policy were filed jointly by the Consumer Federation of America and Telecommunications Research and Action Center (CFA/TRAC). Amherst Broadcasting, Inc. (ABI), in a reply to the comments of NAB, opposed elimination of the policy. To the extent these comments and reply comments address the subject of cross-interests involving key employees nonattributable equity interests or joint ventures, they will be incorporated by reference in the record of the new proceeding instituted today.

[28] *Amendment of § 73.3555 of the Commission's Rules, the Broadcast Multiple Ownership Rules*, 2 FCC Rcd 1138 (1987) (*Notice of Proposed Rulemaking* in MM Docket No. 87-7).

[29] 47 CFR 73.3555(b) (1988).

19. Similarly, in reply comments, ABI maintains that the NAB relies too heavily on the attribution provisions as support for elimination of the cross-interest policy. ABI argues that the policy is designed to supplement the attribution provisions and provide the Commission with the means by which to promote, independent of other government agencies, arms-length competition. It further asserts that the NAB points to no instance in which the antitrust laws have addressed competitive abuses of the type encompassed by the cross-interest policy, thus failing to demonstrate that reliance on antitrust laws to cope with cross-interest concerns is either an effective deterrent or remedy. Arguing that the cross-interest policy is necessary to promote arms-length competition, ABI concludes that the Commission's rules, without more, are inadequate to protect against certain anticompetitive practices. ABI contends that where specific rules are applicable the cross-interest policy should not apply, but where there are gaps in the rules the cross-interest policy is required to stem abuses. ABI concludes that the policy should, therefore, be clarified and retained for use only on an "as needed" basis.

Discussion

20. Although, as indicated, there are aspects of this policy with respect to which further comment is being sought, the analysis that follows provides not only the justification for the changes we are adopting but establishes a background against which the remainder of the policy should eventually be judged. After a careful review of the record in this proceeding, we find that the public interest would be better served by reducing the scope of the cross-interest policy.[30] While this policy may have been at one time regarded as necessary to preserve competition and diversity of viewpoint, a number of different factors, including changes in the mass media marketplace, modifications of the attribution rules, and the adequacy of other legal remedies, convince us that a substantial part of this policy is not essential to maximize diversification of viewpoints to the public or to prevent undue concentration of economic power. Similarly, we are further convinced that, with respect to the interests addressed herein, the costs associated with continued case-by-case review outweigh the minimal public interest benefits that might be derived therefrom. As we explain below, we are confident that the public's access to a multiplicity of programs, information, and viewpoints will not be adversely affected as a result of our removal of these unnecessarily restrictive aspects of the policy. We are also equally confident that economic competition in mass media markets will not materially diminish, but, on the contrary, will continue to flourish to the overall benefit of the public.

Growth of Media Outlets

21. Since the implementation of the cross-interest policy, there has been rapid and widespread growth in mass media outlets. This growth has led to a significant increase in diversity nationwide and, of even more relevance to the instant proceeding, locally. While we do not rely upon these changes alone to reach the determinations herein, we do believe that, together with the other factors presented below, they undercut the notion that any single entity or individual is capable of manipulating or otherwise skewing competition in the marketplace of ideas or in the economic marketplace to the detriment of the public through the cross-interests mentioned above.

22. *National Growth.* To the extent that the logic behind the cross-interest policy was appropriate when first developed, the substantial growth in broadcast services across all markets, and the resulting increase in competition and diversity have reduced our concerns about the relationships addressed by the policy. For example, between 1950 and 1988, the total number of AM, FM, and TV broadcast stations authorized increased from 3,144 to 12,207 outlets, an increase of 288.3%.[31] Moreover, continued growth in the broadcast services can be expected as a result of recent Commission actions designed to foster growth of the industry.[32] In addition, there has been substantial expansion of alternate media services such as cable television, low power television (LPTV), and video cassette recorders (VCRs).[33] The potential for even further growth of media outlets exists from other developing technologies, including multipoint distribution systems (MDS) and satellite master antenna television systems (SMATVs).[34]

23. *Local Growth.* This growth of media outlets on a national level is paralleled by the growth of such outlets on the local level. In analyzing the need for the cross-interest policies, the number of outlets at the local level is more relevant than national growth because the policy was developed as a supplement to the local ownership rules. With this in mind, we note that a study submitted by the NAB [35] assessed the number of media outlets, including publications, within all television markets (Designated Market Areas). The study shows that there are a large number of media outlets and information sources in local markets of all sizes. For example, whereas the top 25 markets average about 72 radio and television stations per market, even the smallest television markets average

[30] As stated earlier, exempted from this policy statement shall be cross-interests involving certain joint ventures not otherwise addressed by the attribution rules, key employees, and certain nonattributable equity interests. Subject to the outcome of our *Further Notice of Inquiry/Notice of Proposed Rulemaking*, these cross-interests will continue to be subject to review.

[31] In 1950 there were 2,302 AM, 732 FM, and 109 television stations. *Sixteenth Annual Report of the Federal Communications Commission—FY 1950*, at 102. The 1988 station totals are based on Commission records as of October 31, 1988, which indicate that there are 4,923 AM, 5,4930 FM, and 1,791 television stations.

[32] *See Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments*, 94 FCC 2d 152 (1983) (*Report and Order* in BC Docket No. 80-90), *recon. denied*, 97 FCC 2d 279 (1984); *see also FM Broadcast Assignments*, 100 FCC 2d 1332, 1340-1379 (1985) (implementation of BC Docket No. 80-90) (the Commission established 689 new commercial FM allotments, the majority of which are in medium and small radio markets, and created three new classes of FM channels); *Preparation for an International Telecommunication Union Region 2 Administrative Radio Conference for the Planning of Broadcasting in the 1605-1705 kHz Band*, 50 FR 33,844 (1985) (First Report in Gen. Docket No. 84-467); *Preparation for an International Telecommunication Union Region 2 Administrative Radio Conference for the Planning of Broadcasting in the 1605-1705 kHz Band*, 51 FR 8,706 (1986) (Second Report in Gen. Docket No. 84-467) (international agreement provides for more spectrum use by AM radio service, potentially stimulating a significant number of new AM stations in the future).

[33] The number of cable television systems has increased from 300 in 1954 to about 8,000 in 1987. *See Twentieth Annual Report of the Federal Communications Commission—FY 1954*, at 90. Of all television households, 79% are passed by cable television systems. "Cable Stats," *CableVision*, Aug 31, 1987, at 88. Approximately 49.5% of all television households subscribe to cable. Nielsen Media Research estimate, quoted in "July Numbers," *Broadcasting*, Sept 21, 1987, at 78. Currently, there are about 410 licensed LPTV stations, and we estimate that this service may ultimately increase by an additional 4,000 stations. *Report Concerning General Fairness Doctrine Obligations of Broadcast Licensees*, 102 FCC 2d 143, 212 (1985). The percentage of television households with VCRs has increased from 19% in 1984 to 48.7% in 1987. See A.C. Nielsen estimate, quoted in Comments of NAB, "An Analysis of Media Outlets by Market" ("NAB Media Outlet Study"), Appendix B at 1 (June 1987), filed in MM Docket 87-7, which NAB incorporates by reference in comments filed in the current proceeding. *See* Comments of NAB at 8 n. 16 (July 1987) (MM Docket No. 87-154).

[34] As of June 30, 1986, MDS systems reached approximately 260,690 subscribers and estimates suggest the number of subscribers could reach more than nine million. Paul Kagan Associates, Inc., *Multicast Newsletter*, No. 322, November 10, 1986.

[35] NAB Media Outlet Study, *supra* note 33.

about 9 radio and television outlets per market.[36] In addition, our own analysis of Arbitron data by Metropolitan Statistical Area, the geographic market measure that may be more appropriate for radio reception, shows that while the top 25 radio markets average approximately 35 total AM and FM stations, even the smallest radio markets average approximately 10 commercial AM and FM stations. As these figures demonstrate, there are a significant number of commercial broadcast outlets throughout markets of all sizes. Further, if cable and VCRs are taken into account, listeners and viewers have even more sources of programs. Cable penetration actually increases as the size of television markets decreases,[37] and VCR penetration appears to be relatively constant across market sizes.[38] This multitude of media sources provides audiences with a wide diversity of choices, and also encourages broadcasters to provide service in the public interest.

24. We believe the competitive and diverse market which has developed since the initial implementation of the cross-interest policy substantially attenuates the need for our regulatory oversight of the interests at issue here to promote diversity and economic competition. As suggested by Cox, market conditions have reduced diversity concerns because stations are under strong market pressure to maximize performance and typically do so through providing service desired by the public.[39] With many competing media outlets available to the public, consumers can easily switch from one station to another if the first station's programs do not suit their tastes. Hence, stations have strong incentives to take into account the tastes and needs of viewers or listeners. Moreover, we recognized, in a previous proceeding eliminating regulations which encroached on licensee's business practices, that the increased number of stations and the increase in facilities give new importance to the uniqueness of a program format in an effort to attract advertising dollars.[40] This plethora of media services, and the resulting increase in the diversity of voices, therefore, strongly undercuts, in our view, any underlying need for restraints on consulting agreements, advertising agencies, and time brokerage arrangements to enhance diversity.

25. Moreover, the considerable choice which exists in the marketplace creates incentives for service providers to compete as vigorously as possible. Because of the many competing stations, they are more likely to be acutely aware of their audience's desires, and to attempt to meet those desires in order to compete successfully. For example, it is doubtful that consulting agreements would continue to be a legitimate concern, since the station entering into such an agreement must continue to remain responsive to the needs and interests of its audience or risk losing a portion of that audience. Thus, a station would likely disregard advice from a consultant which would only serve to protect the consultant's cross-interest and would not improve the outlet's competitive stance. If a station is unresponsive to its audience, its ratings will drop, and the resultant decrease in earnings will influence the station as much as, if not more than, Commission policy. Accordingly, we believe that the remarkable growth in the broadcast market, and the mass media marketplace generally, are important factors which suggest that continued review of interests such as these is not needed to achieve its original and primary goal of preserving diversity and competition among media voices in a given market.

Costs/Burdens Imposed By Operation Of The Cross-Interest Policy

26. We have also evaluated the costs and burdens imposed on the public by continuing to scrutinize consulting arrangements, advertising agency arrangements, and time brokerage agreements. We conclude that these aspects of the cross-interest policy impose costs and burdens on the public, as well as the Commission, which are difficult to justify given the reduced need for continued oversight of these relationships. As discussed below, these costs vary in character, but are alike in that they are not counterbalanced by any significant concomitant public interest benefits.

27. *The Policy Creates Uncertainty in Broadcasters and Other Media Entrepreneurs.* First, the *ad hoc* development of the policy has had the unintended effect of surrounding certain media transactions with a cloud of uncertainty. In the line of cases from which the policy has evolved the Commission has tried to determine whether particular relationships are "meaningful" and whether the media outlets at issue serve "substantially" the same area. Inconsistencies among these cases render difficult, if not impossible, a definitive determination by broadcasters, in advance of adjudication, as to whether an overlap in service areas is substantial enough or a relationship sufficiently meaningful to warrant regulatory intervention. For example, it is unclear, from an examination of the case law, how the cross-interest policy would be applied to time brokerage arrangements. In one case, the Commission permitted this type of relationship relying, in part, on the large number of radio stations in the market.[41] The Commission indicated that the small percentage of local stations programmed by the same licensee reduced concern that the time brokerage relationship would have a negative effect on the pubic interest. In another decision, the Commission found no violation of the cross-interest policy even though the time brokerage agreement resulted in one licensee programming the only two nighttime radio stations operating in the area during the brokered time period.[42]

28. As commenters assert, the inconsistency in the case law complicates the business planning of inherently complex media transactions. In spite of bona fide efforts to avoid any actual control in another media entity through the use of relationships which are clearly permitted by our cross-ownership rules, broadcasters may unintentionally run afoul of our policy.[43] Further, the fact that the cross-interest policy addresses potential rather than actual harm, together with the absence of a requirement that specific allegations of fact be demonstrated,[44] leave broadcasters particularly vulnerable to cross-interest challenges by competitors, even if groundless. It is, therefore, possible that parties might decide not to enter into a particular relationship merely because of the absence of clear-cut guidelines about whether the relationship would pass muster under the cross-interest policy.[45] In fact, Morgan Stanley asserts that there are numerous situations in which unobjectionable relationships will not be undertaken due to uncertainty regarding potential effects of the policy. In short, the policy places burdens on outside sources and on the Commission's resources which must be

[36] *Id.* at Figure 1.

[37] *Id.* at Figure III.

[38] *Id.* at Figure 6.

[39] Comments of Cox Enterprises at 10.

[40] *Second Report and Order in Re Elimination of Unnecessary Broadcast Regulation*, 59 RR 2d 1500, 1517 (1986) (MM Docket No. 83-842).

[41] *Dual-Language TV/FM Programming in Puerto Rico*, 33 RR 2d 515 (1975).

[42] *Station WWSM*, 31 FCC 2d 584 (1971).

[43] *See* Comments of Morgan Stanley at 5-11.

[44] *Cleveland Television Corp.*, 732 F.2d at 970.

[45] *See* Comments of Morgan Stanley at 11-12.

borne by the public. Even if it is quite likely that the relationship would be approved, the affected parties have no way of reliably predicting that result in advance.[46] Past cases construing the policy afford some general guidance, but do not approach the specificity required for parties to determine, in advance, the propriety of the anticipated relationship. Thus, relationships which might benefit licensees and the public often may be avoided or aborted because of the policy's lack of clarity.[47]

29. *Limitations on Use of Qualified Personnel.* A second burden imposed by the cross-interest policy is that it hinders the ability of media outlets to attract and utilize, in consulting positions, qualified personnel with substantial broadcast experience. Barring contract provisions to the contrary, the absence of the cross-interest policy would permit experts to work at, or have interests in, multiple outlets. This would allow a station to attract and utilize personnel who are cognizant of the requirements of station management and the programming needs and unique characteristics of the particular market. In turn, this may enable a station to increase revenues or decrease costs. The increased profits obtained from such efficiencies could then be recycled into improved programming or facilities, providing more resources to stations suffering from declining revenues and ratings. As a result, a previously unpopular format or station, rather than succumbing to competition, may experience new life and viability in the market through the expertise of a consultant. Thus, the use of qualified personnel, now potentially barred by our cross-interest policy, may "rescue" the station, avoiding a diminution in local diversity and competition.

30. Some would argue that allowing the same person to be employed by two outlets will only contribute to a diminution of diversity and competition. To the contrary, permitting common ownership of media outlets, in certain circumstances, does not detract from diversity of viewpoint but may, in fact, enhance diversity and competition, providing benefits which inure to the public interest.[48] Given the trend towards counterprogramming and narrowcasting, it is reasonable to assume that this same result may occur by permitting broadcast stations to attract and utilize all qualified personnel. Consultants and similar professionals have a clear business incentive to provide advice and assistance that address the individual needs of their clients. Viewed in that light, a consultant will counsel each client station according to its particular situation. For this reason, a consultant serving different broadcasters in the same market might well give each client different advice regarding the type of programming that will effectively maximize its audience. The consultant might recommend, for example, a "top-forty" format to one radio station while advising another competing outlet to use an all news format, thereby stimulating diversity in the market. Furthermore, as a general proposition, freed of the cross-interest policy, broadcasters will have more flexibility to enter into relationships which may strengthen their viability and thus preserve existing levels of diversity of viewpoint and competition. We, therefore, believe it is in the public interest to permit the use of qualified personnel between competing media outlets.

31. *Imposition of Administrative Costs.* A third burden imposed by the continued application of the cross-interest policy results in administrative costs placed upon affected parties as well as the Commission. Such costs could be justified, but only if the review process involved was likely to lead to discovery of significant public interest concerns not otherwise remediable. Where a potential cross-interest issue is raised, the Commission must review the facts and allegations and determine if a *prima facie* case has been presented under the policy. Where the facts of a case are such that a cross-interest issue is designated for hearing, this process can be even longer and more complex. Often, an individual must go through administrative review in order to show that his proposed relationship does not violate the cross-interest policy.[49] This process is often time consuming and costly to the participants and the Commission. As we recognized in a prior proceeding, even one investigation culminating in a hearing significantly increases the resources required to administer our policies.[50] Further, in addition to the costs of investigation and enforcement, countless staff hours may be spent responding to inquiries relating to the applicability and interpretation of the policy.[51] In view of the lack of benefits involved in continued retention of the policy to address consultancies, advertising agency relationships and time brokerage agreements, the costs of applying the policy to these relationships are unjustifiably high. Given the questionable value of continued oversight of these relationships in the current competitive market, these cost may be reduced, and the public better served, by reliance on methods other than the policy to protect the public interest.

Adequacy of Existing Regulatory Prohibitions

32. We also believe that the need for the existing cross-interest policy has decreased with the adoption of new attribution provisions in the ownership rules that have superceded the cross-interest policy in several respects. Originally, the cross-interest policy was developed to fill the interstices left by the early ownership rules. Since then, we have amended the ownership rules[52] and adopted new attribution provisions[53] to encompass a greater number of relationships that previously were addressed only by the cross-interest policy. At the time the Commission adopted the new attribution rules, we stated that the duopoly and one-to-a-market rules would be applied, in lieu of the policy, "where voting ownership interests at or above the relevant benchmarks [five

[46] For example, although the Commission intended to apply the cross-interest policy to ownership interests in newspapers, *see Multiple Ownership*, 50 FCC 2d 1046, 1076–77 (1975), the Commission declined to do so when it approved a transfer which resulted in a nonattributable stock interest in the licensee of a television station being held by the owner of a daily newspaper which served the same market. *Evening Star Broadcasting Co.*, 68 FCC 2d 129 (1978). Although the Commission discussed the impact on competition in that case, the cross-interest policy was not invoked to ban the transaction.

[47] We recognize that vagueness is not fatal to the cross-interest policy. However, even if the policy were clarified in an effort to cure this uncertainty, our decision to delete the policy, for the reasons stated herein, would not be altered.

[48] *Amendment of § 73.3555 of the Commission's Rules, the Broadcast Multiple Ownership Rules,* ——— *FCC Record* ——— *(1988) (Second Report and Order* in MM Docket No. 87–7, adopted December 12, 1988) ¶¶ 51–64. *See also* P. Steiner, *Program Patterns and Preferences, and the Workability of Competition in Radio Broadcasting*, 66 Quarterly J. Economics 194; FCC Network Inquiry Special Staff, *New Television Networks: Entry, Jurisdiction, Ownership, and Regulation*, Volume I, at 365–66.

[49] *See, e.g., Metromedia Broadcasting Corporation*, 1 FCC Rcd 1022 (1986); *Wisconsin Television, Ltd.*, 102 FCC 2d at 1001.

[50] *Elimination of Unnecessary Broadcast Regulation*, 59 RR 2d at 1509.

[51] ABI argues that these administrative burdens can be minimized by applying the policy only on an "as needed" basis where it is necessary to ensure free competition. This approach, however, would in no way preclude the need for case-by-case adjudication and might further complicate the process by requiring the Commission to make findings or establish guidelines as to when the policy should be invoked.

[52] *Amendment of the Multiple Ownership Rules*, 18 FCC 288 (1953).

[53] *See Attribution of Ownership Interests*, 97 FCC 2d at 1032–33.

percent stock ownership or officers or directors] are involved." [54] Thus, for example, cross directorships and substantial minority interests, which, until amendment of the ownership rules only fell within the purview of the policy, are now expressly covered by these rules.

33. In developing the local ownership rules, in the 1940s, and modifying the scope of our attribution provisions in the 1980s, the Commission identified those relationships which were of genuine concern because of their potential for abuse. We concluded that ownership of five percent or more of a station's stock or a position as an officer or director of a licensee were situations which would be deemed attributable for purposes of the multiple ownership rule.[55] Conversely, nonvoting stockholders and limited partners, we decided, do not take part in control and, therefore, would not be considered attributable for the purposes of the ownership rules.[56] These actions reflected our informed policy judgment on the types of relationships which would detrimentally affect diversity and competition and should, therefore, be restricted in order to promote the public interest.[57] As for CFA/TRAC's argument that our reliance on the multiple ownership rules is misplaced because we are proposing to repeal those rules,[58] we think it is sufficient to note that our recent decisions only modestly revised the duopoly and one-to-a-market rules.[59]

34. Further reducing our concern with respect to the need for the existing cross-interest policy are remedies in the form of federal and state antitrust laws, which may be available to reduce or deter potential anticompetitive consequences which the cross-interest policy is designed to curb. Antitrust analysis will take into account the market sizes and the number of competitors when determining if a violation has occurred. The potential for anti-competitive consequences perceived to be present in such relationship as consulting agreements, time brokerage arrangements, and relationships involving advertising agencies is reduced by the presence of these laws. The existence of such laws and remedies has supported modification or elimination of other rules and policies.[60] To the extent that they reduce anticompetitive effects, these remedies may also have an ancillary effect which, in conjunction with the substantial market growth, discussed *supra* paras. 21–25, reduces our concern over diversity. We believe that reliance on such alternative forms of deterrence will more effectively serve the public interest and preclude the need for a stringent policy to insure against anticompetitive consequences.[61]

35. Also, contractual arrangements into which the parties enter may provide further protection from anticompetitive activity. For example, the improper use of consultants or advertising agencies could conceivably give rise to a cause of action for breach of contract. Alternatively, such actions might give rise to a breach of a fiduciary duty imposed by either the contracting party or by the entity with which the cross-interest relationship exists. Further, a station that wishes to hire a consultant may insert into the terms of the contract a provision to require that any confidential business information obtained during the consultancy period not be disclosed to a rival station for which the consultant also worked.[62] Similarly, contracts can protect stations in situations in which an advertising agency with a cross-interest in one station in a market contracts to purchase time on competing stations. As part of the contractual relationship, a client may require the agency to spread advertising among competing stations in order to reach a larger audience or a broader demographic base. Thus, if the agency favors the station with which it shares a common interest by directing advertisers exclusively to that station, an action for breach of contract may lie. Notwithstanding the legal remedies available, the harm to the reputation of one who breaches these types of contractual requirements acts as a strong incentive to conduct themselves in a forthright manner. The existence of these alternative prohibitions further reduces our concern that permitting cross-interest relationships will result in harm to the public interest.

Summary

36. *Consulting Positions and Advertising Agencies.* The vast changes in the media marketplace reduce our concern that these interests will result in harm to the public interest. Current market conditions require consultants and advertising agencies to represent clients vigorously in order to remain competitive. Thus, it would not avail representatives to favor one client over any other. Our concern with the possible anticompetitive effects of these interests is further attenuated by the availability

[54] *Id.* at 999 n.4 (parenthetical statement added).

[55] *Id.* at 1025.

[56] *Id.* at 1020, 1022.

[57] At the time of modifying the attribution provisions, we stated that "[t]he attribution rules . . . are designed to measure what ownership interests will confer that amount of influence or control which must be limited." The scope of that proceeding, however, did not encompass the cross-interest policy, which addresses business relationships of broadcasters that do not rise to the level of attributable interests. Therefore, we did not revisit in that rulemaking whether the relationships covered by the cross-interest policy continued to confer sufficient influence or control to warrant limitations comparable to those governing attributable interests. Although we stated that the attribution rulemaking proceeding was not intended to affect the cross-interest policy and that the policy would continue to be applied except where, as a practical matter, it overlapped with specific provisions of the new attribution rules, *see id.* at 1000 n.4, it was not our intent to foreclose reexamination of the continued validity and effectiveness of the cross-interest policy. We note that any relationship covered by the cross-interest policy that is deemed to pose a serious threat to viewpoint diversity or competition, should be treated, if possible, as an attributable interest under the local ownership rules rather than subjecting it to *ad hoc* review as is our current practice. As noted previously, we are inviting further comment with respect to the appropriate regulatory treatment of key employees and certain joint ventures and nonattributable equity interests in a separate proceeding. With respect to nonattributable equity interests and joint ventures, however, if we decide in our separate proceeding that they require continued oversight, it may not be possible to incorporate them in the ownership rules. The multiplicity of possible relationships makes it difficult to forecast definitively all the relationships which threaten diversity or competition. Thus, should we decide at the conclusion of our separate proceeding that these interests continue to warrant Commission scrutiny, our current *ad hoc* review may be necessary for such interests. We would nonetheless like to develop, if possible, any guidelines that might identify, at least in general terms, those nonattributable equity and other interests that require continued oversight to minimize uncertainty caused by continued case-by-case review.

[58] *See Amendment of § 73.3555 of the Commission's Rules, the Broadcast Multiple Ownership Rules,* 2 FCC Rcd 1138 (1988) (*Notice of Proposed Rulemaking* in MM Docket No. 87–7).

[59] *See Amendment of § 73.3555 of the Commission's Rules, the Broadcast Multiple Ownership Rules,* ——— FCC Rcd ——— (1988) (*First Report and Order* in MM Docket No. 87–7, adopted October 27, 1988) (Radio Duopoly Rule); *Amendment of § 73.3555 of the Commission's Rules, the Broadcast Multiple Ownership Rules,* ——— FCC Rcd ——— (1988) (*Second Report and Order* in MM Docket No. 87–7, adopted December 12, 1988) (One-to-a-Market-Rule). These decisions were adopted concurrent with, or shortly after, the Commission adopted the instant *Policy Statement,* but prior to its release.

[60] *See, e.g., Elimination of Unnecessary Broadcast Regulation,* 59 RR 2d at 1500; *Golden West Policy,* 87 FCC 2d at 668.

[61] The fact that broadcasters are subject to Federal licensing and regulation, of course, does not immunize them from antitrust oversight. In this regard, we note that, in addition to possible governmental enforcement actions in this area, the private parties injured by Federal antitrust law violations are entitled to bring a private action for treble damages against the defendant. Clayton Act, ch 323, Section 4, 38 Stat. 731 (1914) (15 U.S.C. 15 (1982)).

[62] In fact, it is within the discretion of the licensee, prior to retaining a consultant, to require disclosure of the consultant's other media interests, permitting the licensee to make an informed judgment regarding possible conflicts of interest.

of alternative methods to prevent and remedy abuses. Specifically, contract provisions can create enhanced duties of care, confidentiality requirements, or affirmative obligations in the method of conducting business. These agreements can protect the rights of the parties as well as deter anticompetitive conduct. In the event of abuse, less speculative remedies are available in the form of federal and state antitrust laws or, if the relationship is contractual, an action for breach. These alternatives serve both deterrent and remedial purposes and will address actual abuses, should they occur, rather than circumscribe potentially beneficial relationships in an effort to prevent speculative abuses.

37. *Time Brokerage Arrangements.* The substantial increase in media outlets, and the corresponding increase in diversity and competition, since the implementation of the cross-interest policy, reduces the need to prohibit time brokerage arrangements to protect the public interest. Competitive conditions require a station that decides to broker its time to another to remain alert to the needs of its audience or risk losing some of that audience to a competitor, with a resultant decrease in ratings and revenue. Thus, the amount of choice available to listeners and viewers insures that competition will be vigorous in order for a station to retain its share of the audience. Should an anticompetitive arrangement occur, the antitrust laws are equally applicable to remedy this situation as they are to remedy abuse of relationships involving consulting positions and advertising agencies. Moreover, since a licensee entering into a time brokerage arrangement must continue to maintain control over its programming, the fact that some of its programming may be provided by another station in the market does not raise the same viewpoint diversity questions that may be raised if stations in the market were under common ownership or shared key employees.

38. Our decision to narrow the scope of the cross-interest policy is further based on the fact that revisions to the attribution rules now directly address a number of interests previously limited only by the policy. Moreover, our action here will reduce the number of *ad hoc* determinations required, thus making it easier for broadcasters and others to determine when a relationship will be circumscribed. This will, in turn, reduce the chilling effect on potentially beneficial relationships because of the lack of specificity on which to base a determination whether the relationship will ultimately be permitted.

39. In our view, wherever feasible it is more efficient and effective to confront whatever cross-interest problems arise by applying the various remedies (*e.g.*, breach of contract and federal and state antitrust provisions) which are designed to discourage activities that may be inimical to the welfare of the public. Our present policy ignores the fact that every cross-interest covered by the policy is not certain to harm the public; in fact, we conclude that some might be beneficial. We will thus allow parties affected by particular cross-interests and, as to antitrust issues, the Justice Department and the Federal Trade Commission, to identify and take appropriate action as those cross-interests emerge.

40. The decision contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980, and found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval of the Office of Management and Budget as prescribed by the Act.

41. Accordingly, *it is ordered*, That the cross-interest policy, except as applied to joint ventures, key employee relationships, and nonattributable equity interests as discussed herein, *is eliminated* effective *April 6, 1989.*

42. Authority for the policy decisions herein is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

43. For further information on this proceeding contact Douglas Minster, Mass Media Bureau, (202) 632-7792.

[FR Doc. 89-5494 Filed 3-8-89; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 80

[PR Docket No. 87-491, FCC 89-48]

Amendment of the Maritime Services Rules Concerning the Use of Digital Selective Calling (DSC) Equipment

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: These amended rules provide for modified DSC equipment characteristics and for the use of a shipboard sensor-activated VHF alarm system for moored vessels using DSC technology. New international DSC equipment standards and the capability of VHF DSC equipment to accommodate a safety alarm system have created a need for this action. The amended rules will better serve the communications interests of the maritime community and tend to encourage early implementation of the DSC system.

EFFECTIVE DATE: April 14, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Robert E. Mickley, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632-7175.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in PR Docket No. 87-491 adopted February 10, 1989 and released February 28, 1989. The full text of the Commission's decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

1. Digital selective calling (DSC) is a signalling system that can be used to establish contact with a station or group of stations in the maritime radio services. DSC provides an improvement over the old method of establishing radio contact which required a ship operator to (1) be on duty, and (2) be monitoring for a call. The DSC system, therefore, promotes additional safety and more efficient use of the spectrum. DSC will eventually be an integral part of the Global Maritime Distress and Safety System (GMDSS) planned for implementation in the 1990's.

2. In 1985 the Commission amended its maritime services rules to provide for the optional use of DSC equipment. These rules were based on the then effective International Radio Consultative Committee (CCIR) Recommendation 493-2 which was developed primarily for large, ocean-going ships. In 1986 CCIR revised its recommendation in a document entitled "Digital Selective Calling System for Use in the Maritime Mobile Service" (CCIR Recommendation 493, Dubrovnik, 1986). This Recommendation provided for three levels of DSC equipment. The first level would be used by compulsorily fitted vessels that are required to have a sophisticated radio installation for safety purposes. Two simpler versions of DSC equipment specifications were also developed to fill the needs of the smaller vessel operators.

3. The rules were amended to remove the minimum operational characteristics

from our current rules to permit all classes of DSC equipment to be used on U.S. vessels in conformance with CCIR Recommendation 493, Dubrovnik, 1986. The three classes of DSC equipment contained in the revised CCIR Recommendation are:

- Class A—DSC equipment intended for large, ocean-going ships to meet the GMDSS carriage requirements.
- Class B—DSC equipment applicable to small ships equipped only with VHF and/or MF two-way communications equipment.
- Class C—DSC equipment intended as an add-on for VHF communications equipment to provide DSC alerting, transmitting ship identification only.

4. The rules authorize the use of shipboard sensor-activated VHF alarm systems using DSC technology to transmit brief digital messages that relate to the condition or safety of vessels while moored. Such systems utilize sensors capable of detecting fire, explosion, grounding, listing, sinking and the like. In the past, the use of marine frequencies for safety purposes on board unoccupied ships has been barred because of rule provisions that prohibit unattended transmitter operations and the lack of a frequency that could be dedicated to this purpose. However, Article 60 of the International Radio Regulations authorizes the use of marine frequencies in the port operations service for communications related to the safety of ships. Channel 70 (156.525 MHz) is already dedicated to VHF DSC and the rules are amended to use it for this purpose. The transmission of a VHF DSC message would take approximately 0.5 second and if a call is not acknowleged by the addressed coast station, the call sequence from the ship station is to be repeated after five seconds. Any subsequent repetitions of the call sequence cannot be made until at least fifteen minutes have elapsed and the number of repetitions of sensor-activated DSC transmissions are limited to no more than three after the fifteen minute waiting period.

Ordering Clauses

5. The Commission hereby certifies pursuant to section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) that this rulemaking proceeding will not have a significant economic impact on a substantial number of small entities. The new rules replace the minimum operational characteristics contained in our current Rules.

No U.S. manufacturer is known to be manufacturing DSC equipment under the rules proposed to be deleted in this proceeding. No new equipment carriage requirements are imposed.

6. The Rule amendments adopted 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 or decrease the burden hours imposed on the public. See 5 CFR 1320.7(c)(2).

7. *It Is Ordered* that Part 80 of our Rules *is amended* as shown at the end of this document. The authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

8. *It Is Further Ordered* that these rule amendments shall become effective April 14, 1989.

9. *It Is Further Ordered* that a copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

10. *It Is Further Ordered* that this proceeding *is Terminated.*

List of Subjects in 47 CFR Part 80

Coast stations, Ship stations, Marine safety, Radio communications equipment.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Amended Rules

Part 80 of Chapter I 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, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377, unless otherwise noted.

2. Section 80.153 is amended by revising paragraph (a) to read as follows:

§ 80.153 Coast station operator requirements.

(a) Except as provided in § 80.179, operation of a coast station transmitter must be performed by a person holding a commercial radio operator license of the required class, who is on duty at the control point of the station. The operator is responsible for the proper operation of the station.

* * * * *

3. Section 80.155 is revised to read as follows:

§ 80.155 Ship station operator requirements.

Except as provided in §§ 80.177 and 80.179, operation of transmitters of any ship station must be performed by a person holding a commercial radio operator license or permit of the class required below. The operator is responsible for the proper operation of the station.

4. A new § 80.179 is added to read as follows:

§ 80.179 Unattended operation.

The following unattended transmitter operations are authorized:

(a) EPIRB operations when emergency conditions preclude attendance of the EPIRB transmitter by a person.

(b) Automatic use of a transmitter during narrow band-direct printing (NB–DP) operations in accordance with CCIR Recommendation 476 or 625.

(c) Automatic use of a transmitter during digital selective calling (DSC) operations in accordance with CCIR Recommendations 493 and 541.

(d) Automatic use of transmitter when operating as part of the Automated Maritime Telecommunications System (AMTS) or an automated multi-station system for which provisions are contained in this Part.

(e) Automatic use of a VHF transmitter to send brief digital communications relating to the condition or safety of vessels while moored when all of the following conditions are met:

(1) The equipment must be using DSC in accordance with CCIR Recommendations 493 and 541 as modified by this section.

(2) Sensors must automatically activate the transmitter only under one or more of the following conditions:

(i) Fire, explosion;
(ii) Flooding;
(iii) Collision;
(iv) Grounding;
(v) Listing, in danger of capsizing;
(vi) Sinking;
(vii) Disabled and adrift; and
(viii) Undesignated condition related to ship safety.

(3) The "ROUTINE" DSC category must be used.

(4) Communications must be selectively addressed to an individual station.

(5) Transmitter output power must not exceed one watt.

(6) The call must employ a fixed format and must be in conformity with Recommendation 493 as follows:

Format specifier: Individual call—symbol 120 sent twice.

Address: 9 digit maritime mobile service identity of called station.

Category: Routine—symbol 100.

Self-identification: 9 digit ship station identity.

Message 1: Telecommand symbol 126 sent twice.

Message 2: Telecommand symbol 126 sent 6 times.

End of sequence: Symbol 127.

Error-check character: Check sum.

(7) Such transmissions are permitted only on channel 70 and the transmitter must be inhibited automatically whenever there is another call in progress on Channel 70.

(8) The call sequence for any one alarm must not be repeated until after an interval of at least five seconds. Further repetition is permitted only after intervals of at least fifteen minutes each. Repetitions following fifteen-minute waiting intervals must not exceed three.

5. Section 80.225 is revised to read as follows:

§ 80.225 Requirements for digital selective calling (DSC) equipment.

This section specifies the requirements for optional DSC equipment installed in ship and coast stations. Reference to any CCIR Recommendation in this section is to the most recent CCIR approved Recommendation that does not prevent the use of existing equipment.

(a) DSC equipment installed in coast and ship stations must be designed in accordance with CCIR Recommendation 493. Classes A, B, and Class C DSC equipment must not be used with the sensors referred to in § 80.179(e)(2).

(b) Manufacturers of Class C DSC equipment to be used on United States vessels must affix a clearly discernible permanent plate or label visible from the operating controls containing the following:

Warning. This equipment is designed to generate a digital maritime distress and safety signal to facilitate search and rescue. To be effective as a safety device, this equipment must be used only within communication range of a shore-based VHF marine channel 70 distress and safety watch system. The range of the signal may vary but under normal conditions should be approximately 20 nautical miles.

(c) Selective calling equipment, other than that designed in accordance with CCIR Recommendation 493, is authorized as follows:

(1) Equipment used in conjunction with the Automated Maritime Telecommunications System (AMTS) in the band 216–220 MHz,

(2) Equipment used to perform a selective calling function during narrow-band direct-printing (NB–DP) operations in accordance with CCIR Recommendation 476 or 625, and

(3) Equipment functioning under the provisions of § 80.207(a) until at least three years after mandatory DSC requirements become effective.

[FR Doc. 89–5132 Filed 3–8–89; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

49 CFR Parts 1 and 7

[OST Docket No. 1; Amdt. 1–228; Docket No. 43466; Amdt. 7–1]

Organization and Delegation of Powers and Duties

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This delegation transfers Departmental responsibility for functions related to the Freedom of Information Act from the Office of Public Information, Office of the Assistant Secretary for Public Affairs to the Office of the General Counsel. It also makes technical corrections to 49 CFR Part 7 to reflect the change in delegations.

EFFECTIVE DATE: February 27, 1989.

FOR FURTHER INFORMATION CONTACT: Samuel E. Whitehorn, Office of the General Counsel, C–50, (202) 366–9307, Department of Transportation, 400 Seventh Street, SW., Washington, DC, 20590.

SUPPLEMENTARY INFORMATION: The Departmental responsibility for ensuring uniform implementation of the Freedom of Information Act (FOIA) (5 U.S.C. 552) and responding to requests for records of the Office of the Secretary, including the Office of the Inspector General, currently is exercised by the Office of the Assistant Secretary of Public Affairs under authority delegated by the Secretary to that office (49 CFR 1.63 (a)). The Office of the General Counsel currently has the responsibility for reviewing and taking final action on applications for reconsideration of initial decisions not to disclose unclassified records of the Office of the Secretary under FOIA (49 CFR 1.57(m)). The General Counsel, or his or her designee, also reviews any final determination by the head of an operating element within the Department not to disclose a record (or a denial of a request for a fee waiver or reduction) under 49 CFR Part 7 (53 FR 30265, August 11, 1988). Appendix A to Part 7 also sets out, among other things, where documents may be inspected (paragraph 2), where requests for records should be submitted (paragraph 4), and the official that has authority to make determinations on requests (paragraph 5).

By this delegation, the Associate General Counsel, or his or her designee, will now be responsible for the functions currently exercised by the Office of the Assistant Secretary for Public Affairs. As a result of this change, all FOIA requests will be handled within the Office of the General Counsel. The requests should be submitted to the Associate General Counsel. In the event the position of Associate General Counsel is vacant, and no designation by the Associate General Counsel has been made, the General Counsel shall designate another person to make the determination on requests.

The review functions will continue to be exercised by the General Counsel, or his or her designee. This process will maintain a two-tiered approach to FOIA issues. The review procedures set forth in 49 CFR Part 7 generally remain intact. However, a technical correction to Part 7 is needed. Section 7.1(d) will be changed to reflect the reorganization of function. Appendix A to Part 7 will be amended as follows:

—Paragraph 2 explains, among other things, that document inspection facilities are maintained by the Office of the Assistant Secretary for Public Affairs. This facility remains unchanged, but the office designation will be changed to Office of the General Counsel.

—Paragraph 4 will be changed to the Associate General Counsel.

—Paragraph 5 will be changed to the Associate General Counsel, or his or her designee.

Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register**.

List of Subjects

49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

49 CFR Part 7

Freedom of Information, Administrative practice and procedures, Records.

In consideration of the foregoing, Parts 1 and 7 of Title 49, Code of Federal Regulations, are amended to read as follows:

PART 1—[AMENDED]

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

Authority: 49 U.S.C. 322.

2. Section 1.57b is added to read as follows:

§ 1.57b Delegations to the Associate General Counsel.

Administer 5 U.S.C. 552 and 49 CFR Part 7 in connection with the records of the Office of the Secretary (including the Office of the Inspector General) and issue procedures to ensure uniform Departmental implementation of statutes and regulations regarding public access to records.

3. Section 1.63 is amended by removing and reserving paragraph (a) to read as follows:

§ 1.63 Delegations to Assistant Secretary for Public Affairs.

* * * * *

(a) [Reserved]

PART 7—[AMENDED]

4. The authority citation for Part 7 continues to read as follows:

Authority: 5 U.S.C. 552; 31 U.S.C. 9701; 49 U.S.C. 322.

§ 7.1 [Amended]

5. In § 7.1(d), remove the words "Assistant Secretary for Public Affairs" and add in their place the words "Office of the General Counsel".

Appendix A to Part 7—[Amended]

6. In Appendix A to Part 7, paragraph 2, remove the words "Assistant Secretary for Public Affairs" and add in their place the words "Office of the General Counsel".

7. In Appendix A to Part 7, paragraphs 4 and 5, remove the words "Assistant Secretary for Public Affairs" and add in their place the words "Associate General Counsel".

Issued on: February 27, 1989.

Samuel K. Skinner,

Secretary of Transportation.

[FR Doc. 89-5527 Filed 3-8-89; 8:45 am]

BILLING CODE 4910-62-M

Research and Special Programs Administration

49 CFR Part 173

Hazardous Materials; Requirements for Shipments and Packagings; Limited Quantities of Flammable Liquids

CFR Correction

In Title 49 of the Code of Federal Regulations, Parts 100 to 177, revised as of October 1, 1988, in § 173.118(c), appearing on page 471 a portion of the text was omitted.

§ 173.118 [Corrected]

The last line of § 173.118(c) should read "rated capacity of one gallon or less are not subject to the requirements of this subchapter."

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

[Docket No. 90251-9051]

Northeast Multispecies Fishery

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

ACTION: Emergency rule.

SUMMARY: The Secretary of Commerce (Secretary) has determined that an emergency rule is necessary to promote effective management of the yellowtail flounder fishery and to prevent wastage of the yellowtail flounder stocks by closing the area, designated as the Southern New England/Mid-Atlantic Region closed area, earlier than specified in the existing regulations. The intended effect of this action is to provide protection to the juvenile yellowtail flounder stocks present in the area to enhance future spawning potential.

EFFECTIVE DATE: March 6, 1989 through April 1, 1989.

ADDRESS: A copy of the environmental assessment (EA) for this rule may be obtained from Douglas Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, MA 01908.

FOR FURTHER INFORMATION CONTACT: Jack Terrill (Resource Policy Analyst) 508-281-3600, ext. 252.

SUPPLEMENTARY INFORMATION: This notice of emergency action was prepared by NMFS at the request of the New England Fishery Management Council (Council) in response to a vote taken by the Council at its January 1989 meeting. This action is being implemented using emergency authority provided to the Secretary under section 305(e)(2)(B) of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1855(e)(2)(B).

Regulations at 50 CFR Part 651 implement the Fishery Management Plan for the Northeast Multispecies Fishery (FMP) and specify that an area, designated as the Southern New England/Mid-Atlantic Region closed area, be closed during certain times of each year in order to protect yellowtail and winter flounder which concentrate there. By regulation, the area is divided into two areas with the eastern part closing on March 1 and the western remainder closing on April 1 of each year. The entire area will be reopened at 2400 hours on May 31 of each year, or at an earlier date after May 1 if the NMFS Northeast Regional Director, in consultation with the Council, determines that the closure has achieved the appropriate spawning level for yellowtail and winter flounder. Beginning at the end of December 1988, harvesters indicated the presence of large quantities of juvenile yellowtail flounder in both the eastern and western areas. The fish were reported to be of 6 to 8 inches in length (less than the legal minimum size of 12 inches) with discards of 50% and greater occurring. While mortality rates for the discarded undersized flounder are unknown, rates are expected to be high. Incidental mortality will vary depending upon length of tow, amount of fish caught by trawl, handling, and other factors, but is believed a serious threat to prerecruit flounders. Members of the Southern New England fishing industry contacted the Council and requested that action be taken to protect the flounders. They suggested that the closing dates for the area be moved up to help prevent the occurrence of any further takes.

Critical to their request was a recent report published by the NOAA/NMFS, Northeast Fisheries Center, that indicated that yellowtail flounder stocks are at record low levels of abundance with poor prospects for recovery. According to the report, yellowtail flounder landings are at a 30 year low, and recent weak year classes and continued fishing pressure are expected to continue this downward trend. The yellowtail flounder found in the Southern New England area spawn at approximately 10 inches so the continued take and discard with the resultant mortality of juvenile fish will be detrimental to any rebuilding.

Four sea sampling trips directed by NMFS were conducted in the Southern New England area. The trips confirmed that the juvenile flounder were present throughout the area, with discards measuring 8 to 12 inches in length comprising up to 95 percent of the tow. Total average lengths and discard percentages for these trips were 11 inches and 73 percent respectively.

Based on this information, the Secretary has determined that the need for emergency action does exist and that it is appropriate to close the entire area to fishing with groundfish gear. Continued effort on yellowtail flounder would not be in the best interest of the resource and the industry. The eastern portion of the area closed March 1 under existing regulations at 50 CFR 651.21(b). Accordingly, this emergency action provides for the early closure of the remaining western portion of the area.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator finds no potential negative impact on the groundfish resources as a result of this rule. An environmental assessment is available which explains the projected effects of the rule and finds that it has no significant effect on the human environment under the National Environmental Policy Act. A copy of the assessment may be obtained from the Council at the address listed above (see **ADDRESSES**).

This emergency rule is exempt from normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that Order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the regular procedures of that Order.

Pursuant to section 553(b)(B), the Assistant Administrator also finds that, because of the likelihood of high mortality of juvenile yellowtail flounder in the Southern New England/Mid-Atlantic closed area and because recent data indicate the yellowtail flounder stocks are at record low levels of abundance, notice and opportunity for public comment are impracticable and contrary to the public interest. Pursuant to section 553(d) and for the reasons stated above, the Assistant Administrator further finds good cause to make this rule immediately effective.

This emergency action is exempt from the requirements of the Regulatory Flexibility Act because it is being issued without opportunity for prior public comment.

This rule does not contain a collection of information requirement subject to the Paperwork Reduction Act.

The Assistant Administrator has determined that this rule does not directly affect the coastal zone of any State with an approved coastal zone management program.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 651

Fishing, Fisheries, Vessel permits and fees.

Dated: March 6, 1989.

James W. Brennan.

For the reasons set out in the preamble, NOAA amends 50 CFR Part 651 as follows:

PART 651—NORTHEAST MULTISPECIES FISHERY

1. The authority citation for 50 CFR Part 651 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 651.21 paragraph (b)(2)(i) is suspended until April 1, 1989, and a new paragraph (b)(4) is added to read as follows:

§ 651.21 Closed areas.

* * * * *

(b) * * *

(2)(i) [Suspended]

(3) * * *

(4)(i) The entire area defined in paragraph (b)(1) of this section shall be closed effective March 6, 1989, until 2400 hours on May 31, 1989, unless reopened in accordance with paragraph (b)(2)(ii) of this section.

(ii) The closure specified in paragraph (b)(4)(i) shall not apply to dredge gear designed and being used for the taking of scallops in the west of 71°30' W. longitude until April 1, 1989.

* * * * *

[FR Doc. 89-5505 Filed 3-6-89; 4:01 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 45
Thursday, March 9, 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 29

[TB-89-001]

Tobacco Inspection; Flue-Cured and Burley Tobacco; Importation Prohibitions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Dairy and Tobacco Adjustment Act of 1983, as amended, prohibits the importation of flue-cured and burley tobacco which contains any prohibited pesticide residue and establishes related certification and testing requirements. This proposal would amend the implementing regulations to: (1) Substitute the term "prohibited pesticide residue" for "banned pesticide"; (2) revise the list of pesticides for which testing is conducted; (3) revise the maximum allowable concentrations of residues; and (4) require that shipments of imported flue-cured and burley tobacco not be altered or moved from the point of entry until it has been determined that the tobacco does not exceed the maximum allowable concentrations of residues. These proposed changes would improve effective implementation of the 1983 Act.

DATE: Comments are due on or before April 10, 1989.

ADDRESS: Send comments to the Director, Tobacco Division, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090-6456. Comments will be available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Director, Tobacco Division, AMS, USDA, Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090-6456, telephone—(202) 447-2567.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department proposes to amend the regulations governing the inspection and grading of tobacco (7 CFR Part 29, Subpart B) as they pertain to the testing of imported flue-cured and burley tobacco for prohibited pesticide residues and to related matters. The authority for these regulations is contained in the Dairy and Tobacco Adjustment Act of 1983, as amended (7 U.S.C. 511r) ("the Act") and the Tobacco Inspection Act (U.S.C. 511-511q).

The term "banned pesticide" is presently defined in section 29.401(p) with a reference to pesticides which have been canceled, suspended, revoked, or otherwise prohibited under the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA") (7 U.S.C. 135 *et seq.*). However, the term is used by various national and international organizations and others to refer to pesticides the use of which has been completely prohibited in a particular jurisdiction. In order to avoid any possible confusion, this proposed rule would substitute the term "prohibited pesticide residue," which would be defined as any pesticide residue exceeding the maximum concentration of residue for a specific pesticide or combination of pesticides as set forth in § 29.427. Also, conforming changes would be made in § 29.401(u), the definition of "Testing," and § 29.429, "Disposition of imported tobacco exceeding pesticide residue standards."

When the initial regulations concerning pesticide residues in tobacco were issued (51 FR 30196, August 22, 1986), it was stated in the supplementary information that the list of pesticides for which residue limits were established would be subject to revision from time to time as the circumstances require. The list comprises those pesticides which are not approved for use on tobacco in the United States (i.e., those pesticides which have been canceled, suspended, revoked, or otherwise prohibited under FIFRA) but which are not known or believed to be used on tobacco in foreign countries and for which reliable testing methodologies exist. Based upon information obtained from the Tobacco Pesticide Committee of the Tobacco Workers Conference, this proposed rule would add the following pesticides to the list in § 29.427: DDE, hexachlorobenzene (HCB), lindane, methoxychlor, tamaron, and cypermethrin. Maximum allowable concentrations of residues for these pesticides would be established in the manner described below.

The program for testing flue-cured and burley tobacco for pesticide residues has been under continual review since its inception. Initially, the maximum allowable concentrations of pesticide residues were established by analogy to the residue tolerances established by the Environmental Protection Agency (EPA), for food crops. The agency now believes that the program could be placed upon a more appropriate scientific footing. In proposing new maximum allowable concentrations of residues, the Department has relied upon research conducted by several land grant universities, information from the Codex Alimentarius Commission, published scientific literature, regulations of the Environmental Protection Agency, data from the Department's Agricultural Stabilization and Conservation Service (ASCS) domestic tobacco monitoring program, and data on pesticide residues in imported tobacco collected by testing imported tobacco under the present regulations. This information is available for inspection at the same address as for the comments.

During the 2½ years that the regulations have been in place, over 14,000 samples of imported flue-cured and burley tobacco have been tested for pesticide residues. The resulting data provide norms for expected pesticide residue levels. Residues significantly in excess of expected levels would indicate that good agricultural practices may not have been followed in the production of that tobacco. Consideration has been given to sources of pesticide residues which would not be inconsistent with good agricultural practices, such as incidental drift from the spraying of adjacent fields and unavoidable exposure to contaminated soil and ground water.

Some pesticides are persistent and degrade very slowly in the environment and thus may continue to occur in tobacco for many years after application of the pesticide has ceased. Limits for these unavoidable residues would be based upon the levels that are unavoidable in domestically grown

tobacco. The proposed level for persistent pesticides were derived by analyzing results of tobacco monitoring samples taken from various areas of the United States. The pesticides involved are DDT, TDE, DDE, aldrin, dieldrin, toxaphene, heptachlor, heptachlor epoxide, chlordane, hexachlorobenzene (HCB), formotion, and dibromochloropropane (DBCP).

The available data for the pesticides dicamba, 2,4,—D, methamidophos, cypermethrin and permethrin are more limited than that for other pesticides. Although all of the proposed maximum allowable concentrations of residue are subject to change as new data may become available, the proposed levels for these pesticides would be denominated "temporary" in order to indicate a greater likelihood of revision. Interested persons are particularly invited to submit suggestions and data concerning the temporary levels at any time. These may be sent to the address given above for submitting comments on this proposed rule.

As is presently the case, no maximum allowable concentration of residue would be set below 0.1 ppm because this is the limit of reliable measurement.

The Act prohibits the entry into the United States of imported flue-cured and burley tobacco which is found to contain prohibited pesticide residues. The importer is required to complete a Pesticide and End User Certification form at the time of importation and must certify either that the tobacco is free of prohibited pesticide residues, or that it will not move in commerce until it has been tested and found to meet the tobacco pesticide residue requirements. Tobacco certified as not containing prohibited pesticide residues is subjected to random sampling and testing. If the test results are positive, the importer may request a retest. The testing process inherently involves a delay between the time samples are taken and the time that test results are available. In order to prevent the entry and use of tobacco later found to be contaminated, and to preserve the integrity of the testing and retesting process, it is necessary to require that imported flue-cured and burley tobacco not be mixed, blended, manipulated, altered, processed, manufactured, moved, shipped or transported from the point of entry until it has been determined that the tobacco does not exceed the maximum allowable pesticide residue concentrations set forth in § 29.427. This proposed rule would establish these requirements in a new § 29.431.

This proposed rule has been reviewed under USDA procedures established to implement Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be "nonmajor" because it does not meet any of the criteria established for major rules under the Executive Order.

The information collection requirements contained in the provisions of the regulations that would be amended by this proposed rule have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB No. 0581–0056.

Pursuant to the requirements set forth in the Regulatory Flexibility Act, full consideration has been given to the potential economic impact on small business of this proposed rule. Few, if any, of the firms which would be affected by these proposed regulations meet the definition of small business because of their individual size. The Administrator, Agricultural Marketing Service, has determined that this action would not have a significant economic impact upon a substantial number of small entities.

All persons who desire to submit written data, views or arguments for consideration in connection with this proposal may file them with the Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456.

For reasons set forth in the preamble, it is proposed that the regulations in 7 CFR Part 29, Subpart B, be amended as follows:

PART 29—[AMENDED]

1. An authority citation for Part 29, Subpart B, is added to read as follows:

Authority: 7 U.S.C. 511m and 511r.

Subpart B—Regulations

2. In § 29.401, paragraphs (p) and (u) are revised to read as follows:

§ 29.401 Definitions

* * * * *

(p) *Prohibited pesticide residue.* The maximum concentration of residue allowable for a specific pesticide or combination of pesticides as set forth in section 29.427.

* * * * *

(u) *Testing.* The chemical analysis of a pesticide test sample to determine levels of pesticide residues.

* * * * *

3. Section 29.427 is revised to read as follows:

§ 29.427 Pesticide residue standards.

(a) The maximum concentration of residues of the following pesticides allowed in flue-cured or burley tobacco, expressed as parts by weight of the residue per one million parts by weight of the tobacco (ppm) are:

(1) 0.2 ppm for the sum of op isomers of DDT, TDE (DDD) and DDE,

(2) 0.2 ppm for the sum of pp isomers of DDT, TDE (DDD) and DDE,

(3) 0.1 ppm for the sum of aldrin and dieldrin,

(4) 0.1 ppm for the sum of heptachlor and heptachlor epoxide,

(5) 0.1 ppm for hexachlorobenzene (HCB),

(6) 0.3 ppm for toxaphene,

(7) 1.0 ppm for disbromochloropropane (DBCP).

(8) 0.5 ppm for formothion,

(9) 3.0 ppm for chlordane,

(10) 0.1 ppm for endrin,

(11) 0.1 ppm for lindane,

(12) 0.1 ppm for methocychlor,

(13) 0.1 ppm for 2,4,5—T, and

(14) 0.1 ppm for ethylene dibromide (EDB).

(b) Temporary maximum concentrations of residues of the following pesticides allowed in flue-cured or burley tobacco expressed as parts by weight of the residue per one million parts by weight of the tobacco are:

(1) 5.0 ppm for dicamba,

(2) 5.0 ppm for 2,4,—D,

(3) 10.0 ppm for methamidophos, and

(4) 3.0 ppm for the sum of cypermethrin and permethrin.

4. Section 29.429 is revised to read as follows:

§ 29.429 Disposition of imported tobacco exceeding pesticide residue standards.

Within 10 days of the receipt of test results from pesticide test samples, the Director shall notify the importer or entity responsible for the lot of tobacco of the test results. If the test results indicate that the lot or any portion of the lot contains prohibited pesticide residues, the Director will notify the importer or entity responsible for the affected tobacco and the appropriate U.S. Customs officials that the tobacco cannot enter the United States. The importer or other entity shall notify the Director in writing of the methods by which the tobacco will be disposed of and provide 5 days advance notice of the time and place of final disposition. The Department will monitor the disposition procedures to verify that the tobacco has been accurately identified as to lot, kind, type, and grade.

5. A new § 29.431 is added to read as follows:

§ 29.431 Handling of imported tobacco pending test results.

After an individual shipment of imported flue-cured or burley tobacco has been sampled, regardless of whether it is certified as being free from prohibited pesticide residues, it must be kept in the original packages, and not be mixed, blended, manipulated, or altered in any manner, or moved, shipped, or transported from the point of entry until it has been determined that the tobacco does not contain prohibited pesticide residues.

Dated: March 6, 1989.

J. Patrick Boyle,

Administrator.

[FR Doc. 89-5490 Filed 3-8-89, 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 51

[Docket Number FV-88-210]

Christmas Trees; Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action would revise the voluntary U.S. Standards for Grades of Christmas Trees. The National Christmas Tree Association, a trade association representing a cross section of growers, shippers, and other industry members who market Christmas trees in the United States, has requested that the U.S. standards be revised to reflect current cultural and marketing practices. The Agricultural Marketing Service (AMS), in cooperation with industry, has the responsibility to develop and improve standards of quality, condition, quantity, grade, and packaging in order to encourage uniformity and consistency in commercial practices.

DATE: Comments must be postmarked or courier dated on or before May 8, 1989.

ADDRESS: Interested parties are invited to submit written comments concerning this proposal. Comments must be sent, in duplicate, to the Standardization Section, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 2056, South Building, Washington, DC 20090-6456. Comments should reference the date and page numbers of this issue of the Federal Register and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Paul W. Manol at the above address, or call (202) 447-5410.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been designated as "nonmajor."

Pursuant to the requirements set forth in the Regulatory Flexibility Act, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities. The proposed revision of the U.S. standards for Christmas trees will not impose any substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses. This action proposes changes to the U.S. Standards for Grades of Christmas Trees which brings the standards into conformity with current marketing practices. In addition, these standards are voluntary.

The United States Standards for Grades of Christmas Trees were last revised on April 1, 1973. These standards are applicable to sheared or unsheared coniferous trees which are normally marketed as Christmas Trees. Most of these trees are of the following categories: Douglas fir, Balsam fir, Black spruce, Eastern Red cedar, White spruce, Scotch pine, Norway spruce, Red pine, Eastern White pine, Red spruce, Fraser fir, and Virginia pine.

The following grades are currently provided for in the standards: U.S. Premium, U.S. No. 1 or U.S. Choice, and U.S. No. 2 or U.S. Standard. Provisions for tolerances are set forth in the standards, as well as definitions of various terms that are used in the standards. Finally, these standards contain a metric conversion table.

The Agricultural Marketing Service received a petition from the National Christmas Tree Association to amend the U.S. Standards for Grades of Christmas Trees. The Association contends that due to high levels of production in recent years and the fact that more trees are being "nursery bred," changes are necessary in the current standard. The Association believes that the industry requires a more uniform and simplified standard by which to market and grade Christmas trees. In addition, they feel that certain revisions will ultimately provide the consumer with a higher quality product, and bring the standards up to date with current marketing practices.

The National Christmas Tree Association has requested that the U.S. Standards be revised to reflect current cultural and marketing practices. In addition, the standards have been reviewed for need, currentness, clarity, and effectiveness as part of a periodic review. Accordingly, the following changes and additions are proposed:

—The general provisions regarding the majority of species marketed would be revised to reflect current marketing trends. Several species would be deleted while others would be added.

—The current standards allow a 10 percent tolerance for off-size, 20 percent tolerance for off-length handles, and 10 percent tolerance for defects, provided, that for the U.S. Premium and U.S. No. 1 grades, not more than 5 percent shall be allowed for trees failing to meet requirements of the text lower grade. As proposed, tolerances would be restricted to a total of 10 percent for defects, provided, that included in this tolerance, not more than the following percentages shall be allowed: not more than 5 percent for off-size, 10 percent for off-length handles, and 10 percent for defects failing to meet the remaining requirements of the grade. These proposed changes would reduce the amount of defects permitted thereby increasing the quality of Christmas trees available to the consumer.

—The use of the terms "U.S. Choice" and "U.S. Standard" as companion grades to U.S. No. 1 and U.S. No. 2 respectively, would be deleted so as to eliminate any confusion in the grade certification process.

—The cleanness requirement for the U.S. No. 1 grade would be changed from "clean" to "fairly clean," thereby differentiating the amounts of allowable vines or other foreign material between the U.S. Premium grade, which is required to be clean, and the U.S. No. 1 grade.

—Current standards require the U.S. Premium grade to have not less than medium density. As proposed, U.S. Premium grade Christmas trees would require not less than heavy density. This proposed change would provide that U.S. Premium graded trees have a fuller foliated appearance.

—The handle length requirement in the current standards, unless otherwise specified, is not less than 6 inches or more than 1¾ inches of each foot of tree length. This applies to both cut trees and those graded "on the stump." The proposed handle length, unless otherwise specified, would be not less than 6 inches or more than 1½ inches for each foot of tree length for all grades. Additionally, handle length requirements would be waived for trees graded "on the stump." It is the contention of the National Christmas Tree Association that lowering the specification from 1¾ inches per foot of tree length to 1½ inches provides the consumer with a trunk that is more

proportional to tree height. Additionally, trees graded "on the stump," i.e. in the field prior to cutting, would have no handle length requirements because inspection personnel would have no way of knowing where on the trunk the tree would ultimately be cut.

—Currently, the U.S. No. 2 grade requires a candlestick, normal, or flaring taper. As proposed, only a "normal taper" would be required of U.S. No. 2 Christmas trees. This proposed change would provide that trees graded U.S. No. 2 have a shape that would be generally more desirable to consumers.

—The "face" requirements as pertaining to allowable defects would be revised in all grades to permit minor and/or noticeable defects not addressed in the current standards. This would provide a means of determining how defects affect the appearance of the tree in relation to the face requirements for each grade. For example, the current standards requires trees graded U.S. Premium to have four complete faces tree from any defects. In essence, a perfect tree. The proposed requirements for U.S. Premium trees would allow one minor defect to affect three complete faces and one minor defect to affect the remaining face.

It is the National Christmas Tree Association's contention that these proposed changes more closely reflect how Christmas trees actually grow and appear.

—In the current standards, size is stated in foot or half-foot increments and, unless otherwise specified, color codes may be used to designate respective sizes. As proposed, size would be stated in foot increments only and, unless otherwise specified, new color codes would be used to designatge respective sizes. Additionally, in any size range, a minimum of ⅓ of the trees in a lot would be required to be in the top half of that size range. Christmas trees are generally marketed in one foot increments. Therefore, this proposed change would eliminate any confusion in sizing trees per current size tolerances and would provide a standard for measurement determination.

—Definitions for "fresh," "clean," "height," "healthy," and "butt trimmed" would be reworded to better reflect current cultural and marketing conditions and new definitions would be established for "medium" and "light density" that would reflect the change whereby a tree's density would be based on individual species.

—A definition for "heavy density" would be established. This conforming change is necessary because of the proposed change establishing "heavy density" as the minimum requirement for the U.S. Premium grade.

—The current standards list only noticeable and materially detracting classifications of defects. As proposed, three new classes of defects would be established and defined: minor, noticeable, and culls. This proposed change would simplify the determination of defects by listing them in chart form in descending order, minor to cull.

—The grade standards format itself would be revised and updated to incorporate all of the above mentioned changes, and provide convenient use to the industry.

—Finally, the authority citation which is stated at the beginning of this subpart would be deleted. This would bring this subpart into conformity with the remainder of Part 51 as to the use of statutory authority citations.

List of Subjects in 7 CFR Part 51

Fresh fruits, vegetables, and other products (Inspection, certification, and standards).

For reasons set forth in the preamble, it is proposed that 7 CFR Part 51 be amended as follows:

PART 51—FRESH FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

1. The authority citation for 7 CFR Part 51 continues to read as follows:

Authority: Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended [7 U.S.C. 1622-1624].

2. The authority citation at the beginning of subpart—United Standards for Grades of Christmas Trees is removed.

3. In Part 51, Subpart—United States Standards for Grades of Christmas Trees and the table of contents thereof are revised to read as follows:

* * * * *

Subpart—United States Standards for Grades of Christmas Trees

General

Sec.
51.3085 General.

Grades

51.3086 U.S. Premium.
51.3087 U.S. No. 1.
51.3088 U.S. No. 2.

Culls

51.3089 Culls.

Size

51.3090 Size.

Sec.
Tolerances

51.3091 Tolerances.

Definitions

51.3092 Fresh.
51.3093 Clean.
51.3094 Healthy.
51.3095 Well shaped.
51.3096 Butt trimmed.
51.3097 Density.
51.3098 Normal taper.
51.3099 Complete face.
51.3100 Fairly clean.
51.3101 Handle.
51.3102 Height.
51.3103 Minor defects.
51.3104 Noticeable defects.
51.3105 Classification of defects.

Metric Conversion Table

51.3106 Metric conversion table.

Subpart—United States Standards for Grades of Christmas Trees

General

§ 51.3085 General

The standards contained in this subpart are applicable to sheared or unsheared trees of the coniferous species which are normally marketed as Christmas trees. The majority of the Christmas trees marketed are of the following species: Douglas Fir (Pseudotsuga Menziesii); Balsam Fir (Abies Balsamea); Red Fir (Abies Magnifica); White Fir (Abies Concolor); Fraser Fir (Abies Fraseri); Grand Fir (Abies Grandis); Noble Fir (Abies Procera); White Spruce (Picea Glauca); Blue Spruce (Picea Pungens); Eastern Red Cedar (Junperus Virginiana); Red Pine (Pinus Resionsa); White Pine (Pinus Strobus); Virginia Pine (Pinus Virginiana); Scotch Pine (Pinus Sylvestris).

Grades

§ 51.3086 U.S. Premium.

"U.S. Premium" consists of trees which meet the following requirements:

(a) Characteristics typical of the species;

(b) Butt trimmed, except for trees graded "on the stump";

(c) Normal taper;

(d) Fresh,

(e) Clean;

(f) Healthy;

(g) Well shaped;

(h) Not less than heavy density;

(i) Handle length, unless otherwise specified, shall be not less than 6 inches, or more than 1½ inches for each foot of tree height. For trees graded "on the stump", handle length will not be a requirement of the grade;

(j) Three complete faces with not more than 1 minor defect. Remaining face may not have more than 1 minor defect;
(k) For size see § 51.3090;
(l) For tolerances see § 51.3091.

§ 51.3087 U.S. No. 1.

"U.S. No. 1" consists of trees which meet the following requirements.
(a) Characteristics typical of the species;
(b) Butt trimmed; except for trees graded "on the stump";
(c) Normal taper;
(d) Fresh;
(e) Fairly clean;
(f) Healthy;
(g) Well shaped;
(h) Not less than medium density;
(i) Handle length, unless otherwise specified, shall be not less than 6 inches, or more than 1½ inches for each foot of tree length. For trees graded "on the stump", handle length will not be a requirement of the grade.
(j) Three complete faces with not more than 2 minor defects. Remaining face may not have more than 1 noticeable defect;
(k) For size see § 51.3090;
(l) For tolerances see § 51.3091.

§ 51.3088 U.S. No. 2.

"U.S. No. 2" consists of trees which meet the following requirements:
(a) Characteristics typical of the species;
(b) Butt trimmed; except for trees graded "on the stump";
(c) Normal taper;
(d) Fresh;
(e) Fairly clean;
(f) Heathly;
(g) Well shaped;
(h) Not less than light density;
(i) Handle length, unless otherwise specified, shall be not less than 6 inches or more than 1½ inches for each foot of tree length. For trees graded "on the stump," handle length will not be a requirement of the grade;
(j) Two complete adjacent faces with not more than 3 minor defects. Remaining faces may not have more than 2 noticeable defects;
(k) For size see § 51.3090;
(l) For tolerances see § 51.3091.

Culls

§ 51.3089 Culls.

"Culls" consist of individual trees which fail to meet the requirements of the U.S. No. 2 grade. (See § 51.3105 Table II).

Size

§ 51.3090 Size.

(a) Height of trees shall be stated in foot increments and unless otherwise specified, the following color codes will be used to designate the respective sizes:

Color	Tree height (feet)
Lime	3 feet or less.
Orange	Over 3 to 4.
Blue	Over 4 to 5.
Red	Over 5 to 6.
Yellow	Over 6 to 7.
Green	Over 7 to 8.
White	Over 8 to 9.
Ink	Over 9 feet.

(b) In determining which designations apply, the measurement for the height is the distance from the base of the handle to the top of the main leader, excluding that portion of the leader that extends more than 4 inches above the apex of the cone of the taper applicable to the tree.

(c) In any size range, a minimum of ⅓ of the trees in a lot shall be in the top half of that size range.

Tolerances

§ 51.3091 Tolerances.

In order to allow for variations incident to proper sizing, grading and handling in each of the foregoing grades the following tolerances, by count, shall apply when a lot of Christmas trees is required to meet a specific grade.

(a) For total defects, 10 percent for Christmas trees in any lot which fail to meet the requirements for the grade: Provided that included in this amount not more than the following percentage shall be allowed for defects listed:

(1) *Off-size.* Five percent for trees which fail to meet the height specified.

(2) *Off-length handle.* Ten percent for trees which fail to meet the requirement for handle length, but which meet all other requirements for the specified grade.

(3) *Defects.* Ten percent for trees which fail to meet the remaining requirements of the grade.

(b) [Reserved]

Definitions

§ 51.3092 Fresh.

"Fresh" means the needles are green, pliable, and firmly attached; with not more than slight shedding.

§ 51.3093 Clean.

"Clean" means the tree is reasonably free from foreign material.

§ 51.3094 Healthy.

"Healthy" means the needles have a fresh, natural appearance characteristic of the species.

§ 51.3095 Well shaped.

"Well shaped" means that the tree is not flat on one side and the branches of the tree, whether sheared or unsheared, are of sufficient number and length to form a circular outline tapering from the lowest whorl of branches to the top.

§ 51.3096 Butt trimmed.

"Butt trimmed" means that all barren branches shall have been removed, and the trunk has been smoothly cut at approximately right angles to the trunk.

§ 51.3097 Density.

"Density" means the amount of foliage on the tree. Factors contributing to degree of density are: The number and size of branches within the whorl, distance between the whorls, number and arrangements of the branchlets on each branch, the extent of internodal branching, needle arrangement, and needle length. Species differ in their habit of growth and some species do not have internodal branches. Density is judged on the basis of species characteristics.

(a) "Heavy density" means the whorls or branches are relatively close together, the spaces between are filled with needles and twigs so that the following species have said percentage of foliage so the main stem is not visible and the needle content and length are adequate to cover the branches:

Name	Percentage of main stem covered (percent)
Red Cedar	90 to 100
Balsam Fir	80 to 100
Douglas Fir	90 to 100
Fraser Fir	70 to 100
Red Fir	70 to 100
White Fir	70 to 100
Grand Fir	80 to 100
Noble Fir	60 to 100
Red Pine	70 to 100
Scotch Pine	90 to 100
Virginia Pine	90 to 100
White Pine	90 to 100
Spruce (all)	80 to 100

(b) "Medium density" means the whorls or branches are reasonably close together, the spaces between are filled with twigs and needles so that the following species have said percentage of foliage so the main stem is not visible and the needle content and length are adequate to cover the branches:

Name	Percentage of main stem covered (percent)
Red Cedar	70 to 90
Balsam Fir	60 to 80
Douglas Fir	70 to 90
Fraser Fir	50 to 70
Red Fir	50 to 70

Name	Percentage of main stem covered (percent)
White Fir	50 to 70
Grand Fir	60 to 80
Noble Fir	50 to 60
Red Pine	60 to 70
Scotch Pine	70 to 90
Virginia Pine	70 to 90
White Pine	70 to 90
Spruce (all)	60 to 80

(c) "Light density" means the whorls or branches are reasonably spaced, the spaces between are only partially filled so that the following species have said percentage of foliage so the main stem is not visible and the needle content and length are adequate to cover the branches:

Name	Percentage of main stem covered (percent)
Red Cedar	50 to 70
Balsam Fir	40 to 60
Douglas Fir	50 to 70
Fraser Fir	40 to 50
Red Fir	40 to 50
White Fir	40 to 50
Grand Fir	40 to 60
Noble Fir	40 to 50
Red Pine	40 to 60
Scotch Pine	50 to 70
Virginia Pine	50 to 70
White Pine	50 to 70
Spruce (all)	40 to 60

§ 51.3098 Normal taper.

"Normal taper" means the relationship of the width of the tree at its lowest branches to the height of the tree, less the handle, judged from its best side. All trees shall form a cone, the base of which is from 40 to 100 percent of its height.

§ 51.3099 Complete face.

"Complete face" means the visible area of a tree as viewed from a distance of 8 to 10 feet from the tree. A tree shall be considered as having four complete faces, each consisting of one-quarter of the surface area of the tree.

§ 51.3100 Fairly clean.

"Fairly clean" means that the tree is moderately free from foreign material.

§ 51.3101 Handle.

"Handle" means that the portion of the trunk between the butt or base of the tree and the lowest complete whorl of foliated branches.

§ 51.3102 Height.

"Height" means the distance from the base of the handle to the top of the main leader, excluding that portion of the leader that extends more than 4 inches above the apex of the cone of the taper applicable to the tree.

§ 51.3103 Minor defects.

"Minor defects" are slight imperfections in the development of the tree or defects resulting from handling, which materially affect the appearance of the tree. While many minor defects may be visible from more than 1 face, a given defect shall be scored only once. (See § 51.3105 Table I).

§ 51.3104 Noticeable defects.

"Noticeable defects" are imperfections in the development of the tree or defects resulting from handling, which seriously affect the appearance of the tree. While many noticeable defects may be visible from more than 1 face; a given defect shall be scored only once. (See § 51.3105 Table I).

§ 51.3105 Classification of defects.

TABLE I

Factor	Minor defects	Noticeable defects
1. Density	Slight uneven density	Moderately uneven density.
2. Curvature of main stem	Slight, visible crook in the main stem (4 inches or less from vertical)	Main stem visibly curved more than 4 but less than 6 inches from vertical.
3. Insect or disease damage	Slight insect or disease damage	Moderate insect or disease damage.
4. Broken branches	1 broken whorl branch close to main stem	Broken leader or more than 1 broken whorl branch near mainstem.
5. Physical damage	Slight physical damage	Moderate physical damage.
6. Foreign material and/or vines	Slight amount of foreign material or vines	Moderate amount of foreign material or vines.
7. Multiple leader stems	Multiple leaders	Crows nest.
8. Extra long branches	Branch over 10 inches longer than other branches on corresponding whorl	N/A.
9. Abnormal curling of needles	Slightly abnormal curling of needles	Moderately abnormal curling of needles.
10. Weak lower branches	Free from	Weak lower branches affecting up to ¾ of branches on bottom whorl.
11. Handle not proportionate to height	Free from	Handle not proportionate to height of tree
12. Incomplete whorl of branches	Less than ¼ of branches are missing in a given whorl	¼ but less than ½ of branches are missing in a given whorl.
13. Holes or gaps in tree	Free from	Hole in the tree or tree or space considerably out of proportion with the uniform branch characteristics of the balance of the tree.
14. Gooseneck	Free from	Free from.
15. Loss of needles	Slight loss of needles	Moderate loss of needles.

TABLE II

Factor	Culls
1. Density	Severely uneven density.
2. Curvature of mainstem.	Main stem curved more than 6 inches.
3. Insect or disease damage.	Severe insect or disease damage or abnormal curling of needles.

TABLE II—Continued

Factor	Culls
4. Broken branches	Main stem broken below top whorl or more than three branches broken near trunk.
5. Physical damage	Severe physical damage.
6. Foreign material and/or vines	Heavy amounts of foreign material or vines.
7 Multiple stems	Multiple main stems (not leaders).

TABLE II—Continued

Factor	Culls
8. Extra long branches.	N/A.
9. Abnormal curling of needles.	Severely abnormal curling of needles.
10. Weak lower branches.	Weak lower branches affecting more than ¾ of branches on bottom whorl.

TABLE II—Continued

Factor	Culls
11. Handle not proportional to height.	N/A.
12. Incomplete whorl of branches.	More than ½ of branches missing in a given whorl or when missing branches create at shelf.
13. Holes or gaps in tree.	Shelf or a decided gap or space between whorls of branches noticeable on 2 or more faces.
14. Gooseneck	Any gooseneck.
15. Abnormal loss of needles.	Severe loss of needles.

Metric Conversion Table

§ 51.3106 Metric conversion table.

Feet	Centimeters (cm)	Feet	Centimeters (cm)
1	30.48	6	182.88
2	60.96	7	213.36
3	91.44	8	243.84
4	121.92	9	274.32
5	152.40	10	304.80

Dated: March 6, 1989.

J. Patrick Boyle,

Administrator.

[FR Doc. 89-5530 Filed 3-8-89; 8:45 am]

BILLING CODE 3410-02-M

Packers and Stockyards Administration

9 CFR Part 203

Statement of General Policy; Antibiotic and Sulfa Residues, in Slaughter Animals

AGENCY: Packers and Stockyards Administration, USDA.

ACTION: Withdraw notice of intent to institute proposed rulemaking.

SUMMARY: This document withdraws a Notice of Intent to Institute Proposed Rulemaking published May 24, 1988 (53 FR 18572), which proposed a "bill-back" mechanism intended to shift economic responsibility for violative drug residues from the meat packer to the person causing the violation. Withdrawal of this proposal does not alter the U.S. Department of Agriculture's commitment to assuring a residue free meat supply.

DATE: Effective March 9, 1989.

FOR FURTHER INFORMATION CONTACT: Harold W. Davis, Director, Livestock Marketing Division, Room 3408-South Building, U.S. Department of Agriculture, Washington, DC 20250 (202) 447-6951.

SUPPLEMENTARY INFORMATION: Because of continuing concerns about the number of violative sulfa and antibiotic drug residues in carcasses of young calves, cull dairy cows and swine, a proposed "bill-back" mechanism was published in the **Federal Register** on May 24, 1988 (53 FR 18572). In addition to seeking public comments, the proposal sought alternative suggestions which would accomplish the objectives of deterring violative residues and shifting economic responsibility when violations occur. Pursuant to industry requests, the period for filing comments was extended to September 23, 1988 (53 FR 27174).

A total of 285 comments were received with 249 or 87 percent of these opposed to the "bill-back" concept. Thirty-four or twelve percent of the comments favored the proposal and two did not express a position. Six of the thirty-four comments favoring the "bill-back" proposal expressed reservations, such as whether there is sufficient animal identification to permit positive traceback and whether the actual violator could always be determined. Comments were filed by 99 livestock producers and producer trade associations, 146 livestock marketing businesses and marketing trade associations and 24 meat packers and packer trade associations with the remaining 16 filed by a variety of interests, including Government agencies and agri-businesses.

Almost all of the comments recognized the need to assure a meat supply free of illegal residues and expressed support for the proposition that the person causing the illegal residue should be held economically responsible. However, most of those commenting were strongly opposed to the "bill-back" proposal because they do not believe it will accomplish these objectives and they feel it is unfair and/or unworkable.

Valid questions were raised by the comments about the ability to accurately identify the source of illegal residues. While the comments generally acknowledged that livestock producers cause some of the illegal residues, persuasive arguments were made that livestock producers are not the sole cause of residue violations. Further, there was strong disagreement as to the number of residue violations caused by livestock producers and the source of the remaining violations.

Meat packers and the packer trade associations generally supported the "bill-back" concept pointing out that packers have absorbed the loss for most carcasses condemned because of violative residues. On the other hand, most of the comments filed by marketing businesses and a national trade association representing many of these businesses argued that the "bill-back" proposal would only shift the economic responsibility for illegal drug residues from the packer to the marketing sector. Since livestock producers are not subject to the Packers and Stockyards Act, the markets contend their only recourse would be the same as the packers' which is to file suit against the producer. This is not economically feasible in most instances because of the relatively small dollar amounts at issue in individual cases.

Other issues raised by the comments included the lack of adequate animal identification to permit positive trace back in all instances, concern that the drug residue tests being used are not 100 percent accurate and the declining number of residue violations has reduced the need for a program as drastic as the "bill-back" proposal. The residue violation rate in swine dropped dramatically during 1988 as a result of industry efforts and other programs administered within the Department of Agriculture. The residue violation rate in the other problem classes (young calves and cull dairy cows) has also been substantially reduced over the last 3 years.

Under these circumstances, a proposed rule permitting a "bill-back" with the right to offset from future purchases cannot be justified at this time without positive identification of the actual source of the residue contamination. Accordingly, the Notice of Intent to Institute Proposed Rulemaking is being withdrawn.

Withdrawal of the proposal will not preclude any person suffering financial harm because of an illegal residue from pursuing any rights they may have to obtain restitution, including seeking voluntary payment from the seller. An arbitrary offset from a future purchase, however, would not be permitted and could be considered an unfair practice under the provisions of the Packers and Stockyards Act. It should be noted that the Packers and Stockyards Administration recognizes a packer is entitled to know the identity of a consignor when a carcass is condemned as a result of an illegal residue. Such disclosure is subject to the packer furnishing official verification that the animal was condemned because of an illegal residue.

All segments of the industry have recognized the need for a residue free meat supply and expressed a willingness and desire to work with each other and the Department to solve

this problem. Withdrawal of this proposal will afford the industry an opportunity to pursue a solution which may avoid the need for further rulemaking. However, the Department of Agriculture remains committed to assuring a residue free meat supply and will consider further rulemaking if necessary.

Done at Washington, DC this 6th day of March 1989.

B.H. (Bill) Jones,

Administrator, Packers and Stockyards Administration.

[FR Doc. 89-5492 Filed 3-8-89; 8:45 am]

BILLING CODE 3410-KD-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 24, 132, 141, 142, and 143

Proposed Customs Regulations Amendments Concerning Statement Processing and Automated Clearinghouse

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to provide users of Customs Automated Broker Interface (ABI) with the option of paying their entry/entry summaries and entry summaries by the statement processing method. Statement processing allows entry/entry summaries and entry summaries to be grouped and payment made for the group with a single payment. The document further proposes that ABI filers who use statement processing must pay their statements through the use of the Automated Clearinghouse electronic payment mechanism.

Additionally, this document proposes that entries of quota class merchandise and other special classes of merchandise designated by Customs Headquarters can be paid through statement processing if the preponderance of the ABI filer's non-special class entry summaries are also processed under statement processing. This would mean that estimated duties would no longer be required to be attached to entry summary documentation for such entries, but could be electronically sent within 10 days from the date of entry.

DATE: Comments must be received on or before May 8, 1988.

ADDRESS: Written comments (preferably in triplicate) may be addressed to and inspected at the Regulations and Disclosure Law Branch, Room 2119, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229. Comments concerning the accuracy of the burden estimate and suggestions for reducing the burden should be directed to U.S. Customs Service, 1301 Constitution Avenue, NW, Reports Management Office, Washington, DC 20229 or the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: James Childress, Commercial Systems Division (202-343-0778).

SUPPLEMENTARY INFORMATION:

Background

Historically, Customs has generally required that estimated duties be attached to the submission of entry documentation or entry summary documentation. This payment was usually made by an individual check covering the entry or the entry summary. Through Customs Automated Commercial System (ACS), specifically its Automated Broker Interface (ABI), Customs has developed a method known as statement processing which now allows one payment to cover multiple entry summaries. Further, Customs has developed an enhancement to statement processing which no longer requires that the estimated duties be attached to the submission of entry summary documentation. The enhancement is known as the Automated Clearinghouse (ACH); ACH is an electronic payment mechnism. A filer who is on Customs ABI now may transmit his entry data to Customs through the ABI, may elect to use statement processing, and may utilize ACH to effect payment. The entry summary documentation must be submitted within 10 working days after entry of the merchandise. Payment through ACH for the entry summaries must be made on the same day the documentation is submitted.

This document proposes that amendments be made to the Customs Regulations providing for the voluntary use by ABI participants of statement processing. It also proposes the requirement that payment of all ABI statements be made through the use of the ACH electronic payment mechanism.

Additionally, this document proposes that the Customs Regulations be amended concerning the payment of estimated duties regarding special classes of merchandise, consisting of quota-class merchandise and other classes designated by Customs Headquarters. It is proposed that payment of estimated duties regarding these entry/entry summaries be allowed through ABI statement processing if the preponderance of the ABI participant's non-special class entry summaries are also processed under statement processing. As with all entry/entry summaries and entry summaries that are statement processed, these entry/entry summaries must appear on an ABI statement no later than 10 working days from date of entry and must be paid using ACH.

Automated Commercial System

The Automated Commercial System (ACS) was developed to enable Customs to process the rapidly increasing volume of commercial importations in an efficient and expeditious manner. As part of this effort, Customs has developed automated computer interfaces with various elements of the importing community. One of these is the Automated Broker Interface (ABI).

Automated Broker Interface

ABI is a voluntary system which pemits qualified trade participants to interface directly with the Customs computer and transmit entry release and entry summary data for merchandise being imported. The ABI system speeds entry processing and provides two-way communication between the user and Customs. In this manner, participants are able to ensure the accuracy and completeness of data by accessing Customs automated reference files.

The ABI was designed in cooperation with the trade, making use of standard technology available to both large and small businesses. Users are responsible for developing computer programs necessary to support the functional aspects of the system according to the specifications contained in the *ABI Broker Requirements Document* (Customs Publication No. 540). ABI requires that private sector systems have complete edit and verification programs which are utilized during entry preparation to ensure data accuracy and completeness. Costs for communications hardware, adapters, and supporting software are absorbed by the ABI participants. Customs provides access to toll-free lines for actual data transmissions.

Those entities which do not interface directly with Customs are able to submit entries through a service bureau or port authority which will communicate with Customs in the same way as other ABI users. One-time and occasional importers may elect to continue to file entries directly with Customs.

The general requirements for ABI participation are as follows:

- Demonstration of acceptable entry summary preparation capabilities in both a manual and an automated environment.
- The assembly and communication of entry data in conformity with the ABI Broker Requirements Document.
- Successful completion of a period of intensive testing on the Customs system.
- The continued meeting or exceeding of Customs established error and reject standards.

Participants who become operational in the ABI may elect to process entry summaries utilizing ABI statement processing.

ABI Statement Processing

Before ABI, pursuant to § 141.101, Customs Regulations (19 CFR 141.101), estimated duties were required, generally, upon submission of the entry documentation or the entry summary documentation, when the entry summary served as both the entry and entry summary. This payment was usually made by a check covering the individual entry or the entry summary. ABI statement processing is an option available to ABI participants. Through statement processing, the ABI filer elects to group entry summaries on a daily basis and pay the duties, taxes and fees on those entry summaries with a single payment. An ABI filer using statement processing must submit on the scheduled statement date the estimated duties, taxes, and fees along with the related entry summary documentation.

Currently, the payment of ABI statements may be accomplished through the use of check payment to the statement processing location. Customs is now proposing that the required method of payment for all ABI statements be through the use of ACH, an electronic payment mechanism.

Mechanics of Statement Processing

The mechanics of statement processing are as follows. When entry summary data is transmitted through ABI, the filer, who has been preapproved for statement processing, indicates whether he desires to pay a particular entry summary by an individual payment or by using statement processing. If statement processing is selected, the filer indicates if it is to be an importer or broker statement and provides a valid scheduled statement date, not a Saturday, Sunday, or holiday. ABI will not warn the filer if the scheduled statement date given may result in late payment. The ABI filer is responsible for ensuring that all entry/entry summaries and entry summaries are scheduled for payment within 10 working days after the date of entry.

During the evening prior to the scheduled statement date, the ACS system extracts the affected entries and generates a preliminary statement which is available to the ABI participant the morning of the scheduled statement date. The preliminary statements are to be printed by the ABI filer, who assembles entry summary packages by grouping the required entry summaries as listed on the statement and submitting them to Customs for acceptance.

If a filer must remove an entry summary appearing on a preliminary statement, he may request that it be deleted from the statement by lining the entry number out on the statement copy, adjusting totals and the payment amount accordingly. The actual deletions from the ABI statement are performed by Customs through ACS; the ABI filer cannot perform the deletions. The filer may then pay the deleted entry(s) by individual check, or schedule them for another statement by retransmitting the entry summary data through ABI with a future scheduled statement date.

During the ACS "end-of-day" processing, a final statement is generated for each preliminary statement where payment has been accepted. The filer prints the final statement which is a permanent record of the entry summaries and the related duty, tax, and fee amounts actually paid. The final statement will also provide the filer a listing of any entries which may have been deleted from the preliminary statement at the request of the filer.

Automated Clearinghouse (ACH)

The ACH process is a payment method for use by operational ABI filers to effect payment of ABI statements. The ACH is similar to a bank lockbox arrangement. Instead of the payment being made by check, however, the participant will electronically provide Customs authorization to notify a specific Treasury-designated ACH processor to perform an electronic debit to its bank account, wherever the account is currently located. The payment amount will subsequently be credited to the account of the Treasury.

The ACH process requires that the ABI statement filer provide to Customs in writing the bank transit routing number and the bank account number from which the ACH payments will be electronically debited by the Treasury-designated ACH processor. The information can be obtained from the bottom of the related check or by inquiring of the bank where the account is on file. Customs will prepare a Masterfile Maintenance Form which will be provided to the Treasury-designated ACH processor containing the account information with a unique participant unit number assigned by Customs. A copy of the maintenance form will be provided to the ABI filer identifying this unique number. All future ACH payment authorizations transmitted by the ABI filer must identify this unique number which will alert the Treasury-designated ACH processor as to the bank and account to which to issue the electronic debit transaction. If more than one account is to be used, the ABI filer must notify Customs so that unique numbers can be assigned to each account and the Treasury-designated ACH processor will have the information in their files for appropriate action. It will be the responsibility of the ABI participant to ensure that all bank account information is accurate and that the correct unique participant number is utilized in each ACH payment authorization transaction.

Effect of ACH on Statement Processing

The following overview shows the effect on statement processing resulting from the ACH payment process.

The preliminary statement will be generated in the current manner and available to the ABI filer on the morning of the scheduled statement date. This process will allow the ABI filer to identify any entry deletions which are to be removed from the statement. These deletions will be accomplished by Customs at the statement processing location before payment action is accomplished.

When the preliminary statement has been verified by both Customs and the ABI filer, Customs wil freeze the preliminary statement to prevent subsequent manipulation from occurring prior to the receipt of the ACH payment. The ABI filer will then transmit to Customs through the ABI the ACH payment authorization for that statement.

If by the close of business on the preliminary statement date the statement has not been frozen, the ACS system will automatically freeze the preliminary statement. If the preliminary statement is frozen by Customs without having performed any necessary deletions, the ABI participant should immediately notify the statement processing location so that deletions will be performed.

Currently, ABI participants are utilizing the ACH system by initiating payment transactions through a Treasury-designated ACH processor. In

the near future, ABI participants will have the capability of remitting payment transactions directly to Customs for subsequent processing through the ACH system. When this capability is available to the ABI filer, the notification of acceptance of the ACH payment authorization will be transmitted to the filer through the ABI. Upon acceptance of the ACH payment authorization transaction by Customs, the statement will be identified as paid, and Customs, in the course of its normal end-of-day processing, will post the appropriate payment amounts (duties, taxes, fees) to the related entries.

Customs will electronically debit, through the Treasury-designated ACH processor, the payor's account on the second business day following the accepted payment date provided in the ABI acceptance notification record. The final statement will be available to the participant the morning following acceptance of the ACH payment authorization by Customs.

The ABI filer will also receive through ABI a notification that an ACH payment authorization cannot be accepted. The ABI filer will be given an error narrative(s) identifying the error(s) that were in the original authorization transmission. If the participant receives the ABI notification that the original payment authorization record contained errors, no payment will have been applied to the statement and the authorization cannot be provided to the Treasury-designated ACH processor for processing. It is the responsibility of the participant to timely retransmit a corrected authorization record or risk the potential of late payment claims on each statement entry.

Statement Processing and ACH Transmission

Entry presentation and processing will require discipline and supervisory oversight in both the ABI filers' and Customs offices to ensure timely transmission of ACH payments.

All preliminary statement entries are to be presented to Customs on the date of the preliminary statement. The ABI filer will indicate what, if any, deletions are to be performed. Customs will not initiate any deletions on its own. Customs will perform the deletions. After any deletions are processed, Customs will reconcile the statement and provide summary information to the ABI participant. Customs will then freeze the preliminary statement at the reconciled amount, thereby preventing further manipulation to the statement prior to ACH payment. When there are no deletions to be performed to the preliminary statement, Customs will simply freeze the preliminary statement, as originally presented. It will be the responsibility of the ABI filer to ensure that the ACH transmission via ABI is accomplished by close of business on the scheduled statement date.

As previously noted, Customs will electronically debit, through the Treasury-designated processor, the payor's account on the second business day following the accepted payment date, as provided in the ABI acceptance notification record.

Statement Processing and Special Classes of Merchandise

Special classes of merchandise defined in § 142.13(c) (1) and (2), Customs Regulations (19 CFR 142.13(c) (1) and (2)), consist of quota-class merchandise and other classes of merchandise designated by Customs Headquarters. Entry/entry summaries for these special classes of merchandise currently are not eligible to be statement processed. This document proposes to give an ABI filer who uses statement processing as a normal course of business an option to include such entry/entry summaries on a statement. However, if the filer chooses to use statement processing for those entry/entry summaries, they must remain on the statement. As discussed earlier in this document, ACH will be the required method of payment.

Effect of Statement Processing on Quota Status and Priority

"Quota priority" as defined in § 132.1(f), Customs Regulations (19 CFR 132.1(f)), is the precedence granted to one entry, or withdrawal from warehouse, for consumption of quota-class merchandise over other entries or withdrawals of merchandise subject to the same quota. "Quota status" as defined in § 132.1(g), Customs Regulations (19 CFR 132.1(g)), is the standing which entitles quota-class merchandise to admission under an absolute quota, or to a reduced rate of duty under a tariff-rate quota, or to any other quota benefit.

Under the current system, quota priority and status are determined as of the time of presentation to Customs of the entry/entry summary for consumption, or withdrawal from warehouse for consumption. The time of presentation is generally the time of delivery in proper form of an entry summary for consumption, which serves as both the entry and the entry summary, with estimated duties attached, or a withdrawal for consumption, with estimated duties attached.

The quota status of a commodity subject to a tariff-rate quota cannot be determined in advance of the entry. The quota rates of duty are ordinarily assessed on such commodities entered from the beginning of the quota period until such time in the period as it is determined that imports are nearing the quota level. District Directors of Customs are then instructed to require the deposits of estimated duties at the over-quota duty rate and to report the time of official presentation of each entry. A final determination of the date and time when a quota is filled is made, and all district directors are advised accordingly.

This document proposes that an ABI filer using statement processing may include quota-class merchandise on a statement. Customs is also proposing that quota status and quota priority can be acquired without estimated duties being attached to the entry/entry summary documentation. This can occur when Customs successfully receives from the ABI filer via ABI a transmission of entry/entry summary information and a valid scheduled statement date for the subsequent payment of duties, taxes and fees. It should be noted that the proposed amendments do not intend to change the requirement that an entry summary for consumption must be presented to Customs for quota-class merchandise to obtain quota status. Merely transmitting the entry/entry summary information to Customs via ABI and paying by statement processing is not sufficient. It also should be noted that it is not proposed to change the requirement that estimated duties must be attached to withdrawals from warehouse for consumption for such quota-class merchandise to obtain quota status and priority.

Effect of Statement Processing on Release of Special Classes of Merchandise

Section 141.101, Customs Regulations (19 CFR 141.101), currently provides that estimated duties must be deposited at the time of the filing of the entry summary documentation when it serves as both the entry and entry summary. Section 142.13(c), Customs Regulations (19 CFR 142.13(c)), provides that estimated duties must be attached to the entry summary documentation before quota-class merchandise and other special classes of merchandise designated by Customs Headquarters can be released.

This document proposes to amend the Customs Regulations to allow such merchandise to be released without the

estimated duties being attached to the entry/entry summary documentation, if Customs successfully receives from the ABI filer via ABI a transmission of the entry/entry summary information and a valid scheduled statement date for subsequent payment of duties, taxes and fees. Processing of these entries generally requires pre-release review for assurance of statistical accuracy or compliance with special entry requirements on trade sensitive commodities.

Summary of Proposed Changes

This document proposes to amend sections of Parts 24, 132, 141, 142 and 143 of the Customs Regulations. An amendment proposed to § 24.1 states that ABI participants may elect to pay duties, taxes and other charges through statement processing and, if so, such payment must be electronically through ACH. It is proposed to create a § 24.25 that describes statement processing. Various sections of Part 132 are proposed to be amended to reflect that statement processing of quota entries is permitted and that quota status and priority can be granted to those entries without the attachment of estimated duties, taxes and fees. It is also proposed to amend § 142.13(c) to state that ABI filers filing entry/entry summaries for other special classes of merchandise designated by Customs Headquarters may use the statement processing method. Numerous other sections of the regulations in Parts 141, 142 and 143 are also proposed to be amended to reflect that estimated duties need not be attached to entry/entry summaries and entry summaries for consumption if Customs successfully receives from the ABI filer via ABI a transmission of entry/entry summary information and a valid scheduled statement date.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, Room 2119, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(b)). Comments concerning the accuracy of this burden estimate and suggestions for reducing the burden should be directed to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503, with copies to the U.S. Customs Service at the address previously specified.

The collection of information in this regulation is in 19 CFR 24.25. This information is needed by Customs so that payments electronically transmitted to Customs are correctly debited to the right accounts. The likely respondents are businesses or other for-profit organizations and small businesses or organizations.

Estimated total annual reporting and/or recordkeeping burden: 35 hours.

Estimated average annual burden per respondent and/or recordkeeper: 15 minutes.

Estimated number of respondents and recordkeepers: 139.

Estimated annual frequency of responses: 1.

Part 178, Customs Regulations (19 CFR Part 178), which lists the information collections contained in the requirements and control numbers assigned by OMB would be amended accordingly if this proposal is adopted.

Drafting Information

The principal author of this document was Harold M. Singer, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Imports, Taxes, Wages

19 CFR 132

Customs duties and inspection, Imports, Quotas

19 CFR Parts 141, 142 and 143

Customs duties and inspection, Entry, Imports

Proposed Amendments

It is proposed to amend Parts 24, 132, 141, 142 and 143, Customs Regulations (19 CFR Parts 24, 132, 141, 142 and 143), as set forth below.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The general and relevant specific authority citation for Part 24, Customs Regulations (19 CFR Part 24), continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624; 31 U.S.C. 9701; Pub. L. 99–662 § 24.1 also issued under 19 U.S.C. 197, 198, 1648.

* * * * *

2. It is proposed to amend § 24.1(a) by adding a paragraph (8) to read as follows:

§ 24.1 Collection of Customs duties, taxes and other charges.

(a) * * *

(8) Participants in the Automated Broker Interface may use statement processing as described in § 24.25 of this part. Statement processing allows entry/entry summaries and entry summaries to be grouped either by importer or by filer, and allows payment of related duties, taxes and fees by a single payment, rather than by individual checks. Users of statement processing must pay Customs duties, taxes and fees electronically through the Automated Clearinghouse.

3. It is proposed to amend Part 24 by adding a new § 24.25 to read as follows:

§ 24.25 Statement processing.

Statement processing is a voluntary automated program for participants in the Automated Broker Interface (ABI), allowing the grouping of entry/entry summaries and entry summaries on a daily basis. The related duties, taxes and fees must be paid electronically through the Automated Clearinghouse (ACH) with a single payment.

(a) *How to elect participation.* An ABI filer must notify Customs in writing of the intention to utilize statement

processing. All ABI statements must be paid electronically through ACH. The ABI filer must provide to Customs the bank transit routing number and the bank account number for each account from which the ACH payments will be electronically debited. Upon the determination by Customs that the ABI filer has the necessary software to participate and otherwise qualifies to participate, Customs shall assign a unique identifying number to the participant and provide that number to both the participant and the Treasury-designated ACH processor. This unique number assigned by Customs will alert the ACH processor as to which bank and account to issue the electronic debit. It is the responsibility of the participant to ensure that all bank account information is accurate and that the correct unique participant number is utilized for each ACH transaction.

(b) *Automated Clearinghouse.* A filer using ABI statement processing must make payment electronically through the Automated Clearinghouse (ACH). ACH is an arrangement in which the filer electronically provides payment authorization for the Treasury-designated ACH processor to perform an electronic debit to the payor's bank account. The payment amount will then be automatically credited to the account of the Department of the Treasury.

(c) *Procedure for filer.* (1) The filer shall transmit entry/entry summary and entry summary data through ABI indicating whether payment for a particular entry summary will be by individual check or by using statement processing. If statement processing is indicated, the filer shall designate whether the entry summary is to be grouped by importer or broker, and shall provide a valid scheduled statement date (not a Saturday, Sunday or holiday).

(2) Customs shall provide a preliminary statement to the ABI filer on the scheduled statement date. The preliminary statement shall contain all entry/entry summaries and entry summaries scheduled for that statement date. The preliminary statement shall be printed by the filer, who will review the statement entries, and the statement totals, assemble the required entry summaries as listed in the statement, and present them to Customs with the preliminary statement. This presentation to Customs shall be on the date of the preliminary statement. If a filer elects to perform deletions from the preliminary statement (other than items related to special classes of merchandise provided for in § 142.13(c) of this chapter), the filer shall notify Customs in such manner as designated by Customs Headquarters. Any entry number deleted from a statement may be paid by an individual check or scheduled for another statement by transmitting the entry summary data through ABI with a future payment date.

(3) When the preliminary statement is presented to Customs by the filer, Customs shall freeze the preliminary statement to prevent subsequent manipulation from occurring prior to the receipt of the ACH payment. If the filer does not present the preliminary statement by close of business on the scheduled statement date, Customs shall freeze the statement.

(4) Customs shall notify the filer when the preliminary statement is frozen. If the preliminary statement is frozen by Customs without having performed previously requested deletions, the ABI filer should immediately notify the statement processing location and the deletions will be performed. It is the responsibility of the filer to transmit the ACH payment authorization through ABI for that statement by no later than the close of business on the scheduled statement date.

(5) Upon acceptance of the ACH payment authorization transactions by Customs, the preliminary statement shall be identified as paid and Customs shall post the appropriate payment amounts to the related entries. The final statement generally shall be available to the filer the day following the acceptance of the ACH payment.

(d) *Choice of excluding certain entries from statement processing.* A filer, generally, has the right to inform Customs electronically whether he desires that a particular entry summary be paid by an individual payment rather than through statement processing. Entry/entry summaries for special classes of merchandise defined in § 142.13(c) of this chapter are not requried to be statement processed, but the filer has the option of including such entry/entry summaries. However, if statement processing is used for these special classes of merchandise, they cannot be deleted from a statement. In order to include entry/entry summaries for special classes of merchandise on a statement, a filer must use statement processing for a preponderance of the filer's non-special class entry summaries. If Customs determines that the preponderance of the non-special class entry summaries are not being processed through statement processing, the filer can be disqualified from using statement processing.

(e) *Scheduled statement date.* Entry/entry summaries and entry summaries must be designated for statement processing within 10 working days after the date of entry. It is the responsibility of the ABI filer using statement processing to ensure that the elected scheduled statement date is within that 10-day time frame. Customs will not warn the filer if the scheduled statement date given is late.

PART 132—QUOTAS

1. The authority of Part 132, Customs Regulations (19 CFR Part 132), continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (Gen. Headnote 11), 1624.

2. It is proposed to revise § 132.1(d) to read as follows:

§ 132.1 Definitions.

* * * * *

(d) *Presentation.* "Presentation" is the delivery in proper form to the appropriate Customs officer of:

(1) An entry summary for consumption, which shall serve as both the entry and the entry summary, with estimated duties attached (see § 141.0a(b)); or

(2) An entry summary for consumption, which shall serve as both the entry and the entry summary, without estimated duties attached, if the entry/entry summary information and a valid scheduled statement date (pursuant to § 24.25 of this chapter) have been successfully received by Customs via the Automated Broker Interface; or

(3) A withdrawal for consumption with estimated duties attached.

3. It is proposed to revise the text of § 132.11(b) to read as follows (the cross references at the end of paragraph (b) remain unchanged):

§ 132.11 Quota priority and status.

* * * * *

(b) *Documentation and deposit of duties in proper form required.* Merchandise covered by an entry summary for consumption, which serves as both the entry and entry summary, or by a withdrawal for consumption, shall be regarded as entered for purposes of quota priority and shall acquire quota status if:

(1) The entry summary or withdrawal for consumption is in proper form, and duties have been attached to the entry summary or withdrawal for consumption in proper form; or

(2) The entry summary for consumption is in proper form, and the entry/entry summary information and a valid scheduled statement date (pursuant to § 24.25 of this chapter) have

been successfully received by Customs via the Automated Broker Interface.

* * * * *

4. It is proposed to revise § 132.11a(a) to read as follows:

§ 132.11a Time of presentation.

(a) *General rule.* Except as provided in paragraph (b) of this section, the time of presentation of an entry/entry summary for quota purposes shall be the time of delivery in proper form of:

(1) An entry summary for consumption, which serves as both the entry and the entry summary, with estimated duties attached; or

(2) An entry summary for consumption, which shall serve as both the entry and the entry summary without estimated duties attached, if the entry/entry summary information and a valid scheduled statement date have been successfully received by Customs via the Automated Broker Interface (see § 132.1(d)(2); payment must be subsequently made by the statement processing method as set forth in § 24.25 of this chapter); or

(3) A withdrawal for consumption with estimated duties attached.

* * * * *

5. It is proposed to amend § 132.11a by adding a new paragraph (c) to read as follows:

§ 132.11a Time of presentation.

* * * * *

(c) *Failure to use statement processing method.* If presentation is chosen to be made pursuant to § 132.11a(a)(2) and payment is not made as required through the statement processing method, the district director may require filing of an entry summary for consumption with estimated duties attached as described in § 132.11(a)(1) for future filings.

§ 132.14 [Amended]

6. It is proposed to amend the first sentences of subparagraphs (1), (2), (3), (4)(i) and (4)(ii) in § 132.14(a), by inserting the word "proper" before the words "presentation of an entry summary for consumption, or withdrawal for consumption."

7. It is also proposed to amend the first sentences of subparagraphs (1), (2), (3), (4)(i) and (4)(ii) in § 132.14(a) by removing the words "with estimated duties attached" following the words "presentation of an entry summary for consumption, or a withdrawal for consumption" and replacing them with "pursuant to § 132.1 of this part".

PART 141—ENTRY OF MERCHANDISE

1. The general and relevant specific authority for Part 141, Customs Regulations, continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624. Subprt G also issued under 19 U.S.C. 1505.

2. It is proposed to revise the opening paragraph of § 141.101 to read as follows:

§ 141.101 Time of deposit.

Estimated duties shall either be deposited with the Customs officer designated to receive the duties at the time of the filing of the entry documentation or the entry summary documentation when it serves as both the entry and entry summary, or be electronically transmitted to Customs by the scheduled statement date according to the statement processing method as described in § 24.25 of this chapter, except in the following cases:

* * * * *

§ 141.62 [Amended]

2. It is proposed to amend the second sentence of § 141.62(b)(2)(ii) by inserting the words "or without the estimated duties attached, if the entry/entry summary information and a scheduled statement date have been successfully received by Customs via the Automated Broker Interface," between the words "with the estimated duties attached," and "shall be the time of presentation for quota purposes."

§ 141.68 [Amended]

3. It is proposed to amend § 141.68(b) by deleting the period at the end of the paragraph and adding, "except as provided in § 142.13(c)."

4. It is proposed to amend § 141.68(d) by inserting between the words "with estimated duties attached," and "as provided in § 132.11a of this chapter," the words "or if the entry/entry summary information and a valid scheduled statement date (pursuant to § 24.25 of this chapter) have been successfully received by Customs via the Automated Broker Interface, without the estimated duties attached,".

PART 142—ENTRY PROCESS

1. The authority citation for Part 142 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

2. It is proposed to revise § 142.13(c) to read as follows:

§ 142.13 When entry summary must be filed at time of entry.

* * * * *

(c) *Special Classes of merchandise*—(1) *Quota-class merchandise.* Quota-class merchandise shall not be released upon delivery of entry documentation before presentation of:

(i) An entry summary for consumption with estimated duties attached; or

(ii) A withdrawal for consumption, with estimated duties attached; or

(iii) An entry summary for consumption, without the estimated duties attached, if the entry/entry summary information and a valid scheduled statement date have been successfully received by Customs via the Automated Broker Interface. (See Part 132 and § 24.25 of this chapter.

(2) *Other classes of merchandise.* Entry summary documentation, with estimated duties attached, or a withdrawal for consumption with estimated duties attached, or an entry summary for consumption, without the estimated duties attached if the entry/entry summary information and a valid scheduled statement date have previously been transmitted to Customs via the Automated Broker Interface (see § 24.25 of this chapter) shall be filed at the time of entry before release of any other merchandise of a class designated by Customs Headquarters.

3. It is proposed to revise § 142.21(e) to read as follows:

§ 142.21 Merchandise eligible for special permit for immediate delivery.

* * * * *

(e) *Quota-class merchandise*—(1) *Tariff rate.* At the discretion of the district director, merchandise subject to a tariff-rate quota may be released under a special permit for immediate delivery provided the importer has on file a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter. An entry summary shall be properly presented pursuant to § 132.1 of this chapter within the time specified in § 142.23, or within the quota period, whichever expires first. If proper presentation is not made until after the tariff-rate quota is filled, the merchandise shall not be entitled to the quota rate of duty, and the importer shall pay duties at the over-quota rate.

(2) *Absolute.* At the discretion of the district director, perishable merchandise of a class approved by Customs Headquarters which is subject to an absolute quota may be released under a special permit for immediate delivery for removal to the importer's premises, or to any other location approved by the district director, until an entry summary is properly presented pursuant to § 132.1 of this chapter. A proper entry summary must be presented for merchandise so released within the time specified in § 142.23, or within the quota period, whichever expires first. If the absolute quota is filled before the importer has properly presented an entry summary,

he may either present an entry summary for warehouse or, under Customs supervision, export or destroy the merchandise.

* * * * *

4. It is proposed to revise § 142.22(b)(1) to read as follows:

§ 142.22 Application for special permit for immediate delivery.

* * * * *

(b) *Customs custody.* * * *

(1) An entry summary for consumption, with estimated duties attached; an entry summary for consumption without estimated duties attached, if entry/entry summary information and a valid scheduled statement date (pursuant to § 24.25 of this chapter) have successfuly been received by Customs via the Automated Broker Interface; an entry summary for warehouse; or an entry summary for entry temporarily under bond, which may be field in any of the circumstances under § 142.21 of this part except for merchandise released from warehouse under § 142.21(f) of this part;

* * * * *

PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

1. The authority citation of Part 143 continues to read as follows:

Authority: 19 U.S.C. 66, 1481, 1484, 1498 1624.

2. It is proposed to revise the first sentence of § 143.28 to read as follows:

§ 143.28 Deposit of duties and release of merchandise.

Unless statement processing is used pursuant to § 24.25 of this chapter, the estimated duties and taxes, if any, shall be deposited at the time the entry is presented and accepted by a Customs officer, whether at the customhouse or elsehwere.* * *

William von Raab,

Commissioner of Customs.

Approved: March 2, 1989.

Salvatore R. Martoche,

Assistant Secretary of the Treasury.

[FR Doc. 89-5351 Filed 3-8-89; 8:45 am]

BILLING CODE 4820-02-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1626

Procedures; Age Discrimination in Employment Act

AGENCY: Equal Employment Opportunity Commission (EEOC, Commission).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission hereby publishes a notice of proposed rulemaking (NPRM) under section 9 of the Age Discrimination in Employment Act of 1969 (ADEA), 29 U.S.C. 621 *et seq.*, providing that the one-year tolling provision of section 7(e)(2) of the ADEA, 29 U.S.C. 626(e)(2), applies to private party litigation.

DATE: Comments should be submitted on or before April 10, 1989.

ADDRESS: Comments should be submitted in quadruplicate, if possible, to: Executive Secretariat, EEOC, 2401 E Street NW., Washington, DC 20507.

FOR FURTHER INFORMATION CONTACT: John K. Light, Office of Legal Counsel, Room 209, EEOC, 2401 E Street NW., Washington, DC 20507, (202) 634-7623.

SUPPLEMENTARY INFORMATION:

Background

Section 7(e)(2) of the ADEA (29 U.S.C. 626(e)(2)) provides for tolling the statute of limitations (as provided in section 6 of the Portal-to-Portal Act of 1947)[1] for up to one year while the Commission "is attempting to effect voluntary compliance with the requirements of this Act through informal methods of conciliation, conference, and persuasion pursuant to subsection (b)." Subsection (b) of section 7 is the provision that requires the Commission to engage in conciliation, conference, and persuasion efforts before it can institute court action under the ADEA.

After considering the language of the statutory provision, overall statutory scheme favoring voluntary compliance, its legislative background, and the court discussions on the subject of tolling, the Commission believes that Congress neither required nor intended that the one year tolling period provided by section 7(e)(2) be applied only to suits brought by the government. It is the view of the Commission that once section 7(b) conciliation, conference, and persuasion have been commenced by the Commission, the period of tolling applies regardless of whether the EEOC or a private party files an ADEA suit after the attempt at informal resolution fails.

This view of tolling is consistent with Congress' express preference in the ADEA for voluntary settlement of age discrimination claims as well as the experienced reality that unsuccessful section 7(b) conciliation, even of an allegation deemed meritorious by the government, may not always result in the Commission bringing suit. Thus, limiting tolling during section 7(b) conciliation to the government's right of action encourages charging parties to file protective suits, thereby derailing the voluntary settlement process, and may also reward employers for not engaging in prompt or serious conciliation efforts.[2] An interpretation applying section 7(e)(2) tolling to private as well as government actions is fully consistent with the ADEA's statutory scheme.

There is nothing in the statutory language of section 7(e)(2) or its legislative history which would contradict or prohibit an interpretation applying tolling to private litigants. The Conference Committee report stated that:

> The Senate amendment amends section 7(e) of the act to provide that the statute of limitations as provided in section 6 of the Portal-to-Portal Act of 1947 shall be tolled (for a period not exceeding 2 years [conference agreement substituted 1 year]) during the period in which the Secretary of Labor [now EEOC] is attempting to effect voluntary compliance pursuant to section 7(b). This amendment does not apply to conciliation required by section 7(d). House Conf. Report No. 95-950, supra, p. 13, 1978 U.S. Code Cong. and Admin. News, p. 534.

This discussion does not limit the benefits of section 7(b) tolling exclusively to an action filed by the enforcement agency, it simply requires 7(b), as opposed to 7(d), conciliation efforts as a prerequisite for tolling.[3] As

[1] Section 6 of the Portal-to-Portal Act is made applicable by section 7(e)(1) of the ADEA to all litigation under the Act whether brought by the Commission or by private individuals.

[2] For example, there may be persons with meritorious claims who, at some point beyond the applicable statute of limitations but within the 1 year tolling period, learn that the government is not going to litigate on their behalf. It would not be in keeping with simple notions of fairness, nor with the concept that aggrieved individuals act as "private attorneys general" under the ADEA, to interpret section 7(e) as tolling the time frames solely for government suits.

[3] Section 7(d) conciliation simply requires the EEOC, upon receiving a charge, to promptly notify all persons named as prospective defendants and to promptly seek to eliminate any alleged unlawful practice by informal methods of conciliation, conference and persuasion. It is the informal, predetermination action that promptly follows the filing of a charge and in no event can delay a private suit by more than 60 days.

Section 7(b) conciliation follows written notice from the EEOC to prospective defendant(s) that it is prepared to commence conciliation pursuant to that section of the Act and is required before the Commission itself can file suit. Commission regulations provide that section 7(b) conciliation may be commenced whenever the Commission has a reasonable basis to conclude that a violation of the ADEA has occurred or will occur (ordinarily issued in the form of a Letter of Determination). 29 CFR 1626.15(b). *See also* H.R. Conf. Rep. No. 950, 95th Cong., 2d Sess. 13 (1978) (tolling under section 7(e)(2) "begin[s] when the Department of Labor

Continued

was articulated as dictum in *Fulton v. NCR Corp.*, 472 F. Supp. 377, 382 (W.D. Va. 1979):

> The court does not necessarily read this limitation as saying that a period of section 7(b) conciliation attempts will never work to toll the period of limitations for bringing private actions under section 79c) (for which the prior period of conciliation attempts under section 7(d) is required). It may mean only that section 7(d) conciliations will work to toll the limitations period for *no* ADEA action, while section 7(b) conciliations may work to toll the limitations period for *any* ADEA suit, whether brought under section 7(b) [by the government] section 7(c) [by a private litigant]. (Emphasis in original).[4]

Three courts, including one court of appeals, have reached a different conclusion, albeit without a thorough analysis of the question. In *Heiar v. Crawford County*, 746 F.2d 1190, 1196 (7th Cir. 1984), *cert. denied*, 472 U.S. 1027 (1985), the court, in an opinion by Judge Posner, stated, in *dictum:*

> The conciliation referred to [in section 7(e)(2)]—conciliation under section [7](b)—is that preceding suits by the EEOC. Conciliation in private actions is provided for separately in section [7](d) * * *. The point is not that there are different forms of conciliation; it is that only the EEOC can use the period of conciliation to toll the statute of limitations.

In *Leite v. Kennecott Copper Corp.*, 558 F. Supp. 1170, 1172–73 (D. Mass.), *aff'd without opinion*, 720 F. 2d 658 (1st Cir. 1983), the court held that, notwithstanding the Commission's advice that its conciliation efforts would extend the statute of limitations for a charging party's private suit, tolling was inapplicable. According to the court, the Commission's advice "misstate[d] the law" because sec. 7(e)(2)'s "reference to [sec. 7](b) makes clear [that] this tolling provision applies only to the conciliation efforts preceding the institution of legal action by the [government], not to those that might precede a private civil action." 558 F. Supp. 1173 & n. 1. Finally, in *Hovey v. Lutheran Medical Center*, 516 F. Supp. 554, 556 (E.D.N.Y. 1981), the court, in holding that tolling was not available in a private suit, stated that "the tolling provision of [sec. 7](e)(2) applies only to the conciliatory efforts required by [sec. 7](b) preceding the institution of legal action by the Secretary [; it] does not refer to conciliation before a private civil action.," [5]

The Commission believes that these decisions are unpersuasive and incorrect on the issue of tolling.[6] The decisions discussed the issue, largely in dicta, only in a brief and conclusory manner without articulated reasoning and using as authority the same legislative history discussed above that clearly does not mandate that tolling only applies to government actions. To the contrary, the Commission views the legislative history and general structure of the ADEA enforcement scheme as evidencing Congress' understanding that section 7(b) conciliation and section 7(e)(2) tolling may occur in cases where the Commission does not ultimately bring suit. A clear indication of this fact is the statement in the Conference Committee Report that tolling under section 7(e)(2) "begin[s] when the Department of Labor [now EEOC] states, in a letter to the prospective defendant(s), that it is prepared to commence conciliation pursuant to section 7(b) of the act." H.R. Conf. Rep. No. 950, 95 Cong., 2d Sess. 13 (1978). Had Congress intended section 7(e)(2) tolling to be limited to the government, it could easily have said so. Instead of such a limitation, Congress stated in that section that "the statute of limitations," which applies to both private and government actions, "shall be tolled."

Therefore, the Commission believes that it is in the best interest of effective and efficient enforcement of the ADEA that the one-year tolling period provided by section 7(e)(2) be interpreted to apply to both Commission and private litigation. In order to make this purpose clear, the Commission hereby provides notice that it intends to modify its procedural regulation at 29 CFR 1626.15(b) to add the following statement at the conclusion of this subsection:

> This tolling period pursuant to section 7(e)(2) is applicable to both Commission and private party litigation.

I. Impact Analysis—Classification-Executive Order 12291

The proposed rule in this document is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Similarly, the Chairman of the EEOC certifies under 5 U.S.C. Sec. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this amendment will not result in a significant impact on a substantial number of small employers.

List of Subjects in 29 CFR Part 1626

Aged, Equal employment opportunity.

Accordingly, the Commission proposes to amend 29 CFR 1626.15(b) as follows:

PART 1626—[AMENDED]

1. The authority citation for Part 1626 continues to read as follows:

> Authority: Sec. 9, 81 Stat 605, 29 U.S.C. 628; sec. 2, Reorg. Plan No. 1 of 1978, 3 CFR 321 (1979).

2. By adding a new sentence at the end of paragraph (b) to read as follows

§ 1626.15 Commission enforcement.

* * * * *

(b) * * * The tolling period pursuant to section 7(e)(2) is applicable to both Commission and private party litigation.

* * * * *

Signed on 6th day of February at Washington, DC, for the Commission

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 89–5324 Filed 3–8–89; 8:45 am]

BILLING CODE 6570–06–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[MM Docket No. 87–154; FCC 89–345]

Broadcast Television and Cable Television Service; Cross-Interest Policy

AGENCY: Federal Communications Commission.

[now EEOC] states in a letter to prospective defendant(s), that it is prepared to commence conciliation pursuant to section 7(b) of the act.")

[4] Two other courts have stated in *dicta* in private ADEA actions that tolling under section 7(e)(2) was available for the time spent in conciliation. *See Miller v. International Telephone and Telegraph Co.*, 755 F.2d 20, 24 (2d Cir. 1985), *cert. denied*, 474 U.S. 1015 (1985); and *Vuksta v. Bethlehem Steel Corp.*, 540 F. Supp. 1276, 1280 n. 13 (E.D. Pa. 1982), *aff'd without opinion*, 707 F.2d 1405 (3d Cir. 1983), *cert. denied*, 464 U.S. 835 (1983).

[5] *Hovey* and *Leite* cite to and erroneously rely upon the decision in *Fulton v. NCR Corp.*, discussed earlier, which supports the opposite view, *i.e.*, that tolling is available in a private action.

[6] By letter dated February 26, 1979, the Department of Labor, then responsible for ADEA enforcement, expressed the view that sec. 7(e) tolling was limited to the government's right of action. For the reasons discussed in the text, the Commission rejects this view.

ACTION: Further notice of inquiry/Notice of proposed rulemaking.

SUMMARY: The Commission seeks further comment on those aspects of its cross-interest policy that were not abolished in its companion *Policy Statement*. The cross-interest policy restricts broadcast licensees' ability to enter into certain kinds of business relationships. In particular, the Commission seeks comment regarding: (1) Whether "key" employee relationships should be included in the ownership rules; (2) whether joint ventures and nonattributable equity interests cause sufficient concern to justify their further review by the Commission under a continued cross-interest policy; and, if so, how the Commission could better state what principles should govern such *ad hoc* review of those two relationships.

DATES: Comments are due by April 21, 1989, and reply comments are due by May 8, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Douglas Minster, Mass Media Bureau, Policy and Rules Division, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Further Notice of Inquiry/Notice of Proposed Rulemaking (Further Notice)* in MM Docket No. 87-154, adopted October 27, 1988, and released February 28, 1989. The complete text of this *Further Notice* is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Further Notice of Inquiry and Notice of Proposed Rulemaking

1. In this *Further Notice* the Commission seeks further comment concerning the cross-interest policy as it applies to "key employee" relationships, certain nonattributable equity interests and joint ventures. The cross-interest policy was originally developed as a corollary to the multiple ownership rules to minimize the perceived negative effects on diversity of viewpoint and economic competition of certain relationships not addressed by the rules. In a companion *Policy Statement* in this proceeding, the Commission is eliminating the cross-interest policy, except as it is applied to key employees, nonattributable equity interests and joint ventures.

2. A key employee, under existing case law, is a person who has a position of authority to implement programming decisions, sales practices, or station operations. The *Policy Statement* does not eliminate the restriction on key employee relationships because of concern that such employees exercise a level of control which, in combination with an attributable interest in a competing media outlet in the same area, might reduce diversity of viewpoint and economic competition. Thus, the Commission specifically requests comment on: (1) Whether, for regulatory purposes, key employees are distinguishable from officers and directors, and, if so, in what ways; (2) what criteria, if any, should be used to determine if a position entails a level of control warranting regulatory restrictions; (3) whether the original concerns underlying key employee relationships are already addressed sufficiently by the types of marketplace mechanisms and alternative remedies that led to our decision to abolish the restriction on other cross-interests; and (4) whether the public interest benefits derived from permitting marginal stations to resolve financial or programming difficulties through the use of experienced employees would offset any concerns about the adverse effect of allowing these relationships on viewpoint diversity and competition. If the Commission decides, at the conclusion of this proceeding, that continued regulatory oversight of such cross-interests is required, our preference is to include key employees in the attribution rules rather than proceed on an *ad hoc* basis without guidelines with regard to key employee cases.

3. The initial *Notice of Inquiry (Notice)* in this proceeding (52 FR 22504, June 12, 1987) also questioned the continued need for limiting nonattributable equity interests through the cross-interest policy. That aspect of the policy generally involves an individual who has an attributable or controlling interest in one station and a *substantial* equity interest in another station in the same market that is not attributable under our ownership rules. On the one hand, it could be argued that such interests may, in certain circumstances, engender concerns about arms length competition and diversity in markets in which the interest holder also has an attributable interest in another outlet. Such an attributable interest may be used to take action which would benefit or protect the nonattributable investment in a competing station, thus hindering economic competition. On the other hand, in the *Notice* we questioned whether such an anticompetitive result is probable and whether such concerns are addressed by the same marketplace constraints which contributed to our decision to eliminate the limitation on other cross interests. The *Notice* produced little record evidence regarding these matters.

4. Although the Commission is not reopening the attribution proceeding (49 FR 19482, May 8, 1984), we invite comment on whether nonattributable equity interests confer a level of control or create concerns sufficient to require some kind of regulatory limitation. commenters are asked to provide, wherever possible, data, studies, and other evidence in support of their position. In the event that commenters deem some form of continued case-by-case review of nonattributable equity interests to be appropriate, we invite them to identify, at least in general terms, categories of nonattributable equity interests requiring such review. In addition, commenters should address whether such review should be confined to particular geographic markets. To the greatest extent possible, we seek to develop clear principles to govern any *ad hoc* review found necessary at the conclusion of this proceeding.

5. The Commission also received few comments directly addressing the joint venture aspect of the cross-interest policy. Although the Commission has never explicitly defined joint ventures that fall within the ambit of the policy, they usually involve an association of two or more parties to carry out a business enterprise for profit. The *Notice* questioned whether joint ventures involving multiple broadcast stations in a market seeking to build or purchase another broadcast facility continue to require Commission oversight. It might be argued that arms-length competition may be reduced as a result of the close business relationship between the stations engaged in the venture. On the other hand, it may be equally arguable that the competitive nature of local media markets eliminates any benefit which may result from anticompetitive behavior by the participants in a joint venture. In a market with many stations, even if two stations attempted to collude through a joint venture, we question whether there would be a substantial decrease in the overall level of competition among broadcast stations in the area. If the possibility of anticompetitive behavior still exists, it may be more appropriate, as with the cross-interests we are now

permitting, to rely on Federal and state antitrust laws to prevent or remedy any abuses of joint venture relationships.

6. Thus, we invite comment on whether the growth of the media marketplace, in conjunction with alternative deterrents and remedies, is sufficient to reduce our concern that joint ventures will adversely affect the level of competition in a market. Finally, eliminating this aspect of the cross-interest policy so as routinely to permit joint ventures, may result in a number of public interest benefits. We ask whether such benefits outweigh the negative effect joint ventures are thought to have on local media competition. In short, we seek comment on whether it is necessary to continue to review joint ventures under the cross interest policy. Those who favor continued review should comment on whether such oversight should concur in all cases or should be limited to particular kinds of joint ventures or geographic areas.

Paperwork Reduction Act Statement

7. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget, as prescribed by the Act.

Ex Parte Consideration

8. This is a non-restricted proceeding. *See* Section 1.1231 of the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

Comment Information

9. Pursuant to applicable procedures set forth in Section 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before April 21, 1989, and reply comments on or before May 8, 1989. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

Initial Regulatory Flexibility Act Analysis

10. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, this proceeding could, dependent on the comments received as part of the record, relieve the burden that these aspects of the cross-interest policy place on the broadcast industry. The proceeding was initiated to seek ways of easing such a burden. Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission's complete decision.

11. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IFRA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are requested on the IFRA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Further Notice*, but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall send a copy of this *Further Notice*, including the IFRA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, (1981)).

12. Authority for this proposed rule making is contained in sections 1, 3, 4(i) and (j), 303, 308, 309, and 403 of the Communications Act of 1934, as amended.

List of Subjects

47 CFR Part 73

Radio broadcasting, Television broadcasting.

47 CFR Part 76

Cable television.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-5470 Filed 3-8-89; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 54, No. 45
Thursday, March 9, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Feed Grain Donations for the Yankton Sioux Tribe Indian Reservation in South Dakota

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Yankton Sioux Tribe Reservation in South Dakota has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Yankton Sioux Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation (CCC) for livestock feed for such needy members of the Tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the Tribe to be acute distress areas and authorize the donation of feed grain owned by the CCC to livestock owners who are determined by the Bureau of Indian Affairs, United States Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the CCC may commence upon March 1, 1989, and shall be made available through May 15, 1989, or such other date as may be stated in a notice issued by the USDA.

Signed at Washington, DC on March 2, 1989.

Milton J. Hertz,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 89-5491 Filed 3-8-89; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Flathead National Forest, Glacier View District, Flathead County, State of Montana; Werner Creek Timber Sale

AGENCY: Forest Service, Agriculture.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to analyze and disclose the environmental impacts of a proposal to harvest and regenerate timber in portions of Werner Creek, on the Glacier View Ranger District. This EIS will tier to the Flathead National Forest Land and Resource Management Plan of January, 1986, which provides overall guidance in achieving the desired future condition for the area. The primary purpose and goal for the proposed action is to help satisfy short-term demands for timber, and maintain a continous supply of timber in the future.

While some preliminary scoping was done for this project during the preparation of an Environmental Assessment for Werner Creek in 1987-88, the Forest Service is seeking information and comments from Federal, State, and local agencies and other individuals or organizations who may now be interested in or affected by the proposed actions. This input will be used in preparing the Draft EIS. This process will include;

1. Identification of potential issues.

2. Identification of issues to be analyzed in depth.

3. Elimination of insignificant issues or those which have been covered by a relevant previous environmental analysis.

4. Identification of additional reasonable alternatives.

5. Identification of potential environmental effects of the alternatives.

6. Determination of potential cooperating agencies and task assignments.

The agency invites written comments and suggestions on the issues and management opportunities in the area being analyzed.

DATE: Comments concerning the scope of the analysis should be received by April 1989 to receive timely consideration in the preparation of the draft EIS.

ADDRESS: Send written comments to Tom Hope, District Ranger, Glacier View Ranger District, P.O. Box W, Columbia Falls, MT 59912.

FOR FURTHER INFORMATION CONTACT: Cathy Calloway, Werner Creek Interdisciplinary Team Leader, or Tom Hope, District Ranger, Glacier View Ranger District, Flathead National Forest, P.O. Box W, Columbia Falls, MT 59912.

SUPPLEMENTARY INFORMATION: Management activities under consideration would occur in an area encompassing approximately 5400 acres of National Forest lands in the Big Creek Geographic Unit, on the Glacier View Ranger District, as delineated in the Flathead Forest Plan. Included in the area of analysis are all or portions of the following: sections 1-5, T32N, R22W; sections 25-28 and 33-36, T33N, R22W; sections 5-6 T32N, R21W; and sections 30-32, T33N, R21W, Principal Montana Meridian.

The Land and Resource Management Plan for the Flathead National Forest provides the overall guidance for management activities in the potentially affected area through its goals, objectives, standards and guidelines, and management area direction. In the Forest Plan, timber harvest and reforestation was tentatively scheduled in the Werner Creek area in 1990.

Most areas of proposed harvest and reforestation for the Werner Creek project are within Management Area 15. Forest plan direction states that Management Area 15 consists of lands where timber management with roads is economical and feasible. The management goal is to manage those lands suitable for timber production for the long-term growth and production of commercially valuable wood products as well as provide for soil and water protection, wildlife habitat, and roaded recreation opportunities.

In addition, road construction, reconstruction, and timber harvest and reforestation may occur within

Management Area 12 (riparian areas along perennial streams) or Management Area 17 (riparian areas with typically intermitten streams). Management goals for Management Area 12 are to emphasize old-growth habitat, water quality and fisheries and vegetative diversity for wildlife habitat. Goals for Management Area 17 are similar, and also include maintaining a sustained yield of timber.

The analysis will consider a range of alternatives. One of these will be the "no-action" alternative, in which all harvest and regeneration activities would be deferred. Other alternatives will examine various levels and locations of harvest and regeneration to provide emphasis on differing mixes of timber and non-timber resource values.

The analysis will disclose the environmental effects of alternative ways of implementing the Forest Plan. The Forests Service will analyze and document the direct, indirect, and cummulative environmental effects of the alternatives. In addition, the EIS will disclose the analysis of site specific mitigation measures and their effectiveness.

Public participation is especially important at several points of the analysis. People may visit with Forest Service officials at any time during the analysis and prior to the decision. However, two periods of time are identified for the receipt of comments on the analysis. The two public comment periods are during the scoping process (now thru April 15, 1989) and in the review of the Draft EIS (May–June, 1989).

The Fish and Wildlife Service, Department of the Interior, will be informally consulted throughout the analysis. To meet the requirements of the Endangered Species Act, the Fish and Wildlife Service will review the EIS and biological evaluation and if necessary, render a formal Biological Opinion of the effects on the Threatened and Endangered Species including grizzly bear, grey wolf, and bald eagle.

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in May 1989. At that time the EPA will publish a notice of availability of the DEIS in the **Federal Register**. After a 45-day public comment period, the comments received will be analyzed and considered by the Forest Service in the final environmental impact statement (FEIS). The FEIS is scheduled to be completed by August 1989. The Forest Service will respond in the FEIS to the comments received on the DEIS. The District Ranger who is responsible official for this EIS will make a decision regarding this proposal considering the comments, responses and environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

Tom Hope, District Ranger for the Glacier View Ranger District, Flathead National Forest, is the Responsible Official.

Date: February 28, 1989.

Tom Hope,

District Ranger, Glacier View Ranger District, Flathead National Forest.

[FR Doc. 89–5455 Filed 3–8–89; 8:45 am]

BILLING CODE 3410–11–M

Flathead National Forest, Glacier View Ranger District, Flathead County, Montana, Lakalaho Timber Sale

AGENCY: Forest Service, Agriculture.

ACTION: Notice of Intent To Prepare an Environmental Impact Statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to analyze and disclose the environmental impacts of a proposal to harvest and regenerate timber in portions of Lakalaho Creek, on the Glacier View Ranger District, Flathead County, Montana. This EIS will tier to the Flathead National Forest Land and Resource Management Plan of January, 1986, which provides overall guidance in achieving the desired future condition for the area. The purpose and goals for the proposed action are to help satisfy short-term demands for timber and to maintain a continuous supply of timber in the future

Some preliminary scoping was done for this project during the preparation of an Environmental Assessment for Lakalaho Creek in 1987–88. The Forest Service is now seeking additional information and comments from Federal, State, and local agencies and other individuals or organizations who may now be interested in or affected by the proposed actions. This input will be used in preparing the Draft EIS. This process will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Identification of additional reasonable alternatives.
5. Identification of potential environmental effects of the alternatives.
6. Determination of potential cooperating agencies and task assignments.

The agency invites written comments and suggestions on the issues and management opportunities in the area being analyzed.

DATE: Comments concerning the scope of the analysis should be received by April 7, 1989 to receive timely consideration in the preparation of the draft EIS.

ADDRESS: Send written comments to Tom Hope, District Ranger, Glacier View Ranger District, P.O. Box W, Columbia Falls, MT 59912.

FOR FURTHER INFORMATION CONTACT: Dave Cawrse, Lakalaho Interdisciplinary Team Leader, or Tom Hope, District Ranger, Glacier View Ranger District, Flathead National Forest, P.O. Box W, Columbia Falls, MT 59912.

SUPPLEMENTARY INFORMATION: Management activities under consideration would occur in an area encompassing approximately 3600 acres of National Forest lands in the Big Creek Geographic Unit, on the Glacier View Ranger District, as delineated in the Flathead Forest Plan. Included in the area of analysis are all or portions of the following: sections 12, 13, 14, and 24, T32N, R22W; and sections 5, 7, 8, 17–20, T32N, R21W, Principal Montana Meridian

The land Resource Management Plan for the Flathead National Forest provides the overall guidance for management activities in the potentially affected area through its goals, objectives, standards and guidelines, and management area direction. In the Forest Plan, timber harves and reforestation was tentatively scheduled in the Lakalaho Creek area in 1990. The Lakalaho Creek analysis will examine site specific activities that are consistent with the Forest Plan guidelines, standards, and management area goals. Road building and timber harvest are proposed to take place in the following management areas within the Lakalaho project area.

Management Area 7: Consists of timberlands in visually sensitive areas. Management activities are not dominant. A pleasing, naturally appearing landscape is maintained.

Management Area 15: Consists of lands classified as suitable for timber management, and timber harvest is scheduled. The management goal is to manage these lands for the long-term growth and production of commercially valuable wood products as well as provide soil and water protection,

wildlife habitat maintenance, and roaded natural-appearing recreation opportunities.

The analysis will consider a range of alternatives. One of these will be the "no-action" alternative, in which all harvest and reforestation activities would not be done. Other alternatives will examine various levels, locations and cutting methods of harvest and reforestation to provide emphasis on different mixes of timber and non-timber resources.

The Forest Service will analyze and document the direct, indirect, and cumulative environmental effects of the alternatives. In addition, the EIS will disclose the analysis of site specific mitigation measures and their effectiveness.

Public participation is especially important at several points of the analysis. People may visit with Forest Service officials at any time during the analysis and prior to the decision. Two periods of time, however, are identified for the receipt of comments on the analysis.

The two public comment periods are during the scoping process (now thru April 7, 1989) and in the review of the Draft EIS (May, 1989).

The Fish and Wildlife Service, Department of the Interior, will be informally consulted throughout the analysis. To meet the requirements of the Endangered Species Act, the Fish and Wildlife Service will review the EIS and biological evaluation and if necessary, render a formal Biological Opinion of the effects on the Threatened and Endangered Species, the grizzly bear and gray wolf.

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in May 1989. At that time the EPA will publish a notice of availability of the DEIS in the **Federal Register**. After a 45-day public comment period, the comments received will be analyzed and considered by the Forest Service in the final environmental impact statement (FEIS). The FEIS is scheduled to be completed by August, 1989. The Forest Service will respond in the FEIS to the comments received on the DEIS. The District Ranger who is the responsible official for this EIS will make a decision regarding this proposal considering the comments, responses and environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

Date: February 28, 1989.

Tom Hope,

District Ranger, Glacier View Ranger District, Flathead National Forest.

[FR Doc. 89-5456 Filed 3-8-89; 8:45 am]

BILLING CODE 3410-11-M

Packers and Stockyards Administration

Amendment to Certification of Central Filing System—Louisiana

The Statewide central filing system of Louisiana has been previously certified, pursuant to section 1324 of the Food Security Act of 1985, on the basis of information submitted by Bob Odom, Commissioner of Agriculture, for farm products produced in that State (51 FR 47036, December 30, 1986; 53 FR 15722, May 3, 1988; and 53 FR 24755, June 30, 1988).

The same system is hereby certified on the basis of information submitted by the Lousiana Department of Agriculture & Forestry for additional farm products produced in that State as follows: Potatoes, Irish, Eggplant, Okra, Crabs.

This is issued pursuant to authority delegated by the Secretary of Agriculture.

Authority: Sec. 1324(c)(2), Pub. L. 99-198, 99 Stat. 1535, 7 U.S.C. 1631(c)(2); 7 CFR 2.17(e)(3), 2.56(a)(3), 51 FR 22795.

Dated: March 6, 1989.

B.H. (Bill) Jones,

Administrator, Packers and Stockyards Administration.

[FR Doc. 89-5493 Filed 3-8-89; 8:45 am]

BILLING CODE 3410-KD-M

Soil Conservation Service

East Yellow Creek Watershed, Missouri; Available of a Record of Decision

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability of a record of decision.

SUMMARY: Russell C. Mills, responsible Federal official for projects administered under the provisions of Pub. L. 83-566, 16 U.S.C. 1001-1008, in the State of Missouri, is hereby providing notification that a record of decision to proceed with the installation of the East Yellow Creek Watershed project is available. Single copies of this record of decision may be obtained from Russell C. Mills at the address shown below.

FOR FURTHER INFORMATION CONTACT: Russell C. Mills, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Missouri 65202, telephone (314) 875-5214.

Russell C. Mills,

State Conservationist.

Date: March 2, 1989.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. State and local review procedures for Federal and federally assisted programs and projects are applicable.)

[FR Doc. 89-5539 Filed 3-8-89; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Pennsylvania 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 Pennsylvania Advisory Committee to the Commission will convene at 9:15 a.m. and adjourn at 12:45 p.m. on Thursday, April 6, 1989, in the Third Floor Public Information Room of the Federal Reserve Bank Building, 100 North Seventh Street, Philadelphia, Pennsylvania. The meeting will feature a forum entitled "Implementing the 1988 Fair Housing Amendments Act" which will begin at 9:45 a.m. in the same location. Federal, State, and local government officials and representatives of nonprofit institutions will make presentations on the subject.

Persons desiring additional information on this matter should contact Committee Chairperson Susan M. Wachter (215/898-6355) or John I. Binkley, Director of the Eastern Regional Division of the Commission at (202/523-5264 or TDD 202/376-8117). 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, March 2, 1989.

Melvin L. Jenking,

Acting Staff Director.

[FR Doc. 89-5457 Filed 3-8-89; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

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 the 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 1223H, 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 89–00005." A summary of the application follows.

Summary of Application

Applicant: CherreX Corporation ("CherreX"), 2220 University Park Drive, Suite 200, Contact: C. Richard Johnston, Telephone: 517/347–0010.

Application No.: 89–00005.

Date Deemed Submitted: February 28, 1989.

Members: Burnette Foods, Inc., Hartford, MI; Buskirk Processing, Inc., Lawrence, MI; Cherry Central Cooperative, Inc., Traverse City, MI; Cherry Marketing Institute, Inc., Okemos, MI; Comstock/Michigan Fruit Division (a division of Curtice Burns Foods), Rochester, NY; DeRuiter Farms, Hart, MI; Great Lakes International Trading, Inc., Traverse City, MI; Great Lakes Packing Company, Kewadin, MI; Ludington Fruit Exchange, Inc., Ludington, MI; and Stanek & Sons, Inc., Traverse City, MI.

Export Trade:

Products. Processed red cherries (prunus cerasus) and cherry products, including cherry pie filling, water pack cherries, cherry juice concentrate, dried cherries, frozen pack cherries, individually quick frozen cherries, cherry sausage, and cherry jams, jellies, and sauces.

Export Trade Facilitation Services (as they relate to the export of Products). Trade promotion, marketing, sales, and transportation services (including packing, transportation, wharfing and handling, trade documentation, freight forwarding, storage, and customs clearance).

Technology Rights. Technology related to the processing of the Products.

Export Markets:

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:

CherreX and the Members propose to engage in the joint export of the Products by:

1. Selling the Products in Export Markets under the CherreX or other common brand or label;
2. CherreX negotiating and entering into agreements, on behalf of and with the advice of the Members, for the transportation, storage, and promotion (including trade shows, advertising, and contracting marketing services) of the Members' Products in Export Markets;
3. Sharing transportation, storage, and promotion costs associated with the export of the Products through CherreX;
4. Establishing prices and terms for the sale of the Products in Export Markets;
5. Allocating export sales and export markets among the Members on the basis of each Member's commitment of Products for sale in Export Markets;
6. CherreX granting to nonmembers exclusive distributorship rights in specific Export Markets;
7. CherreX negotiating and entering into agreements, on behalf of and with the advice of the Members, with buyers in Export Markets for the sale of the Members' Products;
8. Advising and cooperating with the U.S. Government in establishing procedures regulating the export of the Products;
9. Negotiating and entering into agreements with foreign governments and foreign persons regarding the quantities, time periods, prices, and terms and conditions upon which the Members shall export the Products;
10. Developing new processing technology, new product applications and new products for Export Markets; and
11. Licensing processing technology to licensees in Export Markets.

Date: March 3, 1989.

Thomas H. Stillman,

Director, Office of Export Trading Company Affairs.

[FR Doc. 89–5509 Filed 3–8–89; 8:45 am]

BILLING CODE 3510–DR–M

National Technical Information Service

Intent To Grant Exclusive Patent License; Uni-Star Industries, Ltd.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Uni-Star Industries, Ltd., having a place of business in Cuba, IL 61427, an exclusive license in the United States and certain foreign countries to practice the invention embodied in the U.S. Patent 4,454,268 (Patent Application Serial Number 6–507,191, "Starch-Based Semipermeable Films." The patent rights in this invention have been assigned to the United States of America, as represented by the Department of Commerce.

The intended license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from

the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended licenses would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Douglas J. Campion, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Copies of the subject patent may be purchased from the Commissioner of Patents, U.S. Patent & Trademark Office, Washington, DC 20231.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 89-5459 Filed 3-8-89; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Changes in Visa Arrangements To Coincide With Implementation of the Harmonized Tariff Schedule; Correction

March 6, 1989.

On page 52468, 3rd column of the **Federal Register** notice published on December 28, 1988 (53 FR 52464), add Category 223 (all HTS numbers in Category 223, excluding cotton webs, wadding and batting in 5601.21.0010) for Mexico.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-5495 Filed 3-8-89; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

DIA Advisory Board's Sigint Panel; Cancellation of Meeting

AGENCY: Defense Intelligence Agency Advisory Board.

ACTION: Notice of cancellation of closed meeting.

SUMMARY: Notice is hereby given that the closed meeting of the DIA Advisory Board's SIGINT Panel, scheduled for 1 March 1989, previously announced in the **Federal Register** on Friday, February 3, 1989, Volume 54, No. 22, FR Document 89-2589 was cancelled.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Executive Secretary, DIA Advisory Board, Washington, DC 20340-1328 (202 373-4930).

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defnese.

March 6, 1989.

[FR Doc. 89-5518 Filed 3-8-89; 8:45 am]

BILLING CODE 3810-01-M

Meeting of the National Advisory Panel on the Education of Handicapped Dependents

ACTION: Change in location.

SUMMARY: The location of the meeting of the National Advisory Panel on the Education of Handicapped Dependents scheduled for March 28 through 30 as published in the **Federal Register** (Vol. 54, No. 38, February 28, 1989) has been changed to the Capri Hotel, 2700 Eisenhower Avenue, Alexandria, VA 22306, telephone 703-329-2323. All other information remains unchanged.

March 3, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-5440 Filed 3-8-89; 8:45 am]

BILLING CODE 3810-01-M

Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0800, Wednesday, 5 April 1989.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2940 Presidential Drive, Suite 210, Fairborn, Ohio 45433.

FOR FURTHER INFORMATION CONTACT: Harold Summer, AGED Secretariat, 2011 Crystal Drive, Suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. 92-463, as amended, (5 U.S.C. App. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

March 3, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-5436 Filed 3-8-89; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board 1989 Summer Study on Improving Test and Evaluation Effectiveness

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board 1989 Summer Study on Improving Test and Evaluation Effectiveness will meet in closed session on April 11-12, 1989 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will examine the contributions of modeling and simulation to Defense test and evaluation so as to improve the acquisition process.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

March 3, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-5437 Filed 3-8-89; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board 1989 Summer Study on Non-Cooperative Identification

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board 1989 Summer Study on Non-Cooperative Identification will meet in closed session on April 13–14, May 17–18, and June 14–15, 1989 at the VEDA Corporation, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will receive classified briefings, study classified documents, and conduct classified interviews on technologies, intelligence data, and programs relating to noncooperative target identification techniques.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

March 3, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–5439 Filed 3–8–89; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Low Observable Technology

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Low Observable Technology will meet in closed session on March 30 and April 20, 1989 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will evaluate low observable technology.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

March 3, 1989.

Linda M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–5438 Filed 3–8–89; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

Privacy Act of 1974; Amended Record System Notice

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of an amendment of an Air Force System of Record.

EFFECTIVE DATE: This amendment shall be effective without further notice on or before April 10, 1989, unless comments are received which result in a contrary determination.

ADDRESS: Send any comments to Ms. Linda G. Adams, SAF/AADAQI, The Pentagon, Washington, DC 20330–1000, telephone (202) 694–3488, Autovon: 224–3488.

SUPPLEMENTARY INFORMATION: The Air Force is amending a system of records subject to the Privacy Act of 1974 (5 U.S.C. 552a). The record system was previously published in the **Federal Register** at 50 FR 24355, June 28, 1988. Besides minor editorial changes, the Air Force is amending the Routine Uses provision of the notice so as to add additional users. Disclosures of information can now be made to Federal, state or local government investigative agencies if necessary to obtain information for a human/personnel reliability determination; and to the National Aeronautics and Space Administration (NASA) concerning its making, issuing, or retaining a human/personnel reliability determination regarding unescorted entry to specified space launch and operations related facilities or areas, or assignment to designated sensitive positions related to space launch and operations activities.

The publication of this amendment is required by subsection (e)(4)(11) of the Privacy Act (5 U.S.C. 552a). This amendment is not within the purview of subsection (r) of the Act that requires the submission of a new or altered system report.

The complete Air Force inventory of record system notices subject to the Privacy Act has been published in the **Federal Register** to this date as listed:

50 FR 22332 May 29, 1985 (Compilation, changes follow)
50 FR 24672 June 12, 1985
50 FR 25737 June 21, 1985
50 FR 46477 November 8, 1985
50 FR 50337 December 10, 1985
51 FR 4531 February 5, 1986
51 FR 7371 March 3, 1986
51 FR 16735 May 6, 1986
51 FR 18927 May 23, 1986
51 FR 41382 November 14, 1986
51 FR 41402 November 14, 1986
51 FR 44332 December 9, 1986
52 FR 11845 April 13, 1987
53 FR 24354 June 28, 1988
53 FR 45800 November 14, 1988
53 FR 50072 December 13, 1988
53 FR 51301 December 21, 1988

March 3, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F205 AFSC A

SYSTEM NAME:

Space Human Assurance and Reliability Program (SHARP).

SYSTEM LOCATION:

HQ SD/CLFRX, P.O. Box 92960, Los Angeles AFB, Los Angeles, CA 90009–2960; HQ SAMTO/XOO, Vandenberg AFB, CA 93437–6021; WSMC/SP, Vandenberg AFB, CA 93437–6021; ESMC/SPI, Patrick AFB, FL 32925–6215; and CSTC/VOB, P.O. Box 3430, Onizuka AFB, CA 94088–3430.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military, civil service, and contractor personnel who require SHARP certification for unescorted entry to specified space launch and operations related facilities or areas at certain Air Force or National Aeronautics and Space Administration (NASA) installations or activities or for assignment to designated sensitive space launch and operations positions at such installations or facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documentation used to request certification, to include the applicant's name, social security number, date and place of birth, level of security investigation, medical, financial, and arrest information, and data pertaining to the applicant's certification, such as date of certification, date certification suspended, withdrawn, or denied (as appropriate) and date recertification required.

AUTHORITY FOR MAINTAINING THE SYSTEM:

Title 50, U.S.C. 797, Internal Security Act of 1950; 5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 8013, "Secretary of the Air Force: Power and duties: Delegation by;" Executive Order 9397, November 1943 (SSN) Numbering

System for Federal Register Accounts Relating to Individual Persons; 32 CFR 809a.1, Enforcement of Order at Air Force Installations, Air Force Regulation (AFR) 127–2, ¶¶ 3–6 & 4–4, U.S. Air Force Mishap Prevention Program; Space Division Regulation (SDR) 55–3, Space Human Assurance and Reliability Program (SHARP).

PURPOSES:

To obtain background information for investigative and evaluative purposes for use in making human/personnel reliability determinations under SHARP regarding personnel (a) seeking unescorted entry to specified space launch and operations related facilities or areas at certain Air Force or National Aeronautics and Space Administration (NASA) installations or activities, or (b) occupying sensitive positions related to space launch and operations designated by the commander of such installations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To federal, state, or local government investigative agencies if necessary to obtain information for a human/personnel reliability determination; to NASA concerning its making, issuing, or retaining a human/personnel reliability determination regarding unescorted entry to specified space launch and operations related facilities or areas, or assignment to designated sensitive positions related to space launch and operations activities. See also, the "Blanket Routine Uses" set forth at the beginning of the Department of the Air Force's listing of record system notices and reprinted in Air Force Pamphlet 12–36, Privacy Act Systems of Records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, binders, card files, computer files, and computer products.

RETRIEVABILITY:

Filed by name and security number.

SAFEGUARDS:

Records are accessed by the custodian of the records system and by personnel responsible for maintaining and updating the record system in performing their official duties. Such personnel are screened and cleared for access to SHARP data on a need-to-know basis. Records are stored in locked cabinets or file containers. Computerized files reflecting the identity and program status of applicants for SHARP certification are protected against unauthorized access. Computers containing such data are located in controlled access areas or otherwise secured so as to preclude unauthorized access.

RETENTION AND DISPOSAL:

Records are destroyed in accordance with AFR 12–50, Table 205–5. Unit requests for investigation or unescorted entry are destroyed when no longer needed. AFR 12–50, Table 205–5, Rule 7. Completed personal history statements or comparable forms at units of assignment are destroyed when an individual's employment is terminated. AFR 12–50, Table 205–5, Rule 12. Documents are shredded, pulped, or burned to preclude the disclosure of Privacy Act information.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters Space Division, Deputy Commander for Launch Operations, Plans and Operations Division, SHARP Program Manager, SAMTO/XOO, Vandenberg AFB, CA 93437–6021; SHARP Administrator, HQ SD/CLFRX, P.O. Box 92960, Los Angeles AFB, Los Angeles, CA 90009–2960; SHARP Administrator, WSMC/SP, Vandenberg AFB, CA 93437–6021; SHARP Administrator, ESMC/SPI, Patrick AFB, FL 32925–6215; and SHARP Administrator, CSTC/VOB, P.O. Box 3430, Onizuka AFB, CA 94088–3430.

NOTIFICATION PROCEDURES:

Individuals can ascertain if their records are in the system by contacting the system manager or the system location where the requester applied for SHARP certification. Requesters should identify themselves by name and social security number to facilitate access.

RECORD ACCESS PROCEDURES:

Written requests should be addressed to the system manager or to the system location where the requester applied for SHARP certification. For personal visits, the requester may be asked to show a valid identification card, a driver's license, or some similar proof of identity.

CONTESTING RECORDS PROCEDURES:

The rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the system manager and are published in Air Force Regulation 12–35, 32 CFR Part 806b.

RECORD SOURCE CATEGORIES:

Information is provided by the individual; his or her supervisor; the servicing security police organization; various federal, state, and local investigative agencies; and the local SHARP Administrator or equivalent NASA official.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 89–5441 Filed 3–8–89; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 27–31 March 1989.

Time of Meeting: 0900–1700 hours.

Place: Ft. Monmouth, NJ; Ft Belvoir, VA; and White Sands Missile Range, NM.

Agenda: The Army Science Board 1989 Summer Study on International Cooperation and Data Exchange to Enhance the Army's Technology Base will meet for the purpose of observing the US/France Technology Working Group Data Exchange Program. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89–5506 Filed 3–8–89; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: 30 March 1989.

Time: 0700–1700 hours.

Place: Sacramento Army Depot, Sacramento, California.

Agenda: The Army Science Board Ad Hoc Subgroup on Total Quality Management will hold its initial planning meeting. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the

time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89–5507 Filed 3–8–89; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.129]

State Vocational Rehabilitation Unit In-Service Training Program; New Awards for Fiscal Year (FY) 1989

Purpose of Program: This program provides grants to State agencies and other public or nonprofit agencies and organizations, including institutions of higher education, to support special projects for training State vocational rehabilitation unit personnel in program areas essential to the effective management of the unit's program of vocational rehabilitation services or in skill areas that will enable State unit personnel to improve their ability to provide vocational rehabilitation services to individuals with severe disabilities. Pursuant to 34 CFR 385.33(a), fiscal year 1989 funds are available under this program for the support of new projects in Department of Education Regions I, II, IV, V, VII, IX, and X only.

Deadline for Transmittal of Applications: May 31, 1989.

Applications Available: March 10, 1989.

Estimated Total Available Funds: $1,576,400.

Estimated Available Funds:

Region I—$249,650
Region II—$9,500
Region IV—$658,100
Region V—$209,225
Region VII—$16,850
Region IX—$271,850
Region X—$161,225

Estimated Range of Awards: $5,500–$127,400.

Estimated Average Size of Awards: $39,410.

Estimated Number of Awards:

Region I—9
Region II—1
Region IV—13
Region V—4
Region VII—1
Region IX—5
Region X—7

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 80, and 85; and (b) the regulations for this program in 34 CFR Parts 385 and 388.

For Applications or Information Contact: Mary Ford, U.S. Department of Education, 400 Maryland Avenue SW., Room 3332 (Switzer Building), Washington, DC 20202–2650. Telephone (202) 732–1351.

Program Authority: 29 U.S.C. 774.

Dated: March, 6, 1989.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitation Services.

[FR Doc. 89–5536 Filed 3–8–89; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Floodplain/Wetlands Involvement for the Proposed Clean Coal Technology Project at City Water Light & Power, Lakeside Station, Unit 7, Springfield, IL

AGENCY: Department of Energy (DOE).

ACTION: Notice of floodplain/wetlands involvement.

SUMMARY: Under the Clean Coal Technology Program, DOE proposes to fund, in part, a project entitled "Enhancing the Use of Eastern and Midwestern Coals by Gas Reburning-Sorbent Injection at City Water Light & Power, Lakeside Station, Unit 7." Pursuant to 10 CFR Part 1022 (DOE's "Compliance with Floodplain/Wetlands Environmental Review Requirements"), DOE has determined that this action would involve activities within a floodplain/wetlands and, therefore, the following notice is submitted for public review and comment.

In accordance with DOE regulations for compliance with floodplain/wetland environmental review requirements (10 CFR Part 1022), DOE will prepare a floodplain/wetland assessment for this site. The floodplain/wetland assessment will be incorporated into the environmental assessment to be prepared for this proposed action. Maps and further information are available from DOE at the address shown below.

DATE: Any comments are due on or before March 24, 1989.

ADDRESS: Address comments to the Pittsburgh Energy Technology Center, Department of Energy, P.O. Box 10940, Pittsburgh, PA 15236. All comments should refer to the project title.

FOR FURTHER INFORMATION CONTACT: Dr. Earl Evans, Environmental Project Manager, Pittsburgh Energy Technology Center, Department of Energy, P.O. Box 10940, Pittsburgh, PA 15236, (412) 892–5709.

SUPPLEMENTARY INFORMATION: The proposed project is a field evaluation of the effectiveness of gas reburning-sorbent injection (GR–SI) technologies in controlling NO_x and SO_2 emissions from a coal-fired boiler equipped with a cyclone combustor. The evaluation will be conducted at City Water Light and Power (CWLP), Lakeside Station. Lakeside Station includes three coal-fired steam generating electrical units with a total net generating capacity of 100 MWe. The project will be conducted in Unit 7, a 33 MWe cyclone-fired boiler.

Lakeside Station and the adjacent Dallman Station occupy a 75-acre site on the northwest shore of Lake Springfield in Sangamon County, Illinois. Coal combustion and flue gas cleaning wastes are transported to an existing on-site waste disposal area located immediately north of Lake Springfield. This disposal area includes three ash ponds for wet disposal of fly ash and bottom ash from the two stations, and three dry landfill cells for disposal of dewatered flue gas desulfurization sludge from Dallman Station. The flood zone map from the Federal Emergency Management Agency for the Lakeside Station area shows that the power station is not located within the floodplain. However, the waste disposal area is located within the 100-year floodplain of Lake Springfield, i.e. an area with a one percent chance of being flooded in any one year.

The power station area does not contain wetlands. However, information obtained from the U.S. Fish and Wildlife Service indicates that the existing ash pond and dry landfill cells contain wetland areas. The ash pond contains wetlands that are classified as lacustrine littoral unconsolidated shore seasonal diked/impounded wetlands and lacustrine limnetic unconsolidated bottom permanent diked/impounded wetlands. The dry landfill cells contain wetlands that are classified as palustrine unconsolidated bottom intermittently exposed diked/impounded wetlands.

The Illinois Department of Conservation, which compiled the wetlands map for the U.S. Fish and Wildlife Service, indicates that the ash pond and landfill wetlands are so identified because they contain standing water, and not because they support aquatic life. The ponds and landfill cells were excavated for the purpose of waste disposal, and did not contain standing

water or support aquatic life prior to excavation.

Project construction will involve retrofit to the existing power plant. All construction will take place in the immediate vicinity of the boiler except pipeline installation, which will involve on-site construction of a 1400-foot natural gas pipeline. Once the equipment has been installed, the GR–SI demonstration will operate for a period of 12 months.

Construction of the GR–SI equipment will involve internal structural retrofit of the existing plant. The natural gas pipeline will be constructed entirely within the boundaries of the site and will not traverse floodplains or wetlands. The only project activity with the potential to impact the floodplain or wetlands involes use of the existing ash pond and dry landfill cells.

Gas burning is not expected to change the properties of either the fly ash or bottom ash produced. Sorbent injection will not affect the bottom ash, but the fly ash will be altered to contain appreciable amounts of calcium sulfate and unreacted sorbent. The sorbent-modified fly ash will be similar in character to the flue gas desulfurization scrubber sludge now produced at the adjacent Dallman Station. Thus, the by-product materials to be produced by Lakeside Station, Unit 7, during the GR–SI demonstration project will have esentially the same characteristics as the materials now generated at the CWLP plant.

During the GR–SI demonstration, fly ash from Unit 7 will be collected dry and placed in the landfill cells. Bottom ash will continue to be sluiced to the ash pond. The annual waste generated by the CWLP plant during the GR–SI demonstration is expected to result in a 3.0 percent decrease in the wet dispoasl requirement and an 11.2 percent increase in the dry disposal requirement. The waste placed in the dry disposal cells as a result of the GR–SI project will consume approximately 0.5 percent of the remaining usable volume and will shorten the life of the cells by approximately 0.15 years.

Issued at Washington, DC, this 2nd day of March, 1989, for the United States Department of Energy.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 89–5522 Filed 3–8–89; 8:45 am]

BILLING CODE 6450–01–M

Committee on Petroleum Storage and Transportation, National Petroleum Council; Meeting Cancellation

An open meeting of the Committee on Petroleum Storage and Transportation which was scheduled to be held on Friday, March 17, 1989, at 10:00 AM, at Marathon Oil Company, Marathon Tower, Conference Room, 1012, 5555 San Felipe Road, Houston, TX, has been canceled. This meeting was announced in the **Federal Register**, Vol. 53, No. 34 on Wednesday, February 22, 1989.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 89–5524 Filed 3–8–89; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 89–06–NG]

Gas Masters, Inc.; Application To Export Natural Gas to Canada and Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Canada and Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on January 31, 1989, of an application from Gas Masters, Inc. (GMI), for blanket authorization to export a total of up to 100 Bcf of natural gas from the United States to Canada and Mexico for short-term and spot makret sales over a two-year term beginning on the date of the first delivery. GMI, a Texas corporation with its principal place of business in Houston, proposes to export natural gas for its own account or act as broker for both U.S. suppliers and foreign purchasers. GMI intends to use existing pipeline facilities for the transportation of the volumes to be exported, and to submit quarterly reports detailing each transaction.

The application is filed pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–127. Protests, motions to intervene, notices of intervention, requests for additional procedures and written comments are invited.

DATE: Protexts, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than April 10, 1989.

FOR FURTHER INFORMATION:

Frank Duchaine, Office of Fuels Programs, Office of Fossil Energy, Forrestal Building, Room 3H–087, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–8233.

Diane J. Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION:

This export application will be reviewed pursuant to section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order No. 0204–127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this application should comment on these matters.

All parties should be aware that the approval of GMI's application may permit the export of the gas at any point of exit on the international border where existing transmission facilities are located.

GMI requests that an authorization be granted on an expedited basis. A decision on GMI's request for expedited treatment will not be made until all responses to this notice have been received and evaluated.

NEPA Compliance

On August 9, 1988, the DOE published in the **Federal Register** (53 FR 29934) a notice of proposed amendments to it guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, effective on an interim basis upon publication. In that notice, the DOE proposed to amend the department's NEPA guidelines to add to its list of categorical exclusions the approval or disapproval of an import-export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the action is not a major Federal action under NEPA. Unless comments are received indicating the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene

or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs, Fossil Energy, Room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m. e.s.t., April 10, 1989.

A decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. A request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request of a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of GMI's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on March 2, 1989.

J. Allen Wampler,

Assistant Secretary Fossil Energy.

[FR Doc. 89–5525 Filed 3–8–89; 8:45 am]

BILLING CODE 6450–01–M

Office of Nuclear Energy

Certification of the Radiological Condition of the National Guard Armory in Chicago, IL

AGENCY: Office of Remedial Action and Waste Technology, Department of Energy.

ACTION: Notice of certification.

SUMMARY: The Department of Energy has completed radiological surveys and taken remedial action to decontaminate the National Guard Armory in Chicago, Illinois. The site was found to contain quantities of radioactive material remaining from wartime activities conducted at the site by the Manhattan Engineer District/Atomic Energy Commission.

FOR FURTHER INFORMATION CONTACT: James J. Fiore, Division of Facility and Site Decommissioning Projects, Office of Remedial Action and Waste Technology, U.S. Department of Energy, Washington, DC 20545, (301) 353–5272.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE), Office of Nuclear Energy, Office of Remedial Action and Waste Technology, Division of Facility and Site Decommissioning Projects, has implemented a remedial action project at the National Guard Armory (NGA) in the Chicago, Illinois area as part of the Formerly Utilized Sites Remedial Action Program (FUSRAP), which was initiated by the United States Government in 1974 to identify, clean up, or otherwise control sites where residual radioactive material (exceeding current guidelines) remains from the early years of the nation's atomic energy program or from commercial operations causing conditions that Congress has mandated DOE to remedy.

The NGA was used beginning in March 1942 by the Manhattan project when space shortages occurred at the University of Chicago. The Atomic Energy Commission (AEC), which succeeded the MED, ceased use of the NGA in 1951.

Available information indicates that the NGA was utilized to store and process uranium metal. The building was the shipping and central procurement location for the Metallurgical Laboratory in 1943, and records indicate that uranium metal stock was received and temporary stored at the NGA in 1944.

Apparently, the armory storeroom was used to store grinding wastes and uranium shavings, because one of the uranium fires in the armory occurred in the northeast corner of this room.

In 1987, the subject property was decontaminated. The post-remedial action survey has demonstrated and DOE has certified that radiological conditions at the affected property are consistent with applicable criteria and that use of the property presents no radiological hazard to the general public or to site occupants. These findings are supported by the DOE *Certification Docket for the Remedial Action Performed at National Guard Armory in Chicago, Illinois from April 1987 to June 1987.* Accordingly, this property is released from the Formerly Utilized Sites Remedial Action Program.

This certification docket will be available for review between 9:00 a.m. and 4:00 p.m., Monday through Friday (except on Federal holidays), in the Department of Energy Public Reading room located in Room 1E–190 of the Forrestal Building, 1000 Independence Avenue SW., Washington, DC. The certification docket will also be available in the Public Document Room, U.S. Department of Energy, Chicago Operations Office, 9800 S. Cass Avenue, Argonne, Illinois.

The Department of Energy, through the Oak Ridge Operations Office, Technical Services Division, has issued the following statement:

Statement of Certification: National Guard Armory in Chicago, IL

The Oak Ridge Operations Office, Technical Services Division, has reviewed the radiological data obtained following the remedial action at the subject property. Based on this review, DOE has certified that the property is in compliance with all applicable decontamination criteria and standards. This certification of compliance provides assurance that use of the property will result in no radiological exposure above applicable criteria and standards to members of the general public or to occupants of the site. Accordingly, the National Guard

Armory property is released from the Formerly Utilized Sites Remedial Action Program.

Dated: February 17, 1989.

J.E. Baublitz,

Acting Director, Office of Remedial Action and Waste Technology, Office of Nuclear Energy, U.S. Department of Energy.

[FR Doc. 89-5526 Filed 3-8-89; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Final Consent Order With Quintana Energy Corp. et al.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final action on proposed consent order.

SUMMARY: The Department of Energy (DOE) hereby gives the notice required by 10 CFR 205.199J that it has adopted as final the Consent Order with Quintana Energy Corporation, Quintana Refinery Co., and Quintana Petrochemical Company (hereinafter collectively referred to as "Quintana"), executed on January 9, 1989, and published for comment in 54 FR 3833 (January 26, 1989).

As required by 10 CFR 205.199J, DOE provided a period of thirty days following publication of the Notice of Proposed Consent Order for the submission of comments. The Economic Regulatory Administration (ERA) received no comments in response to this Notice. Accordingly, ERA has determined that the Consent Order should be made final without modification. The Consent Order becomes effective as a Final Order of the DOE on the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Dorothy Hamid, Office of Enforcement Litigation, Economic Regulatory Administration, U.S. Department of Energy, Room 3H-017, RG-32, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-1699.

Copies of the Consent Order may be obtained free of charge by written request to "Quintana Consent Order Request" at the above address or by calling Dorothy Hamid at the above telephone number. Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

SUPPLEMENTAL INFORMATION: On January 26, 1989, DOE published notice in the **Federal Register**, Vol. 54 at page 3833, announcing the execution of a Proposed Consent Order between Quintana and DOE. That Notice summarized the proposed Consent Order and the relevant facts.

As a result of an audit of Quintana's compliance with the Federal petroleum price and allocation regulations, the Economic Regulatory Administration (ERA) raised certain issues with respect to Quintana's application of the Federal petroleum price and allocation regulations. A Proposed Remedial Order was issued to Quintana-Howell Joint Venture, a Texas joint venture comprised of Quintana Refinery Co. and Howell Corporation on June 24, 1988, in which ERA alleged failure to comply with obligations under the Crude Oil Allocation Program (Entitlements Program) during the period April 1978 through December 1979 in violation of those regulations.

The Consent Order resolves these matters and all other civil and administrative claims or causes of action regarding Quintana's compliance with its obligations under the Federal petroleum price and allocation regulations. As consideration, Quintana has agreed to pay $3.8 million to DOE within fifteen (15) days of the effective date of the Consent Order. The Howell Corporation would continue to be potentially liable for the remaining violation amount. The ERA will petition DOE's Office of Hearings and Appeals to implement special refund procedures pursuant to 10 CFR Part 205, Subpart V, to distribute all amounts paid by Quintana pursuant to the Consent Order.

As noted, no comments were received in response to the Notice of Proposed Consent Order. Accordingly, ERA has determined to adopt the Proposed Consent Order, without modification, as a final order of the DOE, pursuant to 10 CFR 205.199J. The Consent Order becomes effective upon publication of this Notice.

Issued in Washington, DC, on March 2, 1989.

Milton C. Lorenz,

Chief Counsel for Enforcement Litigation, Economic Regulatory Administration.

[FR Doc. 89-5523 Filed 3-8-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP89-866-000 et al.]

Trunkline Gas Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Trunkline Gas Co.

[Docket No. CP89-866-000]

March 2, 1989.

Take notice that on February 21, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP89-866-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the authorization issued by the Commission on April 6, 1988, in Docket No. CP68-187-000 with respect to adding a new delivery point for sales service to Entex, Inc. (Entex), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Trunkline states that, by order issued April 6, 1988, the Commission granted Trunkline authorization to increase its level of contract demand sales from 1,900 Mcf per day to 4,900 Mcf per day, as well as authority to construct and operate measuring and regulatory facilities necessary to establish a new delivery point for deliveries of gas to Entex in Montgomery County, Texas. It is stated that Entex requested such additional service from Trunkline in anticipation of providing gas service to the new residential communities of Cumberland and White Oak Creek near the town of New Caney in Montgomery County, Texas. Trunkline states that, by a letter dated January 18, 1989, from Entex, Trunkline was advised that the developer of the subdivisions which Entex planned to serve has declared bankruptcy. Accordingly, Entex has stated that it no longer needs the new delivery station in Montgomery County, Texas; however, it does desire to maintain the authorized increased contract demand quantity to be delivered at existing delivery points, it is stated.

Comment date: April 17, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Panhandle Eastern Pipe Line Co.

[Docket No. CP89-851-000]

March 2, 1989.

Take notice that on February 21, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.PO. Box 1642, Houston, Texas 77001, filed in Docket No. CP89-851-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon part of its sales service provided to Northern Indiana Fuel & Light Company, Inc. (NIFL), an existing jurisdictional sales customer, all as more fully set forth in the application which is on file

with the Commission and open to public inspection.

Panhandle states that pursuant to § 284.10 of the Commission's Regulations, NIFL has elected to convert a portion of their firm sales entitlements to firm transportation, to be effective on March 1, 1989. Panhandle proposes to reduce NIFL's annual total contract demand from 4,743,707 Mcf to 3,997,690 Mcf under Rate Schedule G–1, to be effective March 1, 1989.

Comment date: March 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Transwestern Pipeline Co.

[Docket No. CP89–886–000]

March 2, 1989.

It is stated that on December 30, 1988, Transwestern made a general rate filing under section 4 of the Natural Gas Act. On January 31, 1989, the Commission issued an order accepting and suspending the tariff sheets to become effective February 1, 1989., It is asserted that the January 31, 1989, order stated that notwithstanding the term of the settlement in Docket No. RP85–175–000, Transwestern cannot terminate the standby service without first obtaining abandonment authorization. It is therefore requested that the Commission issue an order granting Transwestern permission and approval to abandon its standby service obligation to SoCal effective February 1, 1989, consistent with the Stipulation and Agreement approved by the Commission in 38 FERC ¶61,061 (1987) and 41 FERC ¶61,128 (1987).

Take notice that on February 23, 1989, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP89–886–000 an application pursuant to section 7 (b) of the Natural Gas Act for permission and approval to abandon standby service provided for Southern California Gas Company (SoCal) under Rate Schedules CDQ–1 and FTS, as set forth in Transwestern's rate settlement in Docket No. RP85–175–000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is averred that on December 21, 1988, Transwestern and SoCal entered into a letter agreement whereby SoCal would reduce 50 percent of its contract demand quantity under Rate Schedule CDQ–1 to firm transportation under Rate Schedule FTS. It is alleged that the conversion is intended to replace the standby service that is scheduled to terminate the date Transwestern's new Section 4 rate filing is made effective.

Comment date: March 23, 1989, in accordance with Standard Paragraph F at the end of this notice.

4. Tennessee Gas Pipeline Co.

[Docket No. CP89–452–001]

March 2, 1989.

Take notice that on February 21, 1989, Tennessee Gas Pipeline Company (Tennessee) P.O. Box 2511, Houston, Texas, 77252, filed in Docket No. CP89–452–001 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of G.A.S. Orange Development, Inc. (GAS) and to construct, prior to commencement of the transportation service, a sales tap to accommodate the delivery of natural gas under its blanket authorization issued in Docket Nos. CP82–413–000 and CP87–115–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is stated that prior to commencement of the transportation service, Tennessee requested authorization to construct pursuant to § 157.211 of the Commission's Regulations and its blanket certificate authority, a sales tap to accommodate the delivery of natural gas. On January 3, 1989, the Commission issued a notice of request under blanket authorization in Docket No. CP89–452–000.

It is further stated that on February 2, 1989, Tennessee accepted and agreed to an amendment to the contract filed in the subject docket, which amendment states the following:

This Agreement shall become effective on the date of execution and shall remain in full force and effect for a term of two years and month to month thereafter provided, however, that either party may terminate this Agreement at any time upon at least thirty (30) days prior written notice to the other Party. Except as amended herein, all terms and provisions of the Agreement shall remain in full force and effect as written.

Comment date: April 17, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. United Gas Pipe Line Co.

[Docket No. CP89–885–000]

March 2, 1989.

Take notice that on February 22, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–885–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of Heath Petra Resources, Inc. (Heath Petra), a marketer of natural gas, under United's 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 which is on file with the Commission and open to public inspection.

United proposes to transport on an interruptible basis up to 20,600 MMBtu equivalent of natural gas on a peak day, 20,600 MMBtu equivalent on an average day, and 7,519,000 MMBtu equivalent on an annual basis. It is stated that United would receive the gas for Heath Petra's account at an existing interconnection between United and Sea Robin Pipeline Company near Erath, Vermilion Parish, Louisiana, and would deliver equivalent volumes at existing points on United's system in Louisiana. It is asserted that the transportation service would be effected utilizing existing facilities and would not require any construction of additional facilities. It is explained that the transportation service commenced January 11, 1989, as reported in Docket No. ST89–2185.

Comment date: April 17, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Panhandle Eastern Pipe Line Co.

[Docket No. CP89–850–000]

March 2, 1989.

Take notice that on February 21, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP89–850–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon part of its sales service provided to Kokomo Gas and Fuel Company (Kokomo), an existing jurisdictional sales customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle states that pursuant to § 284.10 of the Commission's Regulations, Kokomo has elected to convert a portion of their firm sales entitlements to firm transportation, effective on March 1, 1989. Panhandle proposes to reduce Kokomo's annual total contract demand from 16,769,700 Mcf to 11,738,790 Mcf under Rate Schedule G–1, to be effective March 1, 1989.

Comment date: March 23, 1989, in accordance with Standard Paragraph F at the end of this notice.

7. Natural Gas Pipeline Co. of America

[Docket No. CP89-883-000]

March 2, 1989.

Take notice that on February 23, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89-883-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Sun Gas Transmission Limited Partnership (Sun Gas), an intrastate pipeline, under its blanket authorization issued in Docket No. CP86-582-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Natural would perform the proposed interruptible transportation service for Sun Gas, pursuant to an interruptible transportation service agreement dated January 18, 1989. The transportation agreement is effective for a primary term ending January 18, 1990, and shall continue month to month thereafter unless terminated by five days prior notice by either party. Natural proposes to transport up to a maximum of 20,000 MMBtu of natural gas per day (plus any additional volumes accepted pursuant to the overrun provisions of Natural's Rate Schedule ITS); on an average day up to 10,000 MMBtu; and on an annual basis 3,650,000 MMBtu of natural gas for Sun Gas. Natural proposes to receive the subject gas at various points located in the states of Illinois and Texas. It is stated that the points of delivery are located in the states of Louisiana and Texas. Natural avers that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. Natural commenced such self-implementing service on January 19, 1989, as reported in Docket No. ST89-2342-000.

Comment date: April 17, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Texas Gas Transmission Corp.

[Docket No. CP89-891-000]

March 2, 1989.

Take notice that on February 23, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89-891-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas for Hadson Gas Systems, Inc. (Hadson), under its blanket certificate issued in Docket No. CP86-686-000 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.

Texas Gas proposes to transport for Hadson on an interruptible basis up to 50,000 MMBtu of natural gas on a peak day, 35,000 MMBtu on an average day, and 14,600,000 MMBtu on an annual basis. It is stated that service under § 284.223(a) commenced January 5, 1989, as reported in Docket No. ST89-1720. Texas Gas indicates that the service would have an initial term continuing through the end of the month in which the agreement is dated and continue on a monthly basis thereafter. Texas Gas proposes to charge Hadson a rate pursuant to Texas Gas' currently effective Rate Schedule T. No new facilities are proposed herein.

Comment date: April 17, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Panhandle Eastern Pipe Line Co.

[Docket No. CP89-848-000]

March 2, 1989.

Take notice that on February 21, 1989, Panhandle Eastern Pipe Line Company (Panhandle) P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-848-000 a request pursuant to § 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 284.223) for authority to provide interruptible transportation service for Marathon Oil Company (Marathon), a producer of natural gas, under Panhandle's blanket transportation certificate authority issued November 20, 1987, in Docket No. CP86-585-000, all as more fully set in the application which is on file with the Commission and open to public inspection.

Panhandle states it will receive the gas at various existing points on its system in the States of Texas, Oklahoma, Kansas, Colorado, Wyoming, and Illinois and deliver the gas for the account of Marathon Trunkline Gas Company in Vermillion Block 321, offshore, Louisiana.

Panhandle proposes to transport up to 16,000 dt of gas per peak day and approximately 16,000 dt and 5,840,000 dt of gas per average day and annually, respectively. Panhandle states that the transportation service commenced under the 120-day automatic authorization of § 284.223(a) of the Commission's Regulations on January 2, 1989, pursuant to a transportation agreement dated December 29, 1988. Panhandle notified the Commission of the commencement of the transportation service in Docket No. ST89-2087-000.

Comment date: April 17, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. Tennessee Gas Pipeline Co.

[Docket No. CP89-913-000]

March 2, 1989.

Take notice that on February 27, 1989, Tennessee Gas Pipeline Company, (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89-913-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Catamount Natural Gas, Inc. (Catamount), a marketer, under the blanket certificate issued in Docket No. CP87-115-000 on June 18, 1987, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement dated January 19, 1989, under its Rate Schedule IT, it proposes to transport up to 100,000 dekatherms (dt) per day equivalent of natural gas for Catamount. Tennessee states that it would transport the gas from receipt points located in the State of Texas and deliver such gas to a delivery point at Colorado, Texas. Tennessee further states that the ultimate delivery point is located in the State of Tennessee.

Tennessee advises that service under § 284.223(a) commenced February 1, 1989, as reported in Docket No. ST89-2350 (filed February 23, 1989). Tennessee further advises that it would transport 100,000 dt on an average day and 36,500,000 dt annually.

Comment date: April 17, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. United Gas Pipe Line Co.

[Docket No. CP89-909-000]

March 2, 1989.

Take notice that on February 27, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77152-1478, filed in Docket No. CP89-909-000 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 MidCon Marketing Corp. (MidCon), 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 927,000 MMBtu per day for MidCon. 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 927,000 MMBtu, 927,000 MMBtu and 338,355,000 MMBtu respectively.

United advises that service under § 284.223(a) commenced February 4, 1989, as reported in Docket No. ST89–2268.

Comment date: April 17, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. Williams Natural Gas Co.

[Docket No. CP89–900–000]

March 2, 1989.

Take notice that on February 24, 1989, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89–900–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under its blanket certificate issued in Docket No. CP86–631–000 pursuant to section 7 of the Natural Gas Act for Armco, Inc. (Armco), all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams proposes to transport natural gas for Armco, an end user, on a firm basis, pursuant to a transportation agreement dated December 1, 1988. Williams explains that service commenced January 1, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89–223(a) of the Commission's Regulations, as reported in Docket No. ST89–2180–000, Williams further explains that the peak day quantity would be 1,200 MMBtu and that the annual quantity would be 438,000 MMBtu. Williams explains that it would receive natural gas for the account of Armco at receipt points located in Kansas, Colorado and Missouri and would redeliver the gas at various delivery points in Kansas and Missouri.

Comment date: April 17, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. Texas Gas Transmission

[Docket No. CP89–890–000]

March 2, 1989.

Take notice that on February 23, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89–890–000 a request pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide an interruptible transportation service for Bethlehem Steel Corporation (Bethlehem) under the blanket certificate issued in Docket No. CP88–686–000 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.

Texas Gas request authorization to transport on a peak day up to 16,500 MMBtu equivalent of natural gas for Bethlehem, with an estimated average daily quantity of 10,000 MMBtu equivalent of natural gas, and an estimated annual quantity of 4,000,000 MMBtu equivalent of natural gas. Texas Gas states that the transportation service is being rendered through the use of Texas Gas's existing facilities. It is stated that the location of the points of receipt and points of delivery are specified in Exhibits B and C, respectively, of the gas transportation agreement dated November 4, 1988, between Texas Gas and Bethlehem. Texas Gas further states that transportation service for Bethlehem commenced January 10, 1989, under the 120-day automatic provisions of 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89–1819.

Comment date: April 17, 1989, in accordance with Standard Paragraph G at the end of this notice.

14. Questar Pipeline Co.

[Docket No. CP88–239–001]

March 2, 1989.

Take notice that on February 17, 1989 [1] Questar Pipeline Company (Questar), 79 South State Street, P.O. Box 11450 Salt Lake City, Utah 84147, filed in Docket No. CP88–239–001 a petition to amend its application filed on February 19, 1988, to construct and operate pipeline facilities, pursuant to section 7(c) of the Natural Gas Act, so as to change the preferred construction route from the Red Creek/Sears Canyon Alternative (Red Creek Alternative) to the Jesse Ewing Canyon/Rye Grass Draw Alternative (Jesse Ewing Alternative), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Questar states that the Bureau of Land Management and itself, after thoroughly evaluating the Jesse Ewing Alternative as part of the Environmental Assessment (EA) preparation process, found this alternative attractive primarily because this route would traverse the highest percentage (75 percent) of existing rights-of-way. It is stated that the Jesse Ewing Alternative would be 3.9 miles longer than the Red Creek Alternative and would extend in a southeast direction for approximately 81.3 miles from Questar's Storage Main Line No. 58 in Daggett County, Utah, to its Fidlar Compressor Station in Uintah County, Utah. Lastly, Questar estimates that the Jesse Ewing Alternative would (1) cost an additional $753,250 to install, (2) increase the first year's cost service by $169,376, (3) and reduce pipeline capacity by approximately 2.5 percent.

Comment date: March 23, 1989, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

15. Enron Gas Processing Co.

[Docket No. CI82–257–001 and CI82–360]

March 2, 1989.

Take notice that on February 9, 1989, Enron Gas Processing Company (EGP) of P.O. Box 1188, Houston, Texas 77251–1188, filed an application pursuant to Section 7(c) of the Natural Gas Act and § 154.92(d) of the Federal Energy Regulatory Commission's (Commission) regulations thereunder for authorization to continue sales of gas previously made by Northern Gas Products Company (NGP) to Northern Natural Gas Company, Division of Enron Corp, at the tailgate of EGP's processing plants in Martin County, Texas, and Crane and Pecos Counties, Texas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

EGP states that by Certificate of Amendment of Certificate of Incorporation dated June 9, 1986, the corporate name of Northern Gas Products Company was changed to Enron Gas Processing Company. EGP requests that the certificates of public convenience and necessity issued to NGP in Docket Nos. CI82–257 and CI82–360 be amended to reflect this name change and that NGP's FERC Gas Rate

[1] The petition to amend was tendered for filing on February 1, 1989; however, the fee required by 381.207 of the Commission's Rule (18 CFR 381.207) was not paid until February 17, 1989. Section 381.103 of the Commission's Rules provides that the filing date is the date on which the fee is paid.

Schedule Nos. 1 and 2 be redesignated accordingly.

Comment date: March 22, 1989, in accordance with Standard Paragraph J at the end of this notice.

16. United Gas Pipe Line Co.

[Docket Nos. CP89–795–000 and CP89–795–001]

March 2, 1989.

Take notice that on February 9, 1989, United Gas Pipeline Company (United)[1] P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–795–000 a request pursuant to §§ 157.205 and 284.223 (18 CFR 157.205 and 284.223) of the Commission's Regulations under the Natural Gas Act for authority to provide interruptible transportation service for Reliance Gas Marketing Company (Reliance), a marketer of natural gas, under United's blanket transportation certificate which was issued by Commission order on January 15, 1988, in Docket No. CP88–6–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United indicates that it will receive the gas from Reliance at various existing interconnections in Texas and deliver the gas for the account of Reliance at various interconnections in Louisiana. United will transport the gas pursuant to its Rate Schedule ITS.

United proposes to transport up to 30,900 MMBtu of gas per peak day and approximately 11,278,000 MMBtu of gas annually. United indicates that the transportation service commenced under the 120-day automatic authorization of § 284.223(a) of the Commission's Regulations on January 1, 1989, pursuant to a transportation agreement dated October 18, 1988, as amended November 15, and December 13, 1988. United notified the Commission of the commencement of the transportation service in Docket No. ST89–1963–000 on January 26, 1989.

Comment date: April 17, 1989, in accordance with Standard Paragraph G at the end of this notice.

17. Trunkline Gas Co.

[Docket No. CP89–903–000]

March 3, 1989.

Take notice that on February 24, 1989, Trunkline Gas Company (Trunkline) P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–903–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Shell Gas Trading Company (Shell), under the authorization issued in Docket No. CP86–586–000 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.

Trunkline would perform the proposed interruptible transportation service for Shell, a shipper and marketer of natural gas, pursuant to a transportation agreement rate schedule PT dated April 11, 1989 (contract no. T–PLT–1117). The term of the transportation agreement is for a primary term of one month from the initial date for service, and shall continue in effect month-to-month thereafter unless terminated upon 30 days prior written notice by one party to the other party. Trunkline proposes to transport on a peak day up to 90,000 dekatherm; on an average day up to 70,000 dekatherm; and on an annual basis 25,550,000 dekatherm of natural gas for Shell. Trunkline proposes to receive the subject gas from various receipt points in Louisiana, Texas and Illinois. Trunkline would then transport and redeliver the subject gas, less fuel and unaccounted for line loss, to Columbia Gulf Transmission Company in St. Mary Parish, Louisiana. The ultimate delivery of the transportation volumes would be to various LDC's and end users. It is alleged that Shell would pay Trunkline the effective rate contained in Trunkline's rate schedule PT, which is currently 16.01 cents, which includes the ACA and GRI surcharge. Trunkline avers that construction of facilities would not be required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's regulations. Trunkline commenced such self-implementing service on January 7, 1989, as reported in Docket No. ST89–1906–000.

Comment date: April 17, 1989, in accordance with Standard Paragraph G at the end of this notice.

18. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP89–887–000]

March 3, 1989.

Take notice that on February 23, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP89–887–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a firm transportation service provided by Northern for Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that it was authorized to provide the transportation service for Natural pursuant to the certificate granted in Docket No. CP81–18–000, as amended in Docket No. CP81–18–002 and that the underlying transportation agreement, as amended, expired on October 31, 1988. Northern further states that Natural ceased nominating volumes under the transportation agreement as of November 1, 1988, and began nominating volumes for transportation under Northern's blanket certificate authorization issued pursuant to Part 284 of the Commission's Regulations. Northern asserts that the duplicate transportation authorization is unnecessary and that transportation for Natural under Northern's blanket certificate will place Natural on an equal footing with other current and future shippers on Northern's system.

Comment date: March 24, 1989 in accordance with Standard Paragraph F at the end of the notice.

19. ANR Pipeline Co.

[Docket No. CP89–822–000]

March 3, 1989.

Take notice that on February 14, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89–822–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Unicorp Energy, Inc. (Unicorp), a marketer, under its blanket authorization 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 would perform the proposed interruptible transportation service for Unicorp, pursuant to an interruptible transportation service agreement dated November 1, 1988. The transportation agreement is effective for a term until 120 days from the day of initial deliveries, and thereafer until November 30, 1989, and month to month thereafter until terminated by either party on thirty days written notice. ANR proposes to transport approximately 100,000 dth

[1] United supplemented the request on February 21, 1989 in Docket No. CP89–795–001.

natural gas on a peak and average day; and on an annual basis 36,500,000 dth of natural gas for Unicorp. ANR proposes to receive the subject gas at various points located in ANR's Southeast and Southwest gathering areas and redeliver the gas for the account of Unicorp at existing interconnections located in the state of Illinois.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. ANR commenced such self-implementing service on January 1, 1989, as reported in Docket No. ST89-2098-000.

Comment date: April 17, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

J. Any person desiring to be heard or make any protest with reference to said filings 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, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 89-5486 Filed 3-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-734-002 et al.]

Williams Gas Supply Co. et al.; Applications For Extension of Blanket Limited-Term Certificates With Pregranted Abandonment [1]

March 6, 1989.

Take notice that each Applicant listed herein has filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for amendment of its blanket limited-term certificate with pregranted abondonment previously issued by the Commission for a term expiring March 31, 1989, to extend such authorization for the term listed herein, all as more fully set forth in the applications which are on file with the Commission and open for public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 23, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 385.211, 385,214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CI87-734-002 [2]	1-27-89 [3]	Williams Gas Supply Company (formerly Northwest Marketing Company), P.O. Box 2400, Tulsa, Oklahoma 74101.
CI87-825-002 [4]	1-24-89	V.H.C. Gas Systems, L.P., 530 McCullough Avenue, San Antonio, Texas 78215.

[2] Applicant requests extension for a three-year term. Applicant also requests that the Commission expand its authorization to apply to transactions in which Applicant acts as agent for others selling gas through Applicant. In addition Applicant requests that its certificate be amended to reflect a change in corporate name.

[3] Applicant filed a supplement to its application on March 1, 1989.

[4] Applicant requests authorization to resell all natural gas subject to the Commission's NGA jurisdiction including natural gas sold under any existing or subsequently approved pipeline blanket certificate authorizing interruptible sales of surplus system supply. Applicant requests such authorization for an unlimited term.

[FR Doc. 89-5485 Filed 3-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA89-1-21-000 and TM89-2-21-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

March 6, 1989.

Take notice that Columbia Gas Transmission Corporation (Columbia) on Februrary 28, 1989, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective May 1, 1989:

One hundred and thirty-fourth Revised Sheet No. 16
Twenty-second Revised Sheet No. 16A2
Thirty-ninth Revised Sheet No. 64A

Columbia states that the sales rates set forth on One hundred and thirty-fourth Revised Sheet No. 16 reflect an overall decrease of .17¢ per Dth in the Commodity rate, and an increase of $.003 per Dth in the Demand-1 rate and a decrease of 3.32¢ per Dth in the Demand-2 rate. In addition, the transportation rates set forth on Twenty-second Revised Sheet No. 16A2 reflect a decrease in the Fuel Charge component of .02¢ per Dth.

Columbia states that the purpose of this filing is to reflect the following:

(1) A Current Purchased Gas Cost Adjustment Applicable to Sales Rate Schedules;

(2) Unrecovered Purchased Gas Cost Surcharges which are proposed to be effective during the 12-month period of May 1, 1989 through April 30, 1990;

(3) A surcharge adjustment to provide for the recovery, over the 12-month period ending April 30, 1990, of carrying charges related to take-or-pay reimbursements paid by Columbia to Panhandle Eastern Pipe Line Company (Panhandle) pursuant to the terms of a Commission approved settlement in Docket No. RP83-5-000; and

(4) A Transportation Fuel Charge Adjustment.

Columbia states that the instant filing is an annual PGA filed in compliance with Section 154.305 of the Commission's regulations. Accordingly, Columbia has reflected 12-month Unrecovered Purchased Gas Cost credit surcharges of $.075 per Dth applicable to the Demand-1 rate, 2.68¢ per Dth applicable to the Demand-2 rate, and a 12-month Unrecovered Purchased Gas Cost surcharge of 22.10¢ per Dth applicable to the Commodity rate to be effective May 1, 1989. Columbia further states that the filing reflects an annual surcharge of .53¢ per Dth to be effective May 1, 1989 to recover carrying charges related to the recoupable portion of take-or-pay payments made to Panhandle under a settlement in Docket No RP83-5-000.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 27, 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 Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-5481 Filed 3-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA89-1-34-000]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

March 6, 1989.

Take notice that on February 28, 1989, Florida Gas Transmission Company (FGT) tendered for filing the following tariff sheets to its FERC Gas Tariff, to be effective May 1, 1989.

FERC Gas Tariff, First Revised Volume No. 1

Third Revised 37th Revised Sheet No. 8

FERC Gas Tariff, Original Volume No. 2

Third Revised 59th Revised Sheet No. 128

FGT states that as required by Sect. 15 of its FERC Gas Tariff Rev. Volume No. 1 and the Commission's Order Nos. 483 and 483-A, the above referenced tariff sheets reflect FGT's first annual PGA filing under the Commission's revised regulations. FGT states that the proposed tariff sheets reflect a decrease in the average cost of gas purchased from that reflected in its Quarterly PGA filing, Docket No. TQ89-3-34-000, effective February 1, 1989.

FGT states that the effect of the purchased gas cost reduction being filed represents an decrease of 3.571 cents/therm for Rate Schedules G and I and 1.02 cents/Mcf for Rate Schedule T-3 as measured against FGT's Quarterly PGA filing in Docket No. TQ89-3-34-000 effective February 1, 1989.

FGT further states that the instant filing includes a surcharge adjustment to amortize amounts accumulated in the current deferral balance during the period January 1—December 31, 1989 over the twelve month period commencing May 1, 1989. The effect of the Surcharge Adjustment is (.660¢)/therm for Rate Schedules G and I and (0.73¢) Mcf for Rate Schedule T-3.

In addition, FGT states that it has satisfied the Commission's assessment of past performance as set forth in § 154.306 of the Commission's Regulations.

FGT also states that it has filed certain schedules in accordance with FERC Form No. 542-PGA (Revised). FGT has submitted a nine-track magnetic tape containing such schedules.

FGT states that copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff, First Revised Volume No. 1, Original Volume No. 2 and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with § 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 27, 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-5482 Filed 3-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-49-002]

National Fuel Gas Supply Corp.; Compliance Filing

March 6, 1989

Take notice that on February 28, 1989, National Fuel Gas Supply Corporation ("National) tendered for filing as part of its FERC Gas Tariff, First Revised Volume Nos. 1 and 2, the following tariff sheets:

First Revised Volume No. 1:

Substitute Fifth Revised Sheet No. 1
Substitute Second Revised Sheet No. 1-A

Substitute Eighteenth Revised Sheet No. 4
Nineteenth Revised Sheet No. 4
Twentieth Revised Sheet No. 4
Substitute Second Revised Sheet No. 9
Substitute Fourth Revised Sheet No. 28
Substitute First Revised Sheet Nos. 31–33
Substitute Original Sheet No. 33–A
Substitute Original Sheet No. 33–B
Substitute Original Sheet No. 33–C
Substitute First Revised Sheet No. 112
Substitute First Revised Sheet No. 113
Substitute Original Sheet Nos. 114–118

First Revised Volume No. 2:

Substitute Second Revised Sheet No. 67
Substitute Fifth Revised Sheet No. 281
Substitute Seventh Revised Sheet No. 302
Substitute Original Sheet No. 302–A
Substitute Fifth Revised Sheet No. 321
Substitute Fifth Revised Sheet No. 341
Substitute Fourth Revised Sheet No. 538
Substitute Second Revised Sheet No. 558
Substitute Original Sheet No. 558–A
Substitute First Revised Sheet No. 640
Substitute First Revised Sheet No. 667
Substitute Second Revised Sheet No. 690

National states that the purpose of this compliance filing is to reflect National's rate change filed on December 30, 1988, in this proceeding, which became effective by operation of law on January 30, 1989.

National states that its compliance filing reflects the level of purchased gas costs that has been made effective by various Commission orders issued after December 30, 1988. First, National states that by order issued December 30, 1988, at Docket Nos. TA89–1–16–000 and TA89–1–16–001, the Commission accepted national's regularly-scheduled annual PGA. In addition, on December 30, 1988, National filed, at Docket No. TF89–1–16–000, an interim purchased gas cost adjustment which became effective on January 1, 1989. Substitute Eighteenth Revised Sheet No. 4 reflects, thereefore, those adjustments to National's rates.

National further states that on January 30, 1989, National filed, at Docket No. TF89–2–16–000, an interim purchased gas cost adjustment which became effective on February 1, 1989. That adjustment to National's rates is reflected on Nineteenth Revised Sheet No. 4.

Finally, National States that on February 27, 1989, National filed, at Docket No. TF89–3–16–000, an interim purchased gas cost adjustment to be effective on March 1, 1989. That adjustment to National's rates is reflected on Twentieth Revised Sheet No. 4.

Copies of National's filing were served on National's jurisdictional customers and on the interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 13, 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. 89–5483 Filed 3–8–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA89–1–27–000]

North Penn Gas Co; Proposed Changes In FERC Gas Tariff

March 6, 1989.

Take notice that North Penn Gas Company (North Penn) on February 28, 1989, pursuant to Section 4 of the Natural Gas Act, Part 154 of the Commission's regulations (18 CFR Part 154) and section 14 of the General Terms and Conditions of North Penn's tariff, filed the following revised tariff sheet to First Revised Volume No. 1 of its FERC Gas Tariff:

Ninety-Second Revised Sheet No. PGA–1

Copies of the filing were served upon North Penn's sales customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211). All motions or protests should be filed on or before March 27, 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. 89–5484 Filed 3–8–89; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to the Office of Management and Budget for Review

March 2, 1989.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507.

Copies of this submission may be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street NW., Suite 140, Washington, DC 20037, or telephone (202) 857–3815. Persons wishing to comment on an information collection should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, telephone (202) 395–3785. Copies of these comments should also be sent to the Commission. For further information contact Doris Benz, Federal Communications Commission, telephone (202) 632–7513.

OMB No.: 3060–0059.

Title: Statement Regarding the Importation of Radio Frequency Devices Capable of Causing Harmful Interference.

Form No.: FCC 740.

Type of Review: Extension. The Office of Management and Budget has set a common review period for all known Federal agency information collections used to obtain information necessary for the importation of merchandise into the United States. The purpose of the review is to plan for the elimination of the collection of duplicate information elements required from the importing public.

Respondents: Individuals, State or local governments, Business (including small business), and Non-profit institutions.

Frequency of Response: On occasion.

Estimated Annual Burden: 420,000 Responses, five minutes each.

Needs and Uses: Filing is required for each radio frequency device or subassembly which is imported into customs territory of the U.S. The data is used by the FCC Laboratory to ascertain

whether equipment authorization is required, and if so, whether it has been granted. If not, FCC notifies the U.S. Customs Service.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-5472 Filed 3-8-89; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee on Advanced Television Service; Schedule of Meetings

March 1, 1989.

The following schedule is based on information available as of 10:00 a.m. Tuesday, February 28, 1989. Meetings of Advisory Groups and Working Parties may be changed without advance public notice. Interested parties should contact the appropriate Chairmen or Vice Chairmen if additional information is desired. (New meetings are highlighted.) The schedule of meetings also is available on the FCC Laboratory Public Access Link (PAL). PAL can be accessed at (301) 725-1072 at either 300 or 1200 baud for five minute intervals, 8:00 a.m.-8:00 p.m. (EST) and fifteen minute intervals, 8:00 p.m.-8:00 a.m. (EST). After connection, PAL is accessed by striking one or more "carriage returns." The schedule of meetings is accessed through item 6 (Public Notices) of the user menu, which is displayed after proper connection with PAL has been completed.

SS/WPI ATS Systems Analysis

Monday, March 6/9:30 a.m.
Bellcore, 2101 L Street NW., Suite 600, Sixth Floor, Rooms B1 and B2, Washington, DC
Chairman Birney Dayton (916) 478-3262

SS/WP2 ATS Evaluation and Testing

Tuesday, March 7/10:00 a.m.
NCTA, 1724 Massachusetts Avenue NW., Washington, DC
Chairman Ben Crutchfield (703) 739-3850

PS/WP3 ATS Spectrum Utilization and Alternatives

Thursday, March 23/10:00 a.m.
NAB, 1771 N Street, NW., McCollough Room, Washington, DC
Chairman Dale Hatfield (303) 442-5395

Advisory Committee on Advanced Television Service

Monday, April 17/2:00 p.m.
Federal Communications Commission, Commission Meeting Room, Room 856, 1919 M Street NW., Washington, DC
Chairman Richard Wiley (202) 429-7010

Note From SS/WP1 ATS Systems Analysis: Requests for copies of proponents' systems can be obtained by contacting the International Transcription Services, Inc. at (202) 857-3800.

To include a meeting announcement in this weekly meeting notice, contact Rita McDonald at (202) 632-5414, or David Siddall at (202) 632-6460. The deadline is 10:00 a.m. each Tuesday for release the next day.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-5472 Filed 3-8-89; 8:45 am]

BILLING CODE 6712-01-M

New Tender Requirement for FM Broadcast Applications

AGENCY: Federal Communications Commission.

ACTION: New tender requirement for FM broadcast applications.

SUMMARY: The Commission has adopted a new tender requirement for FM broadcast applications processed pursuant to the new rule adopted in MM Docket 87-121. This new tender requirement will enable the staff to immediately identify the appropriate protection to be afforded proposed facilities and thus ensure that applications processed under the new rule will not receive more protection than they are entitled to.

EFFECTIVE DATE: April 14, 1989, or upon OMB approval of amendments to FCC Forms 301 and 340.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Lilo Cunningham, Mass Media Bureau (202) 632-6485.

Processing of FM Applications Pursuant to MM Docket 87-121 New Tenderability Requirement

February 21, 1989

In the *Report and Order* in MM Docket 87-121, adopted December 12, 1988 (Amendment of Part 73 of the Commission's Rules to Permit short-spaced FM Station Assignments by Using Directional Antennas), the Commission adopted new rules by which FM broadcast station applicants are afforded additional flexibility in site selection. These rules allow FM broadcast station transmitters to be located at sites that do not meet one or more of the minimum distance separation requirements set forth in 47 CFR 73.207, provided that contour protection is demonstrated with the pertinent short-spaced assignments, applications and/or allotments.

Applications for stations that request authorization pursuant to the new rule (47 CFR 73.215) adopted in MM Docket No. 87-121 are entitled only to protection of the facilities proposed. Therefore, applicants for such stations must expressly request processing pursuant to the new rule and must include an appropriate exhibit demonstrating compliance. This will allow immediate identification of the appropriate protection to be afforded proposed facilities. Failure to provide this information would afford an application that is to be processed under the new rule more protection that it is entitled to and thus unnecessarily restrict other applicants. Therefore, omission of the appropriate exhibit will result in return of the application as not substantially complete at tender. This requirement for an exhibit has been added to the list of tender criteria established in MM Docket 84-750, 50 FR 19936, 19945 (1985) (Appendix D) and utilized in evaluating the substantial completeness of applications under the FM "hard look" processing procedures. A list of those tender criteria adopted in MM Docket 84-750 and reproduced in *Public Notice*, Mimeo No. 4580, May 16, 1985, is attached hereto as Attachment A.

In order to integrate this new tender criteria into the tender review process, the Commission has authorized the addition of a question to section V-B of FCC Forms 301 (Application for Authority to Construct or make Changes in a Commercial Broadcast Station) and 340 (Application for Authority to Construct or Make Changes in a Noncommercial Educational Broadcast Station). This question will require an engineering study to establish the lack of prohibited overlap of the protected and interfering contours of facilities separated by less than the minimum distance separation requirements set forth in 47 CFR 73.207. However, the revised Forms 301 and 340 will not be available immediately. Therefore, upon the effective date of the new rules and until the revised forms are available, applicants requesting authorization pursuant to the new rules adopted in MM Docket 87-121 must include, as a supplement to the Old Form 301 or 340, a copy of Attachment B hereto and the exhibit(s) required therein. (Attachment B also appears as Appendix C to the *Report and Order* in MM Docket 87-121). Failure of any applicant requesting authorization pursuant to the new rules adopted in MM Docket 87-121 to submit Attachment B and the exhibit(s)

required therein with their application form will result in return of the application as not substantially complete at tender.

For further information, please contact Lilo Cunningham at 632–6485.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Attachment A

"Statement of New Policy Regarding Commercial FM Applications That Are Not Substantially Complete or Are Otherwise Defective." See 50 FR 19936 (May 13, 1985) (Appendix D).

Attachment B

Applicants requesting processing pursuant to 47 CFR 73.215 must submit this page and the required exhibits with FCC Form 301 ("Application for Authority to Construct or Make Changes in a Commercial Broadcast Station"), or FCC Form 340 ("Application for Authority to Construct or Make Changes in a Noncommercial Educational Broadcast Station"), as appropriate.

Authorization Pursuant to 47 CFR 73.215

If authorization pursuant to 47 CFR 73.215 is requested, attach as an Exhibit a complete engineering study to establish the lack of prohibited overlap of contours involving affected stations. The engineering study must include the following:

Exhibit No. —

(a) Protected and interfering contours, in all directions (360°), for the proposed operation.

(b) Protected and interfering contours, over pertinent arcs, of all short-spaced assignments, applications and allotments, including a plot showing each transmitter location, with identifying call letters or file numbers, and indication of whether facility is operating or proposed. For vacant allotments, use the reference coordinates as transmitter location.

(c) When necessary to show more detail, an additional allocation study utilizing a map with a larger scale to clearly show prohibited overlap will not occur.

(d) A scale of kilometers and properly labeled longitude and latitude lines, shown across the entire exhibit(s). Sufficient lines should be shown so that the location of the sites may be verified.

(e) The official title(s) of the map(s) used in the exhibit(s).

Note: Applicants not requesting processing pursuant to 47 CFR 73.215 do not need to submit this page with their application.

[FR Doc. 89–5471 Filed 3–8–89; 8:45 am]

BILLING CODE 6712–01–M

Application for Consolidated Hearing

1. The Commission has before it the following application for a new TV station:

Applicant, city and state	File No.	MM Docket No.
Denny Workman d/b/a Morton Broadcasting; Morton, WA.	BPCT–870331LQ	88–529

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above application has been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986.

ISSUE HEADING

MISREPRESENTATION
FINANCIAL QUALIFICATIONS
AIR HAZARD
ULTIMATE

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 89–5473 Filed 3–8–89; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200017–004.

Title: Philadelphia Port Corporation Terminal Agreement.

Parties:

Philadelphia Port Corporation
Delaware River Stevedores, Inc.

Synopsis: The Agreement extends the basic operating agreement for the Packer Avenue Container Terminal through March 31, 1989.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: March 6, 1989.

[FR Doc. 89–5498 Filed 3–8–89; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 213–011213–005.

Title: Spain-Italy/Puerto Rico Island Pool Agreement.

Parties:

Compania Trasatlantica Espanola, S.A.

Nordana Line AS

Sea-Land Service, Inc.

Synopsis: The proposed modification would clarify "Pool Freight" with respect to revenues from heavy lift cargoes and surcharges.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: March 3, 1989.

[FR Doc. 89-5452 Filed 3-8-89; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passenger or Other Persons on Voyages pursuant to the provisions of section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Ocean Quest International/Ocean Spirit Shipping, Ltd., 512 South Peters St., Suite 202, New Orleans, Louisiana 70130-1629.

Vessel: OCEAN SPIRIT.

Date: March 6, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-5499 Filed 3-8-89; 8:45 am]

BILLING CODE 6730-01-M

Section 18 Study Advisory Committee; Meeting

AGENCY: Federal Maritime Commission ("Commission" or "FMC").

ACTION: Notice of meeting of section 18 Study Advisory Committee.

SUMMARY: The Commission hereby announces the second meeting of the section 18 Study Advisory Committee. The Advisory Committee was formed to make continuing recommendations on the conduct of a study to evaluate the impact of the Shipping Act of 1984. The Committee is comprised of representatives of interests affected by the Shipping Act of 1984, including representatives of conferences, ocean common carriers, non-vessel-operating common carriers, ocean freight forwarders, customs brokers, shippers, shippers' associations, ports, non-port marine terminal operators, and other transportation service firms. This notice also announces the time and place of the Advisory Committee meeting, which will be open to the public.

DATE: The meeting of the Advisory Committee will begin at 10:00 a.m. on April 6, 1989.

ADDRESS: The meeting of the Advisory Committee will be held in Hearing Room No. 1 at 1100 L Street NW., Washington, DC 20573.

FOR FURTHER INFORMATION CONTACT:

Committee Chairperson, Commissioner Edward J. Philbin, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523-5715.

Committee Executive Secretary, John Robert Ewers, Director, Bureau of Administration, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523-5866.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission's Section 18 Study Advisory Committee will meet at 10:00 a.m. on April 6, 1989 in Hearing Room No. 1 at the Commission Headquarters Building, 1100 L Street NW., Washington, DC.

The Advisory Committee was established in December 1987 (52 FR 25632) to review, comment on, and give appropriate advice concerning all aspects of the five-year study that the Commission is conducting under the mandate of section 18 of the Shipping Act of 1984, 46 U.S.C. App. 1701 *et seq.* The Committee consists of 32 members which comprise a balanced representation of various segments of the shipping industry affected by the Shipping Act of 1984.

At the first meeting of the Advisory Committee, held March 24, 1988, Committee members were briefed on the progress of the Section 18 Study. Surveys which are being sent to various segments of the industry were reviewed and the Committee recommended several revisions. Other matters discussed included a possible third symposium on the impact of the 1984 Act and additional areas where the Committee believed the Commission should conduct research.

The agenda for the second Section 18 Study Advisory Committee is as follows:

1. Welcome of New Members
2. Administrative Matters
3. Briefing on the Status of the Section 18 Study, Including Result of 1988 Surveys
4. Discussion of Actions Taken on Committee Recommendations at First Meeting
5. Status Report on Other Matters Discussed at First Meeting
6. Briefing on Shipping Legislation and Other Development in Foreign Countries
7. Policy Discussion Roundtable—Discussion by Committee Members of Views about the 1984 Act and Any Revisions Deemed Appropriate
8. Any Other Business

The meeting will be open to public observation. A period will be set aside for oral comments or questions by the public, with a limit of ten minutes per person. More extensive questions or comments should be submitted in writing before April 3, 1989. Other public statements regarding Committee affairs may be submitted any time before or after the meeting. Approximately 35 seats will be available for the public (including five seats reserved for media representatives) on a first-come, first-served basis.

Copies of the summaries of the minutes will be available upon written request 30 days after the meeting. Requests should be addressed to the Secretary of the FMC and should be submitted by April 27, 1989.

Inquiries may be addressed to the Committee Executive Secretary, Mr. John Robert Ewers, Director, Bureau of Administration, Federal Maritime Commission, Room 12211, 1100 L Street NW., Washington, DC 20573.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 89-5497 Filed 3-8-89; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Revision of Requirements for Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions in Centers for Disease Control Assistance Programs

On September 20, 1988, the Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989 [Pub. L. 100-436] at 102 Stat. 1692, was signed by the President. This Act contained the following provision:

Notwithstanding any other provision of this Act, AIDS education programs funded by the Centers for Disease Control and other education curricula funded under this Act dealing with sexual activity—(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual, and (2) in addition, with regard to AIDS education programs and curricula—(A) shall be designed to reduce exposure to and transmission of the etiologic agent for acquired immune deficiency syndrome by providing accurate information, and (B) shall provide information on the health risks of

promiscuous sexual activity and intravenous drug abuse.

Pursuant to this provision, CDC has revised the document titled "Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions." Accordingly, all AIDS education programs and education curricula funded by CDC from the 1989 appropriations must comply with the revised document which appears below. This revision has previously been published in the Program Announcement for Cooperative Agreements for Minority and Other Community-Based Human Immunodeficiency Virus (HIV) Prevention Projects No. 908, January 9, 1989 (54 FR 663). In complying with the Program Review Panel requirements contained in the document, recipients are encouraged to use an existing Program Review Panel such as one created by a health department's AIDS/HIV Prevention Program.

Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions in Centers for Disease Control Assistance Programs October 1988

Controlling the spread of HIV infection and AIDS requires the promotion of individual behaviors that eliminate or reduce the risk of acquiring and spreading the virus. Messages must be provided to the public that emphasize the ways by which individuals can fully protect themselves from acquiring the virus. They include abstinence from the illegal use of IV drugs and from sexual intercourse except in a mutually monogamous relationship. For those individuals who do not eliminate risky behavior, methods of reducing their risk of acquiring or spreading the virus must also be communicated. Such messages can be controversial. This document is intended to provide guidance for the development of educational materials, and to require the establishment of local review panels to consider the appropriateness of messages designed to communicate with various population groups.

1. Basic Principles

a. Language used in written materials (i.e., pamphlets, brochures, fliers), audiovisual materials (i.e., motion pictures and video tapes), and pictorials (i.e., posters and similar educational materials using photographs, slides, drawings, or paintings) to describe dangerous behaviors and explain less risky practices concerning AIDS should use terms or descriptors necessary for the target audience to understand the messages.

b. Such terms or descriptors used should be those which a reasonable person would conclude should be understood by a broad cross-section of educated adults in society, or which when used to communicate with a specific group, such as homosexual men, about high risk sexual practices, would be judged by a reasonable person to be inoffensive to most educated adults beyond that group.

c. The language of items in questionnaires or survey instruments which will be administered in any fashion to any persons should use terms to communicate the information needed which would be understood by a broad cross-section of educated adults in society but which a reasonable person would not judge to be offensive to such people.

d. Educational sessions should not include activities in which attendees participate in sexually suggestive physical contact or actual sexual practices.

e. Messages provided to young people in schools and in other settings should be guided by the principles contained in "Guidelines for Effective School Health Education to Prevent the Spread of AIDS" (MMWR 1988;37 [suppl. no. S-2]).

f. AIDS education programs and education curricula funded by CDC from the 1989 appropriations must be consistent with language contained in the Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989 (Pub. L. 100-436) at 102 stat. 1692. This language is as follows:

> Notwithstanding any other provision of this Act, AIDS education programs funded by the Centers for Disease Control and other education curricula funded under this Act dealing with sexual activity—(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual, and (2) in addition, with regard to AIDS education programs and curricula—(A) shall be designed to reduce exposure to and transmission of the etiologic agent for acquired immune deficiency syndrome by providing accurate information, and (B) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.

The Surgeon General's Report on Acquired Immune Deficiency Syndrome (October 1986) contains messages which are consistent with the provisions of this legislation. (Pub. L. 100-436).

2. Program Review Panel

a. Recipients will be required to establish a program review panel whether the applicant plans to conduct the total program activities or plans to have part of them conducted through subvention to nongovernmental organization(s). This panel, guided by the CDC Basic Principles (in the previous section) in conjunction with prevailing community standards, will review and approve all written materials, pictorials, audiovisuals, questionnaires or survey instruments, and proposed educational group session activities to be used under the project plan. This panel is intended to review materials only and should not be empowered either to evaluate the proposal as a whole or to replace any other internal review panel or procedure of the local governmental jurisdiction. Specifically, applicants for cooperative agreements/grants will be required to include in the application the following:

(1) Identification of a panel of no less than five persons representing a reasonable cross-section of the general community [1] but which is not drawn predominantly from the target population or groups to whom the written materials, pictorials, audiovisuals, questionnaires, survey instruments, or educational groups sessions are directed; and

(2) A letter or memorandum from the proposed project director, countersigned by a responsible business official, which includes:

(a) Concurrence with this guidance and assurance that its provisions will be observed;

(b) The identity of proposed members of the Program Review Panel, including their names, occupations, and any organizational affiliations that were considered in their selection for the Panel;

b. When a cooperative agreement/grant is awarded, the recipient will: (1) Convene the Program Review Panel and present for its assessment copies of written materials, pictorials, and audiovisuals proposed to be used;

(2) Provide for assessment by the Program Review Panel text, scripts, or detailed descriptions for written materials, pictorials, or audiovisuals proposed to be used;

(3) Prior to expenditure of funds related to the ultimate program use of these materials, assure that their project files are documented with a statement(s) signed by the Program Review Panel specifying the vote for approval or disapproval for each proposed item

[1] Panels which review materials for use with school age populations should include representatives of such groups as teachers, school administrators, parents, and students.

submitted to them that is subject to this guidance.

(4) Provide to CDC in regular progress reports signed statement(s) of the chairperson of the program review panel specifying the vote for approval or disapproval for each proposed item which is subject to this guidance.

Dated: March 3, 1989.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 89-5451 Filed 3-8-89; 8:45 am]

BILLING CODE 4160-18-M

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases, National Kidney and Urologic Diseases Advisory Board; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Kidney and Urologic Diseases Advisory Board and representatives of relevant professional and voluntary organizations on March 30 and 31, 1989. The Board will receive input from the organizations regarding the development of the long-range plan to combat kidney and urologic diseases and then meet April 1, 1989, to discuss the Board's activities and its long-range plan. The meeting is being held at the Lincolnshire Marriott, 1 Marriott Drive, Lincolnshire, Illinois 60015, and is scheduled from 8:30 a.m. until approximately 5:30 p.m. each day. Although the meeting is open to the public, attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

Dr. Ralph Bain, Executive Director, National Kidney and Urologic Diseases Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 496-6045, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: March 3, 1989.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 89-5500 Filed 3-8-89; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-89-1951]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: February 17, 1989.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Indian Community Development Block Grant (CDBG) Program.

Office: Community Planning and Development.

Description of the Need for the Information and Its Proposed Use: HUD will use the information collection requirement of the Indian CDBG Program to select the best projects for funding during annual competitions. In addition, these requirements are essential to monitor grants to assure that grantees are using Federal dollars properly.

Form Number: SF-424, HUD-4011, HUD-4121, HUD-4122, HUD-4123, HUD-4125, and HUD-4126.

Respondents: State or Local Governments.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application (SF-424, HUD-4121, 4122, 4123)	260		1		60		15,600
Preaward Requirements (HUD-4123, 4125, 4126)	120		1		20		2,400
Force Account Approval	40		1		5		200
Certification of Completion (HUD-4011)	120		1		5		600
Supporting Documentation	10		1		20		200
Status Reports (Monitoring and Annual)	120		1		10		1,200

Total Estimated Burden Hours: 20,000.
Status: Extension.
Contact: Gene Hix, HUD, (202) 755-6092, John Allison, OMB, (202) 395-6880.

Date: February 17, 1989.

[FR Doc.89-5453 Filed 3-8-89; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-89-1952]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available docments submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: February 27, 1989.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Information Collection and Recordkeeping Requirements for Loan Servicing—Section 223(f) and 221(d) Coinsurance Programs.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: The information collection includes items which coinsuring lenders collect from mortgagors to monitor project performance and management as well as items which HUD collects from coinsuring lenders to monitor their servicing activities to ensure effective servicing of sections 223(f) and 221(d) coinsured loans.

Form Number: None.

Respondents: Businesses of Other For-Profit

Frequency of Submission:

Recordkeeping, On Occasion, and Annually

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Recordkeeping	5		1		1		5
Inventory Reports	30		1		3		90
Financial Statement	1300		1		85		110,500
Occasional Reports	888		1		2.1		1,830

Total Estimated Burden Hours: 112,425.
Status: Reinstatement.
Contact: Matthew C. Andrea, (202)755-7270 John Allison, OMB, (202) 395-6880.

Date: February 27, 1989.

[FR Doc. 89-5454 Filed 3-8-89; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On October 13, 1988, a notice was published in the **Federal Register** (Vol. 53, No. 198) that an application had been filed with the Fish and Wildlife Service by The New York Zoological Society (PRT 731647) for a permit to import one captive-born polar bear (*Ursus maritimus*) from Ruhr Zoo, Gelsenkirchen, West Germany for the purpose of public display.

Notice is hereby given that on February 10, 1989, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Endangered Species Act of 1972 (16 U.S.C. 1539), the Fish and Wildlife Service issued a permit subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Office of Management Authority, Room 400, 1375 K Street, NW., Washington, DC.

Dated: March 3, 1989.

R.K. Robinson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 89-5537 Filed 3-8-89; 8:45 am]

BILLING CODE 4310-AN-M

Receipt of Application for Permit

The public is invited to comment on the following application for permits to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*, the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*) and the regulations governing marine

mammals and endangered species (50 CFR Parts 17 and 18).

Applicant

Name: Charles Monnett, PRT-716436.
Address: University of Minnesota, 109 Zoology Boulevard, Minneapolis, Minnesota 55455.
Type of Permit: Scientific Research.
Name and Number of Animals: 150 Alaska sea otter (*Enhydra lutris lutris*).
Summary of Activity to be Authorized: The applicant proposes to amend his current permit to increase the number of otters he is authorized to capture. Most will be tagged, weighed, have one premolar extracted, blood sampled, and lip tattooed. Ten male and ten female adults will be surgically implanted with radio-transmitters for tracking.
Source of Marine Mammals for Display: Prince William Sound and the Gulf of Alaska, AK.
Period of Activity: March 1989–May 1990.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application or requests for a public hearing on this application should be submitted to the Director, Office of Management Authority (OMA), P.O. Box 27329, Washington, DC 20038–7329, within 30 days of the publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents submitted in connections with the above application is available for review during normal business hours (7:45 a.m. to 4:15 p.m.) at 1375 K Street NW., Room 400, Washington, DC.

Dated: March 3, 1989.

R.K. Robinson,
Chief, Branch of Permit, Office of Management Authority.

[FR Doc. 89–5538 Filed 3–8–89; 8:45 am]
BILLING CODE 4310–55–M

Bureau of Land Management

[AK–967–4213–15; AA–8447–A2; AA–8447–B]

Alaska Native Claims Selection; Eyak Corp.

In accordance with Departmental regulation 32 CFR 2650.7(d), notice is hereby given that the Decision to Issue Conveyance (DIC) to The Eyak Corporation, notice of which was published in the **Federal Register** on February 2, 1989, Vol. 54, No. 21, is modified by changes of easements EIN 156 D9, and EIN 171c E, and clarification of The Eyak Corporation's entitlement pursuant to section 12(a) and 12(b) of ANCSA.

A notice of the modified DIC will be published once a week, for four (4) consecutive weeks, in the *Cordova Times*. Copies of the modified DIC may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government, or regional corporation, shall have until April 10, 1989, to file an appeal on the issue in the modified DIC. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Except as modified, the decision, notice of which was given February 2, 1989, is final.

Terry R. Hassett,
Chief, Branch of KCS Adjudication.

[FR Doc. 89–5464 Filed 3–8–89; 8:45 am]
BILLING CODE 4310–JA–M

[WY–920–09–4111–15; WYW94760]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

Pursuant to the provisions of Pub. L. 97–451, 96 Stat. 2462–2466, and Regulation 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW94760 for lands in Weston County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW94760 effective June 1, 1988, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

David A. Pomerinke,
Acting Chief, Leasing Section.

[FR Doc. 89–5508 Filed 3–8–89; 8:45 am]
BILLING CODE 4310–22–M

Proposed Lease Under Section 302 of FLPMA (CA 20171); California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The proposed action is a Notice of Realty Action for a five-year lease, renewable, intended to resolve a long-standing unauthorized occupancy (CA 20771), to bring occupancy under terms of section 302 of the Federal Land Policy and Management Act (FLPMA) of 1976, and 43 CFR 2920. The legal description of the site is:

Mount Diablo Meridian, T. 33 N., R. 9 W., Section 5, Lot 10, S½; Lot 31, N½, Aggregating 2.85 acres.

DATES: For a period of 45 days from the date of publication in the **Federal Register**, interested parties may submit comments to the Area Manager, Bureau of Land Management, 355 Hemsted Drive, Redding, California 96002. Any adverse comments will be evaluated by the State Director, who may vacate or modify this Realty Action and issue a final determination. In the absence of any action taken by the State Director, this Realty Action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Mark Morse, Area Manager, at (916) 246–5325, or write to 355 Hemsted Drive, Redding, California 96002.

SUPPLEMENTARY INFORMATION: An appraisal for the proposed lease area has been made, and the lessee will be required to make yearly rental payments in the amount of $3,300.00. Lessee shall reimburse the United States of reasonable administrative costs incurred, estimated to be $300.00. Reimbursement of costs shall be in accordance with the provisions of 43 CFR 2920.6.

The only application that will be accepted will be from Alma Korntved. The application must include reference to this notice, include the case file

number (CA 20171), and have a complete description of the facilities involved. This can be accomplished by providing details of the proposed use and activities; a description of all facilities; a map of sufficient scale to be legible; a legal description of the project location; and any other information that may aid in evaluating the proposal.

Stipulations to be included with the lease are as follows: (1) Subject improvements must be quitclaimed to the United States; (2) Subject improvements must remain lessee's sole place of residence; (2) Lease may not be transferred, assigned or inherited; (3) Upon termination of lease, all improvements must be removed from lease area within six months, and the site returned to a natural condition.

Mark T. Morse,

Area Manager.

[FR Doc. 89-5531 Filed 3-8-89; 8:45 am]

BILLING CODE 4310-40-M

[ID-050-09-4920-10-9751; I-26669]

Realty Action: Private Exchange Involving Public Lands in Blaine County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, I-26669: exchange of public and private lands in Blaine County, Idaho.

SUMMARY: The following described lands have been determined to be suitable for exchange through the development of land use decisions based upon public input, and resource and use evaluation. They are suitable for exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Boise Meridian, Blaine County, Idaho. T. 4 N., R. 18 E. Section 18: Lot 7 of Block 39 in Ketchum Townsite, Lots 6, 7, and 8 of Block 40 in Ketchum Townsite containing 0.52 acres.

In exchange for these lands, the United States will acquire the following described land from the American Public Land Exchange Co., Inc.

Boise Meridian, Blaine County, Idaho. T. 4 N., R. 17 E. Section 12: Lots 19 and 20. Resubdivision, Northwood P.U.D., Subdivision Lot 4. (Located within E2SE4) containing 1.72 acres.

The purpose of this exchange is to help enable the U.S. Forest Service to consolidate land holdings for construction of a new administrative and warehouse complex.

The values of the lands to be exchanged will be equalized through cash payments or provided services. Cash payments may not exceed twenty-five percent (25%) of the values of the Federal lands.

When issued, the patent will contain the following reservation to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, (26 Stat. 391; 43 U.S.C. 945).

Publication of this notice segregates the public lands from the operation of the public land laws, including the mining laws, for a period of two years from date of publication in the Federal Register, or until patent is issued.

Detailed information concerning the exchange is available from the Shoshone District Office of the Bureau of Land Management, 400 West F Street, Shoshone, ID 83352.

For a period of 45 days from the date of first publication, interested parties may submit comments to Bureau of Land Management, Shoshone District Office, P.O. Box 2-B, Shoshone, ID 83352.

K. Lynn Bennett,

District Manager.

[FR Doc. 89-5489 Filed 3-8-89; 8:45 am]

BILLING CODE 4310-GG-M

[NM-030-09-4212; NM NM 67560]

An Exchange of Public Land with the Nature Conservancy in Dona Ana County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following described lands and interests therein have been determined to be suitable for disposal by exchange under Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716):

T. 23 S., R. 1W., NMPM
Sec. 27, W½ SE¼ SE¼
containing 20 acres, more or less

This 20-acre tract will be added to the Bureau of Land Management/The Nature Conservancy Exchange Pool. The land exchange pool is used whenever practical to facilitate land exchange and reduce unit costs.

DATES: Comments must be submitted on or before April 30, 1989.

ADDRESSES: Comments should be sent to District Manager, Bureau of Land Management, Las Cruces District Office, 1800 Marquess Street, Las Cruces, New Mexico 88005.

FOR FURTHER INFORMATION CONTACT: Marvin M. James at the address above or at (505) 525-8228 (FTS 571-8312).

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to dispose of an isolated tract of public land in the Las Cruces West Mesa Industrial Park while consolidating ownership of other public land. This disposal by exchange is supported by a management decision in the Southern Rio Grande Management Framework Plan (February 1982).

The exchange will be subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. All valid existing rights and reservation of record including the following: Highway rights-of-way NM05204, NM014029, NM0556656, NM61192, NM77520; Telephone cable rights-of-way, NM38200, NM66376; Water pipeline rights-of-way NM032249, NM52926, NM77539.

Publication of this Notice will segregate the public land from all appropriations under the public land laws, including the mining laws but not mineral leasing laws. This segregation will terminate upon the issuance of a patent or 2 years from the date of publication of this Notice in the Federal Register or upon publication of a Notice of Termination.

Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of Interior.

H. James Fox,

District Manager.

March 1, 1989.

[FR Doc. 89-5462 Filed 3-8-89; 8:45 am]

BILLING CODE 4310-FB-M

[WY-030-09-4212-13; WYW-113734]

Realty Action; Private Exchange Involving Public Lands in Albany and Laramie Counties, WY

AGENCY: Bureau of Land Management Interior.

ACTION: Private exchange involving public lands in Albany and Laramie Counties, Wyoming.

The surface and mineral estates of the following described public land is being considered for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756, 43 U.S.C. 1716):

Sixth Principal Meridian, Wyoming
T. 14 N., R. 70 W.;

Sec. 2, lots 1 & 2, SE¼NE¼, SW¼, E½ SE¼, SW¼SE¼;
Sec. 4, S½;
Sec. 6, lots 1–4, 6 & 7, N½SE¼;
Sec. 8, N½NE¼, NE¼NW¼;
Sec. 10, N½N½;
Sec. 12, NW¼;
T. 15 N., R. 70 W.;
Sec. 20, N½N½, SW¼SW¼, SE¼SE¼;
Sec. 22, S½SW¼; SE¼;
Sec. 28, N½, SW¼;
Sec. 30, lot 1, NE¼NW¼;
Sec. 32, all;
Sec. 34, all;
Containing 3877 acres, more or less

The publication of this notice in the Federal Register will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. The segregative effect will terminate upon issuance of patent or upon expiration of two years from the effective date, or by publication of a Notice of Termination by the Authorized Officer, whichever comes first.

Private lands to be acquired by the United States are under negotiation but are generally located within T. 14 & 15 N., R. 70 W., Sixth Principal Meridian, Wyoming. A supplementary Notice with detailed information on lands to be exchanged will be published in the Federal Register when an agreement with the private landowner is reached.

FOR FURTHER INFORMATION CONTACT: Walter George, Rawlins District Office, P.O. Box 670, Rawlins, WY 82301, (307) 324–7171.

Bud Holbrook,

Area Manager.

[FR Doc. 89–5496 Filed 3–8–89; 8:45 am]

BILLING CODE 4310–22–M

[ES–940–09–4520–13; ES–039974, Group 136]

Filing of Plat of Dependent Resurvey and Subdivision of Section 18; Wisconsin

February 28, 1989.

1. The plat of the dependent resurvey of a portion of the exterior boundaries, a portion of the subdivisional lines, and the survey of the subdivision of section 18, Township 40 North, Range 6 East, Fourth Principal Meridian, Wisconsin, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on April 14, 1989.

2. The dependent resurvey was made at the request of the Bureau of Indian Affairs.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., April 14, 1989.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Joseph W. Beaudin,

Acting Deputy State Director for Cadastral Survey and Support Services.

[FR Doc. 89–5532 Filed 3–8–89; 8:45 am]

BILLING CODE 4310–GJ–M

[ID–943–09–4212–10; I–26701]

Proposed Withdrawal and Opportunity for Public Meeting; Idaho.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Forest Service has filed an application to withdraw and acquire the jurisdiction of 10 acres of public land for protection of the Clearwater Seed Orchard near Orofino, Idaho and adjacent to the Clearwater River. This notice closes the land for up to two years from surface entry and mining. The land will remain open to mineral leasing.

DATE: Comments and meeting requests should be sent to the Idaho State Director, BLM, 3380 Americana Terrace, Boise 83706.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM, Idaho State Office, 208–334–1735.

SUPPLEMENTARY INFORMATION: On February 21, 1989, the U.S. Forest Service filed an application to withdraw the following-described public land from settlement, sale, location, or entry under general land laws, including the mining laws, subject to valid existing rights:

Boise Meridian, Idaho

T. 37 N., R. 1 W.,
sec. 32, N½S½NW¼SW¼.

The area described contains 10 acres in Nez Perce County.

The purpose of the proposed withdrawal is to protect the seed orchard.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Idaho State Director at the above address.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Idaho State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the Federal Register at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of two years from the date of publication of this notice in the Federal Register, the land will be segregated as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date. No temporary uses will be allowed during the segregative period.

The temporary segregation of the land in connection with this withdrawal application shall not affect administrative jurisdiction over the land, and the segregation shall not have the affect of authorizing any use of the land by the Forest Service.

William E. Ireland,

Chief, Realty Operations Section.

Dated: March 1, 1989.

[FR Doc. 89–5533 Filed 3–8–89; 8:45 am]

BILLING CODE 4310–GG–M

[NM–940–09–4214–10; NM NM 77967]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 200 acres of public land in Socorro County, to protect the archeological values at the Arroyo del Tajo Pictograph Site. This notice closes the land for up to 2 years from surface entry and mining. The land will remain open to mineral leasing.

DATE: Comments and requests for a public meeting must be received by June 7, 1989.

ADDRESS: Comments and requests should be sent to: New Mexico State Director, BLM, P.O. Box 1449, Santa Fe, New Mexico 87504–1449.

FOR FURTHER INFORMATION CONTACT: Clarence F. Hougland, BLM, New Mexico State Office, 505–988–6545.

SUPPLEMENTARY INFORMATION: On February 8, 1989, a petition was approved allowing the Bureau of Land Management to file an application to

withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

New Mexico Principal Meridian

T. 3 S., R. 1 E., sec. 14, SW¼, N½SW¼ SE¼, SW¼SW¼SE¼, NW¼SE¼SE¼.

The area described contains approximately 200 acres in Socorro County.

The purpose of the proposed withdrawal is to protect the archeological values at the Arroyo del Tajo Pictograph Site from deterioration, for research purposes, and for interpretation.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are grazing, nonvehicular recreational and educational use, and other discretionary surface uses, provided they will not significantly impact the values to be protected by the withdrawal.

Gilbert O. Lockwood,

Acting State Director,

Dated: February 28, 1989.

[FR Doc. 89-5461 Filed 3-8-89; 8:45 am]

BILLING CODE 4310-FB-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31393]

Brandywine Valley Railroad Co.; Purchase; CSX Transportation, Inc., Lines in Florida

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision accepting application for consideration.

SUMMARY: The Commission is accepting for consideration the application, filed February 10, 1989, by Brandywine Valley Railroad Company (BVRC) to purchase from CSX Transportation, Inc. (CSXT), 102.52 miles of rail line in Florida between: (1) Sebring (milepost AVC-873.94) and Palmdale (milepost AVC-918.6); (2) Palmdale (milepost AVD-918.58) and Lake Harbor (milepost AVD-957.99); and (3) Keela (milepost AVF-953.69) and Cane (milepost AVF-972.14). Pursuant to 49 CFR Part 1180, the Commission finds this a minor transaction.

DATES: Written comments must be filed with the Interstate Commerce Commission no later than April 10, 1989. Comments from the Secretary of Transportation and Attorney General of the United States must be filed by April 24, 1989. Applicants' reply is due by May 15, 1989.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245. [TDD for hearing impaired: (202) 275-1721].

ADDRESSES: An original and 10 copies of all documents must be sent to: Office of the Secretary, Case Control Branch, Att'n: Finance Docket No. 31393, Interstate Commerce Commission, Washington, DC 20423.

In addition, one copy of all documents filed must be sent to each of applicants' representatives:

Lawrence H. Richmond, 100 North Charles Street, Baltimore, MD 21201.
Jeffrey S. Berlin, Suite 625, 2300 N Street, NW., Washington, DC 20037.

SUPPLEMENTARY INFORMATION: By application filed February 10, 1989, BVRC and CSXT (applicants) seek approval under 49 U.S.C. 11343, *et seq.*, for BVRC to acquire 102.52 miles of CSXT lines in Florida. BVRC will purchase CSXT's lines between: (1) Sebring (milepost AVC-873.94) and Palmdale (milepost AVC-918.6); (2) Palmdale (milepost AVD-918.58) and Lake Harbor (milepost AVD-957.99); and (3) Keela (milepost AVF-953.69), an intermediate point on the Palmdale-Lake Harbor segment, and Cane (milepost AVF-972.14). Applicants contend that this is a minor transaction under 49 CFR 1180.2(c), and they submitted a conforming application in accordance with the railroad consolidation procedures in 49 CFR Part 1180.

BVRC is a Class III common carrier controlled by a noncarrier, Lukins Steel Company, which in turn is controlled by Sponsors' Plan Asset Management, Inc., a subsidiary of Lukins, Inc. CSXT is a Class I common carrier and a unit of CSX Corporation. BVRC now operates a 4-mile line of railroad between Coatesville and Modena, PA. This 4-mile line will not connect with the lines being acquired. The lines being acquired connect at Lake Harbor with a line of the Florida East Coast Railway Company and at Clewiston, an intermediate point on the Palmdale-Lake Harbor segment, with a private line of railroad operated by the United States Sugar Corporation.

Approximately 15 shippers are using the lines. In 1987, CSXT moved approximately 25,000 carloads of sugar cane from local cane fields to an on-line processing plant, and 9,800 carloads of other originating or terminating traffic. During the first half of 1988, CSXT handled approximately 5,700 carloads of non-sugar traffic. Because of the seasonal nature of the sugar cane movements, applicants state that total 1988 carload data for this traffic were not available at the time the application was filed.

Applicants assert that the transaction will result in operating economies and improved service, and that this will enhance their financial viability. Specifically, the proposal will enable BVRC to enter a new market and spread its administrative, insurance, and operating costs over a larger base. Allegedly this will result in operating efficiencies that will allow BVRC to offer better service at more competitive rates. CSXT, on the other hand, will no longer be required to maintain what is for it a marginally profitable operation. Applicants assert that the transaction will improve service because, as a small, local carrier, BVRC will be better able to accommodate shipper needs.

Because BVRC will merely replace CSXT, applicants contend that the transaction will not result in a monopoly or reduce competition. Rather, they submit that the transaction will enhance competition by allowing BVRC to compete more effectively with other modes of transportation. They assert that there is a significant potential to divert traffic from water and motor carriers serving the area.

BVRC intends to operate the lines with its own employees. As a result,

CSXT's work force would be reduced by 24 positions. No positions with BVRC would be eliminated. BVRC expects to hire additional employees to operate the acquired lines and states that it will first offer these positions to former CSXT employees.

CSXT states that it will negotiate employee protection agreements with affected employees pursuant to the conditions in *New York Dock Ry.—Control—Brooklyn East. Dist.*, 360 I.C.C. 60 (1979). These conditions are appropriate for employees affected by the acquisition.

Under § 1180.4(b)(2) of our consolidation regulations, we must determine initially whether a transaction is major, significant, or minor. The proposed transaction involves a Class I and a Class III railroad. It has no regional or national significance and will neither result in a major market extension nor reduce the present level of competition. Accordingly, we find the proposal a minor transaction under § 1180.2(c). Because the application complies with our regulations governing minor transactions, we are accepting it for consideration.

The application and exhibits are available for inspection in the Public Docket Room at the Offices of the Interstate Commerce Commission in Washington, DC. In addition, they may be obtained upon request from applicants' representatives named above.

Any interested persons, including government entities, may participate in this proceeding by submitting written comments. Comments must be filed no later than April 10, 1989. The United States Secretary of Transportation and the Attorney General of the United States must file their comments no later than April 24, 1989. Applicants' reply is due May 15, 1989. An original and 10 copies of all pleadings must be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20423.

Written comments must be served concurrently by first-class mail on the Secretary of Transportation, the Attorney General and applicants' representatives. Written comments must also be served on all parties of record within 10 days of service of the service list by the Commission. We plan to issue the service list by May 15, 1989. Any person who files timely written comments shall be considered a party of record if the person's comments so request. In this event, no petition for leave to intervene need be filed. Consistent with 49 CFR 1180.4(d)(i)(iii), written comments must contain:

(a) The docket number and title of the proceeding;

(b) The name, address, and telephone number of the commenting party and its representative upon whom service shall be made;

(c) The commenting party's position, *i.e.*, whether it supports or opposes the proposed transaction;

(d) A statement of whether the commenting party intends to participate formally in the proceeding or merely comment upon the proposal;

(e) If desired, a request for an oral hearing with reasons supporting this request; the request must indicate the disputed material facts that can only be resolved at a hearing; and

(f) A list of all information sought to be discovered from applicant carriers.

Because we have determined that the proposal in this processing constitutes a minor transaction, no responsive applications will be permitted. The time limits for processing a minor transaction are set forth at 49 U.S.C. 11345(d).

Discovery may begin immediately. We admonish the parties to resolve all discovery matters expeditiously and amicably.

This action will not significantly affect either the quality of the human environment or energy conservation.

It is ordered:

1. This proposal is found to be a minor transaction under 49 CFR 180.2(c).

2. The application in Finance Docket No. 31393 is accepted for consideration.

3. The parties shall comply with all provisions as stated above.

4. This decision is effective on the date of service.

Decided: March 2, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-5431 Filed 3-8-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 16, 1989, Smithkline Chemicals, Division Smithkline Beckman C., 900 River Road, Conshohocken, Pennsylvania 19428, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basis classes of controlled substances listed below:

Drug	Schedule
4-methoxyamphetamine (7411)	I
Amphetamine, its salts, optical isomers and salts of its optical isomers (1100).	II
Phenylacetone (8501)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deupty Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than April 10, 1989.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: February 28, 1989.

[FR Doc. 89-5501 Filed 3-8-89; 8:45 am]

BILLING CODE 4410-09-M

Imporation of Controlled Substances; Application; Stepan Chemical Co.

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 24, 1989, Stepan Chemical Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration to be registered as an importer of coca leaves (9040), a basic class of controlled substance in Schedule II.

Any manufacturer holding, or applying for, registration as a bulk

manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Representative (Room 1112), and must be filed no later than April 10, 1989.

This procedure is to be conducted simulaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e) and (f) are satisfied.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: February 28, 1989.

[FR Doc. 89–5502 Filed 3–8–89; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Application; Stepan Chemical Co.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 24, 1989, Stepan Chemical Company, Natural Products Department, 100 West Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Benzoylecgonine (9180)	II
Coca Leaves (9040)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than April 10, 1989.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: February 28, 1989.

[FR Doc. 89–5503 Filed 3–8–89; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Alco Power Inc., et al.

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 20, 1989.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assitance, at the address shown below, not later than March 20, 1989.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Adminsitration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC this 21st day of February 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Petitioner (Union/Workers/Firm)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
Alcoa Power Inc. (Workers)	Auburn, NY	2/21/89	1/31/89	22,466	Diesel Engines
American Biltrite (IUE)	Garfield, NJ	2/21/89	1/30/89	22,467	Insulating Tape
Andrew Harris, Inc. (ILGWU)	Philadelphia, PA	2/12/89	1/30/89	22,468	Coats & Jackets
Athens Mfg. Corp. (Workers)	Athens, TN	2/21/89	2/6/89	22,469	Children's Sportswear
Bridge Oil (USA), Inc. (Company)	San Antonio, TX	2/21/89	1/25/89	22,470	Oil & Gas
Brown & Root U.S.A. (Workers)	Longview, TX	2/21/89	1/30/89	22,471	Construction Contractors
Cal Bohannan Drilling (Workers)	Tulsa, OK	2/21/89	2/1/89	22,472	Oil & Gas
Cyclone Drilling (Workers)	Gillette, WY	2/21/89	1/1/89	22,473	Oil & Gas
Dana Corporation, Convel Plant (Workers)	Hamtramck, MI	2/21/89	2/6/89	22,474	Universal Joints
Eriesson, Inc. (CWA)	Harrisonville, MO	2/21/89	1/30/89	22,475	Telecommunication
Everco Industries, Inc. (Workers)	Ottumwa, IA	2/24/89	1/24/89	22,476	Power Steering Equipment
Exeter Drilling Co. (Workers)	Gillette, WY	2/21/89	1/18/89	22,477	Oil & Gas
Fine Oil & Chemical Co. (Company)	Windsor, NJ	2/21/89	1/19/89	22,478	Polystyrene Resins
Forest Oil Corp. (Workers)	Corpus Christi, TX	2/21/89	1/31/89	22,479	Oil & Gas
Freeman Shoe (ACTWU)	Beloit, WI	2/21/89	1/15/89	22,480	Men's Shoes
G.M. Service Parts Operation (Workers)	St. Louis, MO	2/21/89	1/24/89	22,481	Trucks & Auto Parts

Petitioner (Union/Workers/Firm)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
GTE Products Corp. (UAW)	Winchester, KY	2/21/89	1/23/89	22,482	Lamps
General Electric Corp. Gov't Communications Systems.	Camden, NJ	2/21/89	2/2/89	22,483	Electronic Communication
H&B Drilling Co (Workers)	Bossier City, LA	2/21/89	2/1/89	22,484	
Halliburton Logging Services (Workers)	Hays, KS	2/21/89	1/31/89	22,485	Oilfield Equipment
Jenifer Dale, Inc. (ILGWU)	Ozone Park, NY	2/21/89	2/7/89	22,486	Ladies & Girls Sleepwear
Jersico Knitting Corp. (Workers)	Neenan, WI	2/21/89	2/5/89	22,487	Sweaters
Jumping Jacks Shoes (Company)	Ponce, Puerto Rico	2/21/89	1/31/89	22,488	Boy's & Girl's Shoes
Kennedy Valve (UERMW)	Elmira, NY	2/21/89	2/1/89	22,489	Hydrants, Valves, Pipe
Kollsman Avionics (Company)	Englewood, NJ	2/21/89	1/27/89	22,490	Aircraft Instrument Repair
Malouf Co. (Workers)	Daingerfield, TX	2/21/89	1/16/89	22,491	Ladies Dresses
Mark D. Knitting Co. (PSJDC)	Philadelphia, PA	2/21/89	1/30/89	22,492	Sweaters
Maverick Tube Corp. (USWA)	Union, MO	2/21/89	2/2/89	22,493	Oil & Gas
Metal Removal Tooling Co (Workers)	Chicago, IL	2/21/89	1/19/89	22,494	Carbide Cutting Tools
Nielsen Clearinghouse (Workers)	El Paso, TX	2/21/89	1/30/89	22,495	Paper Processing
Mighty-Mac, Inc. (ACTWU)	Gloucester, MA	2/21/89	1/24/89	22,496	Outerwear Samples
Pacific Enterprises Oil Co (Workers)	Midland, TX	2/21/89	2/2/89	22,497	Oil & Gas
Pantcraft, Inc. (Workers)	New York, NY	2/21/89	2/6/89	22,498	Children's Sportswear
Pathfinder Mines (Workers)	Riverton, WY	2/21/89	1/27/89	22,499	Uranium Mining
Pathfinder Mines (Workers)	St. George, WY	2/21/89	1/27/89	22,500	Uranium Mining
Polychrome Chemical Corp. (Workers)	Bloomfield, NY	2/21/89	2/1/89	22,501	Resins for Paint Industry
Post Mfg. Co., Inc. (Workers)	New York, NY	2/21/89	2/3/89	22,502	Jackets
Pretty Please (Workers)	Glen Cove NY	2/21/89	2/6/89	22,503	Children's Sportswear
RBS Services, Inc. (Workers)	Bay City, TX	2/21/89	1/27/89	22,504	Oil & Gas
Richard Drilling Co. (Workers)	Bay City, TX	2/21/89	1/27/89	22,505	Oil & Gas
Spielberg Mfg (LGPNW)	Antonia, MO	2/6/89	1/4/89	22,506	Handbags
Texas Meridian (Workers)	Houston, TX	2/21/89	2/6/89	22,507	Oil & Gas
U.S. Auto Radiator Manufacturing Corp. (UAW)	Highland Park MI	2/21/89	1/24/89	22,508	Heaters
Uniflite Inc./Murray Chris Craft Cruisers	Bellingham, WA	2/21/89	1/20/89	22,509	Pleasure Boats
Uniroyal Goodrich (URW)	Eau Claire,	2/21/89	2/4/89	22,510	Auto Tires
Venerable Managing General Agency (Workers)	Midland, TX	2/21/89	1/27/89	22,511	Insurance Policies
Village Shoe & Boot Repairs (Workers)	Fort Collins, Co.	2/21/89	1/19/89	22,512	Sole & heel Replacement
Wearever Proctor Silex (USWU)	Altoona, PA	2/21/89	1/26/89	22,513	Toaster Ovens
Wes-Tex Drilling Corp. (Workers)	Abilene, TX	2/21/89	1/23/89	22,514	Oil & Gas

[FR Doc. 89-5445 Filed 3-8-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,245]

Automotive Products Division of United Technologies Automotive, Inc., Dearborn, MI; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Automotive Products Division of United Technologies Automotive, Inc., Dearborn, Michigan. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-20,245; Automotive Products Division of United Technologies Automotive, Inc., Dearborn, Michigan

February 22, 1989

Signed at Washington, DC this 24th day of February 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-5446 Filed 3-8-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21.570]

KRW Energy Systems, Inc., Madison, PA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at KRW Energy Systems, Inc., Madison, Pennsylvania. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-20.570: KRW Energy Systems, Inc., Madison, Pennsylvania

February 22, 1989

Signed at Washington, DC this 24th day of February 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-5447 Filed 3-8-89; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration, Wage and Hour Division

Child Labor Advisory Committee; Subcommittee Meeting on Hazardous Occupations Order No. 11

The Child Labor Advisory Subcommittee on Hazardous Occupations Order No. 11, will convene at the Department of Labor, Frances Perkins Building, Room S-3504, 200 Constitution Avenue, NW., Washington, DC 20210, from 9:00 a.m.-5:00 p.m., on April 17 and 18, 1989. The discussion will focus on whether a recommendation is necessary with respect to the generic types of bakery product machines presently included in the scope of this Order, whether certain types of machines should be removed from prohibition under the Order, and whether certain types of machines should be added as being prohibited under the Order.

Members of the public are invited to attend the meeting. Individuals wishing to submit written data, views, or arguments pertaining to the business before the Subcommittee should submit them to Ms. Nila Stovall, Chief, Branch of Child Labor Programs, prior to the meeting date. Twenty-six copies are

needed for distribution to the members and for inclusion in the Subcommittee report.

Telephone inquiries and communications concerning this meeting should be directed to Ms. Stovall, Room S–3510, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 523–7640.

Signed at Washington, DC, this 27th day of February 1989.

Paula V. Smith,

Administrator.

[FR Doc. 89–5448 Filed 3–8–89; 8:45 am]

BILLING CODE 4510–27–M

Child Labor Advisory Committee; Subcommittee on Hazardous Occupations Order No. 12

A meeting of the Child Labor Advisory Committee, Subcommittee on Hazardous Occupations Order No. 12 (HO 12), will be held on April 4, 1989, from 9:00 a.m. to 5:00 p.m. This meeting will be held in Room S–4215C, Frances Perkins Building, Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

The Subcommittee will consider whether changes in design and technology have increased/decreased the hazards of prohibited machinery; whether the machinery should be subject to the prohibitions of HO 12 regardless of the type of material being processed; and whether the paper shredder should be included in the prohibitions of this HO.

Members of the public are invited to attend these proceedings; however, since these are work sessions, seating is limited. Written data, reviews or arguments pertaining to the business before the Subcommittee must be received by Ms. Nila Stovall, Chief, Branch of Child Labor Programs, on or before March 21, 1989. Twenty-six copies are needed for distribution to the members and for inclusion in the Subcommittee Report. Telephone inquiries and communications concerning this meeting should be directed to Ms. Stovall, Room S–3510, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 523–7640.

Signed at Washington, DC, this 27th day of February 1989.

Paula V. Smith,

Administrator.

[FR Doc. 89–5449 Filed 3–8–89; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted on or before April 10, 1989.

ADDRESSES: Send comments to Ms. Ingrid Reyes, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, (202–786–0233) and Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503 (202–395–7316).

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries is subject to 44 U.S.C. 3504(h).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Reyes, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202) 786–0233 from whom copies of forms and supporting documents are available.

Category: Revision.

Title: Panelist's Review Comments.

Form Number: 3136–0064.

Frequency of Collection: 1 per year from each respondent for each proposal.

Respondents: Panelists who evaluate proposals.

Use: To collect information that reflects a panelist's evaluation and rating of a proposal. The information is used to determine which grants should receive funding, and is provided (without names or other identifying information) to rejected applicants upon written request.

Estimated Number of Respondents: 56 per year.

Frequency of Response: Annually.

Estimated Hours for Respondents to Provide Information: 1 hour per proposal: includes time spent reading the proposal and writing evaluation on the "Panelist's Review Comments" Form.

Estimated Total Annual Reporting and Recording Burden: 1400.

Susan Metts,

Assistant Chairman for Administration.

[FR Doc. 89–5516 Filed 3–8–89; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–3 (50–261)]

Environmental Assessment and Finding of No Significant Impact Related to Amendment of Materials License SNM–2502; Carolina Power and Light Co.

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 4 to Materials License No. SNM–2502 held by the Carolina Power and Light Company (CP&L) for the receipt and storage of spent fuel at the H. B. Robinson Independent Spent Fuel Storage Installation (ISFSI) located on the H. B. Robinson Steam Electric Plant Unit No. 2 site, Darlington County, South Carolina. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications concerning the removable beta and gamma contamination limit on the storage canister and associated surveillance requirements to assure that the limit is not exceeded.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was published in the **Federal Register** on November 2, 1988 (53 FR 44262).

Environmental Assessment

Identification of Proposed Action: By letter, dated August 11, 1988, and revised on September 9, 1988, CP&L requested an amendment to its Materials License No. SNM–2502 for the H. B. Robinson ISFSI. The amendment increases the limit in Technical Specification (TS) 2.4 for beta and gamma contamination on the surface of the Dry Shielded Canister (DSC) from the current limit to 220,000 disintegrations per minute per 100 square centimeters (dis/min/100 cm^2); a factor of ten increase. Corresponding changes in TS 4.5.1, Surveillance Requirements, are also made to provide assurance that the contamination limit is not exceeded.

The Need for the Proposed Action

The need for the increase in the removable beta and gamma contamination limit for the surface of the DSC was discovered as a result of preoperational tests conducted by CP&L, before loading spent fuel into the ISFSI. During preoperational heat transfer tests, contamination surveys of the IF300 shipping cask, used to transfer the DSC to the ISFSI, indicated that the internal surfaces of the drain line exceeded the previous limit for beta and gamma contamination on the surface of the DSC. The residual contamination in the shipping cask drain line was a result of previous spent fuel shipments conducted in accordance with 10 CFR Part 71. CP&L has taken measures to decontaminate the interior of the IF300 shipping cask and to remove and replace portions of the contaminated drain line to reduce the potential for the amount of contamination available for transfer to the outer surface of the DSC. Although the preoperational tests indicated that heat induced leaching of this contamination did not transfer to the DSC surface in levels that would exceed the previous limit, considering the potential for greater transfer of contamination than was previously anticipated, and increasing the beta and gamma contamination limit to account for this potential, is prudent and provides greater operational flexibility.

Environmental Impacts of the Proposed Action

The NRC staff has previously assessed the environmental impacts of the H. B. Robinson ISFSI in the "Environmental Assessment Related to the Construction and Operation of the H. B. Robinson Independent Spent Fuel Storage Installation," March 1986, and published a Finding of No Significant Impact in the **Federal Register** on April 8, 1986 (51 FR 12006). For this amendment, the NRC Staff evaluated the potential consequences from the release of radioactive material as a result of higher beta and gamma contamination levels on the outer surface of the DSC and found that the resultant inhalation dose at the site boundary, due to the release from all eight DSCs stored at the ISFSI, to be about 4×10^{-6} Rem effective dose equivalent. The inhalation dose to the nearest resident would be about 3×10^{-5} mrem. The effective dose equivalent from all airborne pathways is expected to be about 0.007 mrem. This dose is a small fraction of the 0.4 mrem/yr dose to the nearest resident estimated for ISFSI operations in the original EA cited above. Because the allowable contamination on the surface of the DSC is contained inside the IF300 shipping cask during the transfer to the ISFSI storage modules, no additional worker exposure is anticipated.

Conclusion

Based on the foregoing assessment, the NRC staff concludes that this revision of the Technical Specifications does not involve any changes in the scope or type of operations presently authorized and that the change in beta and gamma contamination limit (1) does not result in a significant offsite release of radioactive material, (2) does not result in any significant increase in individual or occupational exposure, and (3) does not result in a significant increase in the potential for or consequences from radiological accidents. Therefore, the staff concludes that the proposed action will not result in any significant environmental impacts.

Alternative to the Proposed Action

The principal alternative to the proposed action is that of no action. In view of the foregoing conclusion that the proposed action will not result in any significant impact, the preference of this alternative over the proposed action is not justified.

Alternative Use of Resources

Because the proposed action does not involve any changes in the scope or type of operations presently authorized, there are no alternative uses of resources other than those previously assessed.

Agencies and Persons Contacted

The Commission's staff did not contact any other agencies or individuals in connection with the preparation of this EA.

Finding of No Significant Impact

Based on the foregoing Environmental Assessment, the Commission has determined not to prepare an Environmental Impact Statement and has determined that a Finding of No Significant Impact is appropriate.

The August 11, 1988, application and the September 9, 1988, revision related to the proposed action along with the "Environmental Assessment Related to the Construction and Operation of the H. B. Robinson Independent Spent Fuel Storage Installation," March 1986, are available for public inspection and copying at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 2nd day of March 1989.

For the Nuclear Regulatory Commission.

John P. Roberts,

Acting Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 89–5510 Filed 3–8–89; 8:45 am]

BILLING CODE 7590–01–M

Nuclear Fuel Cycle Licensee Workshop

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of workshop meeting with fuel cycle facility licensees.

SUMMARY: The Nuclear Regulatory Commission (NRC) will sponsor a nuclear fuel cycle licensee workshop to bring together NRC officials and fuel cycle licensee representatives to discuss various NRC programs and policies and to aid in the management and implementation of radiological safety programs at fuel cycle facilities.

DATES: Workshop will be sponsored on May 3, 1989, from 8 a.m. to 5 p.m. and on May 4, 1989, from 8 a.m. to 2 p.m.

ADDRESS: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: Edwin Flack, Office of Nuclear Material Safety and Safeguards, (301) 492–0405 or George Bidinger, Office of Nuclear Material Safety and Safeguards, (301) 492–0683.

SUPPLEMENTARY INFORMATION: The workshop is designed to provide information on NRC policy and procedures applicable to fuel cycle licensees, develop an understanding of NRC program objectives, and provide an update on certain pending issues and policy matters. The workshop agenda will include such topics as critically specialist training, new Part 20

implementation, new Branch Technical Positions, decommissioning rule/financial planning, and the Team Assessment Program.

Dated at Rockville, Maryland, this 28th 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. 89-5512 Filed 3-8-89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold a meeting on March 22-23, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD. Portions of this meeting will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy 5 U.S.C. 552b(c)(6). Notice of this meeting was published in the **Federal Register** on February 22, 1989 (54 FR 7620).

Wednesday and Thursday, March 22-23, 1989—8:30 a.m.-5:00 p.m.

1. Licensing Support System—Briefing on the development of the Licensing Support System for the High-Level Waste Repository (Open)
2. An update on the issue of mixed waste. Discussion of the issues involved in the disposal of wastes that contain both hazardous and radioactive constituents. (Open)
3. Discussion of a Division of High-Level Waste Management and Office of Nuclear Regulatory Research memorandum of understanding concerning performance assessment and status of activities. (Open)
4. An Administrative-Executive Session to discuss future schedules, ACNW discussions of critical issues related to the high-level waste repository, preparation of ACNW reports, new members, and other administrative matters. (Open/Closed)
5. The Committee will hear a discussion on the Center for Nuclear Waste Regulatory Analysis (CNWRA) related to the status of technical studies being conducted. (Open)
6. An update on the Site Characterization Plan including discussion of concerns regarding time limitations on data gathering. (Open)
7. Briefing by DOE on Site Characterization Study Plans. (Open)

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. The Office of the ACRS is providing Staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the Office of the ACRS as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the Office of the ACRS, Mr. Raymond F. Fraley (telephone) 301/492-4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

Dated: March 6, 1988.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 89-5511 Filed 3-8-89; 8:45 am]

BILLING CODE 7590-01-M

Docket No. 030-19788, License No. 12-21101-01, EA 88-290]

American Testing and Inspection, Inc.; Order To show Cause Why License Should not be Revoked and Order Suspending License (Effective Immediately)

I

American Testing and Inspection, Inc. (ATI) Joliet, Illinois (the licensee) was the holder of Byproduct Material License No. 12-21101-01 which was issued by the Nuclear Regulatory Commission (NRC or Commission) on September 12, 1982, and which authorized ATI to possess and use licensed byproduct material to perform industrial radiography at field locations. The licensee continued to operate under NRC jurisdiction until June 1, 1987 at which time Illinois became an Agreement State and assumed regulatory jurisdiction over ATI for all work performed in the State of Illinois. In accordance with 10 CFR 150.20, ATI is authorized to possess and use licensed byproduct material to perform industrial radiography in non-agreement states. ATI's Illinois license, IL-01085-01, issued on January 8, 1988, is due to expire on August 31, 1992, at which time its authorization under the Commission's regulations would also terminate.

II

On March 24, 1987, the NRC Region III Office received several allegations of violations of NRC regultaory requirements during radiographic field operations at ATI. The allegers met with members of the technical staff in the NRC Region III office on March 25, 1987 and stated that ATI was willfully operating in violation of NRC license conditions. The NRC conducted an inspection of the ATI radiography program during the period March 25 through July 28, 1987 in response to the allegations. The inspection substantiated the allegations and concluded that ATI used unqualified radiographers, failed to complete and maintain utilization logs, and failed to perform quarterly field audits of radiographic operations. Since it was alleged that the violations were willful, the matter was referred to the NRC Region III Office of Investigations (OI) on April 21, 1987.

An investigation was conducted and in its report, dated August 31, 1988, OI sustantiated the allegations. It was concluded that ATI willfully used unqualified radiographers in violation of 10 CFR 34.31 on at least three occasions, as follows: An ATI employee who had not completed the required radiographer's training performed radiography on July 1, 1986, at the direction of the President (who is also the Radiation Safety Officer (RSO)) of ATI, and another ATI employee who was not trained as a radiographer performed radiography on February 3 and March 13, 1987. Further evidence revealed that the RSO of ATI was aware that this employee had performed radiography on these occasions even though the employee was not qualified as a radiographer.

The allegation that employees willfully failed to complete and maintain current utilization logs in violation of 10 CFR 34.27 was also substantiated. ATI also violated the record keeping requirements of 10 CFR 34.28, 34.33, and 34.43 which could have been satsified by properly completed utilization logs. evidence revealed that, contrary to 10 CFR 34.27, some NRC-required utilization logs were not completed until months after the jobs were completed. Further evidence revealed that the RSO

personally failed to complete utilization logs between January 1986 and March 1987, even though he had regularly performed radiography during that time. It was determined that when utilization logs were completed late, employees fabricated lost information in the backfitted logs.

It was substantiated that the ATI RSO willfully failed to perform documented quarterly field audits for two employees, as required by License Condition No. 16 of ATI's NRC license. It was determined that one ATI employee had not been field audited for the fourth quarter of 1986, and another employee had not been field audited for the third and fourth quarters of 1986. The RSO stated that the latter employee had not been audited because he was not working as a radiographer the third and fourth quarters of 1986. This was subsequently determined to be a false statement as evidence revealed the individual had performed radiography in those two quarters. It was also determined that on August 27, 1986 the RSO willfully falsified documentation of a field audit for an ATI radiographer. Evidence revealed that the radiographer was not at the job site on the date that the RSO had documented the field audit.

On January 5, 1989, the State of Illinois performed an inspection at ATI. An NRC inspector accompanied the State of Illinois inspector. During the inspection, the NRC inspector identified that on 55 occasions from January 13 to December 20, 1988, ATI violated the provisions of reciprocity as stated in 10 CFR 150.20(b)(1). Specifically, ATI failed to notify the Regional Administrator of USNRC Region III, either by telephone or by filing copies of Form–241 at least 3 days before engaging in licensed activities, requesting authorization to conduct such activities. ATI thus denied the NRC an opportunity to inspect the licensee's activities in Indiana, a non-Agreement state.

In Summary, evidence revealed that the RSO of ATI knowingly and willfully violated NRC regulatory requirements or knowingly and willfully permitted them to be violated. Additionally, the RSO made material false statements to the NRC by denying he was responsible for sending unqualified radiographers to perform radiography for ATI. The RSO made additional false statements to the NRC by stating that a field audit was not completed because the radiographer was not employed during two quarters, when the radiographer had, in fact, performed radiography during both quarters. The RSO made additional false statements by falsifying an NRC-required radiographer field audit. Finally, ATI has violated the NRC's requirements under a general license granted pursuant to 10 CFR 150.20.

III

ATI is now licensed by Illinois, an Agreement State. 10 CFR 150.20 provides that any person holding a specific license from an Agreement State where the licensee maintains an office for directing the licensed activity is granted a general license to conduct the same activity in non-Agreement States, provided that the specific license does not limit authorized activities to specified installations or locations, the licensee complies with certain regulations specified including 10 CFR Parts 19 and 20 and Subpart B of 10 CFR Part 34, and that, at least 3 days before engaging in licensed activities in a non-Agreement state, the licensee either files copies of Form–241, or notifies by telephone the Regional Administrator of the NRC region in which the Agreement State that issued the license is located. Due to the nature of the violations and ATI's apparent liability or unwillingness to comply with regulatory requirements, the NRC lacks reasonable assurance that, in the future, ATI will conduct industrial radiography in accordance with regulatory requirements whenever it performs licensed activities in states which are under NRC jurisdiction (non-Agreement States). Accordingly, I have determined that ATI must show cause why its authorization (10 CFR 150.20) to possess and use byproduct material for industrial radiography in non-Agreement States under a general license should not be revoked.

Furthermore, I find that ATI willfully committed the violations stated in section II of this Order. On this basis, and because I find the public health, safety, and interest so requires, pursuant to 10 CFR 2.202(f), this order is effective immediately pending further order.

IV

Accordingly, in view of the foregoing and pursuant to sections 81, 161b, 161c, 161o, 161i, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and Parts 30 and 150, It is hereby ordered, Effective Immediately, That:

A. The general license granted to American, Testing and Inspection, Inc. by 10 CFR 150.20 is suspended.

B. American Testing and Inspection Company, Inc. of Joliet, Illinois shall show cause, in a manner hereinafter provided, why its general license under the provisions of 10 CFR 150.20 should not be revoked and why ATI should not be prohibited from conducting industrial radiography in non-Agreement States.

V

Pursuant to 10 CFR 2.202(b), the licensee may show cause why its general license should not be revoked by filing a written answer under oath or affirmation within 20 days of the date of issuance of this Order, setting forth the matters of fact and law on which the licensee relies to demonstrate that revocation of the license is not warranted. The licensee may answer, as provided in 10 CFR 2.202(d), by consenting to the entry of an order in substantially the form proposed in this Order, in which case the license will be revoked as stated in section IV. If the licensee fails to file an answer within the specified time, the Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support may issue, without further notice, an Order as described above.

VI

The licensee or any other person adversely affected by this Order may request a hearing within 20 days of this Order. Any answer to this Order and any request for a hearing shall be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Assistant General Counsel for Enforcement, Office of the General Counsel, at the same address, and to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). An answer to this order or a request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission shall issue on Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at the hearing shall be whether this Order should be sustained.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support.

Dated at Rockville, Maryland, this 27th day of February 1989.

[FR Doc. 89–5513 Filed 3–8–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50-369 and the 50-370]

Duke Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 93 to Facility Operating License No. NPF-9, and Amendment No. 74 to Facility Operating License No. NPF-17 issued to Duke Power Company, (the licensee) which revised the Technical Specifications (TS) for operation of the McGuire Nuclear Station, Units 1 and 2, (the facility) located in Mecklenburg County, North Carolina. The amendments were effective as of the date of issuance.

The amendments change TS 3/4 7.13, "Groundwater Level" to eliminate inconsistencies between the TS and the capabilities of the groundwater monitoring system as installed.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the **Federal Register** on April 21, 1988 (53 FR 18206). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has concluded that an environmental impact statement is not warranted and that the issuance of these amendments will not have a significant adverse effect on the quality of the human environment. (54 FR 8850)

For further details with respect to the action see (1) the application for amendments dated January 27, 1988, as supplemented April 26, June 21, and August 25, 1988, (2) Amendment No. 93 to License No. NPF-9 and Amendment No. 74 to License No. NPF-17 and (3) the Commission's related Safety Evaluation and Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects I/II.

Dated at Rockville, Maryland, this 2nd day of March 1989.

For the Nuclear Regulatory Commission.

Darl S. Hood,

Project Manager, Project Directorate II-3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-5514 Filed 3-8-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-412]

Duquesne Light Co. et. al.; Beaver Valley Power Station, Unit No. 2; Withdrawal of Amendment to Facility Operating License

In the matter of Duquesne Light Co., Ohio Edison Co., the Cleveland Electric Illuminating Company, the Toledo Edison Company.

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by Duquesne Light Company, (licensee) for an amendment to Facility Operating License No. NPF-73, issued to the licensee for operation of the Beaver Valley Power Station, Unit No. 2, located in Beaver County, Pennsylvania. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on January 25, 1988 (53 FR 1968).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to reduce the number of incore instrument thimbles required operable during the first fuel cycle.

Subsequently the licensee informed the staff that all such thimbles were repaired and were therefore operable. The requested amendment was no longer needed, and is considered withdrawn by the licensee.

For further details with respect to this action, see (1) the application for amendment dated January 13, 1988, and (2) the staff's letter dated March 1, 1989.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington DC and at the B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Dated at Rockville, Maryland, this 1st day of March, 1989.

For the Nuclear Regulatory Commission.

Peter S. Tam,

Senior Project Manager, Project Directorate I-4, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-5515 Filed 3-8-89; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by the Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, 450 Fifth Street NW., Washington, DC 20549.

Extension

Rule 15c2-11
No. 270-196

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval rule 15c2-11 (17 CFR 240.15c2-11) under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) which regulates the initiation or resumption of quotations in a quotation medium by a broker-dealer for over-the-counter securities. Brokers and dealers incur an estimated average burden of eight hundred hours in order to comply with this rule.

The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even representative summary or study of the cost of SEC rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, 450 Fifth Street NW., Washington, DC 20549-6004, and Gary Waxman, Clearance Officer, Office of Management and Budget, Paperwork Reduction Act Project (3235-0196) Room 3208 New Executive Office Building, Washington, DC 20543.

Jonathan G. Katz,

Secretary.

March 1, 1989.

[FR Doc. 89-5479 Filed 3-7-89; 8:45 am]

BILLING CODE 8010-01-M

[File 500-1]

Acrotech, Inc. et al.; Order of Suspension of Trading

March 6, 1989.

It appears to the Securities and Exchange Commission that there is a lack of adequate current information concerning the securities of Acrotech, Inc., Advanced Technical Systems, Inc.,

Ameritex, Inc., Ayin Corporation, Centre Laboratories, Inc., Iosotonix Inc., OmniSource, Inc., and Primeritexx, Inc., and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things, the companies' business, operations, products, and claims for exemptions from the registration provisions of the Securities Act of 1933 pursuant to which their securities are trading. The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed companies, over-the-counter or otherwise, is suspended for the period from 9:00 a.m. (e.s.t.), March 7, 1989 through 11:59 p.m. (e.s.t.), on March 16, 1989.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-5520 Filed 3-8-89; 8:45am]

BILLING CODE 8010-01-M

[File No. 500-1]

U.S.A. Medical Corp.; Order of Suspension of Trading

March 6, 1989.

It appears to the Securities and Exchange Commission that there is a lack of adequate and accurate current information concerning the securities of USA Medical Inc., and that questions have been raised about recent market activity in USA Medical, and about the adequacy and accuracy of publicly disseminated information concerning, among other things, the financial condition of the company, the identities of its shareholders, and the beneficial ownership and control of the company's shares. The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company, over-the-counter or otherwise, is suspended for the period from 9:30 a.m. EST, March 6, 1989 through 11:59 p.m. EST, on March 15, 1989.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-5480 Filed 3-8-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Maricopa County, AZ

AGENCY: Federal Highway Administration, (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Maricopa County, Arizona.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Davis, District Engineer, Federal Highway Administration, 234 North Central Avenue, Suite 330, Phoenix, AZ 85004. Telephone: (602) 261-3646.

SUPPLEMENTARY INFORMATION: The FHWA, in connection with the Arizona Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to improve State Route 87 in Maricopa County, Arizona. The proposed improvement would widen the existing two-lane highway to four traffic lanes (including some sections where the roadways would be split) for a distance of approximately 25 miles. An additional two traffic lanes are needed to meet current, as well as future, traffic demand. In addition, the existing highway was constructed in 1953 and does not meet current standards in terms of geometrics and safety.

Several location alternatives are being considered, including the "no action" alternative. The "build" alternatives include design variations of grade and alignment, as well as a variety of environmental issues.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State, and local agencies and to private interest groups. Two public information meetings were held in early 1988. Upon completion of the draft EIS, one or more public hearings will be held. A formal scoping meeting was held on February 7, 1989.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments are invited from all interested parties. Comments or questions concerning this proposed action and EIS should be directed to the Federal Highway Administration at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal Programs and activities apply to this program.)

Issued on: March 3, 1989.

Kenneth H. Davis,

District Engineer, Phoenix, Arizona.

[FR Doc. 89-5534 Filed 3-8-89; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Mecklenburg County, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Rescind notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will not be prepared for a proposed highway project in Mecklenburg County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. J. Max Tate, District Engineer, Federal Highway Administration, 4505 Falls of the Neuse Road, P.O. Box 26806, Raleigh, North Carolina 27611, Telephone (919) 790-2852.

SUPPLEMENTARY INFORMATION: A Notice of Intent to prepare an Environmental Impact Statement (EIS) for a proposed highway project to improve U.S. 521 in Mecklenburg County, North Carolina, was issued on January 6, 1989 and published in the January 13, 1989 **Federal Register.** The FHWA, in cooperation with the North Carolina Department of Transportation, has since determined that preparation of an EIS is not necessary for this proposed highway project and hereby rescinds the previous Notice of Intent. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: February 28, 1989

J. Max Tate,

District Engineer, Raleigh, North Carolina.

[FR Doc. 89-5463 Filed 3-8-89; 8:45 am]

BILLING CODE 4910-22-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Advisory Committee for Trade Policy and Negotiations Services Policy Advisory Committee; Meetings and Determination of Closing of Meetings

The meetings of the Advisory Committee for Trade Policy and Negotiations to be held March 14, 1989 from 1:30 p.m. to 4:30 p.m., in Washington, DC, and the Services Policy Advisory Committee to be held March 15, 1989 from 9:00 a.m. to 1:00 p.m., in Washington, DC, will include the development, review and discussion of current issues which influence the trade policy of the United States. Pursuant to section 2155(f)(2) of Title 19 of the United States Code, I have determined that these meetings will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions.

More detailed information can be obtained by contacting Barbara W. North, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, DC 20506.

Carla A. Hills,

United States Trade Representative.

[FR Doc. 89-5443 Filed 3-8-89; 8:45 am]

BILLING CODE 3190-01-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 45
Thursday, March 9, 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).

U.S. COMMISSION ON CIVIL RIGHTS

March 7, 1989.

PLACE: 1121 Vermont Avenue, NW., Room 516, Washington, DC 20425.

DATE AND TIME: Friday, March 17, 1989, 9:00 a.m.–5:30 p.m.

STATUS OF MEETING: Portion open to the public and portion closed.

MATTERS TO BE CONSIDERED:

Agenda

I. Approval of Agenda
II. Approval of Minutes of January Retreat and February Meeting
III. SAC Reports and SAC Recharters
Minority and Women's Business Enterprise Programs in Alaska
Handicap Protection for AIDS Victims in Washington, DC
Civil Rights Issues In Maine (submitted in February)
Implementation in New Mexico of the Immigration Reform and Control Act: A Preliminary Review
Implementation in Rhode Island of the Immigration Reform and Control Act: A Preliminary Review
District of Columbia SAC Recharter
Arkansas SAC Interim Appointment
Iowa SAC Interim Appointment
IV. Staff Director's Report
A. Discussion of *New Perspectives*
B. Discussion of Memorandum on Press Coverage
C. Commission Reauthorization Process
D. Civil Rights Enforcement Monitoring
V. Subcommittee Reports
VI. Future Agenda Items
VII. Commissioner Destro's Inquiry about Chairman Allen's Visit to White Mountain Reservation
VIII. Executive Session closed to the public at end of morning session to discuss personnel matters

PERSON TO CONTACT FOR FURTHER INFORMATION: John Eastman, Press and Communications Division, (202) 376–8312.

Melvin L. Jenkins
Acting Staff Director.

[FR Doc. 89–5573 Filed 3–7–89; 2:19 p.m.]

BILLING CODE 6335-01-M

U.S. COMMISSION ON CIVIL RIGHTS

March 7, 1989.

PLACE: 1121 Vermont Avenue, NW., Room 516, Washington, DC 20425.

DATE AND TIME: Friday, March 17, 1989, 1:30 p.m.–5:30 p.m.

STATUS OF MEETING: Open to the public

MATTERS TO BE CONSIDERED:

Agenda

Immigration Briefing

PERSON TO CONTACT FOR FURTHER INFORMATION: John Eastman, Press and Communications Division, (202) 376–8312.

Melvin L. Jenkins,
Acting Staff Director.

[FR Doc. 89–5574 Filed 3–7–89; 2:19 pm]

BILLING CODE 6335-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5. U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, March 14, 1989, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,293
Knoxville Consolidated Office, Knoxville, Tennessee

Memorandum re: Delegations of Authority relating to certain Corporation activities.

Reports of action approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and resolution re: Final amendments to Part 303 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, Delegations of Authority, and Notices of Acquisition of Control," and Part 346 of the Corporation's rules and regulations, entitled "Foreign Banks," which amendments affect the deposit insurance requirement, the capital equivalency requirement, the country exposure provision, the pledge of assets requirement, and the delegations of authority concerning it, as well as miscellaneous provisions throughout the regulation.

Memorandum and resolution re: Final Statement of Policy on Risk-Based Capital which: (1) Establishes a risk-based capital framework that is more sensitive than the current leverage ratios to risk factors, including off-balance sheet exposures; (2) encourages international banks to strengthen their capital positions; and (3) mitigates a source of competitive inequity arising from different supervisory capital requirements across countries.

Memorandum and resolution regarding the Corporation's budget for 1989.

Preliminary review of the Corporation's unaudited 1988 financial position.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street NW., Washington, DC.

Requested for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: March 6, 1989.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 89–5540 Filed 3–7–89; 10:15 am]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, March 14, 1989, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors

requests that an item be moved to the discussion agenda.

Application for Federal deposit insurance:

1st San Diego Thrift and Loan Company, a proposed new industrial bank to be located at 3755 Sixth Avenue, San Diego, California

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii).

Note: Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Memorandum relating to a request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act

Reports of the Director, Office of Corporate Audits and Internal Investigations:

Audit Report re: Crossroads Bank Assistance Agreement, (Memo dated January 27, 1989)

Audit Report re: San Jose Consolidated Office, Cost Center-604, (Memo dated January 18, 1989)

Audit Report re: Bossier City Consolidated Office, Cost Center-105, (Memo dated February 17, 1989)

Audit Report re: Orlando Consolidated Office, Cost Center—104, (Memo dated February 17, 1989)

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Matters relating to the possible closing of certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, N.W., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: March 6, 1989.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 89-5541 Filed 3-7-89 10:15 am]

BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION

* * * * *

"FEDERAL REGISTER" NO. 89-4977.

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, March 7, 1989, 2:00 p.m.

By direction of the Federal Election Commission, the Closed Meeting scheduled to convene at 2:00 p.m. on Tuesday, March 7, 1989, will convene at 10:00 a.m.

DATE AND TIME: Tuesday, March 14, 1989, 10:00 a.m.

PLACE: 999 E. Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, March 16, 1989, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.

Correction and Approval of Minutes.

Certification for Payment of 1988 Primary Matching Funds.

Draft AO 1989-1—Ron Haskins, Congressional Employee

Inspector General—Proposed Classification Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-376-3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 89-5588 Filed 3-7-89; 3:18 pm]

BILLING CODE 6715-01-M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND PLACE: 9:00 a.m. March 20, 1989.

PLACE: 5th Floor, Conference Room, 805 Fifteenth Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of minutes to last meeting.
2. Thrift Savings Plan activities report by Executive Director.
3. Proposed legislation on expanded investment options and restoration of lost earnings.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 523-5660.

Dated: March 6, 1989.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 89-5570 Filed 3-7-89; 11:59 am]

BILLING CODE 6760-01-M

POSTAL RATE COMMISSION

TIME AND PLACE: 9:30 a.m. Tuesday, March 14, 1989.

PLACE: Commission Hearing Room, 1333 H Street, NW., Suite 300, Washington, DC. 20268-0001

STATUS: Open.

MATTERS TO BE CONSIDERED: Discussion of a Notice of Proposed Rulemaking for Express Mail rate cases, docket No. RM88-2.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW., Washington, DC 20268-0001, Telephone (202) 789-6840.

Charles L. Clapp,

Secretary.

[FR Doc. 89-5577 Filed 3-7-89; 2:20 pm]

BILLING CODE 7715-01-M

federal register

Thursday
March 9, 1989

Part II

State Department

Gifts to Federal Employees From Foreign Governments Reported to Employing Agencies in Calendar Year 1988; Notice

DEPARTMENT OF STATE

Office of Protocol

[Public Notice 1099]

Gifts to Federal Employees From Foreign Governments Reported to Employing Agencies in Calendar Year 1988

The Department of State submits the following comprehensive listing of the statements which, as required by law, Federal employees filed with their employing agencies during calendar year 1988 concerning gifts received from foreign government sources. The compilation includes reports of both tangible gifts and gifts of travel or travel expenses of more than minimal value, as defined by statute.

Publication of this listing in the **Federal Register** is required by section 7342(f) of Title 5, United States Code, as added by section 515(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Pub. L. 95–105, August 17, 1977, 91 Stat. 865).

Date: February 24, 1989.

Ronald I. Spiers,

Under Secretary for Management.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President and First Lady	Artwork: Black lacquered box with centered floral design and bordered floral motif with a hinged lid; 7½" square. Archives. Received: December 23, 1988. Est. Value: $375.	His Excellency Yuri V. Dubinin, Ambassador of the Union of Soviet Socialist Republics.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Photograph: Leather-bound album of 38 black and white photographs of the President and Mrs. Reagan with officials during their visit to Finland, May 1988; album bears royal crest. Archives. Received: December 21, 1988. Est. Value: $391.	His Excellency and Mrs. Harri Holkeri, Prime Minister of Finland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Wine: Twelve bottles of German wine, vintages 1976 through 1985. Perishable. Received: January 13, 1989. Est. Value: $350.	His Excellency Dr. Helmut Kohl, Chancellor of the Federal Republic of Germany	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Flowers: A large arrangement of rubrum lilies, snapdragons, tulips, etc., in a birdsnest basket ($250); Residence; For Official Use/Display. Consumables: A large wicker basket of gourmet food delicacies, including a Waterford crystal humidor with a silver-plated top ($590). Archives. Received: March 4, 1988. Est. Value: $840.	His Majesty Hassan II, King of Morocco	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Household: Pair of sterling silver candlesticks with brushed black columns and bases, bearing the royal Swedish crown and monogram (CGS), 7" high; and a sterling silver bowl, by Yars Fleming, signed, 6" in diameter; both pieces by Borgila silver and housed in blue cases bearing the royal Swedish insignia ($290); Archives. Artwork: Porcelain plaque etched with the tall ship, "Calmare Nyckel," painted in solid silver and bearing the emblem of Carl XVI Gustaf; limited edition No. 2; commemorates the 350th anniversary of the first landing of Swedish immigrants in Wilmington, Delaware; by Royal Gustafsberg; 8½" x 13¼" ($150); Archives. Photograph: Color photograph of Their Royal Highnesses Carl XVI Gustaf and Queen Silvia, autographed; displayed in navy blue leather frame with royal crown at top; 11" x 14" ($75). Archives. Received: April 11, 1988. Est. Value: $515.	His Majesty Carl XVI Gustaf, King of Sweden.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Household: An Orrefors crystal corona bowl, 9" in diameter; engraved on base "To the President and Mrs. Reagan with respect and admiration from the Diplomatic Corps, Washington, D.C." Archives. Received: January 17, 1989. Est. Value: $450.	His Excellency Count Wilhelm Wachtmeister, Dean of the Diplomatic Corps and Ambassador of Sweden.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President and First Lady	Household: A sterling silver box, wood-lined, depicting two elephants and a filigreed border design on lid; 4¼" x 8¼" x 2" deep. Archives. Received: May 9, 1988. Est. Value: $225.	Lieutenant General Sawaeng Theerasawat, Deputy Director General, The Royal Thai Police Department, Thailand.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Consumables: Box of Russian chocolates. Perishable. Received: May 29, 1988. Est. Value: $25.	His Excellency Mikhail Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Wood and ivory plaque, outlining country of Angola, with elephant and gazelle motif, inscription attached; 21½" x 27" ($200); Archives. Household: A revolving stand with four circular compartments with lids and a center finial depicting flags of Angola and the United States; ivory and wood; 19" high, 15" in diameter ($250). Archives. Received: June 30, 1988. Est. Value: $450.	Dr. Jonas Savimbi, President, National Union for the Total Independence of Angola.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: A carved wooden book, "Friedensbuch" (Peace Book), crafted by Mr. Wilhelm Gonner and signed by Mayor Steinbichler; 12" x 17" x 3"; displayed on a velvet pillow. Archives. Received: August 8, 1988. Est. Value: Indeterminable.	The Honorable Fritz Steinbichler, Mayor of Enns, Austria.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Embroidered tapestry of a village scene of Bangladesh; individually handcrafted and signed by an artisan; serial no. 18 of 250; wood framed, 30" x 42¼". Archives. Received: November 18, 1988. Est. Value: $125.	His Excellency Hussain Muhammad Ershad, President of the People's Republic of Bangladesh.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A crystal bowl with cobalt blue design on a square pedestal base bearing the royal crown, made by Val St. Lambert; 12½" in diameter, 10¼" tall. Archives. Received: March 1, 1988. Est. Value: $5000.	His Majesty Baudouin I, King of the Belgians.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Award: Meritorious Diploma and Award (a parchment certificate and a medal on ribbon). Archives. Received: October 28, 1988. Est. Value: Indeterminable.	The Honorable Marcilio Marques Botti, Municipal Mayor of Lambari, Brazil.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Color print of the caricatures of the eight participants in the 1988 Economic Summit in Toronto; limited edition by artist Philip Mallette; matted under glass in aluminum frame; 7" and 15" print; 11½" x 19" overall. Archives. Received: December 6, 1988. Est. Value: Indeterminable.	The Honorable Monte Kwinter, Minister of Industry, Trade and Technology, Canada.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Green stone carving, "Fish and Bird," by Qaunaq Mikkigak, 1987, Cape Dorset; 9" x 7". Archives. Received: June 19, 1988. Est. Value: $750.	The Right Honorable Brian Mulroney, P.C., M.P., Prime Minister of Canada.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Photograph: Leather album of 22 color photographs of President Reagan and the other participants in the 1988 Economic Summit in Canada, and other photographs; each photograph is 8" x 10". Archives. Received: June 19, 1988. Est. Value: $321.	The Government of Canada	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: Cinnebar vase with relief design of flowers and a pastoral scene; 12" high. Archives. Received: May 10, 1988. Est. Value: $250.	His Excellency Jiyun Tian, Vice Premier of the State Council of the People's Republic of China.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Historic Artifacts: Wine jug of bichrome ware, 5th Century B.C.; 8" tall, 5" in diameter at center. Archives. Received: July 29, 1988. Est. Value: Indeterminable.	His Excellency George Vassiliou, President of the Republic of Cyprus.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Photograph: Color photograph of President Balaguer, inscribed; displayed in ivory frame with engraved brass presentation plaque; 12¾" x 10½" overall ($500); Archives. Medallions: A 5-oz. gold (900) coin and a 5-oz. silver (.999 proof) coin commemorating the 500th anniversary of the discovery of America (1492–1992); displayed in a wood chest with engraved brass presentation plaque ($300). Archives. Received: March 25, 1988. Est. Value: $800.	His Excellency Joaquin Balaguer, President of the Dominican Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Three watercolor portraits of the President and Mrs. Reagan (one of them together and two separate renderings) on papyrus, mounted and framed in gold-painted wood frames with presentation plaques; one measures 22" × 30" and two measure 19½" × 23½". Archives. Received: January 11, 1988. Est. Value: $315.	His Excellency Field Marshall Mohamed Abd El Halim Abu Ghazala, Deputy Prime Minister and Minister of Defense & Military Production of the Arab Republic of Egypt.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: An acrylic Carpet depicting President and Mrs. Reagan's portraits in rust, brown, and black tones; approximately 7 feet, 10 inches by 9 feet, 11 inches ($2,000); Archives. Household: An Egyptian Killim wool rug depicting a charming scene of a town with naieve style people and animal figures; 5 feet, 2 inches by 7 feet, 3 inches ($200). Archives. Received: January 28, 1988. Est. Value: $2200.	His Excellency Mohammad Hosni Mubarak, President of the Arab Republic of Egypt.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: Sterling silver plate, engraved "Presented to President Reagan on the occasion of his visit to Great Britain 2 June 1988 by the Rt. Hon. Margaret Thatcher M.P." (a replica of original plate from a service crafted for Queen Elizabeth I from silver taken from the Spanish Armada); 10" in diameter. Archives. Received: June 3, 1988. Est. Value: $600.	The Right Honorable Margaret Thatcher, M.P., Prime Minister, England.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Bronze sculpture, "Arab Mare and Stallion," by Pierre Jules Mene, signed (undated); 21" long × 13" tall × 8" wide; mounted on oval wood base; 22" long × 14" tall × 9" wide overall. Archives. Received: September 29, 1988. Est. Value: $5500.	His Excellency Francois Mitterrand, President of the French Republic.	Non-acceptance would cause ambarrassment to donor and U.S. Government.
President	Artwork: Figurine of a white glazed porcelain horse, by Nymphenburg; 7" tall. Archives. Received: November 15, 1988. Est. Value: $500.	His Excellency Dr. Helmut Kohl, Chancellor of the Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Glazed porcelain figurine, 18th Century rider on white stallion with two hunting dogs; marked 1066; 7½" × 5½" × 3½". Archives. Received: July 29, 1988. Est. Value: $1000.	His Excellency Dr. Franz Josef Strauss, Minister President of Bavaria, Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Ivory statuette of a man from Guinea, dressed in a leaf design costume and headdress, signed Y. Siome(?), 22" tall; mounted on a circular ebony base; 26½" tall overall. Archives. Received: October 25, 1988. Est. Value: $1500.	His Excellency Brig. General Lansana Conte, President of the Republic of Guinea.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Riding Paraphernalia: A black leather harness with brass hardware, a black leather whip, and a black felt riding hat ($250); Archives. Household: Octagonal porcelain vase, handpainted floral and butterfly designs overall on white background, by Herend Hungary, no. 6473 on underside; 21" high, 5" across open mouth, 10" across center top; included is an engraved brass presentation plaque with chain ($6000). Archives. Received: July 27, 1988. Est. Value: $6250.	His Excellency Karoly Grosz, President of the Council of Ministers of the Hungarian People's Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A Waterford crystal pedestal style bowl with scalloped edge bearing an etched inscription panel, 10" in diameter, 10" tall; and a set of six gold-plated coins each depicting a noted Irish author, "The Shefli Collection," in a leather case with brass fittings ($3110); Archives. Sword: A replica of a Viking sword, commemorating the 1000th anniversary of Dublin, with a simulated ivory handle and an intricately patterned gold-plated design on the blade; mounted on a wood plaque; the sword measures 37" in length ($500). Archives. Received: March 17, 1988. Est. Value: $3610.	His Excellency Padraic N. MacKernan, Ambassador of Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Bronze (brass-colored) sculpture, "Dove of Peace," by Gila J. Stein, A.P., 1988, signed; 7½" long x 4" high x 2½" deep; mounted on black wood plaque with presentation plate. Archives. Received: June 28, 1988. Est. Value: $900.	His Excellency Yitzhak Rabin, Minister of Defense of Israel.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: An etched brass map depicting Jerusalem as the center of the world, reproduced from an original late 16th Century German map (first published in 1581 by Heinrich Bunting) and displayed in a veneered olivewood frame with presentation plaque; 11½" x 16" map; 17½" x 21" overall. Archives. Received: November 16, 1988. Est. Value: $750.	The Honorable Teddy Kollek, Mayor of Jerusalem.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Jewelry: Pair of gold and lapis lazuli cuff links by Federico Buccellati. Archives. Received: June 14, 1988. Est. Value: $200.	His Excellency Ciriaco De Mita, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A two-part lacquerware rice bowl in flaked arabesque design, 7¾" in diameter and a color photograph of Prime Minister Takeshita, inscribed in Japanese calligraphy, in a sterling silver frame with Japanese seal at top, 8" x 10" ($550); Archives. Artwork: A computer-produced photographic portrait of the President and Mrs. Reagan on fabric, in a gold-colored wood frame. 42½" x 46" overall ($800). Archives. Received: January 13, 1988. Est. Value: $1,350.	His Excellency Noboru Takeshita, Prime Minister of Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Flowers: Two arrangements—one large display of gerber daisies, dutch iris, bird-of-paradise, and orchids and a small display of mixed spring flowers in a flag vase. Residence; For Official/Use Display. Received: February 5, 1988. Est. Value: $190.	His Majesty Hussein I, King of the Hashemite Kingdom of Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Artifact: An Olympic torch, originally manufactured for the 1988 Games of the XXIVth Olympiad in Seoul; brass on brass and marble base; 21½" long overall; displayed in a velvet-covered case. Archives. Received: October 20, 1988. Est. Value: Indeterminable.	His Excellency Roh Tae Woo, President of the Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: A sterling silver model of a Kuwaiti dhow (traditional maritime ship), displayed on black base with silver inscription plaque; 14" x 11" x 4" overall; housed in a double-door case. Archives. Received: July 12, 1988. Est. Value: $1,500.	His Highness Sheikh Saad Al Abdullah Al Sabah, Prime Minister and Crown Prince of the State of Kuwait.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: Pedestal cup or container, dark brown wood (mahogany?) centered with carved animal and forest scene; 11½" high, 7½" in diameter; contained in wood chest. Archives. Received: December 18, 1988. Est. Value: $200.	His Excellency Dr. H. Kamuzu Baznda, Life President of the Republic of Malawi.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Two "Ciwara" masks (two figures of gazelles) handcarved of ebony on stands with inscribed plaques; each 20" tall; enclosed in a brown leather carrying case with outline of Mali on cover; case is 16¾" x 22¾" x 6¾". Archives. Received: October 6, 1988. Est. Value: $600.	His Excellency General Moussa Traore, President of the Republic of Mali.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: A sterling silver plaque reproducing a section from the American Liberty Bell, in dark wood frame with engraved presentation plate; 10½" x 13" housed in a cherrywood presentation case with engraved plaque on lid. Archives. Received: July 13, 1988. Est. Value: $500.	The Honorable Dr. Edward Fenech Adami, Prime Minister of the Republic of Malta.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: A bronze sculpture entitled "Caballos Peleando" (Fighting Horses) by Hermilo Ramirez, signed, 1987; no. 1798; mounted on an oval marble base; 12" x 14" x 13" overall ($950); Archives. Book: A photographic compilation entitled "Mexico Lindo" (Beautiful Mexico) by Jose Pablo Fernandez Cueto, published by Presidencia de la Republica, 1987 ($30); Archives. Photograph: Leather album of 84 8x10 inch color photographs of the President and President de la Madrid on the occasion of President Reagan's visit to Mazatlan ($940). Archives. Received: February 12, 1988. Est. Value: $1920.	His Excellency Miguel de la Madrid Hurtado, President of the United Mexican States.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Athletic Equipment: A handtooled leather saddle with the initials "RR" incorporated into the tooled and stitched decorations. Archives. Received: February 12, 1988. Est. Value: $400.	His Excellency Francisco Labastida Ochoa, Governor of the State Sinaloa, Mexico.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A basket containing a Waterford crystal quartz clock (3" in diameter), candy jar (6½" in diameter), diamond-shaped paperweight (3" in diameter), and photograph frame (7¾" x 6") as well as a Lalique crystal horse figurine (3¼" x 4"); and a selection of gourmet food delicacies ($1050); Archives. Flowers: A large floral arrangement ($250). Residence; For Official Use/Display. Received: February 6, 1988. Est. Value: $1300.	His Majesty Hassan II, King of Morocco	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Household: A crystal wine decanter with an etched floral design and an attached silver hinged top and handle, made by Atlantis; 13½" tall ($500); Archives. Photograph: An autographed color photograph of Prime Minister and Mrs. Silva, framed in a plain silver frame with wooden easel back; 7¾" x 9¾" overall ($65). Archives. Received: February 24, 1988. Est. Value: $565.	His Excellency Anibal Cavaco Silva, Prime Minister of Portugal.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Clothing: A basque wood walking stick, "Makhila," with sterling silver hand and tip, engraved with donor's name, etc.; handle unscrews to reveal a spike; leather strap attached; 36½" long. Archives. Received: March 22, 1988. Est. Value: $250.	The Honorable Jose Antonio Ardanza, President of the Basque Autonomous Region of Spain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A set of sterling silver pieces used for crushing and storing betel nuts; the lid of the largest piece is inscribed to President Reagan; displayed in a fitted case. Archives. Received: April 28, 1988. Est. Value: $400.	His Excellency Air Chief Marshall Siddhi Savetsila, Minister of Foregn Affairs of the Kingdom of Thailand.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Sword: "Dab Nam Bhee" (sacred sword), mother-of-pearl and silvered handle and sheath; displayed on a wood carved stand with presentation plaque; 35½" long. Archives. Received: November 16, 1988. Est. Value: $350.	Lieutenant General Sawaeng Theerasawat, Deputy Director General, The Royal Thai Police Department, Thailand.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A silk hand-knotted carpet depicting geometric motifs, in blue, brown, black, champagne, etc., on beige background; fringed on two ends; 38" x 67". Archives. Received: December 15, 1988. Est. Value: $2075.	His Excellency Turgut Ozal, Prime Minister of the Republic of Turkey.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: a panorama bronze casting scale model of the Kremlin by A. N. Lysenkov, 1:1000, measuring 14" x 15"; displayed in a a slide-out wood box ($200); Archives. Household: A porcelain vase, "Peace to the Earth Vase," limited edition of one; white with blue and gold trim, centered with Soviet and American flag design; 27⅛" tall; displayed in a vinyl case ($150). Archives. Received: May 29, 1988. Est. Value: $350.	His Excellency Mikhail Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: A porcelain figurine of a peace dove with a Soviet and American flag on each wing, mounted on a floral configuration base; 17" tall ($125); Archives.. Consumables: Five 4-ounce jars of Russian caviar and three bottles of vodka ($540). Perishable. Received: December 15, 1988. Est. Value: $665.	His Excellency Mikhail Gorbachev, Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household: A handpainted Russian lacquier box, containing a 5-oz. silver medallion with Russian lettering and depicting a woman holding a child; box is 7" × 5" × 2". Archives. Received: September 23, 1988. Est. value: $400.	His Excellency Eduard A. Shevardnadze, Minister of Foreign Affairs of the Union of Soviet Socialist Republics.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Artwork: Oil painting of two women and a child by Mivingau(?), 1977, in simple black wood frame; 32½" × 40½" ($850); Archives. Artwork: Brass figure of a man in kneeling position by Joneur de Maracasse I Liyolo, 1986, Zaire; 14" tall ($800). Archives. Received: June 9, 1988. Est. Value: $1650.	Marshall, Sese Seko Mobutu, President of the Republic of Zaire.	Non-Acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Lady	Clothing: Silk brocade sari, gold-threaded with blue, red, and green colors; 20½ feet long, 43 inches wide. Archives. Received: November 18, 1988. Est. Value: $350.	His Excellency Hussain Muhammad Ershad, President of the People's Republic of Bangladesh.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Clothing: One buttoned 3/4-length jacket and a matching skirt, rayon/acetate, size 6; by Alfred Sung, Canada ($748); Archives. Consumables: One fluid ounce bottle of "Sung" perfume by Alfred Sung ($180). Perishable. Received: April 27, 1988. Est. Value: $928.	Mrs. Mila Mulroney, Wife of the Prime Minister of Canada.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: A porcelain-glazed metal punch bowl multicolored modernistic design on beige background by Kayo O'Young, signed, 1988; 12" in diameter, 6½" tall ($150); Archives. Clothing: A hand-dyed and hand-woven charcoal gray silk shawl by Diana Sanderson; fringed at two ends; 7 feet long by 34 inches wide ($200); Archives. Hair Care Products: One bottle each of hairshaping spray, hair remoisturizer, shampoo, and gel mist hair structurizer, all by Lacoupe, 9 oz. each; and an 8 oz. jar of creme regenerative hair repair cream ($50). Perishable. Received: June 19, 1988. Est. Value: $400.	Mrs. Mila Mulroney, Wife of the Prime Minister of Canada.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Award: Medals on ribbons, "Republica de Colombia Orden del Conresso, Grado Gran Cruz Extraordinaria," contained in leather case with Seal of Colombia, and, a certificate awarding same, contained in a vinyl tube. Archives. Received: October 20, 1988. Est. Value: Indeterminable.	Government of Colombia	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: Tablecloth, white voile type fabric with deep blue embroidered tree design in center and around edges, 68" square; and six matching napkins with one tree motif, 20" square each. Archives. Received: September 29, 1988. Est. Value: $450.	His Excellency Francois Mitterrand, President of the French Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: "Trumpeter Flower Vase" by Hochst; 8" tall, 6½" diameter across mouth. Archives. Received: November 15, 1988. Est. Value: $205.	His Excellency Dr. Helmut Kohl, Chancellor of the Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Clothing: Evening bag, black faux crocodile with black cord strap by Fendi, 6½" × 8½". Archives. Received: June 14, 1988. Est. Value: $595.	His Excellency Ciriaco De Mita, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Award: "Woman of Peace Award for 1988" as represented by a silver globe of the earth on pedestal, engraved; 9" high × 6" × 6"; displayed in a red case ($750). Archives. Award: A gold-framed certificate conferring on Nancy Reagan the "Woman for Peace Award," 17" × 22½" overall ($65). Archives. Received: June 1, 1988. Est. Value: $815.	Mrs. Mariapia Fanfani, President, Together for Peace Foundation of Italy.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Lady	Household: A 9" × 12" lacquerware stationery box with flaked arabesque flowering plant design on lid and a doll dressed in traditional brocade costume, 8½" tall ($450). Archives. Household: A two-piece hinged pillow screen in openwork design made from cedar trees that laid buried in volcanic ash for 2,600 years, crafted by Toshikazu Ohashi; 26" × 34" in size when closed ($1,500). Archives. Received: January 13, 1988. Est. Value: $1,950.	Mrs. Naoko Takeshita, Wife of the Prime Minister of Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: Sterling silver and cloisonne jewelry box, octagonal shape with key lock; 11½" long, 7" deep, 5½" high; housed in a velvet-covered chest with key. Archives. Received: October 20, 1988. Est. Value: $650.	Mrs. Roh Tae Woo, Wife of the President of the Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Jewelry: A double strand of Kuwaiti natural pearls with 18 kt. gold clasp; housed in a miniature traditional Kuwaiti wood chest with applied gold designs; chest measures 6" × 4½". Archives. Received: July 12, 1988. Est. Value: $3,500.	His Highness Sheikh Saad Al Abdullah Al Sabah, Prime Minister and Crown Prince of the State of Kuwait.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Household: A bone china demitasse coffee set for six with ballet motifs on white background, made in Leningrad. Archives. Received: May 29, 1988. Est. Value: $150.	His Excellency Mikhail Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Photograph: Leather-bound album of 22 color photographs of the Reagans, the Gorbachevs, et al., on occasion of the Washington Summit. Archives. Received: February 22, 1988. Est. Value: $585.	Mrs. Raisa Gorbachev, Wife of the General Secretary of the Central Committee of the Communist Party of the Soviet Union.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Howard H. Baker, Jr., Chief of Staff to the President.	Household: A round cloisonne bowl in elaborate floral design with blue and white geometric border; approximately 12" in diameter, 2½" deep. GSA. Received: January 13, 1988. Est. Value: $350.	His Excellency Noboru Takeshita, Prime Minister of Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Howard H. Baker, Jr., Chief of Staff to the President.	Household: A lacquered oval plaque with hand-painted scene of two carts with four riders and three horses each, against a rural setting; 16½" long x 11½" high; signed by "Pedokuno, 1984." GSA. Received: June 14, 1988. Est. Value: $625.	His Excellency Mikhail Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Marlin Fitzwater, Assistant to the President for Press Relations.	Household: A handpainted lacquer box depicting the Kremlin; 7½" x 10" 2¾" deep ($2000); GSA. Book: Color photograph anthology entitled "Moscow" ($40). GSA. Received: May 31, 1988. Est. Value: $2040.	His Excellency Mikhail Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union.	Non-acceptance would cause embarrassment to donor and U.S. Government.
William R. Graham, Science Advisor to the President.	Household: A 50" x 70" Bokhara design Pakistani carpet in shades of rust, beige, and brown. GSA. Received: October 8, 1988. Est. Value: $500.	His Excellency Chaudry Ali Nisar, Minister of Science and Technology of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Nelson C. Ledsky, Special Assistant to the President for National Security Affairs.	Household: A handpainted lacquer box depicting the Kremlin; 7½" x 10" x 2¾" deep. GSA. Received: May 31, 1988. Est. Value: $2000.	His Excellency Mikhail Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Colin L. Powell, Assistant to the President for National Security Affairs.	Coins: Four commemorative Kuwaiti gold coins; one-half ounce of gold in each. GSA. Received: July 21, 1988. Est. Value: $840.	His Excellency Saad Al Abdullah Al Salim Al Sabah, Prime Minister and Crown Prince of the State of Kuwait.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Colin L. Powell, Assistant to the President for National Security Affairs.	Historic Artifact: A Roman glass tear bottle, mounted and encased in lucite presentation case; 4" square, 7" tall. GSA. Received: June 27, 1988. Est. Value: Indeterminable.	His Excellency Yitzhak Rabin, Minister of Defense of Israel.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Colin L. Powell, Assistant to the President for National Security Affairs.	Household: An ornately patterned sterling silver frame inscribed "CLP". GSA. Received: March 8, 1988. Est. Value: $360.	His Excellency Saoud Mohammad Al-Osaimi, Minister of State for Foreign Affairs for the State of Kuwait.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Colin L. Powell, Assistant to the President for National Security Affairs.	Weapon: A gold and silver inlaid Russian Baikal over and under 12 gauge shotgun, serial number Y00275. GSA. Received: June 1, 1988. Est. Value: $1200.	His Excellency Mikhail Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Robert H. Tuttle, Assistant to the President for Presidential Personnel.	Jewelry: A Chopard gold wristwatch and a pair of cuff links. GSA. Received: April 18, 1988. Est. Value: $4700.	His Highness Shaikh Isa Bin Sulman Al-Khalifa, Amir of the State of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Robert H. Tuttle, Assistant to the President for Presidential Personnel.	Jewelry: Two strands of graduated cultured pearls. GSA. Received: April 18, 1988. Est. Value: $600.	His Highness Shaikh Isa Bin Sulman Al-Khalifa, Amir of the State of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: VICE PRESIDENT AND MRS. GEORGE BUSH

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor & government	Circumstances justifying acceptance
Vice President and Mrs. George Bush	8 bottles vodka and 4 tins of caviar 3/30/88; $430; Used for official functions.	Eduard Shevardnadze, USSR	Non-acceptance would have caused embarrassment to donor & U.S. Government
Vice President and Mrs. George Bush	3 bottles vodka, 3 bottles wine, 4 tins caviar; 12/28/88; $340; used for official functions.	Eduard Shevardnadze, USSR	Non-acceptance would have caused embarrassment to donor & U.S. Government
Vice President George Bush	Sterling Silver framed picture and an Imari bowl; 1/20/88; $450; Accepted for display at Vice President's Residence.	Prime Minister Takeshita, Japan	Non-acceptance would have caused embarrassment to donor & U.S. Government
Timothy McBride, Aide to Vice President George Bush.	50 dinar gold commemorative coin; 7/25/88; $240; GSA.	Crown Prince Saad, Kuwait	Non-acceptance would have caused embarrassment to donor & U.S. Government
Donald P. Gregg, Assistant to the Vice President for National Security Affairs.	Silver triangle in gold wash with 3 Kuwaiti coins; 7/25/88; $300; GSA.	Crown Prince Saad, Kuwait	Non-acceptance would have caused embarrassment to donor & U.S. Government
Vice President George Bush	Ivory Carving of Egyptian boat and 3/30/88; $750; display at Vice President's Residence.	Mohamed Abdel Halim Abu Ghazala, Egypt.	Non-acceptance would have caused embarrassment to donor & U.S. Government
Vice President George Bush	Samovar; 12/15/88; $200, display at Vice President's Residence.	H.E. Prince Sadruddin Aga Khan, Switzerland.	Non-acceptance would have caused embarrassment to donor & U.S. Government
Vice President George Bush	Pair of Herend Candleabra; 7/27/88; $400; accepted for display at Vice President's residence.	Prime Minister Karolyi Grosz, Hungary	Non-acceptance would have caused embarrassment to donor & U.S. Government
Vice President George Bush	Gold Commemorative Coin; 1/4/88; $625.	Fernando Gutierrez-Barrios, Mexico	Non-acceptance would have caused embarrassment to donor & U.S. Government
Vice President and Mrs. George Bush	Sterling Silver Model of a Hooded Arabian Falcon; box of wood inlaid with silver; strand of natural pearls 7/19/88; $3500; GSA.	Crown Prince Saad, Kuwait	Non-acceptance would have caused embarrassment to donor & U.S. Government
Vice President George Bush	Ivory & Brass Candleabra; 6/30/88; $350; GSA.	Crown Prince Saad, Kuwait	Non-acceptance would have caused embarrassment to donor & U.S. Government

AGENCY: UNITED STATES SENATE

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Bill Bradley, U.S. Senator	Copper Enamel Painting by Zurab Tzeretell. Recd.—January 19, 1988. Est. Value—$300. Deposited with the Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate. Title transferred to St. Peters Interparish school 6/4/88, and painting transferred 9/18/88. 3. paintings: Raised metallic painting and 2 paintings by Tbilisi. Recd.—January 19, 1988. Est. Value—in excess of $100 for each item. Deposited with USIA. Metallic plate—Kremlin scene. Recd.—January 19, 1988. Est. Value—in excess of $100. Deposited with USIA. Heavy metal and silver Azerbaijan belt. Recd.—January 19, 1988. Est. Value—over $150. Deposited with the Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate. Silver ring with filigree design. Recd.—January 19, 1988. Est. Value—over $100. Deposited with the Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate.	Government of the Soviet Union	Refusal would likely cause offense or embarassment.
Bill Bradley, U.S. Senator	Bracelet with silver leaf. Recd.—January 19, 1988. Est. Value—over $100. Deposited with the Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate.	Government of the Soviet Union	Refusal would likely cause offense or embarassment
Robert C. Byrd, U.S. Senator	Ko Imari porcelain plate. Recd.—January 12, 1988 Est. Value—$500–$1,000. Deposited with the Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate.	His Excellency, Noboru Takeshita, Prime Minister of Japan/Japanese Government.	Refusal would likely cause offense or embarassment
Terry Sanford, U.S. Senator	Gold and pearl cufflinks. Recd.—April 27, 1988. Est. Value—$300. Deposited with the Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate.	Congressman Kabun Moto of Japan	Refusal would likely cause offense or embarassment

AGENCY: UNITED STATES SENATE

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
James T. Bruce III, Senior Counsel, Committee on Energy and Natural Resources.	Food, lodging, and ground transportation in Japan. February 8–15, 1988.	Japan National Oil Corp., Government of Japan.	Refusal would likely cause offense or embarrassment.
Daniel M. Crane, Legislative Director for Senator Daniel P. Moynihan.	Round trip air fare, Washington, D.C. to Frankfurt, and West Berlin including lodging and meals. November 27–December 3, 1988.	Konrad-Adenauer-Stiftung Foundation, Federal Republic of Germany.	Refusal would likely cause offense or embarrassment.
Richard B. Doyle, Senior Analyst for Defense, Senate Committee on the Budget.	Round trip air transportation, Washington, D.C. to Iraq and Saudi Arabia, including lodging and meals and local transportation. November 9–22, 1988.	Council of Saudi Arabia Chamber of Commerce and Industry.	Refusal would likely cause offense or embarrassment.
Senator and Mrs. Mark O. Hatfield, U.S. Senator.	Round trip air transportation, Portland, Oregon, to Taipei, Taiwan, including local transportation, lodging, and meals. July 18–22, 1988.	Chinese Cultural University, Taipei, Republic of China.	Refusal would likely cause offense or embarrassment.
Howell T. Heflin, U.S. Senator	Local transportation in New Zealand and Australia. January 12–17, 1988.	New Zealand and Australian Governments.	Refusal would likely cause offense or embarrassment.

AGENCY: UNITED STATES SENATE—Continued

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Robert F. Hurley, Chief of Staff for Senator John Chafee.	Local transportation in Luxor, Egypt and Baghdad, Iraq. December 2–12, 1988.	Military Command, Government of Egypt and Ministry of Foreign Affairs, Government of Iraq.	Refusal would likely cause offense or embarrassment.
Barbara Mills Larkin, Legislative Assistant to Senator Terry Sanford.	Round trip air fare, Washington, D.C. to Soviet Union, including local transportation, lodging, and meals. June 15–19, 1987.	Committee of Youth Organizations of the USSR.	Refusal would likely cause offense or embarrassment.
Barbara Mills Larkin, Legislative Assistant to Senator Terry Sanford.	Round trip air fare from Washington, D.C. to South Korea, including food, lodging, and local transportation. August 20–29, 1987.	Ilhae Institute of Seoul and Government of South Korea.	Refusal would likely cause offense or embarrassment.
Susan Aheron Magill, Administrative Assistant to Senator John Warner.	Local transportation, lodging, and meals in the People's Republic of China. October 15–31, 1987.	All China Youth Federation of the People's Republic of China.	Refusal would likely cause offense or embarrassment.
Edmund J. Mihalski, Chief of Staff, Committee on Finance.	Local transportation in Luxor, Egypt and Baghdad, Iraq. December 6–10, 1988.	Military Command, Government of Egypt and Ministry of Foreign Affairs, Government of Iraq.	Refusal would likely cause offense or embarrassment.
John H. Moseman, Administrative Assistant to Senator Frank Murkowski.	Local transportation in Luxor, Egypt and Baghdad, Iraq. December 6–10, 1988.	Military Command, Government of Egypt and Ministry of Foreign Affairs, Government of Iraq.	Refusal would likely cause offense or embarrassment.
Greg Schnacke, Legislative Assistant to Senator Robert Dole.	Round trip air fare, Washington, D.C. to Taiwan, including lodging and meals. July 17–27, 1988.	Tunghai University of Taichung, Taiwan	Refusal would likely cause offense or embarrassment.
Cynthia S. Shade, Legislative Assistant to Senator Bennett Johnston.	Round trip air fare, Washington, D.C. to China, including local transportation, lodging, and meals. October 4–18, 1988.	Chinese Ministry of Forestry, People's Republic of China.	Refusal would likely cause offense or embarrassment.

AGENCY: U.S. HOUSE OF REPRESENTATIVES

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Alan B. Mollohan, Member of Congress	6 x 10 rug. Recd. April 1988. Est. Value—$200. Approved for official display.	Muhammad bin Rashid bin Sa'id Al Maktum, Minister of Defense, United Arab Emirates.	Non-acceptance would have caused embarrassment to donor.
Bernard J. Dwyer	3 x 5 rug. Recd. August 1987/approved for official display 1988. Est. Value—$400.	General Mohammed Zia-Ul-Hag, Pakistan.	Non-acceptance would have caused embarrassment to donor.

AGENCY: U.S. HOUSE OF REPRESENTATIVES

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Doug Bereuter, Member of Congress	Lodging/Meals at Interhotel Potsdam for 3 days/3 nights. Est. Value—$400.	German Democratic Republic	Conference on East-West security.
Rod Chandler, Member of Congress	Helicopter tour of Hong Kong	Hong Kong Economic and Trade Office, British Embassy.	Non-acceptance would have caused embarrassment to donor.
Thomas J. Downey, Member of Congress.	Air transportation from Coromendal, New Zealand to Wellington, New Zealand and from Wellington to Auckland, New Zealand, plus two nights' lodging in Wellington.	Ministry of Foreign Affairs, New Zealand.	MC accompanied Right Honorable David Lange, Prime Minister of New Zealand.
Mervyn M. Dymally, Member of Congress.	Transportation Nice to Brussels to Kinshasa, Zaire, plus hotel accommodations in Nice and Kinshasa.	Government of Zaire	In conjunction with meeting with President Mobutu.
Bill Frenzel, Member of Congress	Air transportation between Taipei, ROC and Hong Kong, plus 2 nights' lodging. Est. Value—$574.	Government of Hong Kong	Meeting with trade and political officials of Government of Hong Kong.
Jerry Huckaby, Member of Congress	Travel within Australia and New Zealand.	Australian Livestock & Meat Board/ New Zealand Livestock and Dairy Board (Quasi-govern. agencies).	Fact-finding tour.

AGENCY: U.S. HOUSE OF REPRESENTATIVES—Continued

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Michael G. Oxley, Member of Congress	Air transportation from Taipei to Hong Kong, plus hotel accommodations. Est. Value—$578.	Government of Hong Kong	Meeting with trade officials in conjunction with official duties.
J. Roy Rowland, Member of Congress	Travel within Australia and New Zealand.	Australian Livestock & Meat Board/ New Zealand Livestock and Dairy Board (Quasi-govern. agencies).	Fact-finding tour.
Debra A. Buettner, Office of Hon. Joel Hefley.	Food and lodging and bus transportation in India.	Four Indian political parties	Participation in foreign exchange sponsored by American Council of Young Political Leaders to India.
Daniel B. Waggoner, Subcomm. on Livestock, Dairy, and Poultry.	Travel within Australia and New Zealand, plus hotel and food.	Australian Livestock & Meat Board/ New Zealand Livestock and Dairy Board (Quasi-govern. agencies).	Fact-finding tour.
John R. Kasich, Member of Congress	One night's lodging and two meals in Costa Rica.	Costa Rican Government and Costa Rican Legislative Assembly.	Fact-finding tour.

AGENCY: AFRICAN DEVELOPMENT FOUNDATION

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Leonard H. Robinson, Jr., President	Nigerien camel saddle made of wood, leather, and silver. Rec'd.—Feb. 25, 1988. Est. Value—$850. Approved for official use.	Hamid Algahit, Prime Minister of Niger	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: CENTRAL INTELLIGENCE AGENCY

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identify of foreign donor and government	Circumstances justifying acceptance
Agency Employee	Cartier style "Paha DeCartier" gilt and enameled fountain pen. Recd. 19 February 1988. Est. Value—$250.00. To be reported to GSA for disposition.	Public Law 95-105 A(F)(4)	Nonacceptance would have caused embarrassment to donor.
Robert M. Gates, Deputy Director, CIA	Flexible yellow gold bracelet en suite with preceding. Recd.—30 September 1988. Est. Value—$200.00. To be reported to GSA for disposition.	Public Law 95-105 A(F)(4)	Nonacceptance would have caused embarrassment to donor.
Robert M. Gates, Deputy Director, CIA	Middle Eastern yellow gold ensemble, consisting of necklace, bracelet, and pair pendant earrings. Recd. 30 September 1988. Est. Value—$350.00. To be reported to GSA for disposition.	Public Law 95-105 A(F)(4)	Nonacceptance would have caused embarrassment to donor.
Robert M. Gates, Deputy Director, CIA	Pair tent hangings. 5.3x10. Red ground with vertical design with sequins. Recd. 30 September 1988. Est. Value—$900.00. To be reported to GSA for disposition.	Public Law 95-105 A(F)(4)	Nonacceptance would have caused embarrassment to donor.

AGENCY: CENTRAL INTELLIGENCE AGENCY

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Robert M. Gates Deputy Director, CIA	Dagger with gold pommel and sheath. L: overall 10¾. Recd. 30 September 1988. Est. Value—$250.00. To be reported to GSA for disposition.	Public Law 95-105 A(F)(4)	Nonacceptance would have caused embarrassment to donor.

AGENCY: CENTRAL INTELLIGENCE AGENCY—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Robert M. Gates Deputy Director, CIA	Helwan chromed 9mm auto pistol, with extra clip and cleaning kit, encased. Recd. 30 September 1988. Est. Value—$450.00. To be retained for official display.	Public Law 95-105 A(F)(4)	Nonacceptance would have caused embarrassment to donor.
William H. Webster, Director, CIA	Middle Eastern 'Kilim' runner, approximately 13' × 3'. Striped field with fringe ends. Recd. 31 May 1988. Est. Value—$250.000. To be reported to GSA for disposition.	Public Law 95-105 A(F)(4)	Nonacceptance would have caused embarrassment to donor.
William H. Webster, Director, CIA	Pair Continental silver pricket-type candlesticks inscribed. H: 10¼; Wt. 76oz. Recd. 11 April 1988. Est. Value—$500.00. To be reported to GSA for disposition.	Public Law 95-105 A(F)(4)	Nonacceptance would have caused embarrassment to donor.
William H. Webster, Director, CIA	Serpentine hardstonedfigure group of dragon and phoenix bird centering a pearl on lacquered wood base, Hill. Recd. 15 November 1988. Est. Value—$250.00. To be reported to GSA for disposition..	Public Law 95-105 A(F)(4)	Nonacceptance would have caused embarrassment to donor.
William H. Webster, Director, CIA	Helwan chromed 9mm auto pistol, with extra clip and cleaning kit, encased. Recd. 30 September 1988. Est. Value—$450.00. To be retained for official display..	Public Law 95-105 A(F)(4)	Nonacceptance would have caused embarrassment to donor.
William H. Webster, Director, CIA	Malachite table decoration. Consisting of ashtray-form tray, and an egg. Irregular tray: L:10. Recd. 19 February 1988. Est. Value—$250.00. Retain for official display.	Public Law 95-105 A(F)(4)	Nonacceptance would have caused embarrassment to donor.
William H. Webster, Director, CIA	Cartier quartz date desk clock. Serial number 7531/07496. Enameled and brass case. Recd. 17 February 1988. Est. Value—$350.00. Retain for official display.	Public Law 95-105 A(F)(4)	Nonacceptance would have caused embarrassment to donor.
William H. Webster, Director, CIA	Middle Eastern bridal mirror studded with gilt tacks. With two hinged doors concealing a looking glass. H: 51. Recd. 31 May 1988. Est. Value—$225.00 To be reported to GSA for disposition.	Public Law 95-105 A(F)(4)	Nonacceptance would have caused embarrassment to donor.
William H. Webster, Director, CIA	Bokhara rug. 6×4.2. Red ground with three rows of eighteen guls alternating with cruciforms. Recd. 16 October 1988. Est. Value—$350.00. Retain for official display.	Public Law 95-105 A(F)(4)	Nonacceptance would have caused embarrassment to donor.
William H. Webster, Director, CIA	Indo-Isphahan garden rug. 5.4×3.7. Navy blue ground with flowering tree, animals, birds, and duck field. Complementary guard border on green/gray ground. Recd. 16 October 1988. Est. Value—$450.00. Retain for official display.	Public Law 95-105 A(F)(4)	Nonacceptance would have caused embarrassment to donor
William H. Webster, Director, CIA	Carved Wood four-fold screen. H:72. Recd. 16 October 1988. Est. Value—$400.00. To be reported to GSA for disposition.	Public Law 95-105 A(F)(4)	Nonacceptance would have caused embarrassment to donor
William H. Webster, Director, CIA	Indo-Isphahan garden rug. 5.4×3.7. Navy blue ground with flowering tree, animals, birds, and duck field. Complementary guard border on green/gray ground. Recd. 16 October 1988. Est. Value—$450.00. Retain for official display.	Public Law 95-105 A(F)(4)	Nonacceptance would have caused embarrassment to donor

AGENCY: U.S. DEPARTMENT OF COMMERCE

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
C. William Verity, Secretary	Herand Vase with engraved silver plaque. Recd.—June 10, 1988. Est. Value—$402.	Jozsef Marja, Deputy Prime Minister, Ministry of Trade, Hungary.	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.
C. William Verity, Secretary	Herrand Vase. Recd.—July 2, 1988. Est. Value—$241. Approved for Official Use.	Karoly Grosz, Chairman of the Council of Minister, Hungary.	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.
C. William Verity, Secretary	Crystal Dolphin. Recd.—December 8, 1988. Est. Value—$350.00. Approved for Official Use.	S.F. Voenushkin, Minister of Building Materials Industry, Soviet Union.	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Richard L. Armitage, Assistant Secretary of Defense (International Security Affairs).	Men's Baume & Mercier watch, 18K gold and stainless steel, with matching cuff links. Recd.—January 1988. Est. Value—$1,900. Delivered to GSA August 11, 1988.	Isa bin Sulman Al Khalifa, The Amir of the State of Bahrain.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Richard L. Armitage, Assistant Secretary of Defense (International Security Affairs).	Strand of cultured pearls, approx. 19". Recd.—January 1988. Est. Value—$600. Delivered to GSA August 11, 1988.	Isa bin Sulman Al Khalifa, The Amir of the State of Bahrain.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Richard L. Armitage, Assistant Secretary of Defense (International Security Affairs).	Octagonal wooden table, with white inlaid design, approx. 24" in diameter. Recd.—April 1988. Est. Value—$200. Delivered to GSA June 8, 1988.	General Mohammed Zia-ul-Haq, President of Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Richard L. Armitage, Assistant Secretary of Defense (International Security Affairs).	Large brass lamp, with cutout design. Recd.—April 1988. Est. Value—$150. Delivered to GSA June 8, 1988.	General Mohammed Zia-ul-Haq, President of Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Richard L. Armitage, Assistant Secretary of Defense (International Security Affairs).	Rug, approx. 3'×5½', mauve and cream. Recd.—April 1988. Est. Value—$1,400. Approved for official display.	General Mohammed Zia-ul-Haq, President of Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Richard L. Armitage, Assistant Secretary of Defense (International Security Affairs).	Pakistani rug, approx. 4'×6', blue, cranberry, cream and black. Recd.—December 1988. Est. Value—$2,000. Approved for official display.	Mr. Ghulam Ishaq Khan, President of Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Richard L. Armitage, Assistant Secretary of Defense (International Security Affairs).	Set of 4 wooden stack end tables, with carved floral design and 3 drawers. Recd.—December 1988. Est. Value—$250. Reported to GSA February 3, 1989; pending transfer to GSA.	Admiral Iftikhar Ahmed Sirohey, Chairman, Joint Chiefs of Staff Committee, Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Richard L. Armitage, Assistant Secretary of Defense (International Security Affairs).	Men's Corum quartz watch, 18K gold with Roman numerals engraved on gold around the face, with brown alligator straps, in red leather case. Recd.—December 7, 1988. Est. Value—$3,000. Reported to GSA January 5, 1989; pending transfer to GSA.	Nawwaf Al-Jabir Al-Sabah, Minister of Defense of Kuwait.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Melba Boling, Confidential Assistant to the Secretary of Defense.	Ladies' Baume and Mercier watch, 18K gold and stainless steel. Recd.—January 1988. Est. Value—$1,250. Transferred to IRS September 20, 1988, per GSA.	Isa bin Sulman Al Khalifa, The Amir of the State of Bahrain.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA Director, Defense Security Assistance Agency.	Wooden coffee table, approx. 17¼"×35¼"; and two wooden end tables, approx. 11¼"×17¼". Recd.—January 14, 1988. Est. Value—$180. Delivered to GSA June 8, 1988.	General Mohammed Zia-ul-Haq, President of Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA Director, Defense Security Assistance Agency.	Bedspread, approx. 94"×108", with two pillow shams, gray with design of red and gold thread. Recd.—January 14, 1988. Est. Value—$180. Delivered to GSA June 8, 1988.	General Mohammed Zia-ul-Haq, President of Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
LTG Charles W. Brown, USA Director, Defense Security Assistance Agency.	Round wooden table, with white inlaid design, approx. 36" in diameter. Recd.—April 7, 1988. Est. Value—$250. Approved for official display in residence at Fort Myer, Virginia.	General Mohammed Zia-ul-Haq, President of Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA Director, Defense Security Assistance Agency.	Wooden chest, approx. 18"×16½"×12½". Recd.—April 7, 1988. Est. Value—$150. Approved for official display in residence at Fort Myer, Virginia.	General Mohammed Zia-ul-Haq, President of Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA Director, Defense Security Assistance Agency.	Two small wooden tables, with brass inlaid design, 12" in diameter, on stands 11¾" tall. Recd.—June 6, 1988. Est. Value—$300. Delivered to GSA August 11, 1988.	Syed Ijlal Haider Zaidi, Secretary of Defense, Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA Director, Defense Security Assistance Agency.	Black cordless telephone with mother-of-pearl, Oriental design. Recd.—June 8, 1988. Est. Value—$180. Delivered to GSA August 11, 1988.	Major General Lee Change Koo, 2nd Assistant Minister of National Defense, Republic of Korea.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA Director, Defense Security Assistance Agency.	Black lacquered jewelry box with mother-of-pearl, Oriental design. Recd.—June 8, 1988. Est. Value—$150. Delivered to GSA August 11, 1988.	Major General Lee Change Koo, 2nd Assistant Minister of National Defense, Republic of Korea.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA Director, Defense Security Assistance Agency.	Two Pakistani rugs, 25"×35". Recd.—June 11, 1988. Est. Value—$350. Approved for official display.	Pakistani Secretary of Defense Production Division, Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA Director, Defense Security Assistance Agency.	Vase, 12" tall, on stand ($150); Men's Gold Glory Watch, Quartz ($150); Ladies' Gold Glory Watch, Quartz ($100); Red necktie with Taiwanese AF emblem ($30); and tablecloth, 88"×59", and ten napkins ($150). Recd.—September 23, 1988. Est. Value—$580. Reported to GSA November 28, 1988; pending transfer to GSA.	Gen. and Mrs. Chen Hsing-Ling, Commander in Chief, Republic of China Air Force.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA Director, Defense Security Assistance Agency.	Leather purse, fur-covered, 4½"×10" ($85); Leather wallet, fur-covered, 4"×5½" ($65); small leather box, with top portion of an iguana on lid, 4½"×6"×2" ($85); and snakeskin handbag, 10"×7½" ($150). Recd.—October 19, 1988. Est. Value—$385. Reported to GSA November 30, 1988; pending transfer to GSA.	MGen Latif, Principal Staff Officer to the President of Bangladesh.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA Director, Defense Security Assistance Agency.	Painting of Algerian man, on fired porcelain with gilded border, 11¼"×15¼", in large blue box ($225); book in Arabic with photographs, 104 pages, 11½"×12" ($20); banner, triangular with Algerian emblem, 6"×10½" ($1); and key chain with Algerian emblem ($5). Recd.—October 1988. Est. Value—$251. Reported to GSA November 29, 1988; pending transfer to GSA.	General-Major Abdellah Belhouchet, Vice Minister of National Defense, Algeria.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
LTG Charles W. Brown, USA Director, Defense Security Assistance Agency.	Carved wooden box, 10"×5¼" ($50), containing an ornamental silver dagger, 8" ($450). Recd.—October 1988. Est. Value—$500. Reported to GSA November 29, 1988; pending transfer to GSA.	General Mustapha Cheloufi, Member of the Central Committee, and Secretary General of the Ministry of National Defense, Algeria.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense.	Wall hanging or small carpet, with scene of countryside, approx. 5'2½"×3'10½", green, gray, black and red. Recd.—January 27, 1988. Delivered to GSA August 11, 1988.	Mohammed Hosni Mubarak, President, Arab Republic of Egypt.	Nonacceptance would have caused embarrassment to donor and U.S. Government
Frank C. Carlucci, Secretary of Defense.	Replica of a Dhow (boat), silver trimmed with gold. Recd.—January 1988. Est. Value—$350. Approved for official display.	Shaikh Ali Khalifa Al-Sabah, Minister of Petroleum of Kuwait.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense.	Four gold coins of the Central Bank of Kuwait. Recd.—January 1988. Est. Value—$940. Approved for official display.	Saad Al Abdullah Al Salim Al Sabah, Crown Prince and Prime Minister of Kuwait.	Nonacceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Frank C. Carlucci, Secretary of Defense..	Knife with 22K gold handle and gold sheaf with ornate engraving on one side and felt on bottom side. Recd.—January 1988. Est. Value—$3,000. Approved for official display.	Crown Prince of Bahrain	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Men's Chopard watch, 18K gold and stainless steel, with matching cuff links. Recd.—January 1988. Est. Value—$6,400. Transferred to IRS September 20, 1988, per GSA.	Isa bin Sulman Al Khalifa, The Amir of the State of Bahrain.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Double strand cultured pearls, approx. 17½". Recd.—January 1988. Est. Value—$1,100. Transferred to IRS September 20, 1988, per GSA.	Isa bin Sulman Al Khalifa, The Amir of the State of Bahrain.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Sterling silver disc on base, by Cartier. Recd.—January 1988. Est. Value—$200. Approved for official display.	Khalifa bin Ahmad Al Khalifa, Minister of Defense of Bahrain.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Automatic rifle in green case. Recd.—January 1988. Est. Value—$1,500. Delivered to GSA August 11, 1988.	His Royal Highness, Prince Sultan bin 'Abd al-'Aziz Al Sa'ud, Minister of Defense and Aviation of Saudi Arabi..	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Brass incense burner with tongs. Recd.—January 1988. Est. Value—$175. Approved for official display.	His Royal Highness, Prince Sultan bin 'Abd al-'Aziz Al Sa'ud, Minister of Defense and Aviation of Saudi Arabia.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Sword with gold and bone handle, encased in gold and leather case, with diamonds and rubies (simulated). Recd.—January 1988. Est. Value—$750. Approved for official display.	His Royal Highness, Prince Mohammad Bin Fahd Bin Abdul Aziz, Eastern Province Governor of Saudi Arabia.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Sunglasses, gold frame, by Must de Cartier. Recd.—February 18, 1988. Est. Value—$258. Delivered to GSA August 11, 1988.	Shaikh Khalifa bin Mubarak Al-Khalifa, brother of Foreign Minister of Bahrain.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Silver teapot, hand-carved. Recd.—February 1988. Est. Value—$300. Approved for official display.	Mutasim bin Hamud al-Busaidi, Minister of State for Defense, Sultanate of Oman.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	White porcelain figurine of lion, Nymphenburg "Royal Crown", Porzellanmanufaktur. Recd.—February 1988. Est. Value—$300. Approved for official display.	President Strauss, Minister of Bavaria, Germany.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Miniature wooden screen, four-sectioned, with painted pictures on each side. Recd.—March 7, 1988. Est. Value—$250. Approved for official display.	Wu Xueqian, State Councillor and Minister of Foreign Affairs, People's Republic of China.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Zenith Neuchatel clock. Recd.—March, 1988. Est. Value—$1,800. Approved for official display.	Arnold Koller, Minister of Defense, Switzerland.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Blue and white porcelain samovar and matching teapot set. Recd.—March 1988. Est. Value—$550. Approved for official display.	Dmitriy Yazov, Minister of Defense of the Soviet Union.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Frank C. Carlucci, wife of the Secretary of Defense.	Small lacquered box, small lacquered wall hanging, and perfume. Recd.—March 1988. Est. Value—$460. Box and wall hanging were approved for official display; perfume was delivered to GSA August 11, 1988.	Mrs. Dmitriy Yazov, wife of the Minister of Defense of the Soviet Union.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Small ivory statue of King Tut. Recd.—March 23, 1988. Est. Value—$200. Approved for official display.	Field Marshal Mohamed Abdel Halim Abu Ghazala, Deputy Prime Minister and Minister of Defence and Military Production of Egypt.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Automatic rifle, 9mm., in green case. Recd.—April 8, 1988. Est. Value—$1,800. Delivered to GSA August 11, 1988.	General Akhtar Abdul Rahman Khan, of Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Antique, flintlock pistol, 14" long, in green case. Recd.—April 1988. Est. Value—$600. Delivered to GSA August 11, 1988.	Zine El Abidine Ben Ali, President of Tunisia.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Wool carpet, grey, beige and tan, with white fringes, approx. 12'×8'. Recd.—April 1988. Est. Value—$750. Reported to GSA May 25, 1988; pending transfer to GSA.	General Mohammad Zia ul-Haq, President of Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Frank C. Carlucci, Secretary of Defense	Large round brass tray, engraved, with stand. Recd.—April 1988. Est. Value—$300. Delivered to GSA August 11, 1988.	General Mohammad Zia ul-Haq, President of Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Frank C. Carlucci, wife of the Secretary of Defense.	Pakistani carpet, brown, maroon and grey, 7'3"×4'9", rolled in dark green satin cover. Recd.—April 1988. Est. Value—$1,200. Approved for official display.	Miss Kaneez Fiza Junejo, daughter of the Prime Minister of Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense	Pakistani carpet, royal blue with Persian design, 7'×4'4", rolled in light green cover with tassels. Recd.—April 1988. Est. Value—$1,000. Approved for official display.	General A. A. Rehmen, CJCSC of Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense	Oblong wooden table, Pakistani design on top with small white inserts (with legs separate), approx. 50"×29½". Recd.—April 1988. Est. Value—$550. Reported to GSA December 30, 1988; pending transfer to GSA.	Muhammad Khan Junejo, Prime Minister of Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense	Large oblong painting, wooden frame, made with tiles (mosaic), of buildings, trees, and birds. Recd.—April 1988. Est. Value—$800. Delivered to GSA August 11, 1988.	MOD Slaheddine Baly of Tunisia	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense	Large wooden folding screen, latticework design with brass inlaid, 5'×18" panels. Recd.—April 1988. Est. Value—$500. Approved for official display.	General Mohammad Zia ul-Haq, President of Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense	Oblong painting, wooden frame, with scene of buildings and horse grazing, approx. 23½"×53½". Recd.—April 1988. Est. Value—$350. Approved for official display.	General Mohammad Zia-ul-Haq, President of Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense	Briefcase, tan snakeskin, approx. 19"×14". Recd.—Value—$500. Delivered to GSA May 13, 1988.	King Hassan II of Morocco	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense	Pakistani carpet, dark brown, rust and blue, rolled in dark green cloth cover, approx. 8'4"×5'2". Recd.—April 1988. Est. Value—$1,050. Approved for official display in office of Director, Administration and Management.	Rana Naeem Mahmud Rhan, Minister of State for Defence, Pakistan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense	Two paintings in black lacquered frames: one of a large rose; and one of a small bird. Recd.—April 1988. Est. Value—$450. Approved for official display.	Komeito Chairman Yano of Japan	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense	Miniature wooden screen, four-sectioned, with painted pictures on each side. Recd.—May 1988. Est. Value—$250. Approved for official display.	Tian Jiyun, Vice Premier of the State Council, People's Republic of China.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense	Scrimshaw, painting on ivory. Recd.—May 1988. Est. Value—$400. Approved for official display.	LTG Mikhail Aleksandrovice Molseyev, General Officer at Khabarovsk, Soviet Union.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense	Large wooden display box containing two cups, powder horn, hatchet and knife, engraved brass and gold. Recd.—May 1988. Est. Value—$1,200. Reported to GSA November 22, 1988 pending transfer to GSA.	Mikhail Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense	Large wooden box, decorated with walnut shells (Art of Nature Miro), brown and black. Recd.—June 1988. Est. Value—$700. Approved for official display.	Oh Ja Bok, Minister of National Defense of Korea.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense	Two large Japanese dolls, male and female, in glass case. Recd.—June 1988. Est. Value—$600. Reported to GSA November 7, 1988; pending transfer to GSA.	Junji Nishime, Governor of Okinawa Prefecture, Japan.	Nonacceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Frank C. Carlucci, Secretary of Defense..	Set of wooden bookends made of Xanthorrhoea (blackboys or grass trees) of Australia. Recd.—June 29, 1988. Est. Value—$250. Reported to GSA November 7, 1988; pending transfer to GSA.	Kim Beazley, Minister for Defense of Australia.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Replica of gun used by the Angolan Freedom Fighters, made of wood and ivory. Recd.—June 27, 1988. Est. Value—$800. Approved for official display.	Jonas Savimbi, Insurgent Chief of Angola..	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Collection of 8 gold and silver coins (dinars): 4 gold coins (91.67%), and 4 silver coins (92.5%); in display box. Recd.—July 1988. Est. Value—$1,554. Reported to GSA October 5, 1988; pending transfer to GSA.	Saad Al Abdullah Al Salim Al Sabah, Crown Prince and Prime Minister of the State of Kuwait.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Frank C. Carlucci, wife of the Secretary of Defense.	Small light blue porcelain tea set. Recd.—August 1988. Est. Value—$150. Reported to GSA February 6, 1989; pending transfer to GSA.	Mrs. Dmitriy Yazov, Wife of the Minister of Defense of the Soviet Union.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense, and Mrs. Carlucci.	Set of 2 porcelain wine decanters in shape of ladies, white, red and gold ($95); and 2 books on Moscow: one entitled MOSCOW; the other on art galleries in Moscow, with photographs and descriptions of artworks ($50). Recd.—August 1988. Est. Value—$145. Reported to GSA February 6, 1989; pending transfer to GSA.	Dmitriy Yazov, Minister of Defense of the Soviet Union.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Sword (pointer not cutting sword) encased in cloisonne cover with cloisonne handle (white and gold) ($250); and pink marble plaque with emblem. Recd.—September 1988. Est. Value—$250. Approved for official display.	General Qin Jiwei, Minister of Defense of China.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Frank C. Carlucci, wife of the Secretary of Defense.	Small wooden chest, rosewood with brass and white jade inlay. Recd.—September 1988. Est. Value—$175. Aproved for official display.	Mrs. Qin Jiwei, (Tang Xianmei), wife of the Minister of Defense of China.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Knife with silver and gold inlaid sheath. Recd.—September 1988. Est. Value—$350. Reported to GSA February 6, 1989; pending transfer to GSA.	Minister of Defense, Juanarena of Argentina.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Large ornate wall clock, brass. Recd.—October 1988. Est. Value—$250. Reported to GSA February 6, 1989; pending transfer to GSA.	Minister of Defense, Bolkenstein of the Netherlands.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense, and Mrs. Carlucci.	Silver-plated tea set, with platter and porcelain cups trimmed with silverplate. Recd.—November 1988. Est. Value—$500. Reported to GSA February 6, 1989; pending transfer to GSA.	Field Marshal Mohamed Abdel Halem Abu Ghazala, Minister of Defense and Military Production Egypt.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Flintlock pistol with cleaning brush, in a case. Recd.—November 1988. Est. Value—$259. Reported to GSA February 6, 1989; pending transfer to GSA.	Field Marshal Mohamed Abdel Halem Abu Ghazala, Minister of Defense and Military Production Egypt.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Frank C. Carlucci, wife of the Secretary of Defense.	Black crepe evening dress with sequins. Recd.—November 1988. Est. Value—$80. Reported to GSA February 6, 1989; pending transfer to GSA.	Field Marshal Mohamed Abdel Halem Abu Ghazala, Minister of Defense and Military Production Egypt.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Sterling silver cigarette box. Recd.—November 1988. Est. Value—$300. Reported to GSA February 6, 1989; pending transfer to GSA.	Field Marshal Mohamed Abdel Halem Abu Ghazala, Minister of Defense and Military Production Egypt.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Volumes 1-6 of 300 masterpieces of paintings in the Palace Museum, in Beijing, China. Recd.—November 1988. Est. Value—$344.80. Reported to GSA February 6, 1989; pending transfer to GSA.	Cheng Wei-Yuan, Minister of Defense of China.	Nonacceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Frank C. Carlucci, Secretary of Defense, and Mrs. Carlucci.	Two large pictures with scenes of the shore, fishing boats, etc., in black frames with white borders. Recd.—November 1988. Est. Value—$350. Reported to GSA February 6, 1989; pending transfer to GSA.	Mutasim bin Hamud al-Busaidi, Minister of State for Defense, Sultanate of Oman, and Mrs. Mutasim.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Frank C. Carlucci, wife of the Secretary of Defense.	Sterling silver incense burner with handle. Recd.—November 1988. Est. Value—$600. Reported to GSA February 6, 1989; pending transfer to GSA.	Mrs. Mutasim, wide of the Minister of State for Defense, Sultanate of Oman.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Sterling silver and gold-lined incense burner mounted on tray, with inlaid stones. Recd.—November 1988. Est. Value—$3,000. Reported to GSA February 6, 1989; pending transfer to GSA.	Mutasim bin Hamud al-Busaidi, Minister of State for Defense, Sultanate of Oman.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Fountain pen (Mont Blanc), gold and brass. Recd.—November 1988. Est. Value—$750. Reported to GSA February 6, 1989; pending transfer to GSA.	Sutanate of Oman.....	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Large sterling silver tea service. Includes: coffeepot, teapot, cream pitcher, sugar bowl and large tray. Recd.—December 1988. Est. Value—$7,500. Reported to GSA February 6, 1989; pending transfer to GSA.	Saad Al Abdullah Al Sabah, Crown Prince and Prime Minister of Kuwait.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Ceremonial sword in 22K gold-plated sheath. Recd.—December 1988. Est. Value—$2,500. Approved for official display.	His Excellency, Nawaf Al-Ahmad al-Jabin Al-Sabah, Minister of Defense of Kuwait.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Frank C. Carlucci, Secretary of Defense..	Samsonite carryon luggage, Silhouette 4000, with Wetpack, approx. 21", with combination lock, gray. Recd.—December 1988. Est. Value—$140. Reported to GSA February 6, 1989; pending transfer to GSA.	His Excellency, Nawaf al-Ahmad al-Jabin Al-Sabah, Minister of Defense of Kuwait.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Frank C. Carlucci, wife of the Secretary of Defense.	Samsonite attache case, Accord ST, approx. 18½", with combination lock, brown. Recd.—December 1988. Est. Value—$120. Reported to GSA February 6, 1989; pending transfer to GSA.	His Excellency, Nawaf al-Ahmad al-Jabin Al-Sabah, Minister of Defense of Kuwait.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Colonel James F. Carney, Jr., USAF, Office of the Assistant Secretary of Defense (International Security Affairs).	Men's Baume and Mercier watch, 18K gold and stainless steel. Recd.—January 1988. Est. Value—$1,700. Delivered to GSA August 11, 1988.	Isa bin Sulman Al Khalifa, The Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
ADM William J. Crowe, Jr., USN, Chairman, Joint Chiefs of Staff.	Replica of the "First Luppis—Whitehead Torpedo—1866," of the original exhibit at the Austrian Museum of Military History. Recd.—April 30, 1988. Est. Value—Undetermined. Approved for officiel display at the Navy Museum, Washington Navy Yard, Washington, DC.	General Othmar Tauschitz, General Troop Inspector, Austria.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
ADM William J. Crowe, Jr., USN, Chairman, Joint Chiefs of Staff.	"Essa Town Gate" Europa Quartz Clock, brass, 9¾" x 10¼". Recd.—May 3, 1988. Est. Value—$500. Delivered to GSA August 11, 1988.	Isa bin Sulman Al Khalifa, The Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. William J. Crowe, Jr., wife of the Chairman, Joint Chiefs of Staff.	16K gold necklace, with large gold beads, seed pearls, turquoise and red stones, approx. 34¼" in length; with two matching bracelets. Recd.—May 3, 1988. Est. Value—$6,000. Delivered to GSA August 11, 1988.	Isa bin Sulman Al Khalifa, The Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Donna J. Halsaver, Secretary to the Assistant Secretary of Defense (International Security Affairs).	Ladies' Baume and Mercier watch, 18K gold and stainless steel. Recd.—January 1988. Est. Value—$1,250. Transferred to IRS September 20, 1988, per GSA.	Isa bin Sulman Al Khalifa, The Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
J. Daniel Howard, Assistant Secretary of Defense (Public Affairs).	Men's Baume and Mercier watch, 18K gold and stainless steel, with matching cuff links. Recd.—January 1988. Est. Value—$1,900. Delivered to GSA August 11, 1988.	Isa bin Sulman Al Khalifa, The Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
J. Daniel Howard, Assistant Secretary of Defense (Public Affairs).	Strand of cultured pearls, approx. 19". Recd.—January 1988. Est. Value—$600. Delivered to GSA August 11, 1988.	Isa bin Sulman Al Khalifa, The Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
J. Daniel Howard, Assistant Secretary of Defense (Public Affairs).	Sterling silver tray, approx. 9" in diameter, with engraved design. Recd.—December 1988. Est. Value—$500. Reported to GSA January 4, 1989; pending transfer to GSA.	Mutasim bin Hamud al-Busaidi, Minister of State for Defense, Sultanate of Oman.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Lt. Col. Stephen J. Labadie, USMC, Aide to the Chairman, Joint Chiefs of Staff.	Men's Omega quartz "Seamaster" watch, gold and stainless steel. Recd.—May 1988. Est. Value—$500. Delivered to GSA August 11, 1988.	Isa bin Sulman Al Khalifa, The Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Milton L. Lohr, Deputy Under Secretary of Defense for Acquisition.	Inscribed ornamental pewter wine vessel, with handle, approx, 23" high. Recd.—October 14, 1988. Est. Value—$650. Approved for official display.	IGA Victor Marcais, of Direction des Recherches Etudes et Techniques (DRET), France.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Captain Teresa Mason, USAF, M.D., Flight Surgeon, Air Force Clinic, Pentagon.	Men's Baume and Mercier watch, 18K gold and stainless steel. Recd.—January 1988. Est. Value—$1,700. Delivered to GSA August 11, 1988.	Isa bin Sulman Al Khalifa, The Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
E.O. Joseph McMillan, Pakistan Country Director, Defense Security Assistance Agency.	Onyx lamp, approx, 19½" tall. Recd.—January 14, 1988. Est. Value—$250. Delivered to GSA August 11, 1988.	General Mohammad Zia-ul-Haq, President of Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Brig. Gen. David C. Meade, USA, Assistant Deputy Director for Politico-Military Affairs, J-5, Organization of the Joint Chiefs of Staff.	Men's Garrard watch, Quartz, gold with black leather straps. Recd.—December 16, 1988. Est. Value—$800. Reported to GSA January 10, 1989; pending transfer to GSA.	MG Mazyed Abdul Raman Al-Same, Chief of the General Staff, Kuwait Armed Forces, Kuwait.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
CDR William A. Miner, USN, Country Director, NESA, Office of the Assistant Secretary of Defense (International Security Affairs).	Men's Baume and Mercier watch, 18K gold and stainless steel. Recd.—January 1988. Est. Value—$1,700. Delivered to GSA August 11, 1988; pending transfer to GSA.	Isa bin Sulman Al Khalifa, The Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Lt. Col. Edward J. Robeson, USMC, J-5, Organization of the Joint Chiefs of Staff.	Men's Tissot watch, with Bahrain Defense Force Crest, PR 100, gold and stainless steel. Recd.—January 20, 1988. Est. Value—$400. Delivered to GSA August 11, 1988.	MG Khalifa Al Khalifa, Chief of Staff, Bahrain Defence Force, Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Glenn A. Rudd, Deputy Director, Defense Security Assistance Agency.	Ladies' quartz gold watch ($100); tablecloth, 88" x 59", and 10 napkins ($150). Recd.—September 22, 1988. Est. Value—$250. Reported to GSA November 28, 1988; pending transfer to GSA.	General and Mrs. Chen Hsing-Ling, Commander In Chief, Republic of China Air Force.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Glenn A. Rudd, Deputy Director, Defense Security Assistance Agency.	Decorative wooden table, approx. 22½" in diameter and 22½" high. Recd.—November 30, 1988. Est. Value—$350. Approved for official display.	Syed Ijtal Haider Zaidi, Secretary of Defence of Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
RADM Joseph C. Strasser, USN, Executive Assistant to the Chairman, Joint Chiefs of Staff.	Chopard gold mantel clock, 6" x 3". Recd.—May 4, 1988. Est. Value—$500. Reported to GSA February 6, 1989; pending transfer to GSA.	Isa bin Sulman Al Khalifa, The Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
RADM Joseph C. Strasser, USN, Executive Assistant to the Chairman, Joint Chiefs of Staff.	Men's Chopard watch, 18K gold and stainless steel, Monte Carlo. Recd.—May 4, 1988. Est. Value—$2,500. Reported to GSA February 6, 1989; pending transfer to GSA.	Isa bin Sulman Al Khalifa, The Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
NEGATIVE			

AGENCY: FEDERAL COMMUNICATIONS COMMISSION

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
James D. Schlichting, Legal Advisor to the Chairman.	Lodging, meals and in-country transportation expenses provided for participants in international seminar celebrating 25th anniversary of the Costa Rican Institute of Electricity (ICE). Estimated value of expenses: $316. Time of acceptance: May 25 & 26, 1988.	Antonio F. Canas, Executive President, Costa Rican Institute of Electricity, Government of Costa Rica.	Mr. Schlichting was invited by Costa Rica to participate in the seminar; accommodations were furnished and to have refused acceptance would have caused embarrassment to both parties.

AGENCY: DEPARTMENT OF HEALTH AND HUMAN SERVICES

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Dr. Carl C. Peck, Director, Center for Drug Evaluation and Research, Food and Drug Administration.	50,000 yen. Received—May 17, 1988. Estimated value)—$382.00. Deposited with U.S. Treasury, June 10, 1988.	Dr. Vchiyama, Deputy Director, National Institute of Hygienic Sciences, Ministry of Health and Welfare, Japan.	Attempts to decline acceptance were rebuffed; further effort would have caused embarrassment to donor.

AGENCY: AGENCY FOR INTERNATIONAL DEVELOPMENT

Report of Tangible Gifts

Name and Title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
John P. Humman, Director, USAID/Botswana.	Hotel room and meals July 5–6, 1988 while attending the National Conference on Strategies for Private Sector Development held in Francistown, Botswana. The conference was attended by four participants. Total costs=$900.00 at a cost of $225.00 per individual.	Mr. H.C. Von Sponeck, Resident Representative, UNDP.	Non-acceptance would have caused an embarrassment to the U.S. Government, UNDP and other donors.
William Elliott, Project Development Officer, USAID/Botswana.	Attended above conference		Same.
Cameron Smith, AID Consultant, USAID/Botswana.	Attended above conference		Same.
Bertha Matihabaphiri, FSN Secretary, USAID/Botswana.	Attended above conference		Same.
Joseph C. Wheeler, Chairman, Development Assistance Committee, Paris, France.	Meeting of the Africa Committee of International Fertilizer Development Center (IFDC), from January 6–9, 1988 in Lome, Togo. IFDC paid for tickets, hotel and meals. Total cost=$2,460.	IFDC Lome, Togo	Non-acceptance would have caused an embarrassment to the U.S. Government and IFDC.
Joseph C. Wheeler, Chairman, Development Assistance Committee, Paris, France.	Annual tidewater meeting in Jukkasjarvi, Sweden, July 1–3, 1988. Hotel room and meals for two nights and two days total estimated costs=$200.	Swedish Government	It was determined to be in the best interest of the OECD to attend this meeting.
Joseph C. Wheeler, Chairman, Development Assistance Committee, Paris, France.	Symposium on the Crisis of the Global System in Vienna, Austria, September 29–October 1, 1988. Hotel room for two days, two nights and breakfast total estimated costs=$240.00.	Vienna Institute for Development and Cooperation, Vienna, Austria.	It was determined to be in the best interest of the OECD to attend this meeting.

AGENCY: DEPARTMENT OF JUSTICE

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
William S. Sessions, Director, Federal Bureau of Investigation.	Rifle, Winchester 94, with gold-plated receiver Recd.—May 20, 1988 Est. Value—$450 Retained for official display in the Director's office.	Norman Inkster, Commissioner, Royal Canadian Mounted Police, Canada.	Non-acceptance would have caused embarrassmment to donor and U.S. Government.
William S. Sessions, Director, Federal Bureau of Investigation.	Korean Edition Paper Knife Set Recd.—October 15, 1988 Est. Value—$250 Retain for official display in the Director's office.	Bae Myung In, Director, Agency for National Security Planning, Republic of Korea.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
William S. Sessions, Director, Federal Bureau of Investigation.	Coin Collection, Olympic commemorative set Recd.—March 21, 1988 Est. Value—$600 Retained for official display in the Director's office.	Ahm Moo Yhuk, Olympic Representative, Republic of Korea.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
William S. Sessions, Director, Federal Bureau of Investigation.	Oil Vase, blown glass, amber, Recd.—October 27, 1988 Est. Value—$300 Retained for official display in the Director's office.	Gerhart Boeden, President, BFV Federal Republic of Germany.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Dick Thornburgh, Attorney General of the United States.	Scroll Painting, depicting two birds, 2' × 5' Recd.—October 6, 1988 Est. Value—$200 Retained for official display in the Office of the Attorney General.	Cai Chang, Minister of Justice, Peoples Republic of China.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Dick Thornburgh, Attorney General of the United States.	Pewter Bowl, with handles Recd.—December 1, 1988 Est. Value—$190 Retained for official display in the Office of the Attorney General.	Walter H. Diggelman, Executive Director Swiss-American Chamber of Commerce, Switzerland.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF JUSTICE

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U. S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Edwin Meese III, Attorney General of the United States.	Lodging and air travel expenses while on official visit from August 12 through 19, 1987 Lodging Est. Value—$2,000 Air travel from Beijing-Xian-Beijing Est. Value—$700.	Zou Yu, Minister of Justice Peoples Republic of China.	Non-acceptance would have caused embarrassment to donor and United States Government.
Edwin Meese III, Attorney General of the United States.	Lodging while on official visit from June 1 through 4, 1988 Est. Value—$350	Frederick Zimmerman, Minister of the Interior, Federal Republic of Germany.	Non-acceptance would have caused embarrassment to donor and United States Government.

AGENCY: NATIONAL ENDOWMENT FOR THE ARTS

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Jeanne Rhinelander Special Assistant to Chairman John Rhinelander (husband).	$100 rubles ($165 per day) per diem hotel owned by USSR Academy of Sciences; assumed hotel costs. September 4–8, 1988.	USSR Academy of Sciences	Husband participated in conference co-sponsored by American Academy of Arts and Sciences and USSR Academy of Sciences, Moscow

AGENCY: NATIONAL ENDOWMENT FOR THE HUMANITIES

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Lynne V. Cheney, Chairman	Blue and white, rectangular, ceramic bud vase approximately 10" high Recd.—May 2, 1988. Est. Value—$350. Approved for official use.	Dr. Chung Han Mo, Korean Minister of Culture and Information	Non-acceptance would have caused embarrassment to donor

AGENCY: DEPARTMENT OF THE NAVY

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Captain G. W. Bratschi, USN, U.S. Naval Supply Depot, Yokosuka.	Oriental design porcelain vase. Recd.—August 28, 1987. Est. Value—$185. Approved for official display.	Captain M. Kurata, Commanding Officer, Yokosuka Supply Depot, Japan Maritime Self Defense Force.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
General George B Crist, USMC, Commander in Chief, U.S. Central Command.	Heckler and Koch MP5 submachine gun. Recd.—May 28, 1988. Est. Value—$1,000. Approved for official display.	General Mohammed Zia Al Haq, President of Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
General George B Crist, USMC, Commander in Chief, U.S. Central Command.	Rosewood table, 4 × 2½'. Recd.—May 28, 1988. Est. Value—$500. Approved for official display.	General Mohammed Zia Al Haq, President of Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Lieutenant James B. Fitzpatrick, USN, Naval Hospital, Bethesda.	Commemorative 24th Anniversary gold coin, 16.966 grams in weight, 22k gold, 91.67% fine gold. Recd.—July 14, 1988. Est. Value—$190. Being held in Chief of Naval Operations (OP-09B33) pending transfer to GSA for disposition.	His Excellency Saad Al Abdullah Al Sabah, Crown Prince and Prime Minister of Kuwait.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Captain David G. Kemp, USN, Commanding Officer, Naval Hospital, Bethesda, MD.	Commemorative 25th Anniversary gold coin, 16.966 grams in weight, 22k gold, 91.67% fine gold. Recd.—July 14, 1988. Est. Value—$190. Being held in Chief of Naval Operations (OP-09B33) pending transfer to GSA for disposition.	His Excellency Saad Al Abdullah Al Sabah, Crown Prince and Prime Minister of Kuwait.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Rear Admiral Anthony A. Less, USN, Commander, Joint Task Force, Middle East.	Rolex wristwatch (Oyster Perpetual). Recd.—August 24, 1988. Est. Value—$7,089. Being held in Chief of Naval Operations (OP-09B33) pending transfer to GSA for disposition.	Sheik Isa Bin Sulman Al Khalifa, Emir of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Leanne C. Less, wife of Rear Admiral Anthony A. Less, USN, Commander, Joint Task Force, Middle East.	Multi-color 4' × 6' persian rug. Recd.—April 6, 1988. Est. Value—$800. Approved for official display.	Sheika Jawaher Mohammed Alqassemi, wife of Sheik Dr. Sultan Bin Mohammed Alqassemi, Ruler of Sharjan, United Arab Emirates.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Leanne C. Less, wife of Rear Admiral Anthony A. Less, USN, Commander, Joint Task Force, Middle East.	Rolex wristwatch (Oyster Perpetual). Recd.—August 24, 1988. Est. Value—$5,279. Being held in Chief of Naval Operations (OP-09B33) pending transfer to GSA for disposition.	Sheika Isa Bin Sulman Al Khalifa, Emir of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Theresa C. Lee, daughter of Rear Admiral Anthony A. Less, USN, Commander, Joint Task Force, Middle East.	Rolex wristwatch (Oyster Perpetual). Recd.—August 24, 1988. Est. Value—$1,819. Being held in Chief of Naval Operations (OP-09B33) pending transfer to GSA for disposition.	Sheik Isa Bin Sulman Al Khalifa, Emir of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Commander Lee K. Mandel, USN Naval Hospital, Bethesda, MD.	Commemorative 25th Anniversary gold coin, 16.966 grams in weight, 22k gold, 91.67% fine gold. Recd.—July 14, 1988. Est. Value—$190. Being held in Chief of Naval Operations (OP-09B33) pending transfer to GSA for disposition.	His Excellency Saad Al Abdullah Al Sabah, Crown Prince and Prime Minister of Kuwait.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Lieutenant Peter F. O'Connor, USN, Naval Hospital, Bethesda, MD.	Commemorative 25th Anniversary gold coin, 16.966 grams in weight, 22k gold, 91.67% fine gold. Recd.—July 14, 1988. Est. Value—$190. Being held in Chief of Naval Operations (OP-09B33) pending transfer to GSA for disposition.	His Excellency Saad Al Abdullah Al Sabah, Crown Prince and Prime Minister of Kuwait.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Major General Ross S. Plasterer, USMC, Commanding General, 1st Marine Aircraft Wing.	Brass ceremonial head-dress with jade attachments and glass case measuring 12" × 13" × 28". Recd.—March 25, 1988. Est. Value—$400. Approved for official display.	Mayor, Ye Chun, American Town, Yechon, South Korea.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF THE NAVY

Report of Travel or Expenses of Travel

Name of title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Negative.			

AGENCY: DEPARTMENT OF THE NAVY

Report of Tangible Gifts

Name of title of person accepting gift of behalf the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Captain Harry T. Rittenhour, USN, Commanding Officer, U.S.S. *Lasalle* (AGF 3).	Engraved Omega Stainless Steel wristwatch. Recd—February 18, 1988. Est. Value—$290. Being held in Chief of Naval Operations (OP-09B33) pending transfer to GAS for disposition.	H.H. Shaikh Isa Bin Sulman Al Khalifa, The Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Vice Admiral James B. Wilkinson, USN, Commander, Naval Air Systems Command.	27" pink coral necklace. Recd—April 19, 1988. Est. Value—$190. Being held in Chief of Naval Operations (OP-09B33) pending transfer to GSA for disposition.	Mr. Change Ming-Yao, Representative of the Coordination Council on North American Affairs.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Samuel Castleman, Protocol Officer	18K man's wrist watch with leather brown strap; Saudi insigna on round face. Recd.—February 15, 1985. Est. Value—$1800. Delivered to GSA September 8, 1988.	HRH Fahd ibn Abd al-Aziz Al Saud, King of Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Dale Dean, First Secretary U.S. Embassy Saudi Arabia.	Stainless steel and brass man's wrist watch with numerical day and with insigna on face in beige felt-covered presentation box. Recd.—Fall, 1985. Est. Value—$200. Delivered to GSA September 8, 1988.	Prince Muhamad b. Turkal-Farhan, Consultant, Ministry of Foreign Affairs Saudi Arabia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Dale Dean, Bureau of African Affairs	Seychelles Coco de Mer (a rare coconut-like object grown only in the Seychelles). approximately 10" x 9"×4½". Recd.—February 1988. Est. Value—$200. Approved for official use.	Mr. Marc Marengo, Charge d'Affaires, a.i., Republic of the Seychelles.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
April Glaspie, Country Director, NEA/ARN.	German Bavarian cut crystal decanter—13" tall with stopper. Recd.—May 1988. Est. Value—$200. Delivered to GSA September 8, 1988.	H.E. Amine Gemayel, President of the Republic of Lebanon.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Michael Gfoeller, Economic Officer American Embassy Bahrain.	Rolex man's time and date stainless steel and gold wrist watch in presentation box with green leather passport case. Recd.—September 29, 1988. Est. Value—$1000. Reported to GSA November 29, 1988; being held in the Office of Protocol pending delivery to GSA.	Amiri Court of the State of Bahrain	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Tatina Gfoeller-Volkoff, Political Officer, American Embassy, Bahrain.	(a) Rolex ladie's time and date stainless steel and gold wrist watch in presentation case. (b) Four gold round bracelets with design; approximately 2½" in diameter. Recd.—September 29, 1988. Est. Value—(a) $1000. (b) $500. Reported to GSA November 29, 1988; being held in the Office of Protocol pending delivery to GSA.	Amiri Court of the State of Bahrain	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
David M. Hale, Political Officer, U.S. Embassy Bahrain	(a) Woman's Rolex gold time and date watch; gold band. In red leather presentation box with red leather woman's wallet and tan hankerchief. (b) Two strand graduated pearl necklace with gold clasp; approx. 17" long one strand and 18" long one strand. (c) Man's gold Rolex time and date watch; gold band. In brown leather presentation case with brown leather note book and pads, and tan hankerchief. (d) Four gold round bracelets with design; approx. 2½" in diameter. Recd.—July 1, 1988. Est. Value—$18,037.14. Delivered to GSA September 8, 1988.	Shaikh Isa bin Sulman Al-Khalita, Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government
W. Nathaniel Howell, U.S Ambassador to Kuwait.	Andemars Piguet man's wrist watch with black alligator band. Recd.—December 7, 1988. Est. Value—$200. In the Office of Protocol pending delivery to GSA.	Minister of Defense, Kuwait	Non-acceptance would have caused embarrassment to donor and U.S. Government
Lowell C. Kilday, U.S. Ambassador to Dominican Republic.	Coin set issued to commemorate 500th anniversary of Columbus' arrival in the New World. The set includes one 500 peso gold coin, one 100 peso silver coin, and one 1 peso copper clad coin. There is also a commemorative stampe and envelope involved. Recd.—January 30, 1989. Est. Value: $700. Being held in the Office of Protocol pending delivery to GSA.	Roberto Saladin, Governor of Central Bank of Dominican Republic.	Non-acceptance would have caused embarrassment to donor and U.S. Government
David A. Korn U.S. Ambassador to Togo.	"Republique Togolaise, Album Philatelique Souvenir, Offert par son Excellence le Gen Gnassingbe Eyadema, President Fondateur du R.P.T. President de la Republique Togolaise" in black leather binder containing approximately 124 pages of stamps in various denominations, sizes, and shapes commemorating various events. Binder approximately 13"×10½". Recd.—April 4, 1988. Est. Value—$300. Reported to GSA October 17, 1988; being held in the Office of Protocol pending delivery to GSA.	H.E. Gnassingbe Eyadema, President of the Republic of Togo	Non-acceptance would have caused embarrassment to donor and U.S. Government
Richard W. Murphy, Assistant Secretary of State for Near Eastern and South Asian Affairs.	Four 22K gold Kuwait coins in presentation box. Recd.—July 14, 1988. Est. Value—$820. Delivered to GSA September 8, 1988.	H.R.H. Sheikh Saad Alabdullah Alsalim Alsabah of the State of Kuwait.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Richard Murphy, Assistant Secretary of State for Near Eastern and South Asian Affairs.	One gold coin. Recd.—October 3, 1988. Est. Value—$300. In the Office of Protocol pending delivery to GSA.	Sheikh Al-Sabah, Deputy Prime Minister and Minister of Foreign Affairs, Kuwait.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. David G. Newton, Spouse of U.S. Ambassador to Iraq.	Omega de Ville gold-plated ladies watch. Recd.—July 7, 1988. Est. Value—$375. Delivered to GSA September 8, 1988.	Abbas Abdul Aziz, Senior Member of the Ruling Baath Party.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
David G. Newton, U.S. Ambassador to Iraq.	Sterling silver model palm tree with small bunches of dates in gold; 13" high in acrylic presentation case. Recd.—July 11, 1988. Est. Value—$1500. Approved for official use.	Abbas Abdul Aziz, Senior Member of the ruling Baath Party.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Rozanne L. Ridgeway, Assistant Secretary of State for European and Canadian Affairs.	Necklace (3 large amber stones), bracelet (4 large amber stones), brooch (1 large amber stone), earrings (1 small and 1 medium amber stones). Recd.—June 1988. Est. Value—$300. Delivered to GAS September 8, 1988.	HE Mikhail Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Rozanne L. Ridgeway, Assistant Secretary of State for European and Canadian Affairs.	Six crystal dessert bowls. Recd.—December 1988. Est. Value—$180. In the Office of Protocol pending delivery to GSA.	HE Miroslav Houstecy, Ambassador to the U.S. of the Czechoslovak Socialist Republic.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Rozanne L. Ridgeway, Assistant Secretary of State for European and Canadian Affairs.	Amber necklace 4" long. Recd.—December 1988. Est. Value—$180. In the Office of Protocol pending delivery to GSA.	HE Jan Kinast, Ambassador to the U.S. of the Polish People's Republic..	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Rozanne L. Ridgeway, Assistant Secretary of State for European and Canadian Affairs.	Ceramic "merry-go-around" table lamp blue and white with 8 figurines; 11" high; 10" in diameter. Recd.—December 1987. Est. Value—$180. Approved for official use.	HE Mikhail Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union.	Non-acceptance would have caused embarrassment to donor and U.S. Government
Selwa Roosevelt, Chief of Protocol	Framed painting of an Egyptian Queen in colors of gold and turquoise with black background; frame ornate gold; approx. 22½" x 18½" Recd.—February 1, 1988. Est. Value—$185. Approved for official use.	H.E. Mohamed Hosni Mubarak, President of the Arab Republic of Egypt.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Selwa Roosevelt, Chief of Protocol	Necklace 18" long, slightly baroque/barrel shape pearls, 3mm-7.5mm, with white gold clasp. Recd.—August 3, 1988. Est. Value—$700. Delivered to GSA September 8, 1988.	HE Shaikh Saud Nasir Al-Sabah, Ambassador of the State of Kuwait.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Secretary of State and Mrs. George P. Shultz.	(a) Round hand mirror with ⅛ sterling silver border, floral etching and solid sterling silver back worked in ornate floral design with raised partridge for handle; approx. 6¼" across.) (b) Hand-woven rug with village scene in predominantly gold and green with multicolored building and brown birds and animals; approx. 41½" x 64¾". Recd.—January 28, 1988. Est. Value—(a) $100 (b) $150. Delivered to GSA September 8, 1988.	H.E. the President of the Arab Republic of Egypt and Mrs. Murbarak.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
George P. Shultz, Secretary of State	Octagonal porcelain dish by Vista Alegre of Portugal; approx. 12" across; floral design on white, trimmed in gold and blue; flower colors are cinnamon, peach, white, gold and navy blue. Recd.—February 23, 1988. Est. Value—$200. Approved for official use.	H.E. Anibal Antonio Cavaco Silva, Prime Minister of Portugal.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Secretary of State and Mrs. George P. Shultz.	Etching print (Acquaforte) dated 1692 by G. Wauters entitled "Prospetto del Palazzo Pontificio nel Quirinale detto Monte Cavallo" approx. 7¾" x 35¼"; wood frame with glass. Recd.—April 1, 1988. Est. Value—$250. Delivered to GSA September 8, 1988.	H.E. Francesco Cossiga, President of the Italian Republic.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Secretary of State and Mrs. George P. Shultz.	Gold and lapis lazuli cross pendant, approx. 1¼" x ¼" in Maroon suede cause labeled "Matassi Rome" Recd.—April 1, 1988. Est. Value—$320. Delivered to GSA September 8, 1988.	H.E. Francesco Cossiga, President of the Italian Republic	Non-acceptance would have caused embarrassment to donor and U.S. Government
The Secretary of State and Mrs. George P. Shultz.	Book titled "Le Due Nuove Campane Del Campidoglio" dated 1806; beige leather, approx. 5¼" x 11¼". Recd—April 1, 1988. Est. Value: $400. Delivered to GSA September 8, 1988.	H.E. Giulio Andreotti, Minister of Foreign Affairs of the Italian Republic.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Secretary of State and Mrs. George P. Shultz.	Genori porcelain demitasse set of tray, 2 cups, 2 saucers, cream pitcher, sugar bowl with lid, and small coffee pot with lid; white with flowers and woman's torso in bas-relief. Recd.—April 1, 1988. Est. Value—$75. Delivered to GSA September 8, 1988.	H.E. Giulio Andreotti, Minister of Foreign Affairs of the Italian Republic..	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Secretary of State and Mrs. George P. Shultz.	Reproduction of the Statue of Liberty; approx 26¼' high, black cast iron body with frock of silver and gold-tone metal on lucite base; sculpted by G. Visentin. (Photograph of sculptor attached.) Recd.—April 1, 1988. Est. Value—$200. Delivered to GSA September 8, 1988.	H.E. Giulio Andreotti, Minister of Foreign Affairs of the Italian Republic.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
George P. Shultz, The Secretary of State.	Original drawing used to strike the medal commemorating His Holiness' Third Pontifical Year, framed and matter; artist Pericle Fazzini. Approx. 28¾" x 20½". Recd.—April 2, 1988. Est. Value—$4,000. Delivered to GSA June 23, 1988.	His Holiness John Paul II	Non-acceptance would have caused embarrassment to donor and U.S. Government.
George P. Shultz, The Secretary of State.	"Worry beads" of gold and lapis lazuli, approx. 10" long; eleven gold balls and two smaller gold separators amid twenty-two lapis lazuli balls on gold chain ending in three small gold chains with gold tassel and balls. Recd.—April 7, 1988. Est. Value—$200. Delivered to GSA September 8, 1988.	H.E. Zaid Rifai, Prime Minister of the Hashemite Kingdom of Jordan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
George P. Shultz, The Secretary of State.	Octagonal Orrefors crystal vase engraved on front with insigna of the King of Sweden; approx. 7⅜" x 9". Recd.—April 11, 1988. Est. Value—$500. Delivered to GSA September 8, 1988.	His Majesty Carl XVI Gustaf, King of Sweden.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
George P. Shultz, The Secretary of State.	Two stag horns each embellished with silver at each end. Silver contains a decoration of enamel and semi-precious stones in a floral design; approx. 31½" end to end with approx. 27" silver chain connecting between them. Recd.—April 24, 1988. Est. Value—$100 each. Delivered to GSA September 8, 1988.	H.E. Otari E. Cherkezia, Chairman of the Council of the Ministers of the Georgian Soviet Socialist Republic.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
George P. Shultz, The Secretary of State.	Black leather briefcase approx. 14½" x 12" x 2"; black leather handle with brass fittings and lock with manufacturer's name "Loewe" and crest. Brass key on leather thong with initials GSP on inside flap. Presented in soft cloth cover. Recd.—June 9, 1988. Est. Value—$500. Delivered to GSA September 8, 1988.	H.E. Francisco Fernandez Ordonez, Minister of Foreign Affairs of Spain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Secretary of State and Mrs. George P. Shultz.	(a) Gold tie bar approx. 2½" x ⅜" with indented silver bar running the length of tie bar. Clip on back is silver with gold chain 2¼" long attached to gold button loop ¾" long. Presented in leather and velvet case. (b) Black leather clutch purse by Fendi; approx. 12" x 9¼" x 2"; pleated front pocket; 1¾" faux alligator band on each side of purse. Presented in soft cloth bag with "F". Recd.—June 15, 1988. Est. Value—(a) $100, (b) $150. Delivered to GSA September 8, 1988..	H.E. Ciriaco De Mita, President of the Council of the Ministers of the Italian Republic and Mrs. De Mita.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
George P. Shultz, The Secretary of State.	Antique bronze curved dagger blade approx. 6½" high from Middle Bronze II Period 1730–1550 BC E. In acrylic presentation box approx. 9" x 3¾" x 3¾". Brass plaque on front inscribed "To the Honorable George P. Shultz, Secretary of State with friendship Yitzhak Rabin Minister of Defense Israel June 1988". With certificate of authenticity. Recd.—June 27, 1988. Est. Value—$300. Delivered to GSA September 8, 1988.	H.E. Yitzhak Rabin, Minister of Defense of Israel.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Secretary of State and Mrs. George P. Shultz.	(a) Silver cigarette box, wooden interior; Arabic scroll design over entire outside, bottom plain with swirls; approx. 6¾" x 4¼" x 1⅝".	H.E. Dr. A Esmat Abdel Meguid, Minister of Foreign Affairs of the Arab Republic of Egypt and Mrs. Abdel Meguid.	Non-acceptance would have caused embarrassment to donor and U.S Government.

AGENCY: DEPARTMENT OF STATE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
	(b) Matching set silver scarab bracelet and scarab pendant and chain; scarabs each approx. 2" long x 1¾"; chain is rope design; bracelet is hinged with "peg-in-hole" closure. Recd.—June 27, 1988. Est. Value—(a) $200, (b) $200 each. Delivered to GSA September 8, 1988..		
George P. Shultz, Secretary of State	Casio miniature color LCD television 400 model B and AC adapter. Recd.—July 25, 1988. Est. Value—$200. Approved for official use.	H.E. Takujiro Hamada Parliamentary Vice Minister for Foreign Affairs, Japan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
George P. Shultz, Secretary of State	Handpainted Herend china vase, approx. 6-½" tall and 4" wide; square shaped with four gold and green feet on square block; butterfly and flower motify on all four sides embellished in gold. Recd—July 27, 1988 Est. Value—$200. Approved for official use.	H.E. Karoly Grosz, Chairman, Council of Ministers, Hungarian People's Republic.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
George P. Shultz Secretary of State	Framed and matted pen and ink drawing of a large glass door with rounded window above; approximately 23-½" × 22-½" overall; inner and outer frames are silver. Artist "Mediva". Recd—August 4, 1988 Est. Value—$400. Reported to GSA October 17, 1988; being held in the Office of Protocol pending delivery to GSA.	H.E. Enrique Inglesias Minister of Foreign Affairs, Uruguay.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
The Secretary of State and Mrs. George P. Shultz.	(a) Lacquered box, approximately 4-¼" × 6", red inside, black outside on five sides and winter scene on top of gold-domes churches with a few houses, trees, and people. In Cyrillic on box: "Fedoskino 88" and "Caspar C".		
	(b) Framed oil painting, approximately 35" × 43½", of birch trees, entitled "The Last Days of Autumn" by Domashnikov Boris Recd.—May 30, 1988. Est. Value—(a) $300, (b) $2000.		
	(a) Reported to GSA October 17, 1988; being held in the Office of Protocol pending delivery to GSA. (b) Approved for official use.	H.E. Mikhail Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union and Mrs. Gorbachev.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
George P. Shultz, Secretary of State	(a) Statute of rearing horse: gold-plated with enamel saddle, stirrups, and decoration on neck and back; approximately 10-½" high, 12" wide; horse standing on animal-horn base; presented in silk-covered box of light blue-gray with gold, pink and purple flowers.	HRH Prince Norodom, Sihanouk of Cambodia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
	(b) Lacquer tray: black with cherry blossom decoration in center; 14" × 5" × ¾".		
	(c) Three cassettes (I, II, IV) of Musique de Norodom Sihanouk. One cassette "N. Sihanouk's Singing".		
	(d) Three books: "Nokor Khmer"; Norodom Sihanouk Photos-Souvenirs de Mon Cambodge"; "Norodom Sihanouk En Zone Libre Du Cambodge"..		
	Recd—October 12, 1988 Est. Value: (a) $200, (b) $25, (c) $40, (d) $15. Reported to GSA October 17, 1988; being held in the Office of Protocol pending delivery to GSA.		
Roscoe S. Suddarth, U.S. Ambassador to the Hashemite Kingdom of Jordan.	Bible in mother of pearl casing. Recd.—June 15, 1988 Est. Value—$600. Approved for official use.	HRH Hassan bin Talal, Crown Prince of Jordan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Vernon A. Walters, US Permanent Representative to the United Nations.	Ivory tusk statute of a figure of an African male, approx. 18" tall and 6" at base of pedestal. Recd.—May 11, 1988. Est. Value—$1000. Approved for official use.	H.E. Felix Houphouet-Boigny, President of the Republic of Cote d'Ivoire.	Non-acceptance would have caused embarrassment to donor and U.S. Government
Vernon A. Walters, US Permanent Representative to the United Nations.	Cannon 8mm video camera and recorder with accessory kit and carrying case. Recd.—May 26, 1988. Est. Value—$1000. Approved for official use.	H.E. Hassan Diab, Minister of Foreign Affairs of the State of Qatar.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Vernon A. Walters, US Permanent Representative to the United Nations.	Chopard (Geneva) man's wrist watch—silver and gold quartz—with 24 diamonds around face and 11 diamonds on face representing numerals with space for date. Recd.—May 26, 1988. Est. Value—$8350. Delivered to GSA September 8, 1988.	H.E. Hassan Diab, Minister of Foreign Affairs of the State of Qatar.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
John C. Whitehead, Deputy Secretary of State.	Four 22K gold Kuwait coins and four silver, Kuwait coins in presentation box. Recd.—July 14, 1988. Est. Value—$900. Delivered to GSA September 8, 1988.	H.R.H. Sheikh Saad, Alabudullah Alsalim Alsabah, Crown Prince of the State of Kuwait.	Non-acceptance would, have caused embarrassment to donor and U.S. Government.
John C. Whitehead, Deputy Secretary of State.	Casio miniature color LCD Television TV 4000 Model B. Recd.—July 11, 1988. Est. Value—$200. Approved for official use.	Takujiro Hamada, Parliamentary Vice Minister for Foreign Affairs, Japan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF TRANSPORTATION

Report of Travel of Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Bried description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occuring outside the United States	Identify of foreign donor and government	Circumstances justifying acceptance
T. Allan McArtor, Administrator, Federal Aviation Administration.	Round-trip air transportation on French Government aircraft from London, England to Toulouse, France; meal; and lodging. September 1988. Estimated cost: Airfare—$288. Meal—$35. Lodging—$75.	Daniel Tenenbaum, Directeur General de l'Aviation Civile, France.	Non-acceptance would have caused embarrassment to donor and U.S.
Petty Officer Mark A. DuTour, Petty Officer John M. Powers, Petty Officer Michael A. Kendall, Enlisted members of U.S. Coast Guard.	Round-trip air transportation from Windsor, Canada to Ottawa, Canada; hotel accommodations; meals; and local transportation. June 1988. Airfares—$813.12 ($271.04×3). Lodging and meals—$420.00 ($140×3). Bus Fares—$27 ($9×3).	J. Cousineau, Chief of Events, Office of Governor General, Canada.	Non-acceptance would have caused embarrassment to donor and U.S.
Albert A. DelliBovi, Administrator, Urban Mass Transportation Administration.	Hotel and meals for January 3-8, 1988, in Moscow. Estimated total Value is $762.00.	Soviet Committee of Youth Organization U.S.S.R.	Non-acceptance would have caused embarrassment to donor and U.S.

AGENCY: DEPARTMENT OF TRANSPORTATION

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
E. Hawkins, Employee, Maritime Administration.	4×6 rug with commemorative plate; approximate value of $500; on display at U.S. Merchant Marine Academy.	Superior Institute of Maritime Training, Morocco.	Non-acceptance would have caused embarrassment to donor and U.S.

AGENCY: TREASURY/DEPARTMENTAL OFFICES

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
James A. Baker, Secretary of the Treasury.	Set of Olympic Coins,* Recd—February 26, 1988. Est. Value—$1,250.00.	Sakong Il, Finance Minister, Republic of Korea.	Embarrassment to return.
James A. Baker, Secretary of the Treasury.	Set of Olympic Coins,* Recd—March 22, 1988. Est. Value—$1,475.00.	Chung Se Yung, Chairman, Hyundai Business Group.	Embarrassment to return.
James A. Baker, Secretary of the Treasury.	Crystal Moose,* Recd—April 12, 1988. Est. Value—$1,100.00.	Feldt Kjell-Olof, Minister of Economy, Sweden.	Embarrassment to return.
James A. Baker, Secretary of the Treasury.	Ivory and Gold Paperweight,* Recd—June 1, 1988. Est. Value—$600.00.	Biogny Houphouet, President, Cote D'Ivoire.	Embarrassment to return.
James A. Baker, Secretary of the Treasury.	Carved Ivory Tusk,* Recd—June 1, 1988. Est. Value—$1,500.00.	Boigny Houphouet, President, Cote D'Ivoire.	Embarrassment to return.
Susan Baker, Spouse of the Secretary of the Treasury.	Gold Filigree Necklace and Bracelet,* Recd—June 1, 1988. Est. Value—$2,400.00.	Biogny Houphouet, President, Cote D'Ivoire.	Embarrassment to return.
Susan, Baker, Spouse of the Secretary of the Treasury.	Carved Ivory Canister,* Recd—June 29, 1988. Est. Value—$575.00.	Gomis Charles, Ambassador, Embassy of Cote D'Ivoire.	Embarrassment to return.

* All of the above gifts are in custody at the U.S. Treasury Department, 1500 Pennsylvania Ave., NW, Washington, DC 20220.

AGENCY: UNITED STATES INFORMATION AGENCY

Report of Tangible Gifts

Name and title of person accepting gift on behalf of U.S. government	Gift, date of acceptance on behalf of the U.S. Government estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances acceptance
Charles Z. Wick, Director, U.S. Information Agency.	Stone Plaque and book received after Summit Meeting in Moscow in May 31, 1988. Valued at $375.	General Secretary, Mikail Gorbachev, U.S.S.R.	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.

AGENCY: UNITED STATES INFORMATION AGENCY

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
John F. Coppola, Chief, Bureau of International Expos, Exhibits Service, Bureau of Programs.	Travel/two nights accommodations—Washington, D.C./Spain and return. Received December 11, 1988. Estimated value: $1,000.	Emilio Cassinello, Ambassador of Spain (President, Expo '92).	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.
William K. Jones, Director, Exhibits Service, Bureau of Programs.	Travel/two nights accommodations—Washington, D.C./Spain and return. Received December 11, 1988. Estimated value: $1,000.	Emilio Cassinello, Ambassador of Spain (President, Expo '92).	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.

AGENCY: VETERANS ADMINISTRATION

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Bethesaida Feliciano, R.N., Operating Room Patient Coodinator.	Recd.—September 25, 1988. Est. Value—$2,406. Expended for airfare, hotel, meals and ground transportation.	Pan American Health Organization, World Health Organization, Ethicon—Johnson & Johnson, Santiago, Chile.	To provide temporary advisory services for project AM/CHI/CDS/020/DR/88-88/11.
James D. Niebel, M.D., Staff Urologist	Recd.—September 19, 1988. Est. Value—$882. Expended for lodging and meals.	Yichang Medical School, Yichang, Peoples Republic of China.	Provided lectures, consultations and surgical teaching at Yichang Medical School.
J. Donald Ostrow, M.D.	Recd. August 8, 1988. Est. Value $2,700. Expended for airfare, hotel, meals, and ground transportation.	University of Buenos Aires, Argentina	To lecture on liver diseases, and participate in workshops at the International Congress of Internal Medicine.

AGENCY: VETERANS ADMINISTRATION—Continued

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Andrew V. Schally, Ph.D., Senior Medical Investigator and Chief, Endocrine, Polypeptide and Cancer Institute.	Recd.—May 27, 1988. Est. Value—$3,000. Expended for hotels, meals and transportation.	College of Physicians, Madrid, Spain, and Debiopharm, Lausanne, Switzerland.	Nobel Laureate; invited to lecture at the Cancer Congress in Madrid, and to organize next year's Congress. Also invited to receive an Honorary Degree in Paris and lecture at the annual meeting of European oncologists.
Jerome Yesavage, M.D., Staff Physician.	Recd. (1) June 17, 1988. (2) November 5, 1988. Est. Value—(1) $2,400. (2) $5,975. Expended for hotel, meals and travel.	(1) Cardiostim Organization of France. (2) Brasilian Gerontological Society, Sao Paulo, Brazil.	(1) To participate in a conference at Monaco. (2) To present a course in geriatrics.

[FR Doc. 89-5177 Filed 3-8-89; 8:45 am]
BILLING CODE 4710-20-M

federal register

Thursday
March 9, 1989

Part III

Department of Labor

Employment and Training Administration

Federal-State Unemployment Compensation Program; Unemployment Insurance Program Letters Interpreting the Federal Unemployment Insurance Law

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; Unemployment Insurance Program Letters Interpreting the Federal Unemployment Insurance Law

The Employment and Training Administration (ETA) interprets Federal law pertaining to unemployment insurance as part of the fulfillment of its role in administration of the Federal-State unemployment insurance system. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to State Employment Security Agencies (SESAs). The Three UIPLs described below are published in the **Federal Register** in order to inform the public.

Unemployment Insurance Program Letter No. 12–87 and Change 1

This directive transmits a revised interpretation of section 3304(a)(14) of the Federal Unemployment Tax Act (FUTA) relating to the wages for services of aliens which may be used for computing monetary entitlement to benefits. This interpretation permits States to pay benefits based on wages from otherwise covered services performed on or after November 6, 1986, by aliens granted lawful temporary resident status under section 210(a)(1) or section 245A(a) of the Immigration and Nationality Act (INA).

Unemployment Insurance Program Letter No. 6–89

This directive advises SESAs of section 902 of the Foreign Relations Authorization Act (Pub. L. 100–204) establishing another class of aliens eligible for temporary resident status under section 210(a) and section 245(A) of the INA. This class includes certain nationals of Poland, Ethiopia, Afghanistan, and Uganda. States may pay benefits based on wages from otherwise covered services performed on or after December 22, 1987, by aliens granted lawful temporary resident status under section 902, FRAA.

Unemployment Insurance Program Letter No. 11–89

This directive advises SESAs of amendments made by the Family Support Act of 1988, Pub. L. 100–485, and the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, Pub. L. 100–628, to the Social Security Act affecting the disclosure of wage and unemployment insurance (UI) claim information. The Family Support Act requires SESAs to take such actions as may be necessary to enable the Secretary of Health and Human Services (HHS) to obtain prompt access to any wage and UI claim information available to the SESA for the purpose of assisting the Federal Parent Locator Service (FPLS) in carrying out the child support enforcement program. It also requires the Secretary of Labor to enter into an agreement with HHS to give the FPLS access to this information. The McKinney Act Amendments require SESAs to disclose wage and UI claim information to the Department of Housing and Urban Development and public housing agencies under certain circumstances.

Dated: March 1, 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

BILLING CODE 4510-30-M

U.S. DEPARTMENT OF LABOR Employment and Training Administration Washington, D.C 20213	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEURL
	DATE March 11, 1987

DIRECTIVE UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 12-87

TO ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM DONALD J. KULICK
Administrator
for Regional Management

SUBJECT Amendments Made by the Tax Reform Act of 1986 (P.L. 99-514), the Alien Farmworker Act (P.L. 99-595), and the Immigration Reform and Control Act of 1986 (P.L. 99-603), Which Affect the Federal-State Unemployment Compensation Program

1. Purpose. To advise State agencies of recent amendments to Federal law affecting the Federal-State Unemployment Compensation (UC) program.

2. References. The Tax Reform Act of 1986, the Alien Farmworker Act, the Immigration Reform and Control Act of 1986.

3. Background. In late 1986, the President signed into law three bills containing provisions affecting the UC program. These are the: a) Tax Reform Act of 1986 (P.L. 99-514), signed into law on October 22, 1986; b) Alien Farmworker Act (P.L. 99-595), signed into law on October 31, 1986; and, c) Immigration Reform and Control Act of 1986 (P.L. 99-603), signed into law on November 6, 1986.

a. The Tax Reform Act of 1986 provides that all unemployment benefits will become taxable income with respect to benefits received after December 31, 1986. Currently, unemployment insurance (UI) is taxable only if the combination of taxable income and UI payments exceeds $18,000 for joint returns or $12,000 for single returns.

The Act also provides a two-year extension of the exclusion from the definition of wages of employer-financed educational assistance and group legal service plans (Sections 3306(b)(12) and (13) of the Federal

RESCISSIONS	EXPIRATION DATE March 31, 1988

DISTRIBUTION

Unemployment Tax Act (FUTA)); makes technical changes to Sections 3302(c)(2), 3302(f)(8), and 3306(o) of the FUTA; amends the Internal Revenue Code of 1954 concerning exclusions from the definition of "gross income" of certain prizes and awards; and temporarily excludes from the FUTA coverage services performed for certain Indian tribal governments.

b. The Alien Farmworker Act extends for five years, through December 31, 1992, the exemption from "employment" under Section 3306(c)(1)(B), FUTA, of agricultural labor performed by certain nonimmigrant farmworkers admitted to work temporarily under specific provisions of the Immigration and Nationality Act.

c. The Immigration Reform and Control Act of 1986 contains provisions relating to a system to verify alien eligibility for unemployment benefits.

These amendments made several technical and significant changes affecting the Federal-State UC program which may require changes in State law or procedures. However, only the alien verification provisions of the Immigration Reform and Control Act of 1986 may require changes in State laws for compliance with Section 303(f) of the Social Security Act (SSA). The amendments are explained in attachments to this UIPL.

4. Action Required. SESAs are requested to notify appropriate staff of these amendments and take necessary action to implement required changes in State laws or procedures.

5. Inquires. Inquiries should be directed to your Regional Office.

6. Attachments. Text, explanation and interpretation of UC amendments.

TEXT. EXPLANATION AND INTERPRETATION OF UC AMENDMENTS
Made by Public Law 99-514, The Tax Reform Act of 1986

I. Section 121. Taxation of Unemployment Compensation.

A. Text of Amendment.
1. Amendment to Section 85 of the Internal Revenue Code (IRC) of 1986:

SEC. 85. UNEMPLOYMENT COMPENSATION.

(a) GENERAL RULE--In the case of an individual, gross income includes unemployment compensation.

(b) UNEMPLOYMENT COMPENSATION DEFINED.--For purposes of this section, the term "unemployment compensation" means any amount received under a law of the United States or of a State which is in the nature of unemployment compensation.

2. Effective Date:

SECTION 151. EFFECTIVE DATES.

(b) UNEMPLOYMENT COMPENSATION.--The amendment made by section 121 shall apply to amounts received after December 31, 1986, in taxable years ending after such date.

B. Discussion. The Revenue Act of 1978 designated specific income levels at which unemployment benefits were taxable ($25,000 for joint returns or $20,000 for single returns). The Tax Equity and Fiscal Responsibility Act of 1982 lowered the applicable income levels to $18,000 for joint returns or $12,000 for single returns. Section 121 of the Tax Reform Act of 1986 amends the law to provide that gross income shall include all unemployment benefits.

C. Implementation. Each claimant should be informed of this change in income tax law. Notices should be furnished to each claimant currently filing, and to new and reopening claimants as claims are filed. Informational pamphlets should be revised when reprinted. A brief supplemental form can be issued in the interim.

II. Section 122. Exclusion From the Definition of "Gross Income" Certain Prizes and Awards

A. General. Section 122 of the Tax Reform Act of 1986 amends Section 74 of the Internal Revenue Code of 1954 concerning exclusions from the definition of "gross income" of certain prizes and awards. The amendment specifies conditions which must be met to allow such exclusions. Determination of FUTA tax liability will be based upon such definition of gross income.

B. Effective Date. The amendments made by Section 122 apply to prizes and awards granted after December 31, 1986 (Section 151(c)).

C. Implementation. Since the Internal Revenue Service has the primary authority for administering the FUTA tax provisions, it will be responsible for interpreting and applying this provision.

III. Section 1162. 2-YEAR EXTENSION OF EXCLUSIONS FOR EDUCATIONAL ASSISTANCE PROGRAMS AND GROUP LEGAL PLANS.

A. Text of Amendments to Sections 120 and 127 of the IRC of 1986.

(a) EDUCATIONAL ASSISTANCE PROGRAMS.--

(1) EXTENSION.--Subsection (d) of section 127 (relating to termination of exclusion for amounts received under educational assistance programs) is amended by striking out "1985" and inserting in lieu thereof "1987".

(2) INCREASE IN AMOUNTS.--Paragraph (2) of section 127(a) is amended by striking out "$5,000" each place it appears in the text and the heading thereof and inserting in lieu thereof "$5,250".

(b) GROUP LEGAL PLANS.--Subsection (e) of section 120 (relating to termination of exclusion for amounts received under qualified group legal services plans) is amended by striking out "1985" and inserting in lieu thereof "1987".

(c) EFFECTIVE DATES.--

(1) SUBSECTION (a).--The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

(2) SUBSECTION (b).--The amendment made by subsection (b) shall apply to years ending after December 31, 1985.

(3) CAFETERIA PLAN WITH GROUP LEGAL BENEFITS.--If, within 60 days after the enactment of this Act, an employee elects under a cafeteria plan under Section 125 of the Internal Revenue Code of 1986 coverage for group legal benefits to which Section 120 of such Code applies, such election may, at the election of the taxpayer, apply to all legal services provided during 1986. The preceding sentence shall not apply to any plan which on August 16, 1986, offered such group legal benefits under such plan.

B. Discussion. Section 1162 of the Tax Reform Act of 1986 provides a two-year extension of the exclusion from the definition of wages under the FUTA of employer-financed educational assistance and group legal service plans (through December 31, 1987).

C. Implementation. Since the Internal Revenue Service (IRS) has the primary authority for administering the FUTA tax provisions, it will be responsible for interpreting and applying this provision.

IV. Section 1705. APPLICABILITY OF UNEMPLOYMENT COMPENSATION TAX TO CERTAIN SERVICES PERFORMED FOR CERTAIN INDIAN TRIBAL GOVERNMENTS (This provision does not amend the FUTA).

A. Text of Section 1705 of the Tax Reform Act of 1986:

(a) IN GENERAL.--For purposes of the Federal Unemployment Tax Act, service performed in the employ of a qualified Indian tribal government shall not be treated as employment (within the meaning of section 3306 of such Act) if it is service--

(1) which is performed--

(A) before, on, or after the date of the enactment of this Act, but before January 1, 1988, and

(B) during a period in which the Indian tribal government is not covered by a State unemployment compensation program, and

(2) with respect to which the tax imposed under the Federal Unemployment Tax Act has not been paid.

(b) DEFINITION.--For purposes of this section, the term "qualified Indian tribal government" means an Indian tribal government the service for which is not covered by a State unemployment compensation program on June 11, 1986.

B. Discussion. Section 1705 of the Tax Reform Act of 1986 excludes from the definition of employment for Federal unemployment tax purposes services performed for a qualified Indian tribal government during the period prior to January 1, 1988 if the service was not covered by a State law on June 11, 1986. Presently, the only Indian tribal government we are aware of that meets this requirement is the Ute tribe in Colorado.

C. Implementation. Since the IRS has the primary authority for administering the FUTA tax collections, it will be responsible for interpreting and applying this provision.

V. Section 1706 of the Tax Reform Act of 1986. Treatment of Certain Technical Personnel.

A. Text of Amendment.

(a) IN GENERAL.--Section 530 of the Revenue Act of 1978 is amended by adding at the end thereof the following new subsection:

"(d) EXCEPTION.--This section shall not apply in the case of an individual who, pursuant to an arrangement between the taxpayer and another person, provides services for such other person as an engineer, designer, drafter, computer programmer, systems analyst, or other similarly skilled worker engaged in a similar line of work."

(b) EFFECTIVE DATE.--The amendment made by this section shall apply to remuneration paid and services rendered after December 31, 1986.

B. Discussion. Section 530 of the Revenue Act of 1978 (P.L. 95-600) provides that taxpayers who in the past had a reasonable basis, under specified criteria, for not treating workers as employees may continue such treatment without incurring employment tax liability. Section 1706 of the Tax Reform Act of 1986 amends Section 530 to limit its applicability by providing that the section shall not apply to firms engaging the services of such person as an engineer, designer, drafter, computer programmer, systems analyst, or other similarly skilled worker engaged in a similar line of work. This means that the IRS will apply common-law rules to these firms in determining liability for employment taxes, including the FUTA tax.

C. Implementation. Since the IRS has the primary authority for administering the FUTA tax provisions, it will be responsible for interpreting and applying this provision.

VI. Section 1884 of the Tax Reform Act of 1986. Technical Corrections in Federal Unemployment Tax Act.

A. Text of Amendment:

The Federal Unemployment Tax Act is amended as follows:

(1) Subparagraph (B) of section 3302(c)(2) (relating to a limit on the credit against the unemployment tax) is amended--

(A) By striking out "determination" the second place it appears in the material preceding clause (i) and inserting in lieu thereof "denominator", and

(B) in clause (i)--

(i) by striking out "percent" immediately preceding the comma at the end thereof, and

(ii) by inserting "percent" after "2.7".

(2) Subparagraph (A) of section 3302(f)(8) (relating to a partial limitation on the reduction of the credit against the unemployment tax) is amended by striking out "1987" and inserting in lieu thereof "1986".

TEXT, EXPLANATION AND INTERPRETATION OF UC AMENDMENTS Made by Public Law 99-595, the Alien Farmworker Act, to Extend the Exclusion From Unemployment Tax of Wages Paid to Certain Alien Farmworkers.

A. Amendment. Section 3306(c)(1)(B), of the FUTA is amended to read as follows:

(B) such labor is not agricultural labor performed before January 1, 1993, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act;

B. Discussion. This provision amends Section 3306(c)(1)(B), FUTA, by extending for five years, until December 31, 1992, the FUTA exemption from coverage of farmworkers who are aliens temporarily admitted to the United States to work in agricultural employment pursuant to Sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act.

Prior to the amendments made by Section 4 of P.L. 96-84, effective January 1, 1980, service performed by an alien referred to in Section 3306(c)(1)(B), FUTA, was not required to be covered or taken into account in determining the size of a firm under Section 3306(c)(1)(A)(i) and (ii), FUTA. Subsequent amendments by Congress extended until December 31, 1985, the exemption from coverage of agricultural work under Section 3306(c)(1)(B), FUTA, but required consideration of such service in determining the size of a firm. P.L. 99-595 further extends the exemption from coverage of the same type of agricultural services through December 31, 1992, and continues the required consideration of such service in determining the size of the firm.

C. Implementation. Since the IRS has the primary authority for administering the FUTA tax provisions, it will be responsible for interpreting and applying this provision. While States have the option of providing a similar exclusion in State law, it is not a Federal requirement for conformity.

EXPLANATION AND INTERPRETATION
of the Immigration Reform and Control Act of 1986
(Public Law 99-603) Relating to the Federal and
Federal-State Unemployment Compensation Programs

I. Section 121. Provisions for Determining and Verifying Alien Status for Entitlement to Unemployment Compensation.

A. General. Section 121 of the Immigration Reform and Control Act of 1986, P.L. 99-603, contains three provisions affecting the Federal and Federal-State UC programs. Section 121(a)(i) amends Part A of Title XI of the SSA by adding new subsections (d) and (e) to Section 1137 - "Income and Eligibility Verification System." These new subsections establish immigration status verification procedures for UC programs. Section 121(b)(3) of the Act amends Section 302(a) of the SSA to provide for reimbursement to State agencies of 100 percent of the reasonable costs of implementing and operating the immigration status verification system. Section 121(c) of the Act establishes effective dates, and includes provisions for waiver of verification system requirements and certain reports to Congress. Section 121(d) also requires certain General Accounting Office reports, which involve the Department of Labor and the State agencies. Following is an explanation of these new provisions. Detailed instructions for implementing these provisions will be issued at a later date.

The purpose of these provisions is to require States who do not receive a waiver to verify through Immigration and Naturalization Service (INS) records the legal status of all aliens applying for benefits under certain Federally-assisted and Federally-funded programs beginning October 1, 1988. The UC program is included through an amendment to the existing provisions for the income and eligibility verification system in Section 1137 of the SSA. Existing Section 303(f) of the SSA requires State UC agencies to participate in the income and eligibility verification system as described in Section 1137.

Under these new requirements, States who do not qualify for a waiver under conditions spelled out in the law must determine, as a condition of an individual's eligibility for benefits, that an individual is either a United States citizen or in a "satisfactory immigration status" and verify through INS records the authenticity of any immigration document submitted by the individual. However, prior to denying benefits because of immigration status, the State agency must follow certain minimum procedural safeguards. The requirement for a State agency to participate in the immigration status verification system may be waived by the Secretary of Labor if specified conditions are met. To the extent these new requirements apply to the States for the purposes of the Federal-State UC program, they will also apply to Federal unemployment benefit and allowance programs administered by the States under agreements with the Secretary of Labor.

B. Effective Dates. Section 121(c) of the Immigration Reform and Control Act of 1986 contains several effective dates which impact State employment security agencies.

1. All States must begin complying with the requirements for immigration status determination and verification on October 1, 1988, unless participation is waived by the Secretary of Labor.

2. The INS is required to implement a system for verifying immigration status and make the system available to all States not later than October 1, 1987.

3. An amendment to Section 302(a) of the SSA providing for funding the costs of implementing and operating the immigration status verification system is effective October 1, 1987.

4. The Secretary of Labor is required to submit a report by April 1, 1988 to the House Ways and Means Committee and to the Senate Finance Committee on implementation of the new requirements for the UC programs. The Comptroller General is required to submit a report to Congress and to the Commissioner of INS by October 1, 1987, on the effectiveness of current pilot projects relating to the INS System for Alien Verification of Eligibility (SAVE). In addition, the Comptroller General must submit a report to the Congress and to the Secretary of Labor by April 1, 1989, on implementation of the new immigration status verification system requirements.

C. Declaration of Citizenship or Satisfactory Immigration Status. Section 1137(d)(1) specifies that the State shall require, as a condition of eligibility, that each individual sign a declaration under penalty of perjury stating:

1. whether the individual is a citizen or national of the United States, and

2. if not, whether the individual is in a "satisfactory immigration status."

D. Satisfactory Immigration Status. Section 1137(d)(1)(B)(ii)(III) defines "satisfactory immigration status" as an immigration status that does not make the individual ineligible for unemployment benefits.

1. Section 3304(a)(14)(A), FUTA, prescribes the conditions under which benefits may be paid based on services performed by an alien. Specifically, the FUTA requires that compensation shall not be payable on the basis of services performed by an alien unless:

a. the alien was lawfully admitted for permanent residence at the time the services were performed,

b. the alien was lawfully present for the purposes of performing the services, or

c. the alien was permanently residing in the United States under color of law at the time the services were performed.

2. In addition, an alien must be legally authorized to work at the time benefits are claimed to be considered "available for work."

A complete explanation of the Federal requirements relating to alien eligibility for unemployment benefits is found in UIPL 1-86, issued October 29, 1985.

E. Provisions Relating to Determining Alien Status. The Act contains provisions requiring State action to verify that an alien is in "satisfactory immigration status." However, in making any determination of eligibility based on immigration status, the State agency must provide an individual with certain procedural safeguards.

1. Verification of Status. If on the declaration of citizenship statement an individual indicates that he or she is in a satisfactory immigration status, the individual must present documentary evidence. Section 1137(d)(2), SSA, specifies that the individual must present either:

a. an alien registration document or other proof of immigration registration from INS that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or,

b. such other documents as the State determines constitute reasonable evidence indicating a satisfactory immigration status.

In addition, Section 3304(a)(14)(B), FUTA, requires that the same information be uniformly required of all claimants. Section 1137(d)(3), SSA, further requires the State agency to verify documentation referred to in (a) above with the INS through an automated system or other system designated by the INS. Under subsection (3)(B), this system must protect "the individual's privacy to the maximum degree possible." The State agency must use the individual's alien file number or alien admission number as the basis for verifying alien status. If instead of an alien number the State agency has other documents which the State determines constitute reasonable evidence of satisfactory immigration status, Section 1137(d)(4)(B), SSA, requires the State agency to submit a photocopy of the documents to INS for verification.

2. Procedural Safeguards. The Act contains specific requirements relating to procedures for fact-finding, promptness of payment, and a right to a hearing. A summary and explanation of these requirements follow.

a. The State agency must provide the individual with a reasonable opportunity to submit documentation indicating satisfactory immigration status if such documentation is not presented at the time of filing for UC. The State must also provide the individual reasonable opportunity to submit evidence of satisfactory immigration status if the documentation presented is not verified by the INS. Time periods under State law for providing information needed to determine eligibility for benefits will meet the requirement for "reasonable opportunity." Attachment 1 to UIPL 15-78, issued January 24, 1978, contains guidance in handling cases where the claimant declines to provide information with respect to immigration status. This guidance is still applicable.

b. Under Section 1137(d)(4)(A)(ii), SSA, a State agency may not delay, deny, reduce or terminate an individual's eligibility for benefits on the basis of immigration status until a reasonable opportunity has been provided for the individual to present required documentation. If the alien does present such documentation, pending its verification, a State may not delay, deny, reduce, or terminate the individual's eligibility for benefits on the basis of the individual's status. Section 1137(d)(4)(B)(ii), SSA. However, under Section 1137(d)(4)(B)(iii), SSA, the State shall not be liable for the consequences of INS action, delay or failure to conduct such verification.

c. Section 1137(d)(5) provides if a State determines that an individual is not in a satisfactory immigration status, the individual must be given the opportunity for a fair hearing. This is already a requirement of Section 303(a)(3), SSA, and thus adds nothing to existing Federal requirements.

In addition, Section 3304(a)(14)(C), FUTA, requires an evidentiary burden to be met that is not present in Section 1137(d), SSA. Thus, Section 3304(a)(14)(C) requires that no determination denying benefits based on alien status shall be made except on the preponderance of the evidence. Attachment 1 to UIPL 15-78 contains guidance on what constitutes preponderance of evidence.

F. Limitations on Federal Agency Action. Under Section 1137(e), the Department of Labor may not take any compliance, disallowance, penalty or other regulatory action against the State agency because of an error in a determination holding an individual eligible for benefits based on citizenship or immigration status:

1. if the determination was based on verification provided by the INS;

2. because the State was required under Section 1137(d)(4)(A) or (B), to pay benefits to the individual during the period required to provide the individual with reasonable opportunity to submit documentation or pending official verification of immigration status by the INS;

3. as a result of the outcome of the determination and hearing process afforded the individual under State law.

G. Title III Funding. Section 121(b)(3) amends Section 302(a) of the SSA to permit the use of Title III funds for "100 percent of so much of the reasonable expenditures of the State as are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1137(d)." Section 302(a) of the SSA authorizes the Secretary of Labor to provide payment to the States for the costs of administering the employment security program.

H. Waiver of Requirements. Under Section 121(c)(4)(B), the Secretary of Labor may waive the requirements of the Act on his own initiative or upon an application by a State and based on information the Secretary deems persuasive, provided certain conditions are met.

1. In order to waive the requirements with respect to a State, the Secretary must determine that:

a. the State agency is using an alternative system which is as effective and timely as the INS immigration status verification system and which provides for hearing and appeal rights at least to the extent required under Section 1137(d)(5), or

b. the costs of administering the immigration status verification system exceed the estimated savings.

2. Section 121(c)(4)(C) contains the following criteria by the Secretary of Labor to be used in determining cost effectiveness:

a. the proportion of aliens claiming unemployment benefits to the total number of individuals claiming unemployment benefits,

b. any savings in benefit outlays resulting from implementation of the verification system,

c. the labor and nonlabor costs of administering the verification system,

d. the degree to which the INS is capable of providing timely and reliable information to the State agency, and

e. such other factors as the Secretary of Labor deems relevant.

A letter will be sent to each State early in 1987 requesting the information the Secretary needs to determine whether a waiver will apply.

I. Reports to Congress. The Act requires reports by the applicable Secretary and Comptroller General on the immigration status verification system.

1. Report by the Secretary. Under Section 121(c)(4)(A), the Secretary of Labor must report to the House Ways and Means Committee and the Senate Finance Committee by April 1, 1988, whether (and the extent to which) application of the SAVE program in the UC program is cost-effective and appropriate to the program and whether there should be a waiver of the application of the SAVE program under Section 121(c)(4)(B).

2. Reports by the Comptroller General. By October 1, 1987, the Comptroller General is required by Section 121(d) to report to Congress and to the Commissioner of INS on current pilot projects using the INS System for Alien Verification of Eligibility (SAVE). The report must examine the effectiveness of the projects and any problems with implementation. In addition, the Comptroller General is directed to monitor and analyze implementation of the new system. By April 1, 1989, the Comptroller General must report to Congress and the appropriate Secretaries on implementation of the immigration status verification system, including recommendations for change, as appropriate.

II. Provisions for Legalization of Status Relating to Entitlement to Unemployment Compensation.

A. General. Section 201(a) of the Immigration Reform and Control Act of 1986, P.L. 99-603, amends the Immigration and Nationality Act to add a new Section 245A to authorize the adjustment of status of certain aliens who entered the United States before January 1, 1982, to that of "lawfully admitted for temporary residence." Section 245A(a) establishes a new category of "lawfully admitted for temporary residence" and specifies the requirements that must be met to obtain an adjustment of status. Section 245A(b) provides for termination of temporary resident status and otherwise specifies the terms and conditions of temporary resident status. This section also prescribes the conditions for subsequent adjustment of status from "lawfully admitted for temporary residence" to that of "lawfully admitted for permanent residence." Section 245A(e) provides for the temporary stay of deportation and work authorization for certain applicants.

Following is an explanation of these new provisions as they affect the UC program.

B. Temporary Resident Status. Section 245A(a) establishes a new category of "lawfully admitted for temporary residence."

1. This new category allows for the adjustment of status of an alien with no documentation of legal entry to that of an alien lawfully admitted for temporary residence if the alien:

a. Makes a timely application as specified in Section 245A(a)(1); that is, files a proper application within

a 12-month period beginning on a date (not later than 180 days after the date of enactment) designated by the Attorney General;

b. Had continuous unlawful residence beginning with entry into the United States before January 1, 1982;

c. Has been continuously present in the United States, with the exception of brief, casual, and innocent absences, since November 5, 1986;

d. Is admissible as an immigrant under Section 245A(a)(4).

2. After 18 months of temporary resident status, an alien has one year to apply for an adjustment of status to that of lawfully admitted for permanent residence. To be eligible for adjustment of status, the alien must meet the four conditions specified in Section 245A(b)(1).

3. Section 245A(b)(2) specifies the conditions under which the Attorney General shall provide for termination of temporary resident status; and

4. Section 245A(b)(3) provides that an alien with temporary resident status shall be granted "authorization to engage in employment in the United States and be provided with an 'employment authorized' endorsement or other appropriate work permit." Paragraph (3) also spells out the conditions on authorization to travel abroad.

C. Temporary Stay of Deportation and Work Authorization for Certain Applicants. Section 245A(e) provides for a hold on deportation and the furnishing of work authorization to an alien who presents a prima facie case or application for change of status before or during the application period.

1. Before Application Period. An alien may not be deported and must be granted employment authorization if the alien is apprehended before the beginning of the application period and can establish a prima facie case of eligibility for an adjustment of status to temporary residence. The alien must then apply for adjustment within the first 30 days of the application period as provided in Section 245A(e)(1).

2. During Application Period. An alien may not be deported and must be granted employment authorization, pending a final determination of alien status, if the alien can establish prima facie application for adjustment of status to temporary resident.

D. Impact on Federal Requirements. For the UC program there are two separate aspects to alien eligibility: non-monetary eligibility during the benefit year, and monetary eligibility during the base period.

1. Availability for Work. When an individual is granted work authorization under these new provisions, the individual becomes legally available for work. The individual must have some dated documentation from INS substantiating the work authorization issued under Section 245A. An alien with INS issued work authorization is eligible, if also able to work, unemployed, and otherwise entitled to benefits under the State law.

2. Section 3304(a)(14), FUTA. Even though an individual has work authorization, the requirements of Section 3304(a)(14), FUTA, still apply. The State must determine monetary eligibility during the base period. The FUTA prescribes the conditions under which benefits may be paid based on services performed by an alien who was in a proper status "at the time services were performed." Benefits based on services performed while an alien is lawfully admitted for temporary residence, or is granted work authorization pending a ruling on his/her application, is payable because the work authorization grants an alien the status of being lawfully present for purposes of performing services. The status of temporary residence or granting of work authorization does not, however, confer retroactive lawful presence for purposes of monetary eligibility.

Further, an alien whose status is adjusted to "lawfully admitted for permanent residence" is, from the date such status is granted, "permanently residing in the United States under color of law" within the meaning of that phrase as used in Section 3304(a)(14)(A), FUTA, and further consideration is being given to whether an alien in such status falls under the first category of Section 3304(a)(14)(A), FUTA, as "lawfully admitted for permanent residence."

III. Admission of Temporary Agricultural (H-2A) Workers and Their Entitlement To Unemployment Compensation.

A. General. Title III of the Immigration Reform and Control Act of 1986, P.L. 99-603, provides for the reform of legal immigration. Section 301 of the Act establishes a new "H-2A" nonimmigrant classification for temporary agricultural worker. Section 301(a) and (b) amends Sections 101(a)(15)(H)

and 214(c) of the Immigration and Nationality Act to provide for this new classification. Following is an explanation of these new provisions as they effect the UC programs.

B. New "H-2A" Workers. Section 301(a) provides a new "H-2A" nonimmigrant classification for temporary agricultural labor by amending Section 101(a)(15)(H) of the Immigration and Nationality Act. Section 301(c) added a new Section 216 to the Immigration and Nationality Act which allows for the admission of "H-2A" workers to perform agricultural labor or services "of a temporary or seasonal nature" as defined by the Secretary of Labor.

C. Impact on States. The services performed by the new "H-2A" workers are excludable from coverage on the same basis as those performed by "H-2" workers. Section 3306(c)(1)(B), FUTA, exempts from coverage services performed by aliens in agricultural labor, including the new "H-2A" workers through calendar year 1992. However, it requires consideration of such service in determining the size of a firm under Section 3306(c)(1)(A), FUTA.

IV. Provisions for Lawful Residence of Certain Special Agricultural Workers and Their Entitlement to Unemployment Compensation.

A. General. Title III of the Immigration Reform and Control Act of 1986, P.L. 99-603, provides for the lawful residence of certain agricultural workers. Section 302(a)(1) of Title III adds a new Section 210 to the Immigration and Nationality Act that allows for the adjustment of status of special agricultural workers to that of an alien lawfully admitted for temporary residence, and further adjustment of such lawful temporary residents' status to permanent resident.

B. Lawful Residence. The new Section 210 creates a new category of special agricultural worker.

1. This new category allows for the adjustment of status to an alien lawfully admitted for temporary residence if the following requirements are met:

a. The alien must apply for the adjustment during the period specified in Section 210(a)(1)(A), and

b. The alien must establish residence in the United States, and have performed seasonal agricultural services in the United States for at least "90 man-days" during the period specified in Section 210(a)(1)(B).

c. Except as provided in subsection (c)(2) of Section 210, the alien must establish that he/she is admissible to the United States as an immigrant.

2. Once granted the status of lawful temporary resident under Section 210(a)(1), an alien "shall be granted authorization to engage in employment in the United States and shall be provided an 'employment authorized' endorsement or other approriate work permit, in the same manner as for aliens lawfully admitted for permanent residence." (Section 210(a)(4)).

3. In accordance with the specific dates listed in Section 210(a)(2), the Attorney General shall adjust the status of any alien with temporary resident status under Section 210(a)(1) to that of an alien lawfully admitted for permanent residence.

4. Section 210(a)(3) provides for the termination of "temporary resident status" by the Attorney General only upon a determination that the alien is deportable.

C. Temporary Stay of Exclusion or Deportation and Work Authorization for Certain Applicants. New Section 210(d) allows for a stay of exclusion or deportation and work authorization for certain aliens.

1. Before Application Period. An alien may not be excluded or deported and must be granted employment authorization if apprehended before the beginning of the application period and can establish a nonfrivolous case of eligibility to have an adjustment of status. The alien must then apply for adjustment within the first 30 days of the application period as provided in Section 245A(e)(1).

2. During Application Period. An alien may not be excluded or deported and must be granted employment authorization if the alien can present a nonfrivolous application for adjustment of status, and until a final determination of the application has been made.

3. In both cases the alien must be granted work authorization and provided documentation of work authorization.

D. Impact on States. For the UC program, there are two separate aspects to alien eligibility: non-monetary eligibility during the benefit year, and monetary eligibility during the base period.

1. Availability for Work. When an individual is granted work authorization under these new provisions, the individual becomes legally available for work. The individual must have some dated documentation from INS substantiating the work authorization.

2. Section 3304(a)(14)(A), FUTA. Even though an individual has work authorization, the requirements of Section 3304(a)(14), FUTA, still apply. The State must determine monetary eligibility during the base period. The FUTA prescribes the conditions under which benefits may be paid based on the status of the alien "at the time services were performed." It is possible that an agricultural worker's base period wage credits may meet the criteria under 3304(a)(14), FUTA. For example, if all the wage credits were performed as an H-2 worker, then the worker "was lawfully present for purposes of performing such services. . . ." Benefits based on services performed while an alien is lawfully admitted for temporary residence are payable under the FUTA because the work authorization grants the alien the status "lawfully present for purposes of performing services." The status of "temporary resident" does not, however, confer retroactive lawful presence for purposes of monetary eligibility under the FUTA. An alien granted the status of "lawfully admitted for permanent residence" is at least a third category of "permanently residing in the United States under color of law" under Section 3304(a)(14)(A), and consideration is being given to whether such alien also falls into the first category of "lawfully admitted for permanent residence."

U.S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEURL
	DATE September 28, 1988

DIRECTIVE : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 12-87, CHANGE 1

TO : ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM : DONALD J. KULICK
Administrator
for Regional Management

SUBJECT : Revised Interpretation of Section 3304(a)(14) of the Federal Unemployment Tax Act Relating to the Adjustment of Status of Certain Aliens to Lawfully Admitted for Temporary Residence

1. Purpose. To advise State agencies of a revised interpretation of Section 3304(a)(14) of the Federal Unemployment Tax Act (FUTA) relating to the wages for services of aliens which may be used for computing monetary entitlement to unemployment benefits. This revised interpretation permits States to pay benefits based on wages from otherwise covered services performed on or after November 6, 1986, by aliens granted lawful temporary resident status under Section 210(a)(1) or Section 245A(a) of the Immigration and Nationality Act (INA).

2. References. UIPL 1-86; UIPL 12-87; Section 3304(a)(14), FUTA; Section 210 and Section 245A, INA.

3. Background. Section II of Attachment III to UIPL 12-87 transmitted information to the States concerning implementation of Section 245A of the INA. Section 245A(a), INA, authorizes the adjustment of status of certain aliens who entered the United States before January 1, 1982, to that of lawfully admitted for temporary residence. Section 245A(e) provides for the temporary stay of deportation and the granting of work authorization for certain aliens before and during the application period for adjustment of status. Section 245A(b)(3) provides for work authorization while the alien is in lawful temporary resident status.

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Section IV of Attachment III to UIPL 12-87 transmitted information concerning implementation of Section 210 of the INA. Section 210(a)(1) sets forth the conditions for the adjustment of status of special agricultural workers to that of lawfully admitted for temporary residence. Section 210(d) provides for temporary stay of deportation and the granting of work authorization for certain aliens before and during the application period for adjustment of status. Section 210(a)(4), INA, provides, among other things, that during the period an alien is in lawful temporary resident status under Section 210(a), the alien "shall be granted authorization to engage in employment in the United States and shall be provided an 'employment authorized' endorsement or other appropriate work permit, in the same manner as for aliens lawfully admitted for permanent residence."

For aliens to receive unemployment benefits, they must satisfy two eligibility requirements: non-monetary eligibility during the benefit year, and monetary eligibility during the base period. With respect to the first requirement, when an alien's status is adjusted to lawfully admitted for temporary residence or when the alien is granted work authorization under Section 245A or Section 210 of the INA, the alien becomes legally available for work. Such an alien is eligible for unemployment benefits if the alien is also unemployed, able and available for work, and otherwise satisfies the State's eligibility requirements for receiving benefits.

With respect to the second requirement, monetary eligibility during the base period, the requirements of Section 3304(a)(14), FUTA, apply. The second category under Section 3304(a)(14) specifies that services performed while an alien was "lawfully present for purposes of performing such services" may be used for computing monetary eligibility if the State law includes the second category and the State construes the State law provision as including such aliens. Therefore, benefits based on wages for otherwise covered services performed while an alien is lawfully admitted for temporary residence under Section 245A(a) or Section 210(a)(1), or after the alien is granted work authorization under Section 245A or Section 210, may be paid (if the State law so provides and the alien is otherwise eligible) because the services were performed while the alien was lawfully present for purposes of performing services.

However, Section II.D.2 and Section IV.D.2 of Attachment III to UIPL 12-87 state that the status of lawful temporary resident or the granting of work authorization does not confer retroactive lawful presence for purposes of monetary entitlement. This means that an alien's services may only be used for establishing monetary entitlement from the date INS grants lawful temporary resident status or work authorization. This interpretation is now partially revised as set forth below.

4. Revised Interpretation. Although Section 210 and Section 245A were effective November 6, 1986, INS did not start accepting applications for lawful temporary resident status until May 5, 1987. INS could have accepted applications for, and granted lawful temporary resident status, as early as November 6, 1986, if it had been able to set up its application process by that date. ETA, therefore, has modified its interpretation of Section 3304(a)(14) to permit States, if State law so allows, to pay benefits based on wages from otherwise covered services performed on or after November 6, 1986, by aliens granted lawful temporary resident status under Section 245A(a) or Section 210(a)(1), INA. This is optional for each State and not a requirement for conformity. The retroactive use of an alien's wages to November 6, 1986, is permitted only if the alien is granted lawful temporary resident status. However, to use such retroactive wages in computing monetary entitlement, the alien must present the agency with documentation of the lawful temporary resident status, i.e., temporary resident card (INS Form I-688).

A distinction exists between INS Form I-688, which is issued to an alien granted lawful temporary resident status and includes work authorization, and INS Form I-688A which is the work authorization issued to an applicant for legalization along with the application fee receipt. The work authorization on INS Form I-688A is effective on the date stated on the form itself, and may never be given retroactive effect for any purpose. The retroactive use of an alien's wages for computing monetary entitlement, as discussed above, only occurs in connection with the granting of lawful temporary resident status and the issuance of INS Form I-688.

When an alien is granted lawful temporary resident status under Section 245A(a) or Section 210(a), INA, the alien falls within the second category of Section 3304(a)(14), FUTA -- lawfully present for purposes of performing such services -- and each State, at its option, may treat such status as retroactive as far back as November 6, 1986, for the purpose of computing monetary eligibility. Therefore, if the State law includes the second category, and the State construes the State law provision as including such an alien, then wages paid to the alien for otherwise covered services performed on or after November 6, 1986, or such later date as the State construes its law, may be used to compute monetary eligibility. If a State decides to use such wages in computing monetary eligibility, it must first examine its State law to determine if such retroactive use of an alien's wages is permissible.

5. Action Required. State Administrators are requested to provide this information to appropriate staff.

6. Inquiries. Questions should be directed to the appropriate Regional Office.

7. Attachments. Attachment I of this UIPL should be substituted for the last sentence of the first paragraph of Section II.D.2, page 9, Attachment III to UIPL 12-87, which reads as follows:

> The status of temporary residence or granting of work authorization does not, however, confer retroactive lawful presence for purposes of monetary eligibility.

Attachment II of this UIPL should be substituted for the following sentence contained in Section IV.D.2, page 12, Attachment III to UIPL 12-87:

> The status of temporary residence or granting of work authorization does not, however, confer retroactive lawful presence for purposes of monetary eligibility under the FUTA.

Although Section 245A of the INA was effective November 6, 1986, INS will not start accepting applications for lawful temporary resident status until May 5, 1987. INS could have accepted applications for and granted lawful temporary resident status as early as November 6, 1986, if it had been able to set up its application process by that date. ETA, therefore, has modified its interpretation of Section 3304(a)(14) to permit States, at each State's option, and if State law so allows, to pay benefits based on wages from otherwise covered services performed on or after November 6, 1986 (i.e., as far back as that date) by aliens granted lawful temporary resident status under Section 245A(a), INA. This is optional for each State and not a requirement for conformity. For the purpose of conformity, however, the use of an alien's wages for services retroactive to November 6, 1986, is permitted only after the alien is granted lawful temporary resident status. To justify the use of such wages in computing monetary entitlement, the alien must present the agency with documentation of the lawful temporary resident status, i.e., temporary resident card (INS Form I-688).

A distinction exists between INS Form I-688, which is issued to an alien granted lawful temporary resident status and includes work authorization, and INS Form I-688A which is the work authorization issued to an applicant for legalization along with the application fee receipt. The work authorization on INS Form I-688A is effective on the date stated on the form itself, and may never be given retroactive effect for any purpose. The retroactive use of an alien's wages for computing monetary entitlement, as discussed above, occurs only in connection with the granting of lawful temporary resident status and the issuance of INS Form I-688.

For the same reason given on page 9, item II.D.2 of this Attachment, a State may, if State law so allows, pay benefits based on wages from otherwise covered services performed on or after November 6, 1986, by aliens granted lawful temporary resident status under Section 210(a)(1), INA. This is optional for each State and not a requirement for conformity. For the purpose of conformity, however, the use of an alien's wages for services retroactive as far back as November 6, 1986, is permitted only if the alien is granted lawful temporary resident status. To justify the use of such services in computing monetary entitlement, the alien must present the agency with documentation of the lawful temporary resident status, i.e., temporary resident card (INS Form I-688).

A distinction exists between INS Form I-688, which is issued to an alien granted lawful temporary resident status and includes work authorization, and INS Form I-688A which is the work authorization issued to an applicant for legalization along with the application fee receipt. The work authorization on INS Form I-688A is effective on the date stated on the form itself, and may never be given retroactive effect for any purpose. The retroactive use of an alien's wages for computing monetary entitlement, as discussed above, only occurs in connection with the granting of lawful temporary resident status and the issuance of INS Form I-688.

U.S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
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	DATE December 2, 1988

DIRECTIVE : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 6-89

TO : ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM : DONALD J. KULICK
Administrator
for Regional Management

SUBJECT : Provisions of the Foreign Relations Authorization Act (P.L. 100-204), Which Affect the Federal-State Unemployment Compensation Program

1. Purpose. To advise State agencies of Section 902 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, which establishes another class of aliens eligible for temporary resident status.

2. References. Section 902 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (P.L. 100-204); Section 245A of the Immigration and Nationality Act; and UIPLs 1-86, 12-87, 12-87, Change 1 and 11-88.

3. Background. On December 22, 1987, the President signed into law the Foreign Relations Authorization Act (FRAA) which contains provisions affecting the unemployment compensation (UC) program. Section 902, FRAA, establishes another class of aliens who are eligible to apply for temporary residence status as provided by the Immigration and Nationality Act (INA). The Immigration Reform and Control Act of 1986 (IRCA) added a new Section 245A to the INA to authorize the adjustment of status of certain aliens. Section 245A established a new category, that of "lawfully admitted for temporary residence." Section 902, FRAA, does not amend IRCA or INA, but does add a new class of aliens eligible for the lawfully admitted for temporary residence status to the classes of aliens authorized by Section 245A. FRAA also makes specific provisions of Section 245A applicable to the Section 902 class.

This new class of aliens includes any alien who is a national of a foreign country whose nationals were provided (or allowed to continue in) "extended voluntary departure" (EVD) by the Attorney General on the basis of a nationality

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group determination at any time during the 5-year period ending on November 1, 1987. In this 5-year period EVD was provided to the nationals of Poland, Ethiopia, Afghanistan, and Uganda.

FRAA extends most of the same benefits, conditions and responsibilities to qualifying applicants as to those applicants qualifying under Section 245A, INA. However, the eligibility requirements and application period under FRAA differ from those under Section 245A, INA.

4. Adjustment of Status. Section 902(a), FRAA, establishes the criteria for eligibility for adjustment of status. The Section applies to any alien who is a national of a foreign country whose nationals were provided (or allowed to continue in) "extended voluntary departure" by the Attorney General on the basis of a nationality group determination at any time during the 5-year period ending on November 1, 1987. The status of an alien shall be adjusted to lawfully admitted for temporary residence if the alien:

a. applies for such adjustment within two years of the date of the enactment of FRAA (that is, by December 22, 1989);

b. establishes that the alien entered the United States before July 21, 1984, and has resided continuously in the United States since that date, and through December 22, 1987;

c. establishes continuous physical presence in the United States (other than brief, casual, and innocent absences) since December 22, 1987;

d. in the case of an alien who entered the United States as a nonimmigrant before July 21, 1984, establishes that the alien's period of authorized stay as a nonimmigrant expired not later than six months after such date through the passage of time or the alien applied for asylum before July 21, 1984; and

e. meets the requirements of Section 245A(a)(4), INA.

5. Applicable Subsections of Section 245A of INA.

Section 902(b), FRAA, provides that subsections (b), (c)(6), (d), (f), (g), (h), and (i) of Section 245A, INA, apply to the aliens whose status is adjusted under

Section 902(a). These subsections apply in the same manner as they apply to aliens provided lawful temporary resident status under Section 245A(a), INA.

Subsection 245A(b), INA, specifies certain terms and conditions of temporary resident status and prescribes the conditions for subsequent adjustment to "lawfully admitted for permanent residence." It allows an alien, after 18 months of temporary resident status, one year to apply for an adjustment of status to that of lawfully admitted for permanent residence. Paragraph (1) of subsection 245A(b) lists the conditions an alien must meet to be eligible for subsequent adjustment to that of an alien admitted for permanent residence. Paragraph (2) of subsection 245A(b) specifies the conditions under which the Attorney General shall provide for termination of temporary resident status.

Paragraph (3) of subsection 245A(b) provides that an alien with temporary resident status shall be granted "authorization to engage in employment in the United States and be provided with an 'employment authorized' endorsement or other appropriate work permit." Paragraph (3) also lists the conditions for authorization to travel abroad.

Paragraph (1) of subsection 245(g) requires the Attorney General to publish regulations necessary to carry out Section 245A. An interim rule implementing Section 902, FRAA, was published and became effective March 21, 1988, at 53 FR 9274. This interim rule created a new regulatory Section 245a.4 of 8 CFR Part 245a entitled "Adjustment to Lawful Resident Status of Certain Nationals of Countries for Which Extended Voluntary Departure has been made Available." Section 245a.4(b)(14) of this Part lists the provisions regarding employment and travel authorization for aliens applying for adjustment of status to lawfully admitted for temporary residence status as well as those granted such status under Section 902, FRAA. Form I-688A, Employment Authorization, is issued to applicants. Form I-688, Temporary Resident Card, is issued to an alien granted temporary resident status.

6. Impact on Federal UC Requirements. For the UC program there are two separate aspects to alien eligibility: (A) non-monetary eligibility during the benefit year and (B) monetary eligibility during the base period.

A. Availability for Work. When an individual is granted work authorization under these new provisions the individual is lawfully present for purposes of performing services and may be considered legally available for work.

The individual must have dated documentation (I-688A or I-688) from INS substantiating the work authorization. An alien with INS issued work authorization may be eligible for unemployment compensation under the State law if the alien is also able to work, is otherwise available for work, is unemployed, and is otherwise entitled to benefits under the State law, including monetary entitlement.

B. Section 3304(a)(14), FUTA. Even though an individual has work authorization, the requirements of Section 3304(a)(14), FUTA, still apply. The State must determine if an alien has established monetary eligibility during the base period. FUTA prescribes the conditions under which benefits may be paid based on services performed by an alien who is in proper status "at the time services were performed." Benefits based on services performed while an alien is lawfully admitted for temporary residence or is granted work authorization pending a ruling on his/her application, may be paid because the work authorization grants an alien the status of being lawfully present for purposes of performing services.

Although Section 902 was effective December 22, 1987, INS did not start accepting applications for lawful temporary resident status until March 21, 1988. INS could have accepted applications for, and granted lawful temporary resident status, as early as December 22, 1987, if it had been able to set up its application process by that date. Therefore, States may, if State law so allows, pay benefits based on wages from otherwise covered services performed on or after December 22, 1987, by aliens granted lawful temporary resident status under Section 902. This is optional for each State and not a requirement for conformity. The retroactive use of an alien's wages to December 22, 1987, is permitted only if the alien is granted lawful temporary resident status. However, to use such retroactive wages in computing monetary entitlement, the alien must present the agency with documentation of the lawful temporary resident status, i.e., temporary resident card (INS Form I-688).

A distinction exists between INS Form I-688, which is issued to an alien granted lawful temporary resident status and includes work authorization, and INS Form I-688A which is the work authorization issued to an applicant for legalization along with the application

fee receipt. The work authorization on INS Form I-688A is effective on the date stated on the form itself, and may never be given retroactive effect for any purpose. The retroactive use of an alien's wages for computing monetary entitlement, as discussed above, is permitted only in connection with the granting of lawful temporary resident status and the issuance of INS Form I-688.

When an alien is granted lawful temporary resident status under Section 902, the alien falls within the second category of Section 3304(a)(14), FUTA -- lawfully present for purposes of performing such services -- and each State, at its option, may treat such status as retroactive as far back as December 22, 1987, for the purpose of computing monetary eligibility. Therefore, if the State law includes the second category, and the State construes the State law provision as including such an alien, then wages paid to the alien for otherwise covered services performed on or after December 22, 1987, or such later date as the State construes its law may be used to compute monetary eligibility. If a State decides to use such wages in computing monetary eligibility, it must first examine its State law to determine if such retroactive use of an alien's wages is permissible.

7. Action Required. SESAs should notify the appropriate staff of the provisions of P.L. 100-204 which affect the UC program and this program letter.

8. Inquiries. Inquiries should be directed to your Regional Office.

9. Attachments.

I. Text of Section 902 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (P.L. 100-204).

II. Section 245A of the Immigration and Nationality Act.

III. Copy of INS Interim Final Rule, 8 CFR 245a.4.

Note: These attachments are not published in the Federal Register.

U.S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEU
	DATE January 5, 1989

DIRECTIVE : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 11-89

TO : ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM : DONALD J. KULICK
Administrator
for Regional Management

SUBJECT : Amendments Made by the Family Support Act of 1988, P.L. 100-485, and the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, P.L. 100-628, Which Affect the Federal-State Unemployment Compensation Program.

1. Purpose. To advise State employment security agencies (SESAs) of amendments to the Social Security Act (SSA) affecting the Federal-State Unemployment Compensation (UC) Program.

2. References. Section 124 of P.L. 100-485; Section 904 of P.L. 100-628; Sections 303(h), 303(i), 304(a)(2), and 453, SSA.

3. Background. In late 1988, the President signed into law two bills containing provisions affecting the UC program. These bills are the Family Support Act of 1988, P.L. 100-485, signed into law on October 13, 1988; and the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, P.L. 100-628, signed into law on November 7, 1988.

The pertinent provisions of the Family Support Act require SESAs to take such actions as may be necessary to enable the Secretary of Health and Human Services to obtain prompt access to any wage and UC claims information available to the SESA for purposes of assisting the Federal Parent Locator Service in carrying out the child support enforcement program under Title IV, SSA. This requirement is effective January 1, 1990.

In addition, the provisions of the Family Support Act require the Secretary of Labor to enter into an agreement with the Secretary of Health and Human Services to give the FPLS prompt access to the above wage and UC information. This agreement will govern the specific details of implementation. Further details regarding this agreement will be issued at a later date.

RESCISSIONS	EXPIRATION DATE
	January 31, 1991

DISTRIBUTION

The relevant provisions of the Stewart B. McKinney Homeless Assistance Amendments Act require SESAs to disclose wage and UC claims information to the Department of Housing and Urban Development and public housing agencies under certain circumstances. This requirement is effective for most States beginning September 30, 1989, and ceases to be effective beginning October 1, 1994. The amendments make provision for optional early implementation by States as well as for a grace period for individual States under described circumstances. The text, explanations and interpretations of each of these amendments are provided in the attachments to this UIPL.

The provisions of the McKinney Act Amendments also require the Secretary of Labor to prescribe regulations governing how often and in what form information may be disclosed, and to provide for safeguards on disclosed information. The Department is currently working on these regulations which will be published for comment in the Federal Register.

Finally, the McKinney Act Amendments contain provisions creating the "Jobs for Employable Dependent Individuals Act." Although these provisions do not place any new requirements on SESAs, SESAs may receive requests from State agencies administering these provisions for certain wage information. The Employment and Training Administration is currently working on the implementation of these amendments. A separate UIPL will be issued discussing disclosure made under these new provisions.

4. Action Required. SESAs are requested to notify appropriate staff of these amendments.

5. Inquiries. Inquiries should be directed to the appropriate Regional Office.

6. Attachments.

Attachment I, Text, Explanation and Interpretation of Amendments made to the Social Security Act by Section 124 of P.L. 100-485, the Family Support Act of 1988.

Attachment II, Text, Explanation and Interpretation of Amendments made to the Social Security Act by Section 904(c)(1) of P.L. 100-628, the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.

Attachment III, Text of Sections 904(c)(2) and (3) of P.L. 100-628, the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.

TEXT, EXPLANATION AND INTERPRETATION OF AMENDMENTS MADE TO THE SOCIAL SECURITY ACT BY SECTION 124 OF P.L. 100-485, THE FAMILY SUPPORT ACT OF 1988

1. Text of Amendments to the Social Security Act Made by Section 124 of P.L. 100-485.

a. Amendment to Section 453(e), SSA. Section 124(a), P.L. 100-485, amended Section 453(e), SSA, by adding at the end the following new paragraph:

> (3) The Secretary of Labor shall enter into an agreement with the Secretary [of Health and Human Services] to provide prompt access for the Secretary (in accordance with this subsection) to the wage and unemployment compensation claims information and data maintained by or for the Department of Labor or State employment security agencies.

b. Amendment to Section 303, SSA. Section 124(b)(1) of P.L. 100-485 amended Section 303, SSA, by adding at the end the following new subsection:

> (h)(1) The State agency charged with the administration of the State law shall take such actions (in such manner as may be provided in the agreement between the Secretary of Health and Human Services and the Secretary of Labor under section 453(e)(3)) as may be necessary to enable the Secretary of Health and Human Services to obtain prompt access to any wage and unemployment compensation claims information (including any information that might be useful in locating an absent parent or such parent's employer) for use by the Secretary of Health and Human Services, for purposes of section 453, in carrying out the child support enforcement program under Title IV.
>
> (2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirement of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until such Secretary is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, such Secretary shall make no further certification to the Secretary of the Treasury with respect to such State.

c. Companion Amendment to Section 304(a)(2), SSA. Section 124(b)(2) amended Section 304(a)(2), SSA, by striking

"or (e)" and inserting in lieu thereof "(e), or (h)".

2. Discussion.

a. In General. Section 453, SSA, requires the Secretary of Health and Human Services to establish and conduct a Federal Parent Locator Service (FPLS). The mission of the FPLS is to obtain and transmit to any authorized person (as defined under Section 453(c)) information as to the whereabouts of any absent parent. This information is to be used to locate the parent for the purpose of enforcing child support obligations.

Section 124(a) of P.L. 100-485, added new paragraph (3) to Section 453(e). This new paragraph requires the Secretary of Labor to enter into an agreement with the Secretary of Health and Human Services. Under this agreement, the FPLS will be given prompt access to wage and unemployment compensation claims information and data maintained by or for the Department of Labor or SESAs. Under Section 124(c)(2), the Secretaries of Labor and Health and Human Services must enter into this agreement within 90 days following the date of the enactment of P.L. 100-485.

Section 124(b)(1) of P.L. 100-485 added new subsection (h)(1) to Section 303, SSA, to require the State agency charged with the administration of the State UC law (i.e., the SESA) to give the FPLS prompt access to wage and UC claims information useful in locating an absent parent or the parent's employer for purposes of administering the child support enforcement provisions of Title IV, SSA. Under this provision, the actions the SESAs are required to take may be provided for in the agreement between the Secretaries of Labor and Health and Human Services.

The information covered by Section 303(h)(1) includes any wage and UC claims information that might be useful in locating an absent parent or the parent's employer for purposes of carrying out the child support enforcement program under Title IV, SSA. Under the agreement required by Section 453(e)(3), a SESA will be required to grant access to information that it has or that is maintained for it by another agency. SESAs are not, however, required to obtain additional information for the use of the FPLS.

Granted funds under Title III may not be used to pay any costs of administration of Section 303(h). As noted in the Conference Report (H.R. Rep. No. 998, 100th Cong., 2d Sess. 103), "[c]urrent law provides for the Department of HHS to reimburse the costs incurred by States and Federal agencies in providing information to the Federal Parent Locator Service." Therefore, any administrative costs incurred by SESAs that are associated with Sections 303(h) and 453(e) will be borne by the Department of Health and Human Services.

Further details regarding the agreement between the Secretaries of Labor and Health and Human Services, the implementation of Section 303(h), and the method of billing and reimbursing costs of administration will be issued at a later date.

Subsection 124(b)(1) also added new Section 303(h)(2), SSA, requiring denial of administrative grants to any State upon the finding of the Secretary, after reasonable notice and opportunity for hearing to the SESA, that there is a failure to comply substantially with the requirements of new Section 303(h)(1). Finally, Section 124(b)(2) of P.L. 100-485 amended Section 304(a)(2), SSA, to provide for judicial review whenever the Secretary makes an adverse finding under Section 303(h)(2).

b. Safeguards on Granting Access. Section 303(a)(1), SSA, has been interpreted to require that sufficient safeguards exist to ensure that any disclosed wage and UC claim information be used only for the purposes for which it is disclosed. Section 303(h) requires disclosure only for purposes of "carrying out the child support enforcement program under title IV." Therefore, the Department interprets Sections 303(a)(1) and 303(h)(1) as requiring the States to establish sufficient safeguards, including such safeguards as the Department of Labor may require, to assure that access to the information is restricted to the FPLS and that the information given the FPLS is used only for the purposes specified under Section 303(h)(1).

c. Amendments to State Law. Most State laws now permit information in the SESA's records to be disclosed to public officials in the performance of their public duties. In addition, Section 303(f), SSA, requires SESAs to provide information for purposes of the income and eligibility verification system created by Section 1137, SSA. SESAs will need to

review State laws to determine whether existing provisions provide sufficient authority to grant access to the FPLS or whether an amendment to State law is needed. If an amendment is necessary, State law should be amended by the effective date discussed in Section 3 of this attachment.

3. Effective Date. New Section 303(h)(2) requires that SESAs must substantially comply with the requirements of Section 303(h)(1) as a condition for receiving administrative grants under Section 302(a) of the SSA. Section 124(c)(1) of P.L. 100-485 specifies that the amendments made to Section 303(h):

> . . . shall become effective on the first day of the first calendar quarter which begins one year or more after the date of the enactment of this Act.

Since P.L. 100-485 was enacted on October 13, 1988, the requirements of Section 303(h)(1) become a condition for receiving administrative grants on January 1, 1990. This means the State law must provide for granting the FPLS prompt access to wage and UC claims information as provided by any agreement between the Secretaries of Labor and Health and Human Services by January 1, 1990.

TEXT, EXPLANATION AND INTERPRETATION OF AMENDMENTS MADE TO THE SOCIAL SECURITY ACT BY SECTION 904(c) OF P.L. 100-628, THE STEWART B. McKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1988

1. Text of Amendments to the Social Security Act Made by Section 904(c) of P.L. 100-628.

a. Amendment to Section 303, SSA. Section 904(c)(1)(A) of P.L. 100-628 amended Section 303, SSA, by adding the following new subsection:

> (i)(1) The State agency charged with the administration of the State law--
>
> (A) shall disclose, upon request and on a reimbursable basis, only to officers and employees of the Department of Housing and Urban Development and to representatives of a public housing agency, any of the following information contained in the records of such State agency with respect to individuals applying for or participating in any housing assistance program administered by the Department who have signed an appropriate consent form approved by the Secretary of Housing and Urban Development--
>
> (i) wage information, and
>
> (ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual, and
>
> (B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to ensure that information disclosed under subparagraph (A) is used only for purposes of determining an individual's eligibility for benefits, or the amount of benefits, under a housing assistance program of the Department of Housing and Urban Development.
>
> (2) The Secretary of Labor shall prescribe regulations governing how often and in what form information may be disclosed under paragraph (1)(A).
>
> (3) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he or she is satisfied

that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he or she shall make no future certification to the Secretary of the Treasury with respect to such State.

(4) For purposes of this subsection, the term 'public housing agency' means any agency described in section 3(b)(6) of the United States Housing Act of 1937.

(5) The provisions of this subsection shall cease to be effective beginning on October 1, 1994.

b. Companion Amendment to Section 304(a)(2), SSA. Section 904(c)(1)(B) of P.L. 100-628 amended Section 304(a)(2), SSA, by striking "(e), or (h)" and inserting "(e), (h), or (i)".

2. Discussion.

a. In General. The Department of Housing and Urban Development (HUD) administers various housing assistance programs for low-income families. Section 904 of P.L. 100-628 creates requirements to assist in preventing fraud and abuse in HUD programs, including a requirement that program applicants and participants consent to permit HUD or a public housing agency to request certain information from State Employment Security Agencies (SESAs). The amendments made by Section 904(c)(1) require the SESA to provide these entities such information.

Specifically, Section 904(c)(1)(A) of P.L. 100-628 added new subsection (i)(1) to Section 303, SSA, to require the State agency charged with the administration of the State UC law (i.e., the SESA) to disclose, under certain conditions, to officers and employees of HUD and to representatives of a public housing agency certain information contained in the SESA's records.

"Public housing agency" is defined in new Section 303(i)(4) as "any agency described in Section 3(b)(6) of the United States Housing Act of 1937." Section 3(b)(6), 42 U.S.C. 1437a(b)(6), defines "public housing agency" as:

> . . . any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing.

SESAs are required to disclose information to HUD and other public housing agencies only upon request and only with

respect to individuals applying for or participating in any housing assistance program administered by HUD. In certain instances, private owners of residences are responsible for determining eligibility for or level of benefits. The requirements of Section 303(i)(1) do not require disclosure to such owners. Indeed, as stated in the Conference Report (H.R. Rep. No. 1089, 100th Cong., 2d Sess. 91), "[t]he wage and UI information may not be released to private owners." In addition, before a SESA may release any information under Section 303(i) regarding an individual who is applying for or participating in a HUD housing assistance program, the individual must sign a consent form, approved by the Secretary of HUD, which permits the release of such information.

Under Section 303(i)(1)(A), the SESA is required only to disclose "information contained in the records of" the SESA. Because a SESA is required only to disclose information in its records, it is not required to obtain additional information for the use of HUD or other public housing agencies.

Under Section 303(i)(1)(A)(i), the information to be disclosed from SESA records includes "wage information." "Wage information" is not defined in Section 303(h). For purposes of the income and eligibility verification system required under Section 303(f), SSA, the Department has defined "wage information" contained in SESA records at 20 CFR 603.2(b):

> "Wage information" means information about wages as defined in the State's unemployment compensation law and includes the Social Security Number (or number, if more than one) and quarterly wages of an employee, and the name, address, State, and (when known) Federal employer identification number of an employer reporting wages under a State unemployment compensation law . . . .[1]

The Department adopts this definition of "wage information" for purposes of Section 303(i)(1). However, if HUD or any public housing agency does not require any of this wage information to verify entitlement for HUD-assisted housing

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[1] The remainder of 20 CFR 603.2(b) addresses States where wage information is not required to be reported to the SESA. It is not applicable to Section 303(i)(1)(A) which only requires disclosure of information contained in the SESA's records.

programs, then the SESA should limit disclosure to the information required. In addition, a SESA is required under Section 303(i)(1)(A)(ii) to provide information in its records as to whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any compensation being received, or to be received, by the individual.

Granted funds under Title III may not be used to pay any costs of administration of Section 303(i). Section 303(i)(1)(A) specifically requires that SESAs shall disclose information upon "a reimbursable basis." Because granted funds may not be used for this purpose, the Department interprets Section 303(i), SSA, as requiring the SESAs to collect from HUD and any other requesting public housing agency all costs incurred in administering Section 303(i). These costs include start-up and continuing costs.

A written agreement between the SESA and HUD and any other requesting public housing agency is needed and should include specific terms regarding the information supplied by the SESA, the costs covered and charges to be made for all information, billing and payment arrangements (including advance payment), handling of errors, and adjustment of prices. SESAs may undertake activities under Section 303(i)(1) only after agreements for reimbursement of all costs have been made.

Section 904(c)(1)(A) also added new Section 303(i)(2) requiring the Secretary of Labor to prescribe regulations governing how often and in what form information may be disclosed under Section 303(i)(1)(A). Further information on the required agreements and the proposed regulations will be issued at a later date.

Section 904(c)(1)(A) also added new Section 303(i)(3), SSA, requiring the denial of administrative grants to any State upon the finding of the Secretary, after reasonable notice and opportunity for hearing, that the State agency failed to comply substantially with the requirements of new Section 303(i)(1). New Section 303(i)(5) specifies that the provisions of Section 303(i) cease to be effective beginning on October 1, 1994. Section 904(c)(1)(B) of P.L. 100-628 amended Section 304(a)(2), SSA, to provide for judicial review whenever the Secretary makes an adverse finding under Section 303(i)(3).

Finally, Section 904(c)(2) created new provisions, not amending any existing law, which provide protections for the

subjects of the disclosed information by limiting the use of this information by requiring verification before action is taken against these individuals and by imposing penalties for improperly requesting, obtaining, or disclosing this information. (See Section 2.b of this attachment and Attachment III.)

b. Safeguards on Disclosing Information. New Section 303(i)(1)(B), SSA, requires the SESA to establish necessary safeguards to ensure that information disclosed is used only for purposes of determining the individual's eligibility for benefits, or the amount of benefits, under a HUD housing assistance program. The Secretary of Labor is to prescribe regulations on such safeguards as are necessary. Until such regulations are issued, SESAs will assure compliance with Section 303(i)(1)(B) by following the confidentiality protection provisions of 20 CFR 603.7 pertaining to the income eligibility and verification program. In addition, until such regulations are issued, as a condition of disclosure, HUD and other requesting public housing agencies must agree to comply with provisions of 20 CFR 603.7 (with a more stringent requirement noted below) pertaining to requesting agencies.

Section 904(c)(2) of P.L. 100-628 provides for limitations on the use of data obtained by the requesting agencies. Section 904(c)(3) provides for penalties for improper use of information. Although SESAs will not be actively involved in the administration of these sections, SESAs should be aware of the limitations on use of wage and UC information. These limitations should be included in any agreement between the SESA and HUD or other requesting public housing agencies.

Information received under Section 303(i)(1)(A) from SESAs may be redisclosed only under the limited conditions associated with administration of Section 303(i)(1)(a) and Section 904(c) of P.L. 100-628. Under 20 CFR 603.7(b)(3), agencies requesting information under the income and eligibility verification system may redisclose information to other requesting agencies as defined in 20 CFR 603.2(d). However, HUD and other public housing agencies may only redisclose information to public officials whose duties fall within the scope of Section 904(c). In this regard, SESAs should be aware that, under Section 904(c)(2)(A)(ii), the private owners responsible for verifying the individual's eligibility for or level of benefits under a HUD housing assistance program may only be informed by the recipient of the disclosed information

that the individual's eligibility for or level of benefits is uncertain and that the owner should independently verify the individual's income information.

Repeated violations of the statutory, regulatory or other reasonable safeguards required under Section 303(i) and Section 904(c) will constitute cause for the SESA to terminate any agreements. SESAs should report suspected violations of Section 904(c) to the appropriate authorities.

The text of Sections 904(c)(2) and (3) is contained in Attachment III.

c. Amendments to State Law. Most State laws now permit information in the SESA's records to be disclosed to public officials in the performance of their duties. In addition, Section 303(f), SSA, requires SESAs to provide information for purposes of the income and eligibility verification system created by Section 1137, SSA. SESAs will need to review State laws to determine whether existing provisions provide sufficient authority to disclose information to HUD or other public housing agencies, or whether an amendment to State law is needed. If an amendment is necessary, State law should be amended by the effective date discussed in Section 3 of this attachment.

3. Effective Date. New Section 303(i)(3), SSA, requires that SESAs must comply substantially with the requirements of Section 303(i)(1) as a condition for receiving administrative grants under Section 302(a), SSA. Section 904(d)(1) of P.L. 100-628 specifies that the provisions of Section 904, including new Section 303(i), "shall take effect on September 30, 1989." States are, therefore, expected to have provisions of State law permitting the disclosure required by Section 303(i)(1), SSA, by September 30, 1989. However, Section 904(d)(3) provides for a grace period for certain States:

> (3) REQUIREMENTS FOR STATE AGENCIES.--In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not consecutive) between the date of the enactment of this Act and September 30, 1989, the amendments made by subsection (c)(1) shall take effect 30 calendar days after the first day on which such legislature is in session on or after September 30, 1989.

If the "State . . . legislature . . . has not been in session for at least 30 calendar days (whether or not consecutive)"

between the date of enactment, which is November 7, 1988, and September 30, 1989, then the State qualifies for a grace period. "Session" is not defined; however, the language "whether or not consecutive" indicates that the term means legislative days on which the legislative body assembles for the purpose of transacting business. Therefore, for purposes of Section 904(d)(3), "session" is interpreted as meaning a legislative day as recorded in the legislative record of the State legislature. These "sessions" include legislative days in regular, budgetary, special and any other sessions of the State legislature. If the State legislature has not met in such a "session" 30 times between the effective date of P.L. 100-628, which is November 7, 1988, and September 30, 1989, then the State qualifies for a grace period.

This grace period expires 30 calendar days "after the first day on which the legislature is in session on or after September 30, 1989." The same definition of "session" applies for determining the first day on which the legislature is in session after September 30, 1989. Therefore, the grace period will expire 30 calendar days after the first legislative day the legislature assembles after September 30, 1989.

For example, if the legislature does not meet in 30 sessions between the date of enactment of P.L. 100-628, which is November 7, 1988, and September 30, 1989, then the requirements of Section 303(i)(1) are effective 30 days after the first day the legislature meets in session after September 30, 1989. In another example, if a State legislature has not met in 30 sessions between November 7, 1988, and September 30, 1989, but does meet in a "session" October 1, 1989, then the grace period expires 30 days after this date, or October 31, 1989.

Based on information available to the Department, it is anticipated that only the Commonwealth of Kentucky will qualify for this grace period. This is because all other States will likely have legislatures which meet in session for at least 30 calendar days (whether or not consecutive) between the date of enactment of P.L. 100-628, which is November 7, 1988, and September 30, 1989.

Under certain circumstances, States may, at their option, implement the disclosure requirements of Section 303(i)(1) prior to September 30, 1989. Section 904(d)(2) provides for this optional early implementation:

(2) OPTIONAL EARLY IMPLEMENTATION.--At the initiative of a State or an agency of the State, and with the approval of the Secretary of Labor, the amendments made by subsection (c)(1) may be made effective in such State on any date before September 30, 1989, which is more than 90 days after the date of the enactment of this section.

Under Section 904(d)(2), early implementation is permitted only on a date which is "more than 90 days after the date of the enactment" of P.L. 100-628. As the date of enactment of P.L. 100-628 is November 7, 1988, States may implement the requirements of Section 303(i)(1) no earlier than February 6, 1989. Early implementation may be made only with the approval of the Secretary of Labor.

TEXT OF SECTIONS 904(c)(2) AND (3) OF P.L. 100-628, THE STEWART B. McKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1988

(2) APPLICANT AND PARTICIPANT PROTECTIONS.--(A) In order to protect applicants for, and recipients of, benefits under the programs of the Department of Housing and Urban Development from the improper use of information obtained pursuant to the requirements of section 303(i) of the Social Security Act from the State agency charged with the administration of the State unemployment compensation law, officers and employees of the Department of Housing and Urban Development and representatives of public housing agencies may only use such information--

(i) to verify an applicant's or participant's eligibility for or level of benefits; or

(ii) in the case of an owner responsible for determining eligibility for or level of benefits, to inform such owner that an applicant's or participant's eligibility for or level of benefits is uncertain and to request such owner to verify such applicant's or participant's income information.

(B) No Federal, State, or local agency, or public housing agency, or owner responsible for determining eligibility for or level of benefits receiving such information may terminate, deny, suspend, or reduce any benefits of an applicant or participant until such agency or owner has taken appropriate steps to independently verify information relating to--

(i) the amount of the wages or unemployment compensation involved,

(ii) whether such applicant or participant actually has (or had) access to such wages or benefits for his or her own use, and

(iii) the period or periods when, or with respect to which, the applicant or participant actually received such wages or benefits.

(C) Such applicant or participant shall be informed by the agency or owner of the findings made by the agency or owner on the basis of such verified information, and shall be given an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility factors under the program.

(3) PENALTY.--(A) Any person who knowingly and willfully requests or obtains any information concerning an applicant or participant pursuant to the authority contained in section 303(i) of the Social Security Act

under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" as used in this paragraph shall include an officer or employee of the Department of Housing and Urban Development, an officer or employee of any public housing agency, and any owner responsible for determining eligibility for or level of benefits (or employee thereof).

(B) Any applicant or participant affected by (i) a negligent or knowing disclosure of information referred to in this section or in section 303(i) of the Social Security Act about such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, such section 303(i), or any regulation implementing this section or such section 303(i), or (ii) any other negligent or knowing action that is inconsistent with this section, such section 303(i), or any such implementing regulation may bring a civil action for damages and such other relief as may be appropriate against any officer or employee of any public housing agency or owner (or employee thereof) responsible for any such unauthorized action. The district court of the United States in the district in which the affected applicant or participant resides, in which such unauthorized action occurred, or in which the applicant or participant alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs.

[FR 89-5377 Filed 3-8-89; 8:45 am]
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federal register

Thursday
March 9, 1989

Part IV

Department of Labor

Employment and Training Administration

Federal-State Unemployment Compensation Program; Procedures for Release of Benefits Quality Control Data; Notice

DEPARTMENT OF LABOR

Federal-State Unemployment Compensation Program; Procedures for Release of Benefits Quality Control Data

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Procedures for Release of Benefits Quality Control Data for Unemployment Insurance Program.

SUMMARY: On May 17, 1988, a notice was published in the **Federal Register** at 53 FR 17515 inviting comments on proposed procedures and format to release benefits Quality Control (QC) data for the Unemployment Insurance (UI) program. Based on the comments received, the Department has revised the proposed procedures and format. This notice announces the final procedures and format to be used.

EFFECTIVE DATE: March 9, 1989.

FOR FURTHER INFORMATION CONTACT: Charles L. Atkinson, Director, Office of Quality Control, Employment and Training Administration, Unemployment Insurance Service, U.S. Department of Labor, Room S–4015, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 535–0220 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The benefits QC program is based on a statistical sample of weeks compensated by State Employment Security Agencies (SESAs). From the information gathered by in-depth reviews of these samples, the performance of a State's UI benefits system is evaluated in terms of weeks and dollars that were properly or improperly paid.

The regulation to establish the QC program for the Federal-State UI system was published in the **Federal Register** at 52 FR 33520 on September 3, 1987, with an effective date of October 5, 1987. Section 602.21(g) of the regulation provides that each State shall:

> Release the results of the QC program at the same time each year, providing calendar year results using a standardized format to present the data as prescribed by the Department; States will have the opportunity to release this information prior to any release by the Department.

On September 4, 1987, the Department published a notice in the **Federal Register** at 52 FR 33784 which requested public comment on issues relating to the format, method, and timing of the release. Based upon responses received from interested parties, the Department published another notice in the **Federal Register** at 53 FR 17515 on May 17, 1988, proposing procedures and format for displaying QC data and inviting comments on them.

Discussion of Responses

The Department received comments from 36 organizations and interested parties. The majority of comments were from SESA's. Comments were also received from public interest groups and the Department's Regional Offices. All comments were given careful consideration in developing the final procedures and format. The comments about the publication of data in general fell into six major areas. Following are a summary of the comments and the Department's responses:

1. General Comments Concerning the Release of QC Data

Twelve respondents said that the QC data should not be published in the **Federal Register.** To release UI QC data en masse in a standard format would invite comparisons among States. It was suggested that data be made available State-by-State, upon request. The Department has considered these comments and has modified the approach in response to them. The Federal release of QC data will be through established channels, with an announcement published in the **Federal Register** that these UI performance data are available. SESAs will release the required data through normal SESA public release mechanisms and announce to the public that the data are available upon request. The Department recognizes that State-by-State comparisons would be inappropriate. The Federal report containing the data will be introduced with a description of how the data should be used and provide a caution against State-by-State comparisons. Presentation will be in alphabetical order and will show rates of proper payments, overpayments, and underpayments.

Thirteen respondents said that the statistical and report generating software is unable to produce analyses that are accurate to the degree required by the proposed format. The Department agrees that the QC software was inadequate and required revisions. Changes have been made to overcome the technical problems, in most instances.

Six respondents said that at the proposed level of detail there would be several instances where it will be impossible to make reliable estimates due to the low number of cases that fall into the category. The Department concurs and has revised the format to eliminate categories from the report for which rates would not have been determined with sufficient precision. There should be sufficient data to make accurate estimates for the remaining categories in most instances; however, if not, it will be apparent from the confidence intervals.

Five respondents said that the Department should not release the data unless a State fails to release the data. The Department's position is that there are compelling reasons for compiling the data for Departmental uses and public consumption. This will be accomplished by publication of a digest of States' QC results which will be disseminated through normal channels (Department and SESAs). An announcement of the availability of the data will be published in the **Federal Register**, and as required by law, the data will be made available to other parties upon request.

Thirteen respondents objected to the States having only five working days to verify the Department's figures. Recognizing the legitimacy of this concern, the Department has increased the response time to 21 calendar days.

2. Total Dollar Amount of Benefits Paid

Three respondents said that the amount of benefits paid should be identified by type along with an explanation as to the claimants who receive the different types of payments. Two respondents felt that it would be more appropriate to indicate the amount of benefits paid for the cases sampled and indicate the percentage that this represents of the total UI dollars paid. Another respondent said that there needs to be additional information about the number of claims paid, the number of claims investigated during the report period, and the number of claims properly or improperly paid. The Department will encourage SESAs to include this information in their release if they wish to do so. The composite Federal report will not go into the level of detail.

3. Proper Payment Rates

There were three comments concerning the capability of the existing software to calculate the proper payment rates in terms of dollars paid when both overpayments and underpayments are coded for the same case and the inability of the software to net out the total. The Department has recognized this and decided not to net overpayments and underpayments. The software will estimate overpayments and underpayments separately.

One respondent stated that it was unfair to allow States that issued formal

warnings in lieu of disqualifications to count these cases as proper. The Department recognizes that formal warnings create a special problem for calculating rates. Cases in which there are formal warnings will be included in the calculations for proper payments; however, footnotes will explain that in these States proper payment rates would have been lower had formal warnings not be included in the calculations.

4. Improper Payment Rates

Three respondents objected to including cases that were technically correct due to finality rules. The Department has included payments that were coded "technically proper due to finality rules" as improper payments because they were improper when made and, had they been so identified earlier, would have been corrected and would not be "technically proper".

Two respondents stated that the improper payment rates could not be accurately calculated for those cases having more than one error. Changes in the QC software released by the Department in November 1988 take into account the effects of cases with more than one improper payment issue. For a small percentage of cases, the exact impact of multiple error issues cannot be determined with the existing data elements. However, the Department has concluded that this effect on overall dollar improper payment rates is not significant.

One respondent said that a simpler report structure should be implemented to aid interested parties in correctly interpreting improper payment rates. The Department concurs and has revised the format accordingly.

One respondent said that if it can be calculated properly, the percentages of dollars overpaid and underpaid should be included in the report. The Department concurs; these rates will be included.

One respondent said that rates of cases containing errors should be reported, in addition to rates for dollars paid in error. The Department's position is that this would provide misleading information because many payments coded as improper have minor errors that represent only a fraction of the payments.

One respondent stated that the number of dollars paid should not be projected to the total population. The Department disagrees as this is the reason for investigating a statistically valid sample.

5. Percentage of Dollars Improperly Paid—by Responsibility

Ten respondents stated that this section would double count errors where there are multiple responsibility errors. Seven respondents said that the combined headings were confusing and should be lumped into one "shared responsibility" category. Four respondents said that the software would be unable to calculate multiple responsibility accurately. Two respondents felt the shared responsibility definitions were confusing. One respondent said that the proposed format did not discuss how the amount of dollars that should have been paid would be calculated. The Department concurs and has removed this section from the report.

6. Percentage of Dollars Improperly Paid—by Cause

There were ten separate comments concerning aspects of the reporting of dollars improperly paid by cause with suggestions for revision. As with dollars improperly paid by responsibility, this section has also been dropped.

Policy Decisions

Based upon the comments discussed above and upon discussions held within the Department, the procedures and format for releasing benefits QC data have been modified. The applications for SESAs and the Department follow:

1. State Release of Data

Each State will release the required data annually through established channels for disseminating State performance data. An announcement must be made to the general public that the data is available. In accordance with established State procedures, the data must be provided to those who normally receive performance/evaluation data and to anyone else who requests it.

The publication of data must include, at a minimun, the total dollars paid in benefits by the SESA in the calendar year (the population), the number of cases completed for QC investigations (the sample size), and rates with the bounds of the confidence interval for proper payments, overpayments, and underpayments. For purposes of the annual report, these categories are defined as:

a. *Total Dollars Paid in the Population.* The amount of benefits paid during weeks which end in the calendar year for the programs included in QC (UK, UCFE, UCX). These payments form the universe from which samples are selected.

b. *Sample Size.* The number of completed QC cases from batches with week ending dates in the calendar year.

c. *Proper Payment Rates.* The estimated total of dollars paid properly is shown as a percentage of total dollars paid in the population. These include amounts of payments coded as proper as defined in section 3d(1) of the Error Classification chapter in ET Handbook No. 395. It also includes from section 3d(2) those dollars paid properly, part of which were from claims paid improperly; e.g., $120 payment with $10 overpayment = $110 paid properly.

Additionally, the following payments classified as improper in section 3d(2) are included in the proper payment rate:

—Subsection (a)14: Pertains to issuance of "formal warning" to claimant, rather than denial of payment.

—Subsections (a)16 and (b)23: Pertain to overpayments and underpayments established as a result of the QC investigations which, upon appeal, were officially modified by a higher SESA authority, but the QC unit disagrees with this modification.

d. *Overpayment Rates.* The percentage of dollars overpaid is obtained from those payments coded under section 3d(2)(a) of the Error Classification chapter, but excludes codes 14 and 16.

3. *Underpayment Rates.* The percentage of dollars underpaid is obtained from those payments coded under section 3d(2)(b) of the Error Classification chapter, but excludes code 23.

Because the QC system accepts coding for up to three errors per case, in cases with multiple errors, the total dollars affected (for up to three errors per case) will be used in the computations of overpayments, as long as the amount originally paid is not exceeded. (For example, assume a weekly payment of $120 was found to have two errors. The first was a missed separation issue that should have disqualified the claimant; this amounts to an overpayment of $120. The second was unreported earnings during the key week resulting in an overpayment of $30. The total dollars used in computing the improper payment would be limited to $120.) If both an overpayment and an underpayment occur in a single case, the dollar amount overpaid will be used, up to the amount originaly paid, and the total dollars underpaid will be used to estimate the underpayment rate, which will be expressed as a percentage of total dollars paid in the population.

The upper and lower bounds of the ninety-five percent confidence intervals will be shown for each rate as plus or

minus a dollar amount. The State may include additional data, narrative explanations, and plans for program improvement.

If a State fails to release data in accordance with the above-stated procedures, the Department, in its annual review of State QC operations as specified in 20 CFR, Part 602, § 602.31, will take appropriate action which could lead to the application of proceedings as specified in 20 CFR, Part 602, §602.42.

2. Federal Release of Data

The Department will publish a report in digest form of States' Quality Control data. The report will be transmitted through normal channels to components of the Department and to the SESAs. Concurrently, the Department will announce the availability of this data through a notice published in the **Federal Register** and make all the data available to anyone who requests it. The report published by the Department will display the total dollars paid in the population, the number of cases sampled, and rates for proper payments, overpayments, and underpayments for each State. The upper and lower bounds of the ninety-five percent confidence interval will be shown together with each rate. Footnotes will designate those States whose proper payment rates would be lower were it not for application of "formal warning" provisions. Footnotes will also designate those States that had minor data deficiencies. Major deficiencies will result in an entry in the report identifying the deficiency in the data.

The report will contain an introduction with explanations of how the data should be interpreted and caution about inappropriate comparisons of data among States. The data will be presented alphabetically by State in order to discourage rankings and comparisons.

The rates will be calculated by the Department and transmitted to the States for review prior to publication. States will be given a minimum of 21 calendar days to inform the Department if they disagree with the calculations. States may also submit optional narratives for inclusion in the report during this specified period of time. The Department will issue more detailed instructions through official directives.

Signed at Washington, DC, this 28th day of February 1989.

Robert T. Jones,

Assistant Secretary of Labor.

Appendix—Format for QC Data Release by Department

Total Dollars Paid in Population		
Sample Size		
	Percentage of Dollars	Confidence Interval
Proper Payments		
Overpayments		
Total	100.0%	
Underpayments		
Footnotes		

Narrative Comments

[FR Doc. 89-5444 Filed 3-8-89; 8:45 am]
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Part V

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 15, 42, and 52
Federal Acquisition Regulation (FAR); Indirect Cost Rate Proposals; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 15, 42, and 52

Federal Acquisition Regulation (FAR); Indirect Cost Rate Proposals

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to Federal Acquisition Regulation (FAR) 15.804–4(i), 42.705–1, 42.705–2, and the clause at 52.216–13 to emphasize responsibilities regarding certification of final indirect cost rate proposals.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before May 8, 1989, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 89–14 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The proposed rule will add submission of final, indirect cost-rate proposals as an example of a situation when the authority to require certification in accordance with the Truth in Negotiations Act should be exercised. This example was not incorporated into the Federal Acquisition Regulation because it was thought to be redundant. However, to eliminate questions that have arisen because of elimination of the example and to acknowledge that it is now and always has been authorized, it is now being specifically emphasized.

A review of the coverage of final, indirect rate settlements at FAR 42.705 indentified ambiguities with regard to the need for contractor certification of data.

Proposed coverage revises FAR 15.804–4(i) to clarify that certification of final indirect rate proposals is required. Revised coverage is also proposed to FAR 42.705–1 and –2 to reference 15.804–4. The clause at 52.216–13 has been amended to make it consistent with a similar clause at 52.216–7.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because most contracts awarded as a result of negotiations are awarded to large businesses. Furthermore, the proposed revisions merely illustrate the nature of records Government auditors have access to and do not change existing requirements. An initial regulatory flexibility analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR Subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite FAR Case 88–610 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because the proposed rule changes no recordkeeping or information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 15, 42, and 52

Government procurement.

Dated: February 27, 1989.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, 48 CFR Parts 15, 42, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 15, 42, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 15—CONTRACT BY NEGOTIATION

2. Section 15.804–4 is amended by adding paragraph (i) to read as follows:

15.804–4 Certification of Current Cost or Pricing Data.

* * * * *

(i) The data in support of a contractor's final indirect rate submission are cost or pricing data which must be certified.

PART 42—CONTRACT ADMINISTRATION

3. Section 42.705–1 is amended by redesignating existing paragraphs (b)(5)(ii) through (iv) as (b)(5)(iii) through (v); and by adding new paragraph (b)(5)(ii) to read as follows:

42.705–1 Contracting officer determination procedure.

* * * * *

(b) * * *

(5) * * *

(ii) Obtain from the contractor a Certificate of Current Cost or Pricing Data, as required by 15.804–4(i);

* * * * *

4. Section 42.705–2 is amended by revising paragraph (b)(2)(ii) to read as follows:

42.705–2 Auditor determination procedure.

* * * * *

(b) * * *

(2) * * *

(ii) Obtain from the contractor a Certificate of Current Cost or Pricing Data, as required by 15.804–4(i);

* * * * *

PART 52—SOLICIATION PROVISIONS AND CONTRACT CLAUSES

52.216–13 [Amended]

5. Section 52.216–13 is amended by removing the fourth sentence from paragraph (c)(2) of the clause.

[FR Doc. 89–5460 Filed 3–8–89; 8:45 am]

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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.**

Last List February 10, 1989

The Federal Register

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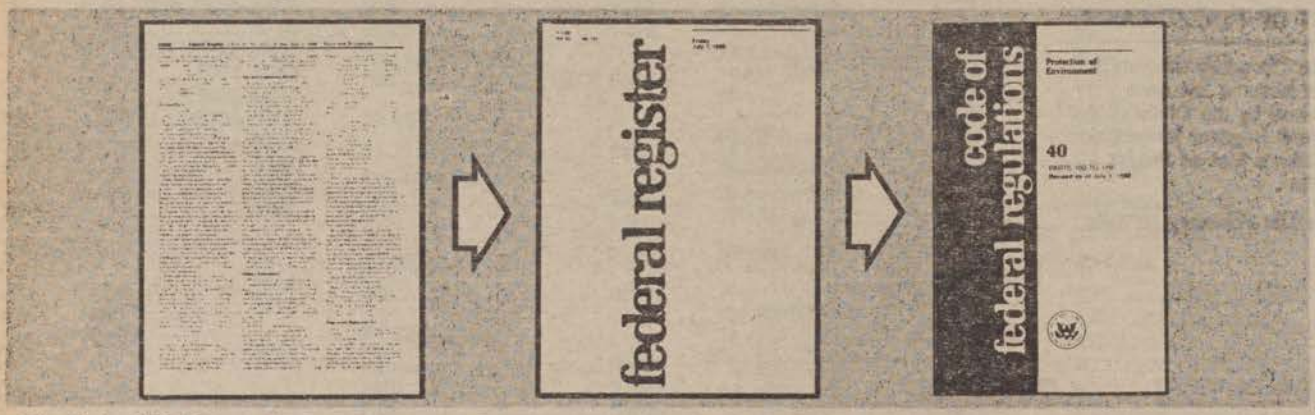

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