

7-28-89

Vol. 54

No. 144

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# federal register

Friday  
July 28, 1989

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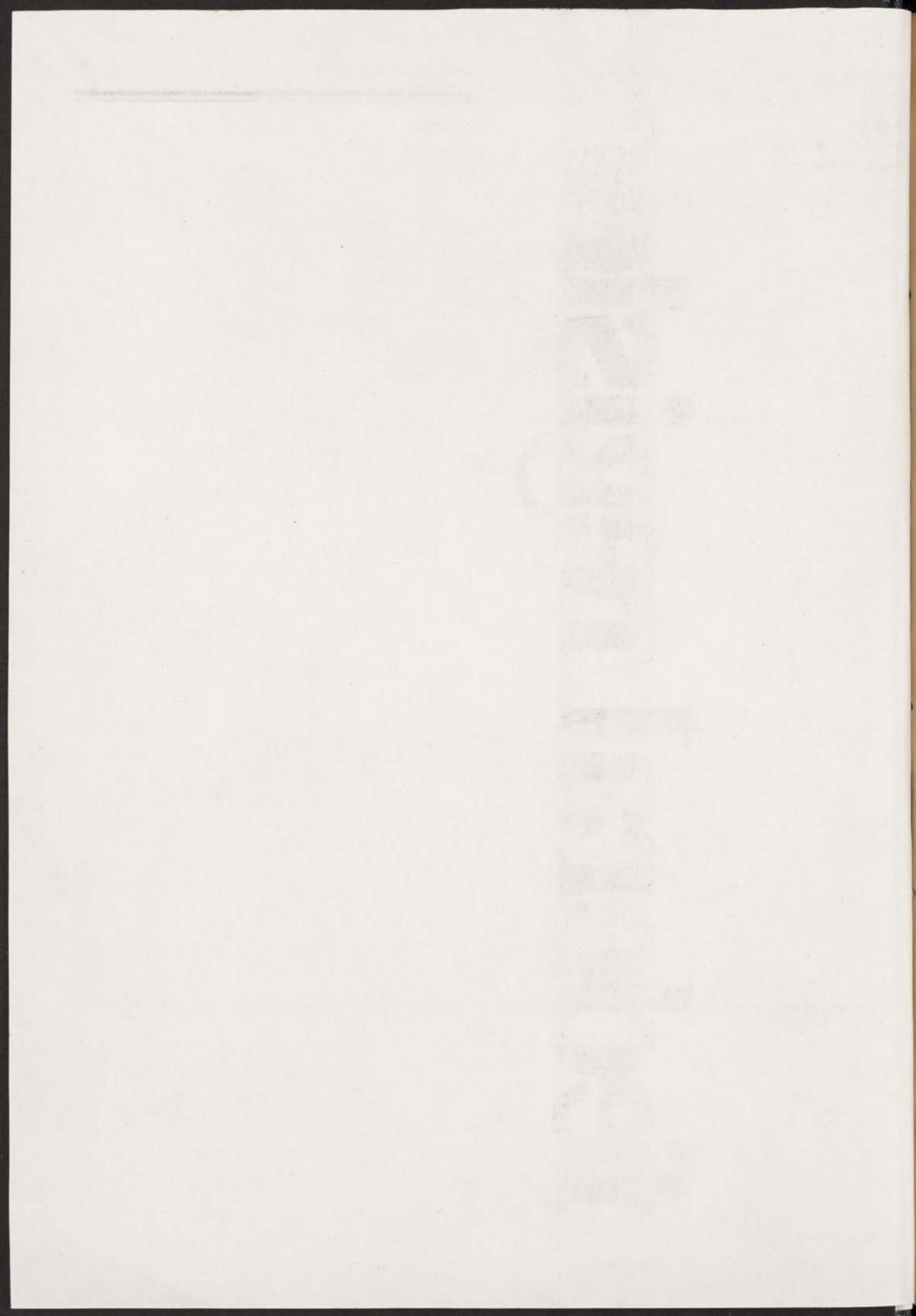
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U.S. Government Printing Office  
(ISSN 0097-6326)



7-28-89  
Vol. 54 No. 144  
Pages 31319-31492

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Friday  
July 28, 1989

# Journal of Federal Tax Practice



**FEDERAL REGISTER** Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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# Rules and Regulations

Federal Register

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 81

#### Regulation Governing the Fresh Apples Diversion Program for 1988 Crop Apples

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule.

**SUMMARY:** This interim rule sets forth the terms of the Fresh Apples Diversion Program for 1988 crop apples pursuant to clause (2) of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) ("Section 32"). The interim final rule describes acceptable outlets, the provisions of eligibility for payment, the rate of payment to shippers, and other conditions of participation. The program will assist apple growers faced with oversupplies and low prices.

**DATES:** Effective July 25, 1989. Comments must be received on or before August 14, 1989 in order to be assured of consideration.

**ADDRESSES:** Send comments on the interim final rule to Donald A. Thibeault, Chief, Commodity Procurement Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2548—South Building, Washington, DC 20090-6456. All written submissions made pursuant to this rule will be made available for public inspection in Room 2548—South Building, USDA, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Donald A. Thibeault at the above address or at (202) 447-6391.

**SUPPLEMENTARY INFORMATION:** Information collection requirements contained in this subpart have been approved by the Office of Management

and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35, and have been assigned OMB control numbers 0581-0162.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has determined that this action will not have a significant economic impact on a substantial number of small entities. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The Small Business Administration (13 CFR 121.1) has defined small agricultural producers as those having annual gross revenue for the last three years of less than \$500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than \$3,500,000. Because there is a preponderance of entities shipping fresh apples that meet these gross revenue limitations, it is anticipated that the majority of the program participants could be classified as small entities.

This interim final rule has been reviewed under United States Department of Agriculture (USDA) procedures implementing Executive Order 12291 and Departmental Regulation 1512-1 and has been classified "non major." It has been determined that this rule will not 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 governments, 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.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 29115 (June 24, 1983).

The title and number of the Federal Assistance Program to which this interim final rule applies will be: Title—Section 32 Diversion Program; Number—10.166, as will be found in the 1990

edition of the Catalog of Federal Domestic Assistance.

Interested parties are invited to submit comments with respect to this action. However, pursuant to 5 U.S.C. 553, it is also found and determined that, upon good cause, it is impracticable, unnecessary and contrary to the public interest to give notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) This action is intended to provide relief in an emergency situation; (2) applies to be diverted will be accepted in the containers in which they exist and participants will require no additional time to acquire materials and process the product; and (3) the commodity is perishable and would be affected by undue delay.

#### Background

Clause (2) of section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c), ("Section 32") authorizes the Secretary of Agriculture to "encourage the domestic consumption of such [agricultural] commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce \* \* \*". Section 32 also authorizes the Secretary to use section 32 funds "at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will effectuate substantial accomplishment of any one or more of the purposes of this section." Furthermore, "[d]eterminations by the Secretary as to what constitutes diversion and what constitutes normal channels of trade and commerce and what constitutes normal production for domestic consumption shall be final."

Recent USDA statistics indicate that as of May 1, 1989, the national supply of fresh 1988 crop apples was 53 percent greater than the previous three-year average. Based on these statistics and other market factors the Secretary has determined that fresh 1988 crop apples are in surplus supply and that the domestic consumption of such apples will be encouraged by using up to \$15 million dollars of section 32 funds to divert the apples from the normal channels of trade and commerce under a Fresh Apples Diversion Program (Program).

AMS will make payments to parties that possess 1988 crop fresh apples and divert such apples by August 31, 1989, to charitable organizations, ethanol production facilities, livestock feeding operations, and other nontraditional outlets. Through this program, AMS is soliciting bids from those who possess 1988 crop fresh apples for the diversion of such apples to nontraditional channels of commerce. Payments for the diversion of such apples will be made on a competitive basis. Those parties which submit the lowest bids to divert qualifying apples will be accepted until the fund of \$15,000,000 of section 32 funds is exhausted. Accordingly, this interim final rule provides the terms and conditions under which the program will be administered by AMS.

#### List of Subjects in 7 CFR Part 81

Fresh apples, Fresh apples diversion program.

For the reasons set forth above, Chapter I of Title 7 shall be amended by adding a new Part 81 to read as follows:

### PART 81—SECTION 32 DIVERSION PROGRAMS

#### Subpart—Fresh Apples Diversion Program

Sec.

- 81.1 General statement.
- 81.2 Administration.
- 81.3 Definitions.
- 81.4 Bid procedure.
- 81.5 Claims for payment.
- 81.6 Compliance with program provisions.
- 81.7 Disputes.

Authority: 49 Stat. 750, 774; 7 U.S.C. 612c.

#### Subpart—Fresh Apples Division Program

##### § 81.1 General statement.

Pursuant to the authority provided in section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) ("Section 32"), the Secretary will compensate holders of 1988 crop fresh apples for diverting such apples to nontraditional channels of trade including charitable institutions, ethanol/alcohol production facilities, livestock feed operations, and other such outlets subject to the conditions set forth in this rule. A maximum of \$15,000,000 of section 32 funds has been set-aside for this purpose. Holders of

1988 crop fresh apples are invited to submit bids for diverting such apples. This apple diversion program will encourage the domestic consumption and assist in the removal of surplus apples.

##### § 81.2 Administration.

The program provided for in this subpart will be administered under the general direction and supervision of the Director, Fruit and Vegetable Division, Agricultural Marketing Service. In the field this program will be carried out under the supervision of the Federal Supervisor of the Federal-State Inspection Service in the State from which the apples are being diverted.

##### § 81.3 Definitions.

The following terms as used in this subpart shall have the following meanings.

(a) "AMS" means the Agricultural Marketing Service within the United States Department of Agriculture (USDA).

(b) "Apples" means 1988 crop fresh apples produced and stored within the continental United States under the following conditions:

(1) Apples, packed in 40-pound cartons or cartons with 12/3-pound poly bags, that meet the requirements of U.S. Fancy Grade, 2¼ inch minimum diameter and U.S. Condition Standards for Export; or

(2) Apples, packed in bulk bins, that meet the requirements of U.S. Fancy grade, 2¼ inches minimum diameter and the U.S. Condition Standards for Export.

(c) "Bulk bins" mean bins which are large open top "box like" containers usually holding from ½ to 1 ton of products such as fresh or frozen fruits and vegetables.

(d) "Charitable Institutions" mean those organizations which offer food, housing and other necessities to low income, homeless or other persons in need of assistance in obtaining basic sustenance.

(e) "Diversion" means the delivery of fresh apples to an eligible outlet.

(f) "Diverter" means a holder whose application for payment under this subpart has been approved by AMS.

(g) "Eligible Outlet" means a charitable institution, ethanol

production facility, livestock feeding operation, or other similar organizations as approved by AMS.

(h) "Holder" means an individual, partnership, association, or corporation located in the continental United States that is in possession of apples as of July 3, 1989.

##### § 81.4 Bid procedure.

(a) *Applications.* (1) Holders of apples desiring to participate in this program must submit an application on an offer form "Application for Participation in Fresh Apple Diversion Program" furnished by AMS or a form which contains all the information required by the AMS offer form. At a minimum, each application must contain the following items: (i) A statement that it is subject to the terms and conditions of the Fresh Apples Diversion Program, (ii) name and telephone number of the firm, (iii) the name and title of the person making the offer, (iv) quantity and payment rate of offer, (v) whether offered in carton or bulk, (vi) shipping point, (vii) proof of authority to transfer possession of apples and (viii) a statement that the apples will be diverted by August 31, 1989. Offer forms, modifications, or withdrawals must be received by the Chief, Commodity Procurement Branch, Fruit and Vegetable Division, AMS, by 1:00 p.m., Eastern Daylight Time (e.d.t.), on August 2, 1989.

(2) Applications for participation should be addressed as follows:

(i) For applications being submitted via the U.S. Postal Service (regular, express, certified, and registered mail): USDA Fruit & Vegetable Division, Application to Divert Fresh Apples, P.O. Box 23693, Washington, DC 20026-3693.

(ii) For applications being submitted via private express mails (e.g., DHL and Federal Express):

Application to Divert Fresh Apples, C/O Chief, C. P. Branch, F & V Division, Room 2548-S, U.S. Department of Agriculture, 14th & Independence Ave., SW., Washington, DC 20250.

(iii) For application submitted via Western Union Hot Line, TWX, Telex, and FAX:

Application to Divert Fresh Apples.

(3) Facilities for receiving applications by TWX, telex, or FAX are as follows:

TWX/Telex No.	Answer back	FAX by telephoning
TWX No. 710-822-9424 .....	ASCS WASH DC .....	202/475-3049 (Automatic Ricoh).
TWX No. 710-822-1104 .....	4755210EVDL .....	202/447-7271 (Automatic Ricoh).
Telex No. 89-491 .....	ASCS WSH .....	

(4) If verification of receipt of a telegraphic or FAX machine offer by USDA is desired, call 202/447-5502 from 8:00 a.m. to 4:30 p.m., e.d.t. A completed offer application shall be sent immediately via fastest mail after an offer is made in such a manner.

(5) Offers, modifications, or withdrawals of offers shall be received by USDA not later than 1:00 p.m., e.d.t. at Washington, DC, on August 2, 1989. A late application, modification of application, or withdrawal of application received after the exact time specified for receipt will not be considered unless it is received before award is made and either:

(i) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of application; or  
(ii) It was sent by mail or telegram and it is determined by AMS that the late receipt was due solely to mishandling by AMS after receipt at the AMS mail or telegraphic installation.

(b) *Acceptance of Application.* (1) Applications for participation will be approved competitively on a payment per pound of apples basis. Maximum payment for apples will be based on the Market News Service price quotations for apples diverted on the day bids are due, but in no instance will such maximum payment exceed \$8.20 per carton or \$18.50 per hundredweight for apples in bulk bins. AMS shall recognize that apples shipped in cartons have higher packaging costs than apples shipped in bulk bins. Accordingly, AMS will utilize a price differential of 4 cents per pound between cartons and bins in the bid evaluation process.

(2) Acceptance of applications will be made by prepaid telegram, filed at Washington, DC., not later than midnight, e.d.t., August 8, 1989.

#### § 81.5 Claims for payment.

(a) In order to obtain payment, all claims must be received by USDA not later than September 30, 1989. USDA will endeavor to make payment within 30 days following receipt of necessary documentation. Claims for payment under this program shall be addressed to the Director, Kansas City ASCS Commodity Office, USDA, P.O. Box 419205, Kansas City, MO 64141-0205 (Telephone Number: 816/926/6205). The claim submitted must include the following documents:

(1) A copy of the diverter's application to participate in the program. (A certified copy of the accepted application will be furnished to successful participants.)

(2) A properly executed Federal-State Inspection Service certificate covering

the lot of apples. The Inspector must witness the loading of apples with the truck/railroad car number shown on the inspection certificate.

(3) A receipt signed by the consignee of the diverted apples that states:

(i) Name and address of consignee and diverter;  
(ii) The quantity of apples received by consignee;  
(iii) The final use of the apples; and  
(iv) Identification number of delivery vehicle.

(b) For apples packaged in cartons that fail to meet the requirements of § 81.3(b)(1) no payments under this program will be authorized. For apples in bulk bins which fail to meet the requirements of § 81.3(b)(2), payments will be based on the percentage of the apples meeting the grade size and condition requirements: *Provided*, That no payment shall be made for any lot of apples wherein the percentage of apples affected by decay or internal breakdown exceeds 2 percent or the percentage of apples further advanced in ripeness than firm ripe exceeds 20 percent.

#### § 81.6 Compliance with program provisions.

(a) AMS may deny any diverter the right to participate in this program or the right to receive payments in connection with any diversion previously made under this program or require the refunding of payments made under this subpart, if AMS determines that the diverter has:

(1) Failed to use or failed to cause to be used any quantity of apples diverted under this program exclusively for approved program outlets; or

(2) Not acted in good faith in connection with any transaction under this program; or

(3) Failed to discharge fully any obligation assumed by him under this program.

(b) The diverter shall permit authorized representatives of USDA at any reasonable time to have access to his premises to inspect and examine such apples that are being diverted or stored for diversion, and to inspect and examine the diverter's facilities for diverting apples in order to determine to what extent there is or has been compliance with the provisions of this program.

(c) The diverter shall keep accurate records and accounts showing the details relative to the diversion and disposition of such apples. The diverter shall permit authorized representatives of USDA and the General Accounting Office at any reasonable time to inspect, examine and make copies of such records and accounts in order to

determine to what extent there is or has been compliance with provisions of this program. Such records and accounts shall be retained by the diverter for three years after date of last payment to diverter under the program or for two years after date of audit of records by USDA as provided herein, whichever is the later.

(d) Persons making any misrepresentation of facts in connection with this program for the purpose of defrauding USDA will be subject to the applicable civil and criminal provisions of the United States Code.

#### § 81.7 Disputes.

Any party with a dispute concerning terms of this program that cannot be resolved by the Chief, Commodity Procurement Branch, AMS, may request a hearing and a review for a final decision by the Deputy Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Washington, DC 20090-6456.

Signed at Washington, DC on July 25, 1989.  
Kenneth C. Clayton,  
*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 89-17744 Filed 7-25-89; 4:15 pm]  
BILLING CODE 3410-02-M

## 7 CFR Part 910

### [Lemon Reg. 676]

#### Lemons Grown in California and Arizona; Limitation of Handling

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule with request for comments.

**SUMMARY:** Regulation 676 establishes the quantity of fresh California-Arizona lemons that may be shipped to the fresh domestic market at 380,000 cartons during the period July 30 through August 5, 1989. This action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

**DATES:** Regulation 676 (§ 910.976) is effective for the period July 30 through August 5, 1989. Comments are due August 28, 1989.

**ADDRESSES:** Interested persons are invited to submit written statements in triplicate to: Docket Clerk, F&V, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456. All comments should reference the docket number and the date and page number of this issue of the Federal Register and

will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3861.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act (the Act) (7 U.S.C. 601-674), as amended, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

At the beginning of each marketing year, the Lemon Administrative Committee (Committee) submits a marketing policy to the Department which discusses, among other things, the potential use of volume and/or size regulations for the ensuing season. The Committee's 1989-90 season marketing policy contemplated the use of volume regulation this season. The U.S. Department of Agriculture has completed a preliminary review of that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

Lemons regulated under Marketing Order No. 910 are grown in California and Arizona. For marketing order purposes, the production area is divided into three districts: District 1, representing Central California; District 2, representing Southern California; and District 3, representing Arizona and the desert area of California. The estimated production for the 1989-90 crop season is 39,324 cars (1 car equals 1,000 cartons; 1 carton equals 38 pounds).

The three basic outlets for California-Arizona lemons are the domestic fresh,

export, and processing markets. The domestic fresh market is fairly static, receiving roughly 14,900 to 16,500 cars per year unless unusual conditions occur. Quantities utilized in the export market have ranged from about 7,700 to 8,900 cars per year during the past four years. Exports vary depending on factors such as the amount of competitive supplies, foreign monetary exchange rates, quality, quantity, and trade practices. The processing market is basically a residual outlet, and shipments to this market have ranged from 13,400 to 32,700 cars per year during the past four years. Estimated crop utilization for the 1989-90 season is 16,500 cars for domestic fresh markets, 8,500 cars for export, with the remaining 14,324 cars for processing and other outlets.

The California-Arizona lemon industry is characterized by a large number of growers that are located over a large geographical area. The number of growers is estimated to be in the range of 2,000 to 2,500. There are approximately 85 handlers of California-Arizona lemons in the regulated area.

Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than \$500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than \$3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

Volume regulations issued under the authority of the Act and Marketing Order No. 910 are intended to provide benefits to both producers and consumers. Producers benefit in areas such as increased returns and improved market conditions. Reduced fluctuations in supplies and prices result from pre-planned shipping levels, resulting in a more stable market. Consumers are assured of a steady supply of lemons in the market throughout the marketing season.

The benefits and costs of issuing regulations are difficult to quantify, as indicated in various studies regarding effects of marketing orders and criteria for measuring their effects. Although the information currently available to the AMS is limited, the known costs to growers of implementing the regulations appear to be significantly offset when compared to the potential benefits of regulation.

The reporting and recordkeeping requirements under M.O. 910 are incurred by handlers of lemons. However, handlers in turn may require individual growers to utilize certain

reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

If volume regulations were not to be used during the 1989-90 season, it is likely that most of these reporting and recordkeeping functions would still be carried out. The method of calculating the quantities of lemons available for fresh shipment by handlers for any given week is based on information gathered over several previous weeks' time. Therefore, there is an incentive to keep and maintain records in anticipation of future implementation of regulation. Further, the aggregate statistics distributed by the Committee are useful to handlers as they make their individual marketing decisions.

Based on consideration of the conditions that exist in the lemon industry at this time, the Administrator of the AMS has determined that the issuance of weekly volume regulations will not have a significant economic impact on a substantial number of small entities. However, the submission of comments on the economic impacts on small entities are encouraged from all interested parties. This matter will be further evaluated in view of the applicable comments received.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. This action is based upon the recommendation and information submitted by the Committee and upon other available information and is consistent with the Committee's marketing policy for 1989-90.

The Committee met publicly on July 25, 1989, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that overall demand for lemons is good. It is found that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register. There is insufficient time between the date when information upon which this regulation is based became available

and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

#### List of Subjects in 7 CFR Part 910

Arizona, California, Lemons, Marketing agreements and orders.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

#### PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

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

2. Section 910.976 is revised to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

#### § 910.976 Lemon Regulation 676.

The quantity of lemons grown in California and Arizona which may be handled during the period July 30, 1989, through August 5, 1989, is established at 380,000 cartons.

Dated: July 26, 1989.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 89-17811 Filed 7-27-89; 8:45 am]

BILLING CODE 3410-02-M

#### FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052-AA79

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; General Provisions; Correction

AGENCY: Farm Credit Administration.

ACTION: Final rule; correction.

SUMMARY: The Farm Credit Administration (FCA) is correcting a printing error that appeared in the final rule which amended the regulation relating to minimum permanent capital standards. The final rule appeared in the Federal Register on October 6, 1988 (53 FR 39229).

EFFECTIVE DATE: February 1, 1989.

FOR FURTHER INFORMATION CONTACT:

William G. Dunn, Chief, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4402

or

Dorothy J. Acosta, Senior Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4020, TDD 883-4444

**SUPPLEMENTARY INFORMATION:** In printing the final rule for publication in the Federal Register, the "%" symbol was inadvertently left out of the chart in § 615.5210(e)(3)(iii).

#### PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS AND FUNDING OPERATIONS

##### Subpart H—Capital Adequacy

#### § 615.5210 [Amended]

1. On page 39250, middle of the first column, the chart in § 615.5210(e)(3)(iii) is corrected as follows:

[In percent]

Remaining maturity	Interest rate contracts	Exchange rate contracts
Less than 1-year .....	0	1.0
1 year and over .....	0.5	5.0

Dated: July 24, 1989.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 89-17621 Filed 7-27-89; 8:45 am]

BILLING CODE 6705-01-M

#### DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-CE-03-AD; Amendment 39-6266]

Airworthiness Directives; British Aerospace (BAe) PLC, Jetstream Model 3101 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to British Aerospace (BAe) PLC, Jetstream 3101 airplanes which have incorporated Omnibus Modification 7380 and Kit 3279A for increased gross weight. The action modifies or replaces the existing pilot's

and copilot's operating limitations placards and incorporates an Airplane Flight Manual (AFM) revision, which reduces the maximum maneuvering speed. The original instructions for Omnibus Modification 7380 inadvertently omitted revised operating limitation placards and the necessary AFM revision. If the erroneous speeds are not corrected, continued use of higher than design speeds will result in reduced fatigue life of major structural components which may cause premature failure.

**DATES:** Effective date: August 29, 1989.

Compliance: As prescribed in the body of the AD.

**ADDRESSES:** BAe Alert Service Bulletin (ASB) Jetstream 11-A-JA-880140, dated February 23, 1988, and Particular Amendment P/46 to AFM Document No. HP.4.10, applicable to this AD may be obtained from British Aerospace (BAe) PLC, Manager, Product Support, Civil Aircraft Division, Prestwick Airport, Ayrshire, KA92RW, Scotland; Telephone (44-292) 79888; or British Aerospace Inc., Technical Librarian, P.O. Box 17414, Dulles International Airport, Washington DC 20041; Telephone (703) 435-9100. This information may also be examined at the Rules Docket, FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Ted Ebina, Aircraft Certification Office, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30; or Mr. John P. Dow Sr., Project Support Section- Foreign, ACE-109, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932.

#### SUPPLEMENTARY INFORMATION: A

proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include an AD requiring modifying or replacing the existing pilot's and copilot's operating limitations placards and incorporating an airplane Flight Manual revision on certain BAe Jetstream Model 3101 airplanes was published in the Federal Register on March 17, 1989 (54 FR 11224). The proposal resulted when British Aerospace (BAe) PLC made design changes to the Jetstream Model 3101 airplanes that would permit increasing the maximum takeoff gross weight from 14,550 pounds to 15,212 pounds. The airplane modifications necessary to permit operation at the heavier gross weights were classified as Omnibus Modification 7380, and Kit 3279A of modification 7380.

Several airplanes were so modified during production and others have been field modified. Subsequently, it was discovered that the placards provided in Kit 3279A and the associated AFM revision did not revise the maximum permissible maneuvering airspeed (VA) in accordance with the approved design data. Because of the increased gross weight, the maximum maneuvering speed (the maximum speed at which full control deflection may be used without exceeding design structural loads) was reduced from the previously approved speed of 180 knots IAS to 176 knots IAS. The use of flight controls to full deflection at airspeeds greater than 176 knots IAS may cause excessive structural loads and invalidate existing life-limits on major structural components of the airplane. Consequently, BAe issued ASB Jetstream 11-A-JA880140, dated February 23, 1988, and Particular Amendment P/46 to AFM Document No. HP.4.10 which modifies or replaces the existing operating limitations placards and revises the existing AFM.

The Civil Aviation Authority (CAA), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom (UK), has classified this ASB and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes.

On airplanes operated under UK registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the CAA-UK combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of BAe ASB Jetstream 11-A-JA880140, dated February 23, 1988, and Particular Amendment P/46 to AFM Document No. HP.4.10 and the mandatory classification of this ASB by the CAA-UK, and concluded that the condition addressed by BAe Alert Service Bulletin (ASB) Jetstream 11-A-JA-880140, dated February 23, 1988, and Particular Amendment P/46 to AFM Document No. HP.4.10 was an unsafe condition that may exist on other airplanes of this type certificated for operation in the United States. Accordingly, the FAA proposed an amendment to Part 39 of the FAR to include an AD on this subject.

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. Accordingly, the proposal is adopted without change.

The FAA has determined that this regulation involves 122 airplanes at an approximate one-time cost of \$50 for each airplane, a total one-time fleet cost of \$6,100 to the private sector. Therefore, the cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant impact on any small entities operating these airplanes. The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### Adoption of the Amendment

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

#### PART 39 [Amended]

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

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

#### § 39.13 [Amended]

2. By adding the following new AD:

**British Aerospace (BAe) PLC:** Applies to Jetstream Model 3101 (all serial numbers) airplanes which have Kit 3279A embodied as part of Omnibus Modification 7380, certificated in any category.

**Compliance:** Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To assure operation of the airplane within the design airspeed limitations, accomplish the following:

(a) Modify the pilot's and copilot's operating limitations placards and revise the Airplane Flight Manual in accordance with British Aerospace Alert Service Bulletin 11-A-JA880140, dated February 23, 1988.

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

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Office, AEU-100, Europe, Africa, Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to British Aerospace, Inc., Technical Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041; or may examine these documents at the FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on August 29, 1989.

Issued in Kansas City, Missouri, on July 18, 1989.

**Don C. Jacobsen,**  
Acting Manager, Small Airplane Directorate,  
Aircraft Certification Service.

[FR Doc. 89-17690 Filed 7-27-89; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 88-ANE-43; Amendment 39-6259]

#### Airworthiness Directives; General Electric Company (GE) CF6-80A/A1/A2/A3 Turbofan Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that requires installation of fire shields to the upper surface of the accessory compartment in the area of the low pressure turbine (LPT) recoup manifold on GE CF6-80A/A2 turbofan engines and to the axial fuel supply manifold in the area of the LPT recoup manifold on GE CF6-80A1/A3 turbofan engines. The AD is needed to provide increased fire protection in the event of a fire escaping from the LPT recoup manifold which

could lead to fuel leakage and possible engine fire.

**EFFECTIVE DATES:** August 31, 1989.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of August 31, 1989.

**Compliance:** As indicated in the body of the AD.

**ADDRESSES:** The applicable service bulletins (SB) may be obtained from General Electric, CF6 Distribution Clerk, Room 132, 111 Merchant Street, Cincinnati, Ohio 45246, or may be examined in the Regional Rules Docket, Room 311, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

**FOR FURTHER INFORMATION CONTACT:** Richard Woldan, Engine Certification Branch, ANE-142, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7096.

**SUPPLEMENTARY INFORMATION:** A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include an AD which requires installation of fire shields to the upper surface of the accessory compartment in the area of the LPT recoup manifold on GE CF6-80A/A2 turbofan engines and to the axial fuel supply manifold in the area of the LPT recoup manifold on GE CF6-80A1/A3 turbofan engines was published in the **Federal Register** on March 22, 1989 (54 FR 11740).

The proposal was prompted by one event involving a CF6-80A engine where an external fire resulted from a Number 5R bearing failure. The fire progressed through the Number 5R bearing sump and the LPT recoup manifold, impinged on and entered into the accessory compartment. High temperatures in the accessory compartment damaged fuel carrying lines, resulting in fuel leakage which sustained the fire. The CF6-80A2 design is similar to that of the CF6-80A.

The FAA also determined that the axial fuel supply manifold on CF6-80A1/A3 engines is located in the same area as the LPT recoup manifold and, like the CF6-80A, is also susceptible to fire impingement and possible fuel leakage.

Since this condition is likely to exist or develop on other engines of the same type design, the AD requires installation of fire shields to the upper surface of the accessory compartment in the area of the LPT recoup manifold on CF6-80A/

A2 engines and to the axial fuel supply manifold in the area of the LPT recoup manifold on CF6-80A1/A3 engines.

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

On comment was received which indicated no objection to the adoption of the proposed amendment.

Accordingly, the proposal is adopted as proposed without change.

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

The FAA has determined that this regulation involves approximately 400 engines and the operator's cost per engine would be negligible since the manufacturer has agreed to give a parts and labor credit allowance as noted in the SB's. It has also been determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since the rule affects only operators using aircraft in which CF6-80A/A1/A2/A3 engines are installed, none of which are believed to be small entities. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, and Incorporation by reference.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

#### PART 39—[AMENDED]

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

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

#### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

**General Electric Company:** Applies to General Electric Company (GE) CF6-80A/A1/A2/A3 turbofan engines.

Compliance is required as indicated, unless already accomplished.

To provide increased fire protection in the event of a fire escaping from the LPT recoup manifold which could lead to fuel leakage and possible engine fire, accomplish the following prior to August 31, 1989:

(a) Install on CF6-80A/A2 engines, two zirconia-coated fire shields, Part Numbers (P/N) 1306M85G01 and 1306M86G01, in accordance with GE CF6-80A series Alert Service Bulletin (ASB) A72-512, Revision 1, dated May 24, 1988.

(b) Install on CF6-80A1/A3 engines, fire shield, P/N 1306M84P02, in accordance with GE CF6-80A series ASB CF6-80A A72-510, Revision 2, dated November 14, 1988.

(c) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(d) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternative method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD, may be approved by the Manager, Engine Certification Office, ANE-140, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, Massachusetts 01803.

The installation of the required fire shields shall be done in accordance with the procedures given in GE CF6-80A series ASB A72-512, Revision 1, dated May 24, 1988 (CF6-80A/80A2 engines) or ASB A72-510, Revision 2, dated November 14, 1988, (CF6-80A1/A3 engines). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, Room 132, 111 Merchant Street, Cincinnati, Ohio 45246. Copies may be inspected at the Regional Rules Docket, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Room 311, Burlington, Massachusetts 01803, or at the Office of the Federal Register, 1100 L Street, Room 8301, Washington, DC 20591.

This amendment becomes effective on August 31, 1989.

Issued in Burlington, Massachusetts, on June 23, 1989.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 89-17691 Filed 7-27-89; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 89-AWP-12]

#### Establishment of Camarillo, CA, Control Zone and Revision of Oxnard, CA, Control Zone

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action establishes a control zone at Camarillo, California, to provide controlled airspace for aircraft executing instrument approach and departure procedures to and from Camarillo Airport. This action will also revise the adjoining Oxnard, California, control zone.

**EFFECTIVE DATE:** 0901 u.t.c., September 21, 1989.

**FOR FURTHER INFORMATION CONTACT:**

Jon L. Semanek, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (213) 297-0433.

**SUPPLEMENTARY INFORMATION:**

#### History

On May 23, 1989, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a control zone at Camarillo, California, to provide controlled airspace for aircraft executing instrument approach and departure procedures to and from Camarillo Airport. This action will also revise the adjoining Oxnard, California, control zone. (54 FR 22307)

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

#### The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes a control zone at Camarillo, California, and revises the description of the Oxnard, California, control zone

where it adjoins the Camarillo, California, control zone. This action will provide controlled airspace for the conduct of instrument approach and departure procedures.

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

#### List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

#### Adoption of the Amendment

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

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

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

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

#### § 71.171 [Amended]

2. Section 71.171 is amended as follows:

#### Camarillo, CA [New]

Within a 5 mile radius of Camarillo Airport (lat. 34°12'50"N., long. 119°05'36"W.), beginning at lat. 34°15'25"N., long. 119°09'15"W., clockwise to lat. 34°09'15"N., long. 119°02'45"W.; then counter-clockwise via the 5 mile radius circle of NAS Point Mugu (lat. 34°07'09"N., long. 119°07'07"W.); to lat. 34°11'20"N., long. 119°08'20"W., then direct to the point of beginning and that area within 2 miles each side of the Camarillo VOR 072° (087T) radial, extending from the 5 mile radius zone to 7 miles east of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

#### 3. Oxnard, CA [Revised]

Within a 5 miles radius of Oxnard/Ventura County Airport (lat. 34°12'03"N., long. 119°12'23"W.), beginning at lat. 34°07'45"N., long. 119°12'40"W.; clockwise to 34°15'25"N., long. 119°09'15"W.; then direct to lat. 34°11'20"N., long. 119°08'20"W.; then counter-clockwise via the 5 mile radius circle of NAS Point Mugu (lat. 34°07'09"N., long. 119°07'07"W.) to the point of beginning. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Los Angeles, California on July 18, 1989.

John Mayrhofer,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 89-17693 Filed 7-27-89; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 88-ANM-21]

#### Yakima Control Zone, Yakima, WA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends the hours of effectiveness of the Yakima, Washington, Control Zone from full-time to part-time. Severe budgetary constraints were placed on the Yakima Weather Service Office which resulted in weather observations not being available 24-hours daily. This action updates aeronautical publications and provides accurate information to the aviation user.

**EFFECTIVE DATE:** 0901 u.t.c., August 27, 1989.

**FOR FURTHER INFORMATION CONTACT:**

Jerry Parker, ANM-538, Federal Aviation Administration, Docket No. 88-ANM-21, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Telephone: (206) 431-2536.

**SUPPLEMENTAL INFORMATION:**

#### History

On May 18, 1989, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the hours of effectiveness of the Yakima Control Zone, Yakima, Washington, (54 FR 21433).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Accordingly, the rule is adopted as proposed.

**The Rule**

This amendment to Part 71 of the Federal Aviation Regulations amends the description of the Yakima, Washington Control Zone. Section 71.171 of Part 71 was republished in Handbook 7400.6E dated January 3, 1989.

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

**List of Subjects in 14 CFR Part 71**

Aviation safety, Control zones.

**Adoption of the Amendment**

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

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

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

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

**§ 71.171 [Amended]**

2. Section 71.171 is amended as follows:

**Yakima, Washington [Amended]**

Add: "The Control Zone shall be effective during the specified dates and times established by a Notice to Airmen. The effective date and time will thereafter be continuously established in the Airport/Facility Directory." after the last sentence in the current description.

Issued in Seattle, Washington, on June 28, 1989.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 89-17692 Filed 7-27-89; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 71**

[Airspace Docket Number 89-ACE-17]

**Alteration of Transition Area—El Dorado, KS**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The nature of this Federal action is to alter the transition area description at El Dorado, Kansas. The El Dorado, Kansas, Municipal Airport has been renamed the Captain Jack Thomas/El Dorado Airport. Accordingly, the transition area description is being altered to reflect this name change.

**EFFECTIVE DATE:** 0901 u.t.c., November 16, 1989.

**FOR FURTHER INFORMATION CONTACT:** Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

**SUPPLEMENTARY INFORMATION:****The Rule**

The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the transition area description at El Dorado, Kansas. The El Dorado, Kansas, Municipal Airport has been renamed the Captain Jack Thomas/El Dorado Airport. Accordingly, alteration of the El Dorado transition area description is necessary to reflect this name change. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

Since this action is a minor technical amendment in which the public would not be particularly interested, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

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

under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Aviation safety, Transition areas.

**Adoption of the Amendment**

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

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

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

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

**§ 71.181 [Amended]**

2. By amending § 71.181 as follows:

**El Dorado, KS [Revised]**

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Captain Jack Thomas/El Dorado Airport (lat. 37°46'32"N., long. 96°48'58"W.), and within 3 miles each side of the El Dorado NDB (lat. 37°46'46"N., long. 96°48'58"W.) 217° bearing extending from the 5-mile radius area to 8.5 miles southwest of the NDB.

This amendment becomes effective at 0901 u.t.c. November 16, 1989.

Issued in Kansas City, Missouri, on July 12, 1989.

William Behan,

Acting Manager, Air Traffic Division.

[FR Doc. 89-17688 Filed 7-27-89; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 71**

[Airspace Docket Number 89-ACE-09]

**Alteration of Transition Area—Maryville, Missouri**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The nature of this Federal action is to alter the 700-foot transition area at Maryville, Missouri. The present transition area does not encompass certain airspace above Rankin Airport near Maryville, Missouri. The purpose of this amendment is to include that airspace in the Maryville transition area designation.

**EFFECTIVE DATE:** 0901 u.t.c. November 16, 1989.

**FOR FURTHER INFORMATION CONTACT:** Lewis G. Earp, Airspace Specialist,

Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

#### SUPPLEMENTARY INFORMATION:

##### History

On May 4, 1989, the FAA published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Maryville, Missouri (54 FR 19195). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

##### The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the 700-foot transition area at Maryville, Missouri. The present transition area does not encompass certain airspace above Rankin Airport near Maryville, Missouri. The purpose of this amendment is to include that airspace in the Maryville transition area designation.

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

##### List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

##### Adoption of the Amendment

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

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

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

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

2. By amending § 71.181 as follows:

##### Maryville, MO [Revised]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Maryville Memorial Airport (lat., 40°21'00" N., long. 94°54'45" W.), and 3 miles either side of the 333° bearing from the Emville, Missouri, NDB (lat., 40°20'54" N., long. 94°54'55" W.) from the 5-mile radius to 8.5 miles northwest of the NDB.

This amendment becomes effective at 0901 u.t.c. November 16, 1989.

Issued in Kansas City, Missouri, on July 13, 1989.

William Behan,

Acting Manager, Air Traffic Division.

[FR Doc. 87-17689 Filed 7-27-89; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 97

[Docket No. 25970; Amdt. No. 1405]

#### Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

##### For Examination—

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

##### For Purchase—

Individual SIAP copies may be obtained from:

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

##### By Subscription—

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

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8277.

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

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation

by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

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

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

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 1229; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on July 21, 1989.

**Robert L. Goodrich,**  
*Director, Flight Standards Service.*

#### Adoption of the Amendment

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

#### PART 97—[AMENDED]

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

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

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

\* \* \* Effective September 21, 1989

Imperial, CA—Imperial County, VOR-A, Amdt. 4  
Ontario, CA—Ontario Intl, VOR/DME RWY 8L, Orig.  
Kahului, HI—Kahului, NDB RWY 2, Orig.  
Moen Island, Federate States of Micronesia—Truk Intl, NDB/DME RWY 22, Amdt. 2  
Chickasha, OK—Chickasha Muni, NDB RWY 17, Orig.  
Bay City, TX—Bay City Muni, NDB RWY 13, Amdt. 2  
George West, TX—Live Oak County, VOR/DME-A, Orig.  
Chetek, WI—Chetek Muni-Southworth, VOR/DME RWY 17, Orig.

\* \* \* Effective August 24, 1989

Vacaville, CA—Nut Tree, VOR-A, Amdt. 4  
Vacaville, CA—Nut Tree, RNAV RWY 20, Orig.  
Washington, DC—Dulles Intl, VOR/DME or TACAN 12, Amdt. 7  
Washington, DC—Dulles Intl, NDB RWY 1R, Amdt. 16  
Washington, DC—Dulles Intl, ILS/DME RWY 1L, Amdt. 3  
Washington, DC—Dulles Intl, ILS RWY 1R, Amdt. 21  
Washington, DC—Dulles Intl, ILS-1 RWY 12, Amdt. 4  
Washington, DC—Dulles Intl, ILS-2 RWY 12, Orig., CONVERGING  
Washington, DC—Dulles Intl, ILS-1 RWY 19L, Amdt. 8  
Washington, DC—Dulles Intl, ILS-2 RWY 19L, Orig., CONVERGING  
Washington, DC—Dulles Intl, ILS-1 RWY 19R, Amdt. 20  
Washington, DC—Dulles Intl, ILS-2 19R, Orig., CONVERGING  
Orlando, FL—Orlando Executive, LOC BC RWY 25, Amdt. 19

Chicago, IL—Chicago O'Hare Intl, NDB RWY 27R, Amdt. 22  
Chicago, IL—Chicago O'Hare Intl, ILS RWY 27R, Amdt. 24  
LaPorte, IN—LaPorte Muni, VOR-A, Amdt. 5  
LaPorte, IN—LaPorte Muni, RNAV RWY 20, Amdt. 3  
Lebanon, NH—Lebanon Muni, ILS RWY 18, Amdt. 2  
Lebanon, NH—Lebanon Muni, MLS RWY 18, Amdt. 1

\* \* \* Effective July 19, 1989

Blacksburg, VA—Virginia Tech, LOC RWY 12, Amdt. 1

\* \* \* Effective July 7, 1989

St Louis, MO—Lambert/St Louis Intl, ILS RWY 24, Amdt. 41  
Dallas-Fort Worth, TX—Dallas/Fort Worth Intl, ILS-2 RWY 17L, Amdt. 2, CONVERGING  
Dallas-Fort Worth, TX—Dallas/Fort Worth Intl, ILS-2 RWY 17R, Amdt. 2, CONVERGING  
Dallas-Fort Worth, TX—Dallas/Fort Worth Intl, ILS-2 RWY 18L, Amdt. 1, CONVERGING  
Dallas-Fort Worth, TX—Dallas/Fort Worth Intl, ILS-2 RWY 18R, Amdt. 1, CONVERGING  
Dallas-Fort Worth, TX—Dallas/Fort Worth Intl, ILS-2 RWY 35R, Amdt. 1, CONVERGING  
Dallas-Fort Worth, TX—Dallas/Fort Worth Intl, ILS-2 RWY 36L, Amdt. 1, CONVERGING.

[FR Doc. 89-17694 Filed 7-27-89; 8:45 am]

BILLING CODE 4910-13-M

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 270

[Release No. IC-17077; File No. S7-5-89]

RIN 3235-AD57

### Time Period During Which the Board of Directors of a Registered Management Investment Company Must Select the Company's Independent Public Accountant

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is announcing the adoption of a rule that expands the time period during which certain registered management investment companies must select an independent public accountant. Absent this rule, those companies would be required to comply with the narrower statutory time period unless they obtained individual exemptive orders from the Commission. The rule eliminates the need to obtain those exemptive orders.

**EFFECTIVE DATE:** August 28, 1989.

**FOR FURTHER INFORMATION CONTACT:** Brian P. Kindelan, Special Counsel, (202) 272-2048, or Christopher Sprague, Staff Attorney, (202) 272-7779, Office of Regulatory Policy, Division of Investment Management, 450 Fifth Street, NW., Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission is adopting rule 32a-3 under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) (the "Act"), which will expand the time period during which certain registered management investment companies ("companies") must select an independent public accountant ("accountant").

#### Executive Summary

Section 32(a)(1) of the Act (15 U.S.C. 80a-31(a)(1)) requires a company to select its accountant at a board of directors meeting held within 30 days before or after the beginning of the company's fiscal year (the "60 day window") or at any time before the annual meeting of shareholders in that year. In March 1989, the Commission issued a release ("proposing release") on proposed rule 32a-3 under the Act, which would have exempted certain companies from the 60 day window.<sup>1</sup> The Commission received four letters of comment in response to the proposal. The rule, as adopted, has been modified in some respects to address the concerns of the commenters.

The rule sets out the following alternative time periods during which the accountant may be selected: (a) 90 days before or after the beginning of the fiscal year (the "180 day window"), or (b) 30 days before or 90 days after the beginning of the fiscal year (the "120 day window"). The 180 day window is available only to companies that are part of a set of investment companies ("set")<sup>2</sup> whose members have staggered fiscal year ends, are organized in a jurisdiction not requiring them to hold regular annual meetings of shareholders,<sup>3</sup> and do not in fact hold a regular annual shareholders' meeting in the fiscal year in which the rule is relied on. A company that is not part of a set of investment companies (or is part of a set whose members have identical fiscal year ends) may use the 120 day window

if organized in a jurisdiction not requiring the company to hold regular annual meetings of shareholders, and the company does not in fact hold a regular annual shareholders' meeting in the fiscal year in which the rule is relied on.

The Commission is adopting this rule because of numerous applications that have been filed seeking an exemption from the 60 day window. The rule will reduce significantly the need for companies to obtain individual exemptions in this area.

#### Background

Section 32(a)(1) of the Act states that it shall be unlawful for any registered management company to file with the Commission any financial statement signed or certified by an independent public accountant, unless such accountant shall have been selected at a board of directors meeting held within 30 days before or after the beginning of the fiscal year or at any time before the annual meeting of stockholders in that year. The legislative history of section 32(a) and the reasons for proposing rule 32a-3 are discussed in the proposing release, and will not be repeated here.<sup>4</sup> In essence, proposed rule 32a-3 would have codified several exemptive orders issued by the Commission to companies that sought an expanded window for accountant selection.<sup>5</sup> The four comment letters received generally supported the proposal, but recommended that certain provisions should be modified or eliminated. The rule, as adopted, has been modified after consideration of the commenters' concerns.

#### Discussion

This section discusses provisions in rule 32a-3 that reflect changes from the proposed rule, as well as provisions that have been left unchanged.

##### 1. Separate Definition of Stand-Alone Company

Proposed rule 32a-3(b)(2) would have defined a "stand-alone company" as "any registered management investment company that is not in a family of investment companies, or is in a family, each of whose members has the same fiscal year end." On further reflection, the Commission believes that this definition could cause confusion, because it would classify some companies in a fund complex as stand-alone companies. Accordingly, the final rule eliminates this separate definition,

but incorporates the concept it expresses directly into the 120 day window proviso.<sup>6</sup>

##### 2. Availability of the Rule

One commenter maintained that a new Maryland statute would make proposed rule 32a-3 unavailable for some companies organized in that state. Under section 2-501 of the Maryland Corporations and Associations Code, if the charter or bylaws of an investment company registered under the Act so provides, the company may not be required to hold an annual meeting of stockholders in any year in which the Act does not require the company to hold a meeting of stockholders for the election of directors.<sup>7</sup> Under a recent amendment to section 2-501, if a company is required by the Act to hold a meeting of stockholders to elect directors, then that meeting "shall be designated as the annual meeting of stockholders for that year."<sup>8</sup>

The commenter suggested that a company might rely on one of the expanded windows of rule 32a-3 to select its accountant, but later in that same fiscal year be compelled by the Act to hold a shareholders' meeting to elect directors. If that company were organized in Maryland, such a meeting would be deemed an annual meeting under the new Maryland law. Under the circumstances, according to the commenter, such a company could be viewed as having violated section 32(a)(1); the company's attempt to rely on proposed rule 32a-3 would have failed because the availability of the proposal was conditioned on a company not holding an annual stockholders' meeting in the fiscal year in which it relies on the rule.<sup>9</sup> The commenter expressed the opinion that a company should not be precluded from relying on rule 32a-3 merely because the company holds such a stockholders' meeting.

The instances in which the Act's requirements would trigger the commenter's concerns are relatively rare. The Act requires a meeting of stockholders to elect directors only "in the event that at any time less than a majority of the directors of the company holding office at that time were elected by the holders of the outstanding voting securities," in which case a meeting of such holders must be held within 60

<sup>1</sup> See Investment Company Act Rel. No. 16842 (Mar. 1, 1989) (54 FR 9843, Mar. 8, 1989).

<sup>2</sup> As discussed below, the term "family of investment companies" used in proposed rule 32a-3 is termed "set of investment companies" in the final rule, and is redefined. See *infra* note 12 and accompanying text.

<sup>3</sup> See section 2 of the Discussion, *infra*, which discusses the concept of a regular annual shareholders' meeting.

<sup>4</sup> See proposing release, *supra* note 1, at nn. 3-17 and accompanying text.

<sup>5</sup> See generally the proposing release.

<sup>6</sup> See rule 32a-3(a)(2).

<sup>7</sup> Md. Corps. & Ass'ns Code Ann. § 2-501 (Michie Supp. 1985).

<sup>8</sup> This provision, which was part of Maryland House of Delegates Bill 988, was signed into law on May 25, 1989. The effective date of the law is July 1, 1989.

<sup>9</sup> See proposed rule 32a-3(a).

days "for the purpose of electing directors to fill any existing vacancies in the board of directors unless the Commission shall by order extend such period."<sup>10</sup> Nevertheless, the Commission does not wish a company whose shareholders' meeting called for that purpose is deemed an annual meeting by the law of Maryland or any other state to lose the rule 32a-3 exemption solely for that reason. Accordingly, paragraph (a) of the final rule excludes from the rule's ambit only companies that have held a "regular annual stockholders' meeting" (emphasis added), which should be understood to refer to an annual shareholders' meeting held as a matter of course.

### 3. Companies Eligible To Use Expanded Windows

The proposed rule would have permitted a 180 day window (90 days before or 90 days after the start of the fiscal year) for accountant selection to a company in a family of investment companies ("family") whose members have staggered fiscal year ends, that is organized in a state not requiring the company to hold annual meetings of stockholders, and that does not in fact hold such a meeting in the fiscal year in which the rule is relied on. For a stand-alone company—which was defined as any company that is not in a family, or is in a family, each of whose members has the same fiscal year end—the proposed rule would have permitted a 120 day window (30 days before or 90 days after the start of the fiscal year) for accountant selection. One commenter recommended that the 180 day window be made available to stand-alone companies. The commenter argued that the 180 day window would give stand-alone companies more flexibility to permit more efficient and meaningful accountant review, and would simplify the rule.

The commenter's proposal to extend the 180 day window to stand-alone companies would, in theory, provide such companies with more flexibility in their accountant selection process. In the main, however, stand-alone companies have not expressed a need for the 180 day window.<sup>11</sup> Particularly in light of the specific time periods required by section 32(a)(1), the Commission declines to provide relief from the section in an exemptive rule

that is more expansive than the demonstrated needs of the investment company industry.

The same commenter also recommended that a company that holds an annual meeting of stockholders be granted a 90 day window prior to the beginning of its fiscal year for accountant selection. The commenter argued that this would give such a company increased flexibility in determining the timing of accountant selection and in scheduling board meetings. The Commission declines to adopt the commenter's suggestion; the commenter offered no convincing reason why a company would schedule an annual meeting so early in its fiscal year as to make compliance with section 32(a)(1) itself difficult. In addition, no companies have applied for exemptive relief of the sort suggested by the commenter.

### 4. Definition of Family of Investment Companies

Paragraph (b)(1) of the proposed rule defined "family of investment companies" as any two or more companies "which share the same investment adviser or principal underwriter and hold themselves out to investors as related companies for purposes of investment and investor services." Two commenters argued that the concept of "family of investment companies" should turn on common management or control, rather than on whether the companies hold themselves out as related companies. One commenter also argued that shared investment advisers and shared principal underwriters are a more pertinent indicator of common management than are the company's public representations. A commenter also noted that there may be some subjectivity associated with determining whether two or more companies hold themselves out as related companies.

In response to the comments, the definition in the final rule is expanded to include two or more registered management investment companies "(1) that have a common investment adviser or principal underwriter, or (2) if the investment adviser or principal underwriter of one of the companies is an affiliated person as defined in section 2(a)(3)(C) of the Act [15 U.S.C. 80a-2(a)(3)(C)] of the investment adviser or principal underwriter of each of the other companies." This revised definition is consistent with several recent exemptive orders that apply to funds with the same or affiliated

investment advisers or principal underwriters.<sup>12</sup> The rule retains, however, the "holding out" portion of the definition. While the Commission agrees that common management is important, such management is much more likely to exist if companies are also held out as related than if, for example, the companies merely use the same principal underwriter. In addition, while the requirement has some subjectivity, it has been used in form N-SAR under the Act [17 CFR 274.101] for some time. Finally, to distinguish the expanded definition of the final rule from the definition of "family of investment companies" used in form N-SAR, the final rule will use the phrase "set of investment companies."

### Cost/Benefit of Action

To evaluate the benefits and costs associated with the proposed rule, the Commission specifically requested commenters to provide views and data as to the costs and benefits associated with the proposal. The commenters agreed that investment companies to which the rule would apply would file fewer applications for exemption and would be able to hold fewer board of directors meetings. The rule also would allow the board of directors of eligible companies to make better-informed decisions concerning the selection of an accountant. The Commission would benefit because its staff would no longer have to review exemptive applications in this area.

### Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act [5 U.S.C. 605(b)], the Chairman of the Commission certified at the time the rule was published that proposed rule 32a-3 would not, if adopted, have a significant impact on a substantial number of small entities. No comments were received regarding the certification.

### List of Subjects in 17 CFR Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

### Text of Rule

Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended as shown:

<sup>12</sup> E.g., Alex. Brown Cash Reserve Fund, Investment Company Act Rel. Nos. 16524 (Aug. 12, 1988) [53 FR 31795, Aug. 19, 1988] (notice of application) and 16550 (Sept. 7, 1988) (order).

<sup>10</sup> Section 16(a) of the Act [15 U.S.C. 80a-16(a)].

<sup>11</sup> The 180 day window has been requested by a stand-alone company in only one instance. Mackay-Shields Mainstay Series Fund, Investment Company Act Rel. Nos. 16675 (Dec. 2, 1988) [53 FR 49810, Dec. 9, 1988] (notice of application) and 16733 (Dec. 30, 1988) (order).

**PART 270--RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940**

1. The authority citation for Part 270 continues to read as follows:

Authority: Secs. 38, 40, 54 Stat. 841, 842; 15 U.S.C. 80a-37, 80a-39; the Investment Company Act of 1940, as amended. 15 U.S.C. 80a-1 et seq.; unless otherwise noted. \* \* \* Section 270.32a-3 is also issued under Sec. 6(c) (15 U.S.C. 80a-6(c)).

2. By adding § 270.32a-3 to read as follows:

**§ 270.32a-3 Exemption from provision of section 32(a)(1) regarding the time period during which a registered management investment company must select an independent public accountant.**

(a) A registered management investment company ("company") organized in a jurisdiction that does not require it to hold regular annual meetings of its stockholders, and which does not hold a regular annual stockholders' meeting in a given fiscal year, shall be exempt in that fiscal year from the requirement of section 32(a)(1) of the Act (15 U.S.C. 80a-31(a)(1)) that the independent public accountant ("accountant") be selected at a board of directors meeting held within 30 days before or after the beginning of the fiscal year or before the annual meeting of stockholders in that year, *provided*, that such company is either:

(1) In a set of investment companies as defined in paragraph (b) of this section, if not all the members of such set have an identical fiscal year end and if such company selects an accountant at a board of directors meeting held within 90 days before or after the beginning of that fiscal year; or

(2) Not in a set of investment companies, or in a set, each of whose members has the same fiscal year end, and if such company selects an accountant at a board of directors meeting held within 30 days before or 90 days after the beginning of that fiscal year.

(b) For purposes of this rule, "set of investment companies" means any two or more registered management investment companies that hold themselves out to investors as related companies for purposes of investment and investor services, and

(1) That have a common investment adviser or principal underwriter, or

(2) If the investment adviser or principal underwriter of one of the companies is an affiliated person as defined in section 2(a)(3)(C) of the Act (15 U.S.C. 80a-2(a)(3)(C)) of the investment adviser or principal

underwriter of each of the other companies.

By the Commission.

Jonathan G. Katz,

Secretary.

July 21, 1989.

[FR Doc. 89-17697 Filed 7-27-89; 8:45 am]

BILLING CODE 8010-01-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 172**

[Docket No. 86F-0383]

**Food Additives Permitted for Direct Addition to Food for Human Consumption; Aspartame**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of aspartame as a sweetener in fruit spreads, fruit toppings, and fruit syrups. This action is in response to a petition filed by the NutraSweet Co.

**DATES:** July 28, 1989; written objections and requests for a hearing by August 28, 1989.

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

**FOR FURTHER INFORMATION CONTACT:** Carl L. Giannetta, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

**SUPPLEMENTARY INFORMATION:** In a notice published in the *Federal Register* of October 7, 1986 (51 FR 35693), FDA announced that a food additive petition (FAP 6A3963) had been filed by the NutraSweet Co., Box 1111, 4711 Golf Rd., Skokie, IL 60076, proposing that § 172.804 *Aspartame* (21 CFR 172.804) be amended to provide for the safe use of aspartame as a sweetener in fruit spreads, toppings, and syrups where standards of identity do not preclude its use.

The agency has determined that the phrase "use of aspartame as a sweetener in fruit spreads, toppings and syrups" used in the filing notice may be misinterpreted to reflect uses other than the requested uses. Therefore, to clarify the intent of the petition, the agency has

reworded the requested use to "the safe use of aspartame as a sweetener in fruit spreads, fruit toppings, and fruit syrups." Furthermore, the uses approved by this amendment do not include the use of aspartame in food products subject to the standards of identity for fruit butters, jellies, preserves, and related products or for fruit pies (21 CFR Parts 150 and 152). The introductory paragraph of § 172.804 provides that aspartame may only be used for these purposes "for which standards of identity established under section 401 of the Act do not preclude such use."

FDA has evaluated the data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended in § 172.804(c) as set forth below.

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

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

Any person who will be adversely affected by this regulation may at any time on or before August 28, 1989, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for

which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

#### List of Subjects in 21 CFR part 172

Food additives, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR Part 172 is amended as follows:

#### **PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION**

1. The authority citation for 21 CFR Part 172 continues to read as follows:

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

2. Section 172.804 is amended by adding new paragraph (c)(21) to read as follows:

#### § 172.804 Aspartame.

\* \* \* \* \*

(c) \* \* \*

(21) Fruit spreads, fruit toppings, and fruit syrups.

\* \* \* \* \*

Dated: July 18, 1989.

Ronald G. Chesemore,

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 89-17606 Filed 7-27-89; 8:45 am]

BILLING CODE 4160-01-M

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 159a

[DoD 5200.1-R]

#### Information Security Program Regulation

**AGENCY:** Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** This amendment adds material that was inadvertently omitted at the end of Appendix A to 32 CFR Part 159a, printed on Tuesday, June 27, 1989 (54 FR 26998).

**EFFECTIVE DATE:** June 1, 1986.

#### **PART 159a—[AMENDED]**

1. The authority citation continues to read as follows:

Authority: E.O. 12356, 5 U.S.C. 301.

2. Appendix A is amended by adding the following at the end of the Appendix as follows:

L.M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

July 24, 1989.

BILLING CODE 3810-01-M

Country	'TOP SECRET	SECRET	CONFIDENTIAL
United Kingdom	TOP SECRET	SECRET	CONFIDENTIAL
Uruguay	ULTRA SECRETO	SECRETO	CONFIDENTIAL
USSR	СОВЕРШЕННО СЕКРЕТНО	СЕКРЕТНО	НЕ ПОДЛЕЖАЩИЙ ОГЛАШЕНИЮ
Viet Nam	TRES SECRET	SECRET DEFENSE	CONFIDENTIEL DEFENSE
French	ТРИ-СЕКРЕТ	СЕКРЕТ	СЕКРЕТ
Vietnamese	ТРИ-СЕКРЕТ	СЕКРЕТ	СЕКРЕТ
	TOP SECRET	SECRET	CONFIDENTIAL
INTERNATIONAL ORGANIZATION	TOP SECRET	SECRET	CONFIDENTIAL
	COSMIC TOP SECRET	NATO SECRET	NATO CONFIDENTIAL
NATO	COSMIC TOP SECRET	NATO SECRET	NATO CONFIDENTIAL
			RESTRICTED

## NOTES:

In all instances foreign security classification systems are not exactly parallel to the U.S. system and exact equivalent classifications cannot be stated. The classifications given above represent the nearest comparable designations that are used to signify degrees of protection and control similar to those prescribed for the equivalent U.S. classifications.

"ATOMAL" information is an exclusive designation used by NATO to identify "Restricted Data" or "Formerly Restricted Data" information released by the U.S. Government to NATO.

[FR Doc. 89-17611 Filed 7-27-89; 8:45 am]

BILLING CODE 3810-01-M

## 32 CFR Part 242

[DoD Directive 6010.7]

**Admission Policies and Procedures for the School of Medicine, Uniformed Services University of the Health Sciences**

AGENCY: Department of Defense.

ACTION: Final rule.

**SUMMARY:** This amendment makes administrative changes to 32 CFR Part 242. It also raises the age from 32 to 34 years old for a Uniformed Services University of the Health Sciences student who have served on active duty in the Armed Forces that he or she may exceed the normal age limitation (age 28) by a period equal to the time served on active duty provided he or she does not become age 34 by June 30 of the year of admission.

EFFECTIVE DATE: June 6, 1989.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles Mannix, Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Bethesda, MD 20814, telephone (703) 295-3028.

**List of Subjects in 32 CFR Part 242**

Medical and dental schools; Military personnel.

Accordingly, 32 CFR Part 242 is amended as follows:

**PART 242—[AMENDED]**

1. The authority citation continues to read as follows:

Authority: 10 U.S.C. 2112.

2. Section 242.4 is amended by revising paragraph (a)(2) and amending paragraph (a)(5)(ii) by changing "5210.9" to 5200.2".

**§ 242.4 Policies.**

\* \* \* \* \*

(a) \* \* \*

(2) Are at least 18 years old at the time of matriculation, but have not become 28 years old as of June 30 in the year of admission. However, any student who has served on active duty in the Armed Forces may exceed the age limitation by a period equal to the time served on active duty provided that student has not become 34 years old by June 30 in the year of admission.

\* \* \* \* \*

**§§ 242.4, 242.5 and 242.7 [Amended]**

3. Paragraphs 242.4(c), 242.5(d), and 242.7(c) are amended by changing "(Health and Environmental)" to "(Health Affairs)".

**§ 242.10 [Amended]**

4. Paragraph 242.10 is amended by changing "(Comptroller)" to "(Health Affairs)".

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

July 24, 1989.

[FR Doc. 89-17612 Filed 7-27-89; 8:45 am]

BILLING CODE 3810-10-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 261**

[SWH-FRL-3620-3]

**Hazardous Waste Management System; Identification and Listing of Hazardous Waste**

AGENCY: Environmental Protection Agency (EPA).

**ACTION:** Availability of data pertaining to the hazardous characteristics of CFC refrigerants and clarification of the applicability of RCRA subtitle C regulations to CFC refrigerants.

**SUMMARY:** EPA's Office of Air and Radiation has been undertaking efforts to encourage the recycling of chlorofluorocarbons (CFCs) used as refrigerants. In conducting these efforts, it has become evident that many people in the regulated community hold misconceptions regarding the applicability of Subtitle C of the Resource Conservation and Recovery Act (RCRA) to CFCs when used as refrigerants. The resulting confusion has often served to hinder the implementation of recycling schemes designed to mitigate the adverse impacts of CFCs on the environment, in particular, the depletion of the ozone layer. Therefore, EPA's Office of Solid Waste and Emergency Response is publishing today's Notice to clarify the applicability of RCRA Subtitle C to CFC refrigerants. In addition, today's Notice announces data which will greatly simplify the burden that the generator of any solid waste must undertake to determine whether the solid waste is hazardous by demonstrating that CFC refrigerants will not exhibit a characteristic of a hazardous waste under normal operating conditions.

EFFECTIVE DATE: July 28, 1989.

**ADDRESS:** The data announced in this Notice are in the administrative record identified as Docket Number F-89-CFCA-FFFFF and is located in the EPA RCRA Docket (located in Room M2427) 401 M Street SW., Washington, DC 20460. The docket is open from 9:00 am

to 4:00 pm, Monday through Friday, except for public holidays. To review docket materials, the public must make an appointment by calling (202) 475-9327. The public may make copies of the docket materials at a cost of \$.15 per page.

**FOR FURTHER INFORMATION CONTACT:**

For general information regarding the applicability of RCRA to CFCs or regarding the data announced in this Notice, contact Mitch Kidwell, Office of Solid Waste (OS-332), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 475-8551. For information regarding the recycling of CFC refrigerants, contact Jean Lupinacci, Office of Air and Radiation, Global Change Division (ANR-445), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-7750.

**SUPPLEMENTARY INFORMATION:****Background**

On May 19, 1980, the Environmental Protection Agency (EPA) promulgated a final rule pursuant to section 3001 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA). This rule (45 FR 33084) specifically listed 85 process wastes as hazardous wastes and approximately 400 chemicals as hazardous wastes if they are, or are intended to be, discarded. It also identified four characteristics of hazardous wastes to be used by persons handling a solid waste in determining whether that waste is a hazardous waste (see 40 CFR Part 261 Subpart C).

The list of hazardous wastes (see 40 CFR 261.31-261.33) includes certain chlorofluorocarbons (CFCs). These CFCs are listed as certain spent halogenated solvents from non-specific sources (i.e., F001 and F002, found at 40 CFR 261.31) and two CFCs are listed as commercial chemical products (i.e., dichlorodifluoromethane (CFC-12) and trichloromonofluoromethane (CFC-11), U075 and U121, respectively, found at 40 CFR 261.33(f)).

**Note:** F001 includes all chlorofluorocarbons used in degreasing; F002 includes only limited chlorofluorocarbons, including trichlorofluoromethane.

The applicability of RCRA Subtitle C regulations to CFCs is limited to three basic scenarios: (1) Where CFCs are used as solvents and the wastes containing the CFCs meet the F001 and F002 listing descriptions, (2) where either dichlorodifluoromethane (CFC-12) or trichloromonofluoromethane (CFC-11) is an unused commercial chemical product, off-specification commercial chemical product, inner liner or

container residue, or spill residue that is (or is intended to be) discarded, or (3) where CFCs are solid wastes that exhibit a characteristic of hazardous waste. However, through efforts by EPA's Office of Air and Radiation to promote the recycling of CFC refrigerants, it has become evident that some confusion exists in the regulated community regarding the RCRA regulatory status of CFC refrigerants. Today's Notice of Data Availability will clarify this status.

#### Clarification of the RCRA Regulatory Status of CFCs Used as Refrigerants

By way of clarifying the regulatory status of recycled CFC refrigerants, the Agency will discuss the first two scenarios listed above, and announce data that applies to the third scenario (i.e., whether CFC refrigerants exhibit a characteristic of hazardous waste). First, the spent solvent listings found at 40 CFR 261.31 (specifically, CFCs listed under F001 and F002) apply solely to wastes containing listed solvents when they are used for their solvent properties. CFCs used as refrigerants are not typically subject to the spent solvent listings because, as refrigerants, the CFCs are not used as solvents. Second, the U-listings found at 40 CFR 261.33(f) apply to commercially pure grades of listed chemicals, technical grades, and formulations in which the listed chemical is the sole active ingredient. The U-list does not include chemical mixtures where the listed chemical is not the sole active ingredient, and does not apply to chemicals that have been used for their intended purpose. Thus, CFC refrigerants that are removed from a refrigeration system and are reclaimed would not be classified as "commercial products," but rather would be classified as "spent materials." If the CFC refrigerants were not used for their solvent properties, they could not be F001 or F002 wastes, and thus, these spent materials could only be hazardous wastes under the characteristics of 40 CFR 261.21-261.24.

As a spent material, a CFC refrigerant is a solid waste. It is therefore the generator's responsibility to test the waste or apply knowledge of the waste to determine whether the waste exhibits a characteristic of a hazardous waste (see 40 CFR 261.5(f)(1), 261.5(g)(1) and 262.11(c)). The characteristics of a hazardous waste (i.e., ignitability, corrosivity, reactivity, or EP toxicity) are found at 40 CFR 261.21-261.24. The "generator" includes each person, by site, whose act or process produces a hazardous waste, or whose act first causes the waste to become subject to regulation. In most cases, the generator

would be the owner of the refrigeration equipment, as well as the service person or company who, in servicing the equipment, collects the material for reclamation (i.e., there may be "co-generator" situations (see 45 FR a 72026)). This Notice announces the availability of data that relate to a generator's application of knowledge of the waste in addressing the possible hazardous characteristic of corrosivity (see 40 CFR 261.22).

The Agency has previously determined that CFC refrigerants are not likely to exhibit a characteristic of a hazardous waste; however, the Agency maintained reservations regarding the characteristic of corrosivity (see the July 21, 1988 letter from Sylvia K. Lowrance, Director of EPA's Office of Solid Waste to Mr. Marshall R. Turner, Vice President of Racon Refrigerants, included in the docket for this Notice). EPA was concerned about the possible formation of hydrochloric acid due to the breakdown of the CFCs at high compressor temperatures. EPA has since received data (included in the docket for this Notice) demonstrating that the conditions under which CFC refrigerants would break down and form hydrochloric acid, while theoretically possible, are not a practical possibility during normal use. Generators of CFC refrigerants that are reclaimed are not required to test their wastes to determine that their CFCs are not hazardous wastes. Of course, the generator is required to know if the CFC is a hazardous waste. Therefore, in circumstances where something outside the realm of normal practice may cause a CFC refrigerant to exhibit a characteristic (e.g., a CFC refrigerant is inadvertently mixed with an acid material), generators may need to determine, using testing or knowledge, whether the waste is hazardous. Even if the material is a hazardous waste, full Subtitle C management standards may not apply. Exemptions for household hazardous waste or waste from small quantity generators may apply to some of these wastes (see 40 CFR 261.4(b)(1); 40 CFR 261.5).

The Agency notes, however, that the preceding discussions pertain to Federal regulations. While EPA strongly encourages State regulatory agencies to adopt similar regulations to facilitate the recycling of CFC refrigerants, States can and do have their own regulations which may be more stringent than Federal regulations. The regulated community is advised to consult the appropriate State regulatory agency to determine the State regulatory status of CFC refrigerants that are recycled.

#### List of Docket Materials

- July 21, 1988 letter from Sylvia K. Lowrance, Director of EPA Office of Solid Waste, to Marshall R. Turner of Racon Refrigerants.
- August 3, 1988 letter from Stephen O. Andersen and Jean Lupinacci of EPA Office of Air and Radiation to David J. Stirpe of the Air-Conditioning and Refrigeration Institute.
- October 11, 1988 letter from David J. Stirpe of the Air-Conditioning and Refrigeration Institute to Stephen O. Andersen and Jean Lupinacci of EPA Office of Air and Radiation.
- August 8, 1988 letter from David J. Bateman of E.I. du Pont de Nemours and Company to Stephen O. Andersen of EPA Office of Air and Radiation.
- September 5, 1988 letter from R.E. Boberg of Allied-Signal Inc. to David J. Stirpe of the Air-Conditioning and Refrigeration Institute.
- September 28, 1988 letter from L. Denise Pope of Racon Inc. to David J. Stirpe of the Air-Conditioning and Refrigeration Institute, and attachment entitled "Development of Worst Case Scenario."
- August 25, 1988 EPA internal memorandum from N. Dean Smith of the Industrial Processes Branch to Steve Andersen of the Program Development Division, and attachment (an excerpt from "Test Methods for Evaluating Solid Wastes" (SW-846)).
- November 8, 1988 letter from J.E. Cox of American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. to Jean Lupinacci of EPA Office of Air and Radiation, and two enclosures: "Rates of Thermal Decomposition of CHCLF<sub>2</sub> and CF<sub>2</sub>CL<sub>2</sub>" by Frances J. Norton (1957) and "Reactions of Chlorofluorocarbons with Metals" by B.J. Eiseman (1963).
- June 10, 1988 letter from Harold J. Lamb of Racon Inc. to Joseph M. McGuire of the Air-Conditioning and Refrigeration Institute.
- September 14, 1987 letter from L. Denise Pope of Racon Inc. to John P. Goetz of the Kansas Department of Health and Environment.
- October 5, 1987 letter from John S. Ramsey of the Kansas Department of Health and Environment to L. Denise Pope of Racon Inc.
- October 21, 1987 letter from L. Denise Pope of Racon Inc. to John S. Ramsey of the Kansas Department of Health and Environment.
- October 30, 1987 letter from John S. Ramsey of the Kansas Department of Health and Environment to L. Denise Pope of Racon Inc.

14. January 22, 1988 Racon Inc.  
internal memorandum from L. Denise  
Pope to the File.

15. February 1, 1988 letter from  
Marshall R. Turner of Racon  
Refrigerants to Lee Thomas,  
Administrator of EPA.

16. March 21, 1988 letter from  
Matthew A. Straus of EPA  
Characterization and Assessment  
Division to Marshall R. Turner of Racon  
Inc.

17. May 20, 1988 internal Racon Inc.  
memorandum from L. Denise Pope to the  
File.

Date: July 14, 1989.

Robert Duprey,

Acting Assistant Administrator.

[FR Doc. 89-17383 Filed 7-27-89; 8:45 am]

BILLING CODE 6560-50-M

# Proposed Rules

Federal Register

Vol. 54, No. 144

Friday, July 28, 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 51

[Docket No. FV-89-200]

#### Pineapples; Grade Standards

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This action would revise the voluntary U.S. Standards for Grades of Pineapples. The Pineapple Growers Association of Hawaii has requested that the U.S. standards be revised to bring them in line with current cultural and marketing practices. This association represents growers and shippers that distribute approximately 84 percent of the pineapples consumed in the United States. The Agricultural Marketing Service (AMS), in cooperation with industry, has the responsibility to develop and improve standards of quality, grade, and packaging in order to encourage uniformity and consistency in commercial practices.

**DATES:** Comments must be postmarked or courier dated on or before September 26, 1989.

**ADDRESSES:** Interested parties are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Standardization Section, Fresh Products Branch, 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 make reference to 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:** Philip C. Eastman, at the above address or call (202) 447-2482.

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

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. This proposed revision of the U.S. Standards for Grades of Pineapples will not impose 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. In addition, this action proposes changes to these U.S. standards which will bring the standards into conformity with current marketing practices.

The United States Standards for Grades of Pineapples were last revised on February 23, 1953. The Pineapple Growers Association of Hawaii has requested modifications in the U.S. standards that include the following changes in requirements for the grades and definitions of terms, new terms and definitions, as well as changes and additions in the scoring limits for defects.

#### Changes in Requirements

- The current standards apply only to pineapples with tops, while the proposed standards would apply to pineapples with or without tops. This change in the requirements would allow pineapples whose tops have been cut off to be graded and certified to a U.S. grade.
- The current U.S. Fancy and U.S. No. 1 grades require the tops to be straight and reasonably straight respectively, while in the proposed standards the tops would be required to be moderately straight or not more than moderately curved respectively. These changes in straightness requirements would be more in line with what is now commonly accepted in the marketplace and allow more pineapples to meet either the requirements of the U.S. Fancy or U.S. No. 1 grade.
- The U.S. Fancy grade in the current standards requires tops to be not less than 5 inches nor more than 1½ times

the length of the fruit. The U.S. No. 1 grade in the current standards requires tops to be not less than 4 inches nor more than twice the length of the fruit. With current cultural and marketing practices, excessively short tops have not been a significant factor affecting sales of pineapples. The elimination of the minimum top length will permit pineapples with tops removed to be graded and certified under the proposed standards.

- In the current standards, fresh cracks and evidence of rodent feeding are scored on the general definitions of damage and or serious damage. The proposed standards would require that each grade be free from these defects.
- The current standards make no reference to overripe, freezing, or decay of the tops. The proposed standards would make these "free from" defects. Overripe, freezing, and decay in the tops of pineapples are considered by the pineapple industry to be serious disorders, therefore any amount that is visible would be a defect in the proposed standards.
- Internal breakdown, is currently scored when present in any degree. The pineapple industry feels this is too restrictive and has requested that the proposed standards provide specific areas of the pineapple flesh which might be light to medium brown without being scored as a defect. This change is included in the proposal.

#### Changes in Definition of Terms

- In the current standards "Mature" is defined as the stage of development which will ensure completion of the ripening process, while the proposed standards redefine it to mean a stage of development where a pineapple is usable and edible. This change is a more easily understood definition for mature, and indicates pineapples which meet U.S. grade standards must be palatable.
- "Well trimmed" in the current standards means the stem has been cut off so the fruit will stand straight on a flat surface. In the proposed standards, the term has been changed to "Stems removed" which means the stem is removed so it does not extend more than one inch below the base of the pineapple. The term and definition were changed in the proposed standards to be more in line with

what is currently accepted practice in marketing pineapples.

—“Similar varietal characteristic color” for tops in the current standards means that at shipping point the tops are of good green color, and in receiving markets they are fairly good green color and relatively free from dryness and discoloration. Because of the variation in natural color that sometimes develops in the tops of pineapples, the proposed standards would redefine similar varietal characteristic color of tops to mean that the tops in a lot may vary from green to reddish green color. Since there would be specific scoring limits in the Classification of Defects, the proposed standards would not make reference to an allowable degree of discoloration.

—In the current standards, “Fairly uniform” size is defined for counts of 18 or less in standard southeastern crates as a variation of not more than 1/8 inch in diameter and for counts over 18 in number the pineapples may not vary more than 1/2 inch in diameter. In recent years, however, southeastern crates have fallen into disuse. For this reason and to provide a simpler way to establish fairly uniform size, the proposed standards redefines “Fairly uniform” to mean

that the fruit within individual containers do not vary more than 1 1/2 pounds from smallest to largest.

#### New Terms and Definitions

The following terms and accompanying definitions are included in the proposed standards because they are used in the grading and certification of pineapples.

—“Frozen (fruit)” means the fruit is affected by freezing so that some portion is in a hardened state with ice crystals present.

—“Frozen (tops)” means the tops are to some degree, hardened by freezing with ice crystals present.

—“Freezing injury (fruit)” means the edible flesh is glassy, watersoaked, and/or discolored as is characteristic of having been frozen.

—“Freezing injury (tops)” means the leaf tissue is glassy, watersoaked, and/or discolored as is characteristic of having been frozen.

—“Shell” means the external surface or rind of the fruit.

—“Flesh” means the internal edible portion of the fruit.

—“Decay” means breakdown or disintegration of the tops or breakdown, disintegration or fermentation of the pineapple caused by bacteria or fungi.

#### Tolerances—Changes in the Method for Determining the Amount of Defects Allowed for Samples and Lots

In the current standards a percentage is used for the amount of defects in the individual samples, as well as for a lot of pineapples as a whole. The proposed standards would use limits that are based on the number of fruit in a chart. This method would be easier and faster to utilize in grading pineapples, in that there is no need to make calculations as with percentages. Generally, the proposed tolerances are similar to those in the current standards.

#### Size and Marking Requirements

The proposed standards would not change the size and marking requirements in the current standards.

#### Changes in Scoring Limits in the Classification of Defects

Changes in the proposed standards include the addition of specific definitions for scoring defects where the current standards has only a general definition for injury, damage, and serious damage. There are also changes in the scoring limits in the proposal which are more specific than those in the current standards.

#### CHANGES IN LIMITS FOR DEFECTS <sup>1</sup>

[Injury—U.S. Fancy]

	Current standards	Proposed standards
<b>Tops:</b>		
Discoloration.....	Shipping points, the tops are of good green color characteristic of well-grown pineapples, and in the receiving markets, are fairly good green color and relatively free from dryness and discoloration.	When more than 10 percent of the crown leaves are discolored.
Mechanical or other means.....	No specific limit in standards <sup>2</sup> .....	When physical injury (cleanliness, mechanical damage) more than slightly affects the appearance of the pineapple.
<b>Fruit:</b>		
Bruising.....	No specific limit in standards <sup>2</sup> .....	When any bruise extends into flesh more than 1/4 inch and when a bruise or combination of bruises affects an aggregate area of a circle more than 1 1/2 inches in diameter.
Sunburn.....	More than slightly affecting appearance.....	When there is bleaching of and a slight softening of the shell affecting an aggregate area more than 1 1/2 inches in diameter.
Gummosis.....	More than very slight.....	When gum deposits penetrate into the flesh or causes discoloration of the shell affecting an aggregate area more than 1/4 inch in diameter.
Internal breakdown.....	No specific limit in standards <sup>2</sup> .....	When more than 5 percent of the edible flesh has a distinct light brown to medium brown discoloration which more than slightly detracts from the appearance or edible quality of the fruit.
Insects and insect feeding.....	No specific limit in standards <sup>2</sup> .....	When an aggregate area more than 1/2 inch in diameter has any insects attached to the surface (e.g. scale) or any injury from insect feeding, which more than slightly detracts from the appearance, edible, or shipping quality of the fruit.
Healed cracks.....	No specific limit in standards <sup>2</sup> .....	When healed cracks more than slightly detract from the appearance, edible, or shipping quality of the fruit.
Mechanical or other means.....	No specific limit in standards <sup>2</sup> .....	When physical injury (cleanliness, mechanical damage) more than slightly affects the appearance or edible quality of the pineapple.

<sup>1</sup> Defects are based on a 10 size fruit (ten 4-pound average fruit per 40 pound box). Accordingly larger or smaller fruit are permitted to have defects relative to their size.

<sup>2</sup> However, can apply the general definition limit for “Injury” which means any defect which more than slightly affects the appearance or the edible or shipping quality of the fruit.

CHANGES IN LIMITS FOR DEFECTS <sup>1</sup>

[Damage (U.S. No. 1)]

	Current standards	Proposed standards
<i>Tops:</i>		
Discoloration.....	Shipping points, the tops are of good green color characteristic of well-grown pineapples, and in the receiving markets, are fairly good green color and relatively free from dryness and discoloration.	When more than 25 percent of the crown leaves are discolored.
Crown slips.....	Not more than 5 crown slips, not more than 2 of which may be more than 2 3/4 inches in length.	When more than 5 crown slips, or when more than 2 crown slips are more than 2 3/4 inches in length.
Mechanical or other means.....	No specific limit in standards <sup>2</sup> .....	When physical injury (cleanliness, mechanical damage) materially affects the appearance of the pineapple.
<i>Fruit:</i>		
Bruising.....	No specific limit in standards <sup>2</sup> .....	When any bruise extends into flesh more than 1/2 inch, and when a bruise or combination of bruises affects an aggregate area more than 2 1/4 inches in diameter.
Sunburn.....	No specific limit in standards <sup>2</sup> .....	When there is bleaching of and a moderate softening of the shell affecting an aggregate area more than 2 1/4 inches in diameter.
Gummosis.....	No specific limit in standards <sup>2</sup> .....	When gum deposits slightly penetrate into the flesh or causes discoloration of the shell affecting an aggregate area more than 1/2 inch in diameter.
Internal breakdown.....	No specific limit in standards <sup>2</sup> .....	When more than 10 percent of the edible flesh has a light to medium brown discoloration which materially detracts from the appearance or edible quality of the fruit.
Insects and insect feeding.....	No specific limit in standards <sup>2</sup> .....	When an aggregate area more than 3/4 inch in diameter has any insects attached to the surface (e.g. scale) or any injury from insect feeding, which materially detracts from the appearance, edible, or shipping quality of the fruit.
Healed cracks.....	Not badly cracked.....	When healed cracks on the eyes are more than 1/4 inch in width and not more than 1 inch in depth or which materially detracts from the appearance, edible, or shipping quality of the fruit. When healed cracks between the eyes materially affect the appearance of the fruit shell.
Mechanical or other means.....	No specific limit in standards <sup>2</sup> .....	When physical injury (cleanliness, mechanical damage) materially affects the appearance or edible quality of the pineapple.

<sup>1</sup> Defects are based on a 10 size fruit (ten 4-pound average fruit per 40 pound box). Accordingly larger or smaller fruit are permitted to have defects relative to their size.

<sup>2</sup> However, can apply the general definition limit for "Damage" which means any defect which materially affects the appearance, or the edible or shipping quality of the fruit.

CHANGES IN LIMITS FOR DEFECTS <sup>1</sup>

[Serious Damage (U.S. No. 2)]

	Current standards	Proposed standards
<i>Tops:</i>		
Discoloration.....	Shipping points, the tops are of good green color characteristic of well-grown pineapples, and in the receiving markets, are fairly good green color and relatively free from dryness and discoloration.	When more than 50 percent of the crown leaves are discolored.
Mechanical or other means.....	No specific limit in standards <sup>2</sup> .....	When physical injury (cleanliness, mechanical damage) seriously affects the appearance of the pineapple.
<i>Fruit:</i>		
Bruising.....	No specific limit in standards <sup>2</sup> .....	When any bruise extends into flesh more than 3/4 inch and when a bruise or combination of bruises affects an aggregate area of a circle more than 3 inches in diameter.
Sunburn.....	No specific limit in standards <sup>2</sup> .....	When there is bleaching of and severe softening of the shell affecting an aggregate area more than 3 inches in diameter.
Gummosis.....	No specific limit in standards <sup>2</sup> .....	When gum deposits readily penetrate into the flesh or causes discoloration of the shell affecting an aggregate area more than 1 inch in diameter.
Internal breakdown.....	No specific limit in standards <sup>2</sup> .....	When more than 20 percent of the edible flesh has a distinct medium dark brown or brown-black discoloration which seriously detracts from the appearance or edible quality of the fruit.

CHANGES IN LIMITS FOR DEFECTS <sup>1</sup>—Continued

[Serious Damage (U.S. No. 2)]

	Current standards	Proposed standards
Insects and insect feeding .....	No specific limit in standards <sup>2</sup> .....	When an aggregate area more than 1 inch in diameter has any insects attached to the surface (e.g. scale) or any injury from insect feeding which seriously detracts from the appearance, edible, or shipping quality of the fruit.
Healed cracks .....	No specific limit in standards <sup>2</sup> .....	When healed cracks on the eyes are more than 1/2 inch in width or more than 1 inch in depth or which seriously detract from the appearance, edible, or shipping quality of the fruit.
Mechanical or other means .....	No specific limit in standards <sup>2</sup> .....	When physical injury (cleanliness, mechanical damage) seriously affects the appearance or edible quality of the pineapple.

<sup>1</sup> Defects are based on a 10 size fruit (ten 4-pound average fruit per 40 pound box). Accordingly larger or smaller fruit are permitted to have defects relative to their size.

<sup>2</sup> However, can apply the general definition limit or "Serious Damage" which means any defect which seriously affects the appearance, or the edible or shipping quality of the fruit.

**Grade Standards Format Changes**

The current standards are organized to contain provisions for grades, unclassified pineapples, application of tolerances, size and marking requirements and definitions. The proposed standards would provide for an updated format for the standards to reflect current formatting and organization for fresh commodity standards.

**List of Subjects in 7 CFR Part 51**

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

**PART 51—[AMENDED]**

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

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. Subpart—United States Standards for Pineapples is revised to read as follows:

**Subpart—United States Standards for Grades of Pineapples****General**

Sec.  
51.1485 General.

**Grades**

51.1486 U.S. Fancy.  
51.1487 U.S. No. 1.  
51.1488 U.S. No. 2.

**Tolerances**

51.1489 Tolerances.

**Size and Marking Requirements**

51.1490 Size and marking requirements.

**Sec.****Definitions**

51.1491 Similar varietal characteristics.  
51.1492 Mature.  
51.1493 Overripe.  
51.1494 Stems removed.  
51.1495 Well formed.  
51.1496 Fairly well formed.  
51.1497 Fairly uniform in size.  
51.1498 Freezing injury or frozen (fruit).  
51.1499 Freezing injury or frozen (tops).  
51.1500 Single top.  
51.1501 Crown slips.  
51.1502 Shell.  
51.1503 Flesh.  
51.1504 Similar varietal characteristic color for tops.  
51.1505 Decay.  
51.1506 Internal breakdown.  
51.1507 Injury.  
51.1508 Damage.  
51.1509 Serious damage.

**Classification of Defects**

51.1510 Classification of defects.

**Subpart—United States Standards for Grades of Pineapples****General****§ 51.1485 General.**

(a) Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State Laws.

(b) These standards are applicable to fresh pineapples with or without tops provided that pineapples with tops attached or with tops removed may not be commingled in the same container.

**Grades****§ 51.1486 U.S. Fancy.**

"U.S. Fancy" consists of pineapples which meet the following requirements:

- (a) Basic requirements for fruit:
- (1) Similar varietal characteristics;
  - (2) Mature;
  - (3) Well formed; and,
  - (4) Stems removed.

(b) Basic requirements for tops:

- (1) Similar varietal characteristic color;
  - (2) Single stem;
  - (3) Moderately straight;
  - (4) Well attached to fruit; and,
  - (5) Not more than 1 1/2 times the length of the fruit.
- (c) Fruit free from:
- (1) Fresh cracks;
  - (2) Evidence of rodent feeding;
  - (3) Freezing injury or frozen;
  - (4) Overripe; and,
  - (5) Decay.
- (d) Tops free from:
- (1) Crown slips;
  - (2) Freezing injury or frozen; and,
  - (3) Decay.
- (e) Fruit free from injury by:
- (1) Bruising;
  - (2) Sunburn;
  - (3) Gummosis;
  - (4) Internal breakdown;
  - (5) Insects;
  - (6) Healed cracks; and,
  - (7) Mechanical or other means.
- (f) Tops free from injury by:
- (1) Discoloration; and,
  - (2) Insects.
- (g) Tolerances. (See § 51.1489)

**§ 51.1487 U.S. No. 1.**

"U.S. No. 1" consists of pineapples which meet the following requirements:

- (a) Basic requirements for fruit:
- (1) Similar varietal characteristics;
  - (2) Mature;
  - (3) Well formed; and,
  - (4) Stems removed.
- (b) Basic requirements for tops:
- (1) Similar varietal characteristic color;
  - (2) Single stem;
  - (3) Not more than moderately curved;
  - (4) Well attached to fruit; and,
  - (5) Not more than twice the length of the fruit.
- (c) Fruit free from:

- (1) Fresh cracks;
- (2) Evidence of rodent feeding;
- (3) Freezing injury or frozen;
- (4) Overripe; and,
- (5) Decay.
- (d) Tops free from:
  - (1) Freezing injury or frozen; and,
  - (2) Decay.
- (e) Fruit free from damage by:
  - (1) Bruising;
  - (2) Sunburn;
  - (3) Gummosis;
  - (4) Internal breakdown;
  - (5) Insects;
  - (6) Healed cracks; and,
  - (7) Mechanical or other means.
- (f) Tops free from damage by:
  - (1) Discoloration;
  - (2) Crown slips; and,
  - (3) Insects.
- (g) Tolerances. (See § 51.1489)

- § 51.1488 U.S. No. 2.**
- "U.S. No. 2" consists of pineapples which meet the following requirements:
- (a) Basic requirements for fruit:
    - (1) Similar varietal characteristics;
    - (2) Mature; and,
    - (3) Fairly well formed.
  - (b) Basic requirements for tops:
    - (1) Similar varietal characteristic color;
    - (2) Well attached to fruit;
    - (3) Not completely curved over; and,
    - (4) Not more than two fairly well developed stems.
  - (c) Fruit free from:
    - (1) Fresh cracks;
    - (2) Evidence of rodent feeding;
    - (3) Freezing injury or frozen;
    - (4) Overripe; and,
    - (5) Decay.
  - (d) Tops free from:
    - (1) Freezing injury or frozen; and,
    - (2) Decay.

- (e) Fruit free from serious damage by:
  - (1) Bruising;
  - (2) Sunburn;
  - (3) Gummosis;
  - (4) Internal breakdown;
  - (5) Insects;
  - (6) Healed cracks; and,
  - (7) Mechanical or other means.
- (f) Tops free from serious damage by:
  - (1) Discoloration; and,
  - (2) Insects.
- (g) Tolerances. (See § 51.1489)

**Tolerances**

**§ 51.1489 Tolerances.**

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, based on sample inspection, the number of defective specimens in the individual sample, and the number of defective specimens in the lot shall be within the limitations specified in Tables I and II.

**TABLE I.—SHIPPING POINT<sup>1</sup>**

[Number of 25-Count Samples<sup>2</sup>]

Factor	Grades	AL <sup>2</sup>	Number of 25-Count Samples <sup>2</sup>																								
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
Decay.....	All.....	1	0	*0	1	1	*1	2	2	*2	3	3	3	3	3	*3	4	4	4	4	4	*4	5	5	5	5	5
	U.S. Fancy, U.S. No. 1.	4	3	4	5	7	8	9	10	11	12	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29
Total Defects, Including Injury, Damage, Serious Damage, and Decay.	All.....	6	4	7	10	13	15	18	20	22	25	27	29	32	34	36	39	41	43	45	48	50	52	54	57	59	61

Factor	Grades	AL <sup>2</sup>	Number of 25-Count Samples <sup>2</sup>																								
			26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50
Decay.....	All.....	1	*5	6	6	6	6	*6	7	7	7	7	7	7	*7	8	8	8	8	8	8	*8	9	9	9	*9	
	U.S. Fancy, U.S. No. 1.	4	30	31	32	34	35	36	37	38	39	40	41	42	43	44	45	46	46	47	48	49	50	51	52	53	54
Total Defects Including Injury, Damage, Serious Damage, and Decay.	All.....	6	63	65	68	70	72	74	76	79	81	83	85	87	90	92	94	96	98	100	103	105	107	109	111	113	116

<sup>1</sup> Shipping point as used in these standards, means the point of origin of the shipment in the production area or at port of loading for ship stores or overseas shipments, or in the case of shipments from outside the continental United States, the port of entry into the United States.

<sup>2</sup> All-Absolute limit permitted in individual 25-count sample.

<sup>3</sup> Sample size—25 count.

<sup>4</sup> Preferred number of samples for this acceptance number.

**TABLE II—EN ROUTE OR AT DESTINATION<sup>1</sup>**

[The number of samples examined shall correspond to the number of containers in the lot shown in chart (a). The total number of defects may not exceed that shown for the total number of fruit examined in chart (b).]

Number of containers in the lot	1 to 150	151 to 300	301 to 750	751 to 1200	1201 or more
Chart (a):					
Number of 25 count samples examined .....	2	4	6	8	10

Factor	Grades	Absolute limit	Number of 25 count samples				
			2	4	6	8	10
Chart (b):							
Decay.....	All.....	2	1	3	4	4	5
Damage (U.S. Fancy) or Serious Damage (U.S. NO. 1) by Permanent Defects, Excluding Decay.	U.S. Fancy, U.S. No. 1.....	4	4	7	9	11	14
Total Damage (U.S. Fancy) or Serious Damage (U.S. NO. 1) Including Decay.	U.S. Fancy, U.S. No. 1.....	4	4	7	10	13	15

Factor	Grades	Absolute limit	Number of 25 count samples				
			2	4	6	8	10
Total Permanent Defects .....	All .....	6	7	13	18	22	27
Total Defects .....	All .....	7	8	14	19	25	30
Total Number Fruit Examined .....			50	100	150	200	250

<sup>1</sup> En Route or at designation means any point other than shipping point as described on Page 21, Table I, Footnote 1, Shipping Point.

### Size and Marking Requirements

#### § 51.1490 Size and marking requirements.

(a) The pineapples in each container shall be fairly uniform in size and the count shall be plainly stamped, stenciled, or otherwise marked on the container.

(b) In order to allow for variations incident to proper packing, not more than 5 percent of the packages in any lot may fail to meet the requirements pertaining to size and marking.

### Definitions

#### § 51.1491 Similar varietal characteristics.

"Similar varietal characteristics" means the pineapples in any lot are similar in type and character of growth.

#### § 51.1492 Mature.

"Mature" means the pineapple has reached the stage of development where ripening has progressed to a degree where the fruit is usable and edible.

#### § 51.1493 Overripe.

"Overripe" means the fruit is soft and past commercial utility.

#### § 51.1494 Stems removed.

"Stems removed" means the stem at the base of the fruit has been removed so that it does not extend more than one inch beyond the outermost bottom portion of the butt of the fruit.

#### § 51.1495 Well formed.

"Well formed" means the fruit shows good shoulder development and is not lopsided or distinctly pointed, and that the sides are not noticeable flattened.

#### § 51.1496 Fairly well formed.

"Fairly well formed" means the fruit is not excessively lopsided, or excessively flattened at the shoulders or sides.

#### § 51.1497 Fairly uniform in size.

"Fairly uniform in size" means the weight of the fruit within individual containers does not vary more than 1½ pounds from smallest to largest.

#### § 51.1498 Freezing injury or frozen (fruit).

(a) "Freezing injury (fruit)" means the edible flesh is glassy, water-soaked, and/or discolored characteristic of having been frozen.

(b) "Frozen (fruit)" means the fruit is affected by freezing so that some portion is in a hardened state with ice crystals present.

#### § 51.1499 Freezing injury or frozen (tops).

(a) "Freezing injury (tops)" means the leaf tissue is glassy, water-soaked, and/or discolored as is characteristic of having been frozen.

(b) "Frozen (tops)" means the tops are to some degree, hardened by freezing with ice crystals present.

#### § 51.1500 Single top.

"Single top" means the fruit has only one prominent main stem at the crown of the fruit.

#### § 51.1501 Crown slips.

"Crown slips" means the small secondary top growths at the crown of the fruit.

#### § 51.1502 Shell.

"Shell" means the external hard surface or rind of the fruit.

#### § 51.1503 Flesh.

"Flesh" means the internal edible portion of the fruit.

#### § 51.1504 Similar varietal characteristic color for tops.

"Similar varietal characteristic color for tops" means the tops in a lot may vary from a characteristic green to reddish-green color.

#### § 51.1505 Decay.

"Decay" means breakdown or disintegration of the tops or breakdown, disintegration or fermentation of the pineapple caused by bacteria or fungi.

#### § 51.1506 Internal breakdown.

"Internal breakdown" means a physiological deterioration which results in a water-soaked or brown or blackish discoloration.

#### § 51.1507 Injury.

"Injury" means any defect listed in the Classification or Defects section or any other defect or combination of defects which more than slightly detracts from the appearance, edible, or shipping quality of the fruit.

#### § 51.1508 Damage.

"Damage" means any defect listed in the Classification of Defects section or any other defect or combination of defects which materially detracts from the appearance, edible, or shipping quality of the fruit.

#### § 51.1509 Serious damage.

"Serious damage" means any defect listed in the Classification of Defects section or any other defect or combination of defects which seriously detracts from the appearance, edible, or shipping quality of the fruit.

### Classification of Defects

#### § 51.1510 CLASSIFICATION OF DEFECTS <sup>1</sup>

Defects	Injury	Damage	Serious damage
Tops:			
Discoloration .....	When more than 10 percent of the crown leaves are discolored.	When more than 25 percent of crown leaves are discolored.	When more than 50 percent of the crown leaves are discolored.
Crown slips .....	Free from .....	When more than 5 crown slips or when more than 2 are over 2¼ inches in length.	
Mechanical or other means.	When physical injury (cleanliness, mechanical damage) more than slightly affects the appearance of the pineapple.	When physical injury (cleanliness, mechanical damage) materially affects the appearance of the pineapple.	When physical injury (cleanliness, mechanical damage) seriously affects the appearance of the pineapple.

§ 51.1510 CLASSIFICATION OF DEFECTS<sup>1</sup>—Continued

Defects	Injury	Damage	Serious damage
Fruit:			
Bruising.....	When any bruise extends into flesh more than ¼ inch and when a bruise or combination of bruises affects an aggregate area of a circle more than 1½ inches in diameter.	When any bruise extends into flesh more than ½ inches and when bruise or combination of bruises affects an aggregate area more than 2¼ inches in diameter.	When any bruise extends into flesh more than ¾ inch and when a bruise or combination of bruises affects an aggregate area of a circle more than 3 inches in diameter.
Sunburn.....	When there is bleaching of and a slight softening of the shell affecting an aggregate area more than 1½ inches in diameter.	When there is bleaching of and a moderate softening of the shell affecting an aggregate area more than 2¼ inches in diameter.	When there is bleaching of and severe softening of the shell affecting an aggregate area more than 3 inches in diameter.
Gummosis.....	When gum deposits penetrate into the flesh or causes discoloration of the shell affecting an aggregate area more than ¼ inches in diameter.	When gum deposits slightly penetrate into the flesh or causes discoloration of the shell affecting an aggregate area more than ½ inch in diameter.	When gum deposits readily penetrate into the flesh or causes discoloration of the shell affecting an aggregate area more than 1 inch in diameter.
Internal breakdown.....	When more than 5 percent of the edible flesh has a distinct light brown to medium brown discoloration which more than slightly detracts from the appearance of edible quality of the fruit.	When more than 10 percent of the edible flesh has a light to medium brown discoloration which materially detracts from the appearance or edible quality of the fruit.	When more than 20 percent of the edible flesh has a distinct medium to dark brown or brown-black discoloration which seriously detracts from the appearance or edible quality of the fruit.
Insects and insect feeding.	When an aggregate area more than ½ inch in diameter has any insects attached to the surface (e.g. scale) or any injury from insect feeding, which more than the appearance, edible, or shipping quality of the fruit.	When an aggregate area more than ¾ inch in diameter has any insects attached to the surface (e.g. scale) or any injury from insect feeding, which materially detracts from the appearance, edible, or shipping quality of the fruit.	When an aggregate area more than 1 inch in diameter has any insects attached to the surface (e.g. scale) or any injury from insect feeding which seriously detracts from the appearance, edible, or shipping quality of the fruit.
Healed cracks.	When healed cracks more than slightly detract from the appearance, edible, or shipping.	When healed cracks on the eyes are more than ¼ inch in width and not more than 1 inch in depth or which materially detract from the appearance, edible, or shipping quality of the fruit. When healed cracks between the eyes materially affect the appearance of the fruit shell.	When healed cracks on the eyes are more than ½ inch in width or more than 1 inch in depth or which seriously detract from the appearance, edible, or shipping quality of the fruit. When healed cracks between the eyes seriously affect appearance of the fruit shell.
Mechanical or other means.	When physical injury (cleanliness, mechanical damage) more than slightly affects the appearance or edible quality of the pineapple.	When physical injury (cleanliness, mechanical damage) materially affects the appearance or edible quality of the pineapple.	When physical injury (cleanliness, mechanical damage) seriously affects the appearance of edible quality of the pineapple.

<sup>1</sup> Classification of Defects is based on a 10 size fruit (ten, 4-pound average fruit per 40 pound box). Accordingly larger or smaller fruit are permitted to have defects relative to their size.

Dated: July 20, 1989.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 89-17411 Filed 7-27-89; 8:45 am]

BILLING CODE 3410-02-M

### Rural Electrification Administration

#### 7 CFR Part 1754

RIN 0572-AA32

#### Advance and Disbursement of Funds—Telephone Loan Program

July 6, 1989.

**AGENCY:** Rural Electrification Administration, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Electrification

Administration proposes to amend Part 1754, Advance and Disbursement of Funds—Telephone Loan Program, of Chapter XVII in Title 7 of the Code of Federal Regulations by amending § 1754.9. This amendment shall provide for the orderly advance of funds on telephone loans.

All telephone loan program borrowers will be affected by this amendment to § 1754.9

**DATE:** Public comments concerning this proposed rule must be received by REA no later than September 11, 1989.

**ADDRESS:** Comments may be mailed to F. Lamont Heppe, Jr., Chief, Loans and Management Branch, Telecommunications Staff Division, Rural Electrification Administration, Room 2250, South Building, U.S. Department of Agriculture, Washington, DC 20250. Comments received may be

inspected in Room 2250 between 8:15 a.m. and 4:45 p.m.

**FOR FURTHER INFORMATION CONTACT:** F. Lamont Heppe, Jr., Chief, Loans and Management Branch, Telecommunications Staff Division, Rural Electrification Administration, Room 2250, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 382-8530. The Draft Regulatory Impact Analysis describing the options considered in developing this rule amendment is available on request from the above named individual.

**SUPPLEMENTARY INFORMATION:** This rule is issued in conformity with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of \$100 million or more; (2) result in a major increase in costs or

prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, this rule has been determined to be "not major."

This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq. (1976)) and, therefore, does not require an environmental impact statement or an environmental assessment.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.851, Rural Telephone Loans and Loan Guarantees, and 10.852, Rural Telephone Bank Loans. For the reasons set forth in the final rule related Notice to 7 CFR Part 3015, Subpart V (50 FR 47034, November 14, 1985), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

This rule amendment contains no information or recordkeeping requirements which would require approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 et seq.).

#### Background

Historically, REA has advanced loan funds against the oldest loans first and in the case of concurrent REA-RTB loans, against the RTB loans first. The Agriculture Appropriations Act for Fiscal Year 1989, Pub. L. 100-460, permits borrowers to select the loans funds are advanced against during fiscal year 1989.

Since Government loans and guarantees are made for specific projects and purposes, it is important in maintaining the integrity of a loan to advance the funds from a particular loan against the specific projects and purposes approved for that loan rather than some other loan. The proposed rule achieves this by tying the advance of funds to the particular loan containing the purposes to be financed by the advance. For example, if a borrower receives a \$500,000 loan to purchase a central office switch, monies advanced for that switch will be advanced from that loan.

When concurrent REA-RTB loans are involved, the funds for jointly financed purposes (generally, all but the RTB Class B stock) will be advanced proportionally. For example, a borrower receives concurrent REA-RTB loans in the amount of \$1,020,000, \$600,000 of REA loan funds and \$420,000 of RTB loan funds (including \$20,000 for the purchase of Class B stock). If no funds have been advanced as of October 1, 1989, each advance for a jointly financed loan purpose will consist of 60 percent REA loan funds (\$600,000/\$1,000,000) and 40 percent RTB loan funds (\$400,000/\$1,000,000). Funds for the purchase Class B stock will be advanced from the RTB loan only. If, however, on October 1, 1989, some funds had already been advanced, then the proportionment factor will be based on the unadvanced amounts on that date of REA and RTB funds available for jointly financed purposes. For example, if \$220,000 of RTB loan funds (including \$20,000 for the purchase of Class B Stock) had been advanced prior to October 1, 1989, each advance for a jointly financed loan purpose will consist of 75 percent REA loan funds (\$600,000/\$800,000) and 25 percent RTB loan funds (\$200,000/\$800,000).

#### List of Subjects in 7 CFR Part 1754

Loan programs—communications, Telecommunications, Telephone.

Therefore, REA hereby proposes to amend 7 CFR Part 1754 as follows:

#### PART 1754—[AMENDED]

1. The authority citation for 7 CFR Part 1754 continues to read as follows:

Authority: U.S.C. 901 et seq., 7 U.S.C. 1921 et seq.

#### § 1754.92 [Amended]

2. Present § 1754.9(a) is removed.  
3. Present § 1754.9 (b), (c), and (e) are designated § 1754.9 (c), (d), (e), and (f) respectively.

4. Section 1754.9 (a) and (b) are added to read as follows:

#### § 1754.9 Order and method of advances of telephone loan funds.

(a) Until October 1, 1989, borrowers may specify the sequence of advances of funds under any combination of approved telephone loans from REA, RTB, or FFB, pursuant to Pub. L. 100-460. If the borrower does not specify the sequence, REA will contact the borrower to determine the sequence.

(b) Beginning October 1, 1989, funds for an approved purpose will be advanced against the loan in which funds were included for that purpose. When concurrent REA-FTB loans are

made, some purposes may be associated with only one loan, such as purchase of RTB stock, which is always associated with the RTB loan. Most concurrent REA-RTB loan purposes, however, are jointly financed with funds included in both loans. Advances will be made as follows:

(1) When a purpose is associated with only one loan, funds for that purpose will be advanced against that loan.

(2) Advances for purposes jointly financed by concurrent REA-RTB loans will be advanced simultaneously against the loans in proportion to the amounts in the loans for such purposes. REA will calculate the proportionment factor, which will specify the proportional amount of funds from the REA and RTB loans to be used for each advance for jointly financed purposes.

(i) If no advances were made prior to October 1, 1989, the proportionment factor for jointly financed purposes will be based on the originally approved amounts in the loan for such purposes.

(ii) If the concurrent REA-RTB loans were partially advanced as of October 1, 1989, the proportionment factor for jointly financed purposes will be based on the unadvanced funds remaining in the loans for such purposes as of October 1, 1989.

(iii) When a purpose is associated with only one loan that is part of concurrent REA-RTB loans, such as purchase of RTB stock, the amount for that purpose will be excluded by REA in determining the proportionment for jointly financed purposes.

(iv) REA will notify the borrower of (a) the amount included in the concurrent REA-RTB loans that is not associated with jointly financed purposes, and (b) the proportionment factor that will be used for advances for jointly financed purposes. For concurrent REA-RTB loans approved before October 1, 1989, the borrower will be notified at the time of the first advance subject to this rule. For concurrent REA-RTB loans approved on or after October 1, 1989, the borrower will be notified at the time of notification of loan approval.

(3) Funds applied from prior loans to subsequent loan purposes will be advanced before funds from subsequent loans following the provisions in paragraphs (a) (1) and (2) of this section.

\* \* \* \* \*  
Dated: July 12, 1989.

John N. Ames, Jr.,  
Acting Administrator, Rural Electrification  
Administration.

[FR Doc. 89-17682 Filed 7-27-89; 8:45 am]

BILLING CODE 3410-15-M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

[Airspace Docket No. 89-ACE-18]

## Proposed Alteration of Transition Area—Emporia, Kansas.

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This notice proposes to alter the 700-foot transition area at Emporia, Kansas, to provide additional controlled airspace for aircraft executing instrument approaches to the Emporia, Kansas, Municipal Airport. The existing transition area designation at this location delineates two extensions of 8 and 12.5 miles, respectively, but fails to contain a description of the radius surrounding the airport. The intent of this proposal is to include a 5-mile radius, around the Emporia Municipal Airport, in the Emporia, Kansas, 700-foot transition area description.

**DATES:** Comments must be received on or before September 15, 1989.

**ADDRESSES:** Send comments on the proposal to: Federal Aviation Administration, Manager, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408. The official docket may be examined at the Office of the Assistant Chief Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri. An informal docket may be examined at the Office of the Manager, Traffic Management and Airspace Branch, Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:** Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in triplicate to the Traffic Management and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All

communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

## Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Traffic Management and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 426-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

## The Proposal

The FAA is considering an amendment to Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR Part 71) to altering the 700-foot transition area at Emporia, Kansas. To enhance airport usage at the Emporia, Kansas, Municipal Airport, additional controlled airspace is being provided for aircraft executing instrument approach procedures to this airport by the inclusion of a 5-mile radius surrounding the airport in the transition area designation. The intended effect of this action is to ensure segregation of aircraft using approach procedures under instrument flight rules (IFR) from other aircraft operating under visual flight rules (VFR). Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

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

## List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

## The Proposed Amendment

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

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

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

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

## § 71.181 [Amended]

2. Section 71.181 is amended as follows:

## Emporia, KS [Revised]

The airspace extending upward from 700 feet above the surface within a 5-mile radius of the Emporia Municipal Airport (lat. 38°19'48" N., long. 96°11'21" W.) and within 2 miles either side of the Emporia VORTAC 134° radial, extending from the 5-mile radius to 8 miles southeast of the VORTAC and 5 miles either side of the 010° bearing from the airport extending from the 5-mile radius to 12.5 miles north.

Issued in Kansas City, Missouri, on July 11, 1989.

William Behan,

Acting Manager, Air Traffic Division.

[FR Doc. 89-17696 Filed 7-27-89; 8:45 am]

BILLING CODE 4910-13-M

## 14 CFR Part 71

[Airspace Docket No. 89-ASW-25]

## Proposed Revision of Transition Area: Lake Charles, LA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to revise the transition area located at Lake Charles, LA. The development of a new standard instrument approach procedure (SIAP) to the Southland Field Airport, Sulphur, LA, utilizing the Lake Charles Very High Frequency Omnidirectional Radio Range/Tactical Air Navigation (VORTAC), has made this proposed revision necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing this new SIAP to the Southland Field Airport. Coincident with this proposal would be the

changing of the status of the Southland Field Airport from visual flight rules (VFR) to instrument flight rules (IFR).

**DATES:** Comments must be received on or before September 15, 1989.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 89-ASW-25, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

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

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-ASW-25."

The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of NPRM'S**

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the transition area at Lake Charles, LA. The development of a new SIAP to the Sulphur Southland Field Airport, utilizing the Lake Charles VORTAC, has necessitated the proposal of this revision. This proposal would expand the existing Lake Charles Transition Area to include Sulphur Southland Field Airport. The intended effect of this proposed revision is to provide adequate controlled airspace for aircraft executing the new SIAP to the Sulphur Southland Field Airport. Coincident with this action would be the changing of the airport status from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

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

**List of Subjects in 14 CFR Part 71**

Aviation safety, Transition areas.

**The Proposed Amendment**

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

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

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

**§ 71.181 [Amended]**

2. Section 71.181 is amended as follows:

**Lake Charles, LA [Amended]**

By adding to the end of the legal description: And within a 7-mile radius of the Sulphur Southland Field Airport (latitude 30°07'53" N., longitude 93°22'34" W.).

Issued in Fort Worth, TX on July 11, 1989.

**Larry L. Craig,**

*Manager, Air Traffic Division Southwest Region.*

[FR Doc. 89-17695 Filed 7-27-89; 8:45 am]

BILLING CODE 4910-13-M

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

[AA-230-07-6310-02]

RIN 1004-AB39

**43 CFR Part 5440**

**Conduct of Sales**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Proposed rulemaking.

**SUMMARY:** This proposed rulemaking would amend provisions of the existing regulations in 43 CFR Part 5440, Conduct of Sales. The Department of the Interior has determined that it is necessary to amend the existing regulations concerning the resale of timber from uncompleted contracts to allow the original purchaser to participate in the resale only under certain circumstances and conditions.

**DATE:** Comment period expires August 28, 1989. Comments received or postmarked after this date may not be considered in the decisionmaking process on the final rulemaking.

**ADDRESS:** Comments should be sent to: Director (140), Bureau of Land Management, Department of the Interior, 1800 'C' Street, NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Dave Estola (503) 231-6837 or Lyndon Werner (202) 653-8864.

**SUPPLEMENTARY INFORMATION:** The Department of the Interior has determined that the existing regulations on the resale of timber from uncompleted contracts are inadequate.

Under existing regulations, purchasers of sales which subsequently are not completed may bid on the resale of any timber remaining on the contract area provided that all of the timber has been felled and paid for. When the remaining timber is resold, the original purchaser receives a refund, less the costs of resale, in an amount equal to the resale bid rates or the original contract rates per species, whichever is less, in accordance with provisions of the timber sale contract. If the new purchaser happens also to have been the original purchaser, the purchaser effectively receives an extension of time to complete the contract with minimal monetary penalty.

The proposed rulemaking would restructure § 5442.2 for clarity and amend it in several ways. First, it would remove the requirement in the current regulation that the original purchaser cut the timber before the contract expiration date in order to qualify to bid on resale of his earlier uncompleted contract. Second, it would remove the definitions of "person" and "affiliate" now contained in paragraph (a). These definitions are being replaced in another rulemaking that would include definitions of "affiliate" and "purchaser" in § 5400.0-5 of this title. Finally, it would add a requirement that the original purchaser agree to retention by the Bureau of Land Management of the original payment under the uncompleted contract, less the cost of resale, as a credit toward the total purchase price of the resale contract, in order to be awarded the resale contract. Other basic requirements contained in the current regulation remain in this proposed rulemaking, although restated for clarity. These are that, for the section to apply, (1) 50 percent or more of the timber included in the new sale is required to be timber from the uncompleted contract; (2) the contract has not been canceled for purchaser's breach; and (3) the purchaser is required to have made full payment on the original contract by its expiration date.

The objective of this rulemaking is to encourage timely performance of original contracts and prompt performance of resale contracts in order to promote a more orderly forest management process and revenue flow.

The principal authors of this proposed rulemaking are Dave Estola, Oregon State Office, and Lyndon Werner, Washington Office, assisted by the staff of the Division of Legislation and Regulatory Management.

It is hereby determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human

environment, and that no detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Additionally, as required by Executive Order 12630, the Department has determined that the rulemaking would not cause a taking of private property.

This rulemaking does not contain information collection requirements that require approval by the Office of Management Budget under 44 U.S.C. 3501 et seq.

#### List of Subjects in 43 CFR Part 5440

Forest and forest products, Conduct of sales, Government contracts, Public lands.

Under the authority of section 5 of the Act of August 28, 1937 (43 U.S.C. 1181e), and the Act of July 31, 1947, as amended (30 U.S.C. 601 et seq.), Chapter II of Title 43 of the Code of Federal Regulations is proposed to be amended as set forth below:

#### PART 5440—[AMENDED]

1. The authority citation for Part 5440 continues to read as follows:

Authority: Sec. 5, 50 Stat. 875; 61 Stat. 681, as amended; 69 Stat. 367; 43 U.S.C. 1181e; 30 U.S.C. 601 et seq.

2. Section 5442.2 is revised to read as follows:

#### § 5442.2 Resale of timber from uncompleted contracts.

(a) This section applies to the sale of timber only when 50 percent or more of the timber included in the sale is timber remaining from an uncompleted contract. A bid from a purchaser who held the uncompleted contract, or an affiliate of such purchaser will be considered only if (1) the contract was not canceled for purchaser's breach and (2) payment was completed by the expiration date.

(b) The purchaser who held the uncompleted contract, or affiliate of such purchaser, shall, upon execution of the resale contract, agree to the retention by the Bureau of Land Management of the original payment under the uncompleted contract for the unremoved timber as a credit, less the

costs of resale, toward the purchase price of the resale contract.

June 14, 1989.

James M. Hughes,  
Deputy Assistant Secretary of the Interior.

[FR Doc. 89-17624 Filed 7-27-89; 8:45 am]  
BILLING CODE 4310-84-M

## Fish and Wildlife Service

### 50 CFR Part 32

RIN 1018-AA71

#### Refuge-Specific Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

**SUMMARY:** The Fish and Wildlife Service (Service) proposes to amend certain regulations in 50 CFR Part 32 that pertain to migratory game bird, upland game, and big game hunting on individual national wildlife refuges. Refuge hunting programs are reviewed annually to determine whether the regulations governing individual refuge hunts should be modified, deleted or added to. Changing environmental conditions, State and Federal regulations, and other factors affecting wildlife populations and habitats may warrant modifications to ensure the continued compatibility of hunting with the purposes for which the individual refuges involved were established and, to the extent practical, make refuge hunting programs consistent with State regulations.

**DATE:** Comments must be received on or before August 28, 1989.

**ADDRESS:** Address comments to: Assistant Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 18th and C Streets, NW., MS 670-ARLSQ, Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Larry LaRochelle, Division of Refuges, U.S. Fish and Wildlife Service, 18th and C Streets, NW., MS 670-ARLSQ, Washington, DC 20240; Telephone (703) 358-2036.

**SUPPLEMENTARY INFORMATION:** 50 CFR Part 32 contains provisions governing hunting on national wildlife refuges. Hunting is regulated on refuges to (1) ensure compatibility with refuge purposes, (2) properly manage the wildlife resource, (3) protect other refuge values, and (4) ensure refuge user safety. On many refuges, the Service policy of adopting State hunting regulations is adequate in meeting these objectives.

On other refuges, it is necessary to supplement State regulations with more restrictive Federal regulations to ensure that the Service meets its management responsibilities, as outlined under the section entitled "Conformance with Statutory and Regulatory Authorities." Refuge-specific hunting regulations may be issued only after a wildlife refuge is opened to migratory game bird, upland game, or big game hunting through publication in the **Federal Register**. These regulations may list the wildlife species that may be hunted, seasons, bag limits, methods of hunting, descriptions of open areas, and other provisions. Previously issued refuge-specific regulations for migratory game bird, upland game, and big game hunting are contained in 50 CFR 32.12, 32.22, and 32.32 respectively. Many of the proposed amendments to these sections are being promulgated to standardize and clarify the existing language of these regulations.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. It is, therefore, the purpose of this proposed rulemaking to seek public input regarding these proposed amendments. Accordingly, interested persons may submit written comments to the Assistant Director, Refuges and Wildlife (address above) by the end of the comment period. All substantive comments will be considered by the Department prior to issuance of a final rule.

#### Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act (NWRSA) of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the NWRSA authorizes the Secretary of the Interior to permit the use of any area within the Refuge System for any purpose, including but not limited to, hunting, fishing and public recreation, accommodations and access, when he determines that such uses are compatible with the major purpose(s) for which the area was established.

The Refuge Recreation Act authorizes the Secretary to administer areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purpose(s) for which the areas were established. The Refuge Recreation Act also authorizes the Secretary to issue regulations to carry

out the purposes of the Act. Hunting plans are developed for each refuge prior to opening it to hunting. In many cases, refuge-specific hunting regulations are included in the hunting plan to ensure the compatibility of the hunting programs with the purposes for which the refuge was established. Initial compliance with the NWRSA and Refuge Recreation Act is ensured when hunting plans are developed, and the determinations required by these acts are made prior to the addition of refuges to the lists of areas open to hunting in 50 CFR. Continued compliance is ensured by annual review of hunting programs and regulations.

#### Economic Effect

Executive Order 12291 requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of \$100 million or more; or a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

The proposed amendments to the codified refuge-specific hunting regulations would make relatively minor adjustments to existing hunting programs. The regulations are not expected to have any gross economic effect and will not cause an increase in costs or prices for consumers, individual industries, Federal, State, or local governments, agencies, or geographic regions. The benefits accruing to the public are expected to exceed by a large margin the costs of administering this rule. Accordingly, the Department of the Interior has determined that this proposed rule is not a "major rule" within the meaning of E.O. 12291 and would not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

#### Paperwork Reduction Act

The Service has received approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements are presently approved by OMB under #1018-0014 Economic and Public Use Permits. These regulations impose no new reporting or

recordkeeping requirements that must be cleared by OMB.

#### Environmental Considerations

Compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)) and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) is ensured when hunting plans are developed, and the determinations required by these acts are made prior to the addition of refuges to the lists of areas open to hunting in 50 CFR. Refuge-specific hunting regulations are subject to a categorical exclusion from the NEPA process if they do not significantly alter the existing use of a particular national wildlife refuge. The changes proposed in this rulemaking would not substantially alter the existing uses of the refuges involved. Information regarding hunting permits and the conditions that apply to individual refuge hunts and maps of the hunt areas are available at refuge headquarters or can be obtained from the regional offices of the U.S. Fish and Wildlife Service at the addresses listed below:

- Region 1—California, Hawaii, Idaho, Nevada, Oregon, and Washington. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 Multnomah Street, Portland, Oregon 97232; Telephone (503) 231-6214.
- Region 2—Arizona, New Mexico, Oklahoma and Texas. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; Telephone (505) 766-1829.
- Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612) 725-3507.
- Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Tennessee, South Carolina, Puerto Rico and the Virgin Islands. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303; Telephone (404) 331-0833.
- Region 5—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont,

Virginia and West Virginia. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158; Telephone (617) 965-9222.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80225; Telephone (303) 236-8145.

Region 7—Alaska (Hunting on Alaska refuges is in accordance with State regulations. There are no refuge-specific hunting regulations for these refuges). Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786-3538.

Larry LaRochelle, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC 20240, is the primary author of this proposed rulemaking document.

#### List of Subjects in 50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife, Wildlife refuges.

Accordingly, it is proposed to amend Part 32 of Chapter I of Title 50 of the Code of Federal Regulations as set forth below:

#### PART 32—[AMENDED]

1. The authority citation for Part 32 would continue to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

2. Section 32.12 would be amended by revising (e)(4); revising (f)(6)(v); adding a new (f)(6)(vii); adding a new (f)(8)(v); revising (f)(15)(vi); removing (j); redesignating (k) through (z) as (j) through (y); revising (j)(5) introductory text; revising (p)(6); adding a new (y)(1)(iii); revising (aa) (5) and (6); revising (bb)(1)(i); revising (hh)(8)(iii); removing (ll)(3); and redesignating (ll)(4) as (ll)(3).

#### § 32.12 Refuge-specific regulations; migratory game birds.

(e) *Arkansas*—\* \* \*

(4) *White River National Wildlife Refuge*. Hunting of ducks and coots is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(f) *California*—\* \* \*

(6) *Lower Klamath National Wildlife Refuge*. \* \* \*

(v) Air-thrust, inboard water-thrust and boats with motors greater than 25 horsepower are not permitted.

(vii) Only nonmotorized boats and boats with electric motors are permitted on Unit 9.

(8) *Modoc National Wildlife Refuge*. \* \* \*

(v) Hunters may not possess more than 25 shells after leaving the parking area.

(15) *Tule Lake National Wildlife Refuge*. \* \* \*

(vi) Air-thrust, inboard water-thrust and boats with motors greater than 25 horsepower are not permitted.

(j) *Idaho*—\* \* \*

(5) *Kootenai National Wildlife Refuge*. Hunting of geese, ducks, and coots is permitted on designated areas of the refuge subject to the following conditions:

(p) *Louisiana*—\* \* \*

(6) *Tensas River National Wildlife Refuge*. Hunting of ducks, coots, woodcock and snipe is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(y) *Nevada*—(1) *Pahranagat National Wildlife Refuge*. \* \* \*

(iii) Hunting of waterfowl, coots, moorhens, and snipe is permitted only on the opening day of the season and alternate days throughout the remainder of the season.

(aa) *New Jersey—Edwin B. Forsythe National Wildlife Refuge*. \* \* \*

(5) In Hunting Area C of the Barnegat Division, hunting is restricted to designated areas, with each site limited to one party of hunters.

(6) Use of Hunting Unit 3 of the Brigantine Division may be restricted to certified Young Waterfowl Program trainees for up to 30 days as posted.

(bb) *New Mexico—(1) Bitter Lake National Wildlife Refuge*. \* \* \*

(i) Hunters must use and be in possession of only shells containing steel shot.

(hh) *Oregon*—\* \* \*

(8) *Lower Klamath National Wildlife Refuge*. \* \* \*

(iii) Air-thrust, inboard water-thrust and boats with motors greater than 25 horsepower are not permitted.

3. Section 32.22 would be amended by revising (d) (6) and (7); (e)(4)(i); (e)(10)(i); (i)(2); (j)(3)(i); (q) (3)(i), (6) and (7)(i); (z)(1); (aa)(1)(ii); and (ff)(10)(ii); removing (hh)(2)(ii); redesignating (hh)(2)(iii) as (hh)(2)(ii); and revising (j)(5).

#### § 32.22 Refuge-specific regulations; upland game.

(d) *Arkansas*—\* \* \*

(6) *Wapanocca National Wildlife Refuge*. Hunting of squirrel, rabbit, beaver, raccoon and opossum is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(7) *White River National Wildlife Refuge*. Hunting of squirrel, rabbit, beaver, raccoon and opossum is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(e) *California*—\* \* \*

(4) *Lower Klamath National Wildlife Refuge*. \* \* \*

(i) In the controlled pheasant hunting area, entry permits are required for the first 4 days hunting is permitted for all hunters 16 years of age or older. Hunters under the age of 16 hunting the controlled area must be accompanied by an adult with a permit.

(10) *Tule Lake National Wildlife Refuge*. \* \* \*

(i) In the controlled pheasant hunting area, entry permits are required for the first 4 days hunting is permitted for all hunters 16 years of age or older. Hunters under the age of 16 hunting the controlled area must be accompanied by an adult with a permit.

(i) *Georgia*—\* \* \*

(2) *Savannah National Wildlife Refuge*. Hunting of squirrels and feral hogs is permitted on designated areas of the refuge subject to the following conditions: Permits are required.

(j) *Idaho*—\* \* \*

(3) *Deer Flat National Wildlife Refuge*. \* \* \*

(i) Hunting of pheasant, quail, and partridge is permitted on the Lake Lowell Sector.

(q) *Louisiana*—\* \* \*

(3) *D'Arbonne National Wildlife Refuge*. \* \* \*

(i) Hunting of raccoon and opossum is permitted only during January and December of odd numbered years and

only during daylight hours during the state squirrel season.

(6) *Texas National Wildlife Refuge*. Hunting of squirrel, rabbit and raccoon is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(7) *Upper Quachita National Wildlife Refuge*.

(i) Hunting of raccoon and opossum is permitted only during December and January of odd numbered years and only during daylight hours during the state squirrel season.

(z) *Nevada—(1) Pahrangat Nation Wildlife Refuge*. Hunting of quail and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on the opening day of the season and alternate days throughout the remainder of the season.

(ii) Hunting of jackrabbit is permitted only during the regular State season for cottontail rabbit.

(aa) *New Mexico—(1) Bitter Lake National Wildlife Refuge*.

(ii) Hunters must use and be in possession of only shells containing steel shot.

(ff) *Oregon*.

(10) *Umatilla National Wildlife Refuge*.

(ii) Hunting is permitted only on Wednesdays, Saturdays, Sundays, Veterans Day, Thanksgiving Day and New Years Day on the McCormack Unit.

(jj) *Tennessee*.

(5) *Tennessee National Wildlife Refuge*. Hunting of squirrel and raccoon is permitted on designated areas of the refuge subject to the following condition: Permits are required.

4. Section 32.32 would be amended by revising (d)(5); (i) (1), (3) and (6); (j); (n); (r) (3) and (4)(i); removing (r)(4)(ii); redesignating (r)(4) (iii) and (iv) as (r)(4) (ii) and (iii) respectively; revising (r) (7) and (8)(i); removing (r)(8)(ii); redesignating (r)(8) (iii) and (iv) as (r)(8) (ii) and (iii) respectively; revising (cc)(1) introductory paragraph and (cc)(1) (i) and (ii); removing (cc)(1)(iii); adding (dd)(3)(iv); revising (gg) (3) and (4); (ll)(2) (v), (vii), (viii), (ix) and (3); (oo) (viii) and (x) and (rr)(2)(iv).

**§ 32.32 Refuge-specific regulations; big game.**

(d) *Arkansas*.

(5) *White River National Wildlife Refuge*. Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(i) *Georgia—(1) Blackbeard Island National Wildlife Refuge*. Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(3) *Harris Neck National Wildlife Refuge*. Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(6) *Wassaw National Wildlife Refuge*. Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(j) *Georgia and South Carolina—Savannah National Wildlife Refuge*. Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(n) *Illinois, Iowa and Missouri—Mark Twain National Wildlife Refuge*. Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Hunting of deer is permitted on the Gardner and Big Timber Divisions and on Turkey and Otter Islands.

(r) *Louisiana*.

(3) *Catahoula National Wildlife Refuge*. Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following condition: Daily permits are required.

(4) *D'Arbonne National Wildlife Refuge*.

(i) Either-sex deer hunting with firearms will be for nine consecutive days beginning with the first day of the Union Parish either-sex season.

(7) *Texas National Wildlife Refuge*. Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(8) *Upper Quachita National Wildlife Refuge*.

(i) Either-sex deer hunting with firearms will be for nine consecutive

days beginning with the first day of the Union Parish either-sex season.

(cc) *Nevada—(1) Desert National Wildlife Range*. Hunting of bighorn sheep and deer is permitted on designated areas of the range subject to the following conditions:

(i) Bighorn sheep and deer guides are required to obtain Special Use Permit prior to taking clients on to the range.

(ii) Natural bighorn sheep mortalities (pick-up heads) found on the range are government property and possession or removal of them from the range is not permitted.

(dd) *New Jersey*.

(3) *Supawna Meadows National Wildlife Refuge*.

(iv) Use or possession of alcoholic beverages while hunting is prohibited.

(gg) *North Carolina*.

(3) *Mackay Island National Wildlife Refuge*. Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(4) *Pee Dee National Wildlife Refuge*. Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions: Permits are required.

(11) *South Carolina*.

(2) *Carolina Sandhills National Wildlife Refuge*.

(v) In addition to the State bag limits, two antlerless deer may be taken during each of the three hunt seasons.

(vii) Hunters are required to wear a minimum of 500 square inches of fluorescent orange material visible above the waistline.

(viii) Firearms must be unloaded and cased or dismantled while being transported in a vehicle.

(ix) Hunting within 100 feet of maintained roads or within 500 feet of the paved wildlife drive is prohibited.

(3) *Pinckney Island National Wildlife Refuge*. Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(oo) *Texas—Aransas National Wildlife Refuge*.

(viii) Baiting in any form, introduction of any material or food as bait or attractant, or possession of such food or material is prohibited. This includes, but is not limited to, corn, grain, hay and mineral blocks.

(x) Hunters must satisfy the Entrance Fee requirement authorized by the Emergency Wetlands Resources Act.

\* \* \* \* \*

(rr) Virginia—\* \* \*

(2) Chincoteague National Wildlife Refuge. \* \* \*

(iv) Hunters, during the State firearms season, must wear in a conspicuous manner on head, chest and back a minimum of 400 square inches of solid-colored hunter orange clothing or material.

\* \* \* \* \*

Dated: June 22, 1989.

Susan Recce Lamson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89-17589 Filed 7-27-89; 8:45 am]

BILLING CODE 4310-55-M

# Notices

Federal Register

Vol. 54, No. 144

Friday, July 28, 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

### Office of the Secretary

#### National Plant Genetic Resources Board Meeting

According to the Federal Advisory Committee Act of October 1972 (Pub. L. 92-463, 86 Stat. 770-776), the USDA, Science and Education, announces the following meeting:

*Name:* National Plant Genetic Resources Board.

*Date:* November 14-15, 1989.

*Time:* 8:30 a.m.-5 p.m., November 14; 8:30 a.m.-5 p.m., November 15.

*Place:* Room 104-A, Williamsburg Room, Administration Building, Department of Agriculture, Washington, DC.

*Type of Meeting:* Open to the public. Persons may participate in the meeting as time and space permits.

*Comments:* The public may file written comments before or after the meeting with the contact person below.

*Purpose:* To review matters that pertain to plant germplasm in the United States and possible impacts on related national and international programs; and discuss other initiatives of the Board.

*Contact Person:* H.L. Shands, Executive Secretary, National Plant Genetic Resources Board, U.S. Department of Agriculture, BARC-West, Room 140, Building 005, Beltsville, Maryland 20705. Telephone: (301) 344-3311.

Done at Beltsville, Maryland, this 12th day of July 1989.

Henry L. Shands,

Executive Secretary, National Plant Genetic Resources Board.

[FR Doc. 89-17681 Filed 7-27-89; 8:45 am]

BILLING CODE 3410-03-M

### Forest Service

#### Fuzzy Bighorn Timber Harvest Project; Clearwater National Forest, Clearwater County, ID

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Forest Service will analyze and disclose the environmental impacts of a proposal to harvest and regenerate timber, reconstruct existing roads and construct new roads in portions of Orogrande Creek and Weitas Creek on the Pierce Ranger District. This proposal area was originally part of the RARE II Bighorn Weitas Roadless Area (#1306). An environmental impact statement (EIS) will be prepared which will document the analysis. This EIS will tier to the Clearwater National Forest Land and Resource Management Plan of September, 1987, which provides overall guidance in achieving the desired future condition for the area. The primary purpose of the proposed action is to improve big game range and produce timber, improving growth and yield on suitable ground.

Some preliminary scoping was initiated for this project in March, 1988. The Forest Service is seeking information and comments from Federal, State, 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 (DEIS). 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.

The agency invites written comments and suggestions on the issues and management opportunities for the area being analyzed.

**DATE:** Comments concerning the scope of the analysis should be received by September 30, 1989 to receive timely consideration in the preparation of the Draft EIS.

**ADDRESS:** Send written comments to Thomas C. Blunn, District Ranger, Pierce Ranger District, P.O. Box 308, Kamiah, ID 83536.

**FOR FURTHER INFORMATION CONTACT:** Larry Des Roches, Fuzzy Bighorn Interdisciplinary Team Leader, or Thomas C. Blunn, District Ranger, Pierce

Ranger District, Clearwater National Forest, P.O. Box 308, Kamiah, ID 83536.

**SUPPLEMENTARY INFORMATION:** The proposed action involves approximately 6600 acres of which 5400 acres is in the Bighorn Weitas Roadless (#1306). The total area of the Bighorn Weitas Roadless Area (#1306) is 235,510 acres. Management activities under consideration would occur in tributaries of Orogrande Creek and Weitas Creek. Included in the area of analysis are all or portions of the following: sections 24, 25, 26, 35, and 36 T38N, R7E and Sections 15, 16, 17, 18, 19, 20, 21, 22, 23, 27, 28, 29, 30, 31, 32, 33 and 34 T38N, R8E, Boise Meridian.

The Land and Resource Management Plan for the Clearwater National Forest provides the overall guidance for management activities in the potentially affected area through its goals, objectives, standards, guidelines, and management area direction.

The areas of proposed harvest and reforestation for the Fuzzy Bighorn project are within Management Areas E1, C8S, C3, C4 and M2. Forest plan direction states that Management Area E1 consists of lands which are generally the most productive timber land on the Forest. The management goal is to provide optimum, sustained production of wood products in a cost effective manner as well as provide adequate protection of soil and water quality, manage viable elk populations, manage a range of fish habitat potential and manage a roaded natural setting for dispersed recreation.

Management Area C8S consists of lands of high value fishery streams, productive timber land, and key big-game summer range. The management goal is to maintain high quality wildlife and fishery objectives while producing timber from the productive forest land.

Management Area C3 contains land within inventoried big-game winter range and unsuitable for timber management. The management goal is to provide winter forage and thermal cover for big game.

Management Area C4 contains land within inventoried big game winter range and suitable for timber management. The management goal is to provide sufficient forage and cover for existing and projected big game populations in conjunction with achieving timber production outputs.

Management Area M2 consists of lands that are riparian and timber producing along perennial streams. The management goal is to manage for multiple use integrated with adjacent areas E-1 and C4, giving special consideration to protect water and other riparian resources.

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 not be implemented. 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 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 official 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 September 30, 1989) and during review of the Draft EIS (December 1989).

The U.S. 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 U.S. Fish and Wildlife Service will review the EIS and Biological Assessment and, if necessary, render a formal Biological Opinion of the effects on the Threatened and Endangered Species including the grizzly bear, and gray wolf.

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review by November 30, 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 March, 1990.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the

environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

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, environmental consequences discussed in the FEIS and the applicable laws, regulations and policies. The decision and reasons for the decision will be documented in a Record of Decision.

Thomas C. Blunn, District Ranger for the Pierce Ranger District, Clearwater National Forest, is the Responsible Official.

**Thomas C. Blunn,**  
*District Ranger, Pierce Ranger District,*  
*Clearwater National Forest.*

Date: July 14, 1989.

[FR Doc. 89-17633 Filed 7-27-89; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

#### Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

A meeting of the Electronic Instrumentation Technical Advisory Committee will be held August 23 and 24, 1989, 9:00 a.m., in the JFK Federal Building, Scolley Square, Boston, Massachusetts. On August 23 the meeting will convene in Executive Session at 9:00 a.m. The Open Session will convene at 1:00 p.m. On August 24 the meeting will reconvene at 9:00 a.m. in Executive Session and continue to its conclusion. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to electronics and related equipment and technology.

#### Agenda

*Executive Session* August 23, 9:00 a.m.-12:00 p.m.

1. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

*General Session* August 23, 1:00 p.m.-5:00 p.m.

2. Opening remarks by the Chairman.  
3. Presentation of papers or comments by the public.

4. Presentation by Galileo Electro-Optics Corporation on microchannel technology.

5. Discussion of the following CCL's:

- 1522—Lasers
- 1529—Electronic equipment for testing & measuring
- 1531—Frequency synthesizers
- 1533—Signal analyzers
- 1556—Optical elements & elements for optical tubes
- 1584—Cathode-ray oscilloscopes
- 1585—Photographic equipment

*Executive Session* August 24, 9:00 a.m.-5:00 p.m.

6. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation

materials to the Committee members, the Committee suggests that the materials be forwarded two weeks prior to the meeting date to the following address:

Lee Ann Carpenter, Technical Support Staff, OPA/BXA, Room 4069A, U.S. Department of Commerce, 14th & Constitution Ave. NW., Washington, DC 20230

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1988, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes please call Lee Ann Carpenter, 202-377-2583.

Date: July 24, 1989.

Betty Anne Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology and Policy Analysis.

[FR Doc. 17809 Filed 7-27-89; 8:45 am]

BILLING CODE 3510-DT-M

**Laser and Opto-Electronic Subcommittee of the Electronic Instrumentation Technical Advisory Committee; Closed Meeting**

A meeting of the Laser and Opto-Electronic Subcommittee of the Electronic Instrumentation Technical Advisory Committee will be held August 22, 1989, 9:00 a.m. in the Executive Dining Room, JFK Federal Building, Scollay Square, Boston, Massachusetts. The Subcommittee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to lasers and related equipment and technology. The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM

control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1988, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes please call Lee Ann Carpenter, 202-377-2583.

Dated: July 24, 1989.

Betty Anne Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology and Policy Analysis.

[FR Doc. 17610 Filed 7-27-89; 8:45 am]

BILLING CODE 3510-DT-M

**Foreign-Trade Zones Board**

[Order No. 437]

**Resolution and Order Approving the Application of the Municipality of Anchorage, Alaska, for a Foreign-Trade Zone in Anchorage; Proceedings of the Foreign-Trade Zones Board, Washington, DC.**

**Resolution and Order**

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Municipality of Anchorage, Alaska, filed with the Foreign-Trade Zones Board (the Board) on December 15, 1987, and amended on February 22, 1989, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone at sites in Anchorage, within the Anchorage Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

**Grant of Authority**

*To Establish, Operate, and Maintain a Foreign-Trade Zone in Anchorage, Alaska*

Whereas, by an Act of Congress approved June 18, 1934, an Act "to provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Municipality of Anchorage, Alaska (the Grantee) has made application (filed December 15, 1987, FTZ Docket 44-87, 52 FR 48555, and amended on February 22, 1989, 54 FR 8371) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone in Anchorage, Alaska, within the Anchorage Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 160, at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued

thereunder, to the same extent as though the same were fully set forth herein, and also the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from federal, state, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone sites in the performance of their official duties.

The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

*In Witness Whereof*, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC, this 18th day of July, 1989, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Robert A. Mosbacher,

Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89-17602 Filed 7-27-89; 8:45 am]

BILLING CODE 3510-DS-M

#### [Order No. 436]

### Resolution and Order Approving the Application of the City of St. Paul, Alaska, for a Foreign-Trade Zone in St. Paul; Proceedings of the Foreign-Trade Zones Board, Washington, DC.

#### Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has

adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of St. Paul Island, Alaska, filed with the Foreign-Trade Zones Board (the Board) on December 14, 1987, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone on St. Paul Island, at St. Paul Municipal Airport, a Customs User Fee Airport, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations would be satisfied if approval is initially given for a restricted period until the issue of reimbursability for zone supervision at Customs user fee airports is resolved, approves the application for one year from the date of activation, subject to extension upon application to the Board.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

#### Grant of Authority

#### *To Establish, Operate, and Maintain a Foreign-Trade Zone In St. Paul, Alaska*

*Whereas*, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

*Whereas*, the City of St. Paul, Alaska (the Grantee) has made application (filed December 14, 1987, FTZ Docket 43-87, 52 FR 48556) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone at sites in St. Paul, Alaska, adjacent to the St. Paul Customs User Fee Airport;

*Whereas*, notice of said application has been given and published, and full

opportunity has been afforded all interested parties to be heard; and

*Whereas*, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) would be satisfied if approval is initially given subject to the time limit in the resolution accompanying this action;

*Now, Therefore*, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 159, at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, the one-year time limit in the resolution accompanying this action, and also the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from federal, state, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone sites in the performance of their official duties.

The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

*In Witness Whereof*, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, DC, this 18th day of July, 1989, pursuant to Order of the Board.

Foreign-Trade Zones Board.  
**Robert A. Mosbacher,**  
*Chairman and Executive Officer.*

Attest:

**John J. Da Ponte, Jr.,**  
*Executive Secretary.*  
 [FR Doc. 89-17603 Filed 7-27-89; 8:45 am]  
 BILLING CODE 3510-DS-M

### National Oceanic and Atmospheric Administration

#### North Pacific Fishery Management Council; Meeting Cancellation

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

The public meeting on July 27-28, 1989, of the North Pacific Fishery Management Council's Habitat Committee as published in the Federal Register (54 FR 30104), has been cancelled. A new meeting date has not yet been set. All other information as originally published remains unchanged.

For more information contact Steve Davis, Deputy Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone (907) 271-2809.

Dated: July 25, 1989.

**David S. Crestin,**  
*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 89-17808 Filed 7-26-89; 2:16 pm]  
 BILLING CODE 3510-22-M

#### COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

##### Procurement List 1989 Additions

**AGENCY:** Committee for Purchase from the Blind and Other Severely Handicapped.

**ACTION:** Additions to procurement list.

**SUMMARY:** This action adds to Procurement List 1989 commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

**EFFECTIVE DATE:** August 28, 1989.

**ADDRESS:** Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman (703) 557-1145.

**SUPPLEMENTARY INFORMATION:** On May 5 and June 9, 1989, the Committee for Purchase from the Blind and Other Severely Handicapped published

notices (54 FR 19428 and 24733) of proposed additions to Procurement List 1989, which was published on November 15, 1988 (53 FR 46018). No comments were received in direct response to the proposed additions to the Procurement List. However, during the comment period, the Committee received a letter from the Governor of a State requesting that a portion of the annual Federal requirement for the elastic gauze bandage, the medical packet and other dressings be shared with an Indian Tribe. According to the letter, the Tribe was in the process of developing the capability to produce these and other dressings. The Committee has decided to add the entire portion because under its regulations it is required to make a decision based upon the impact of a proposed addition on the current or most recent supplier for the item and not a potential supplier. The Committee also noted that taking the approach proposed by the Governor would not assure that the Indian Tribe in question would receive a contract for the remaining portion of the annual requirement. After consideration of the material presented to it concerning capability of qualified workshops to produce the commodities and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

- The actions will not result in any additional reporting, recordkeeping or other compliance requirements.
- The actions will not have a serious economic impact on any contractors for the commodities and services listed.
- The actions will result in authorizing small entities to produce the commodities and provide the services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1989:

##### Commodities

Bandage, Gauze, Elastic  
 6510-00-913-7906  
 Medical Packet, Individual Survival Kit,  
 Airman's  
 6545-00-231-9421  
 Pin, Tent, Metal  
 8340-00-985-7461

##### Services

Janitorial/Custodial

U.S. Courthouse, Ford and Walker  
 Streets, Augusta, Georgia  
 Janitorial/Custodial  
 Washington National Records Center  
 Complex, Suitland and Silver Hill  
 Roads, Suitland, Maryland.

**Beverly L. Milkman,**  
*Executive Director.*  
 [FR Doc. 89-17699 Filed 7-27-89; 8:45 am]  
 BILLING CODE 6820-33-M

#### Procurement List 1989 Proposed Additions

**AGENCY:** Committee for Purchase from the Blind and Other Severely Handicapped.

**ACTION:** Proposed additions to procurement list.

**SUMMARY:** The Committee has received a proposal to add to Procurement List 1989 commodities to be produced by workshops for the blind or other severely handicapped.

Comments must be received on or before: August 28, 1989.

**ADDRESS:** Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman (703) 557-1145.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1989, which was published on November 15, 1988 (53 F.R. 46018):

Starter Rope, Engine  
 2990-00-972-7950  
 Cap, Utility, Camouflage  
 8405-01-246-4176  
 8405-01-246-4177  
 8405-01-246-4178  
 8405-01-246-4179  
 8405-01-246-4180  
 (50% of Government requirement)  
 Cover, Toxicological Agents Protective  
 8415-00-261-6443  
 Brassard, Army, Military  
 8455-01-236-1174  
 Kit, Maintenance

8465-00-753-8335.

Beverly L. Milkman,  
Executive Director.

[FR Doc. 89-17700 Filed 7-27-89; 8:45 am]

BILLING CODE 6820-33-M

**DEPARTMENT OF DEFENSE****Office of the Secretary****Defense Environmental Restoration Program****ACTION:** Notice of fund availability and application instructions.

**SUMMARY:** The Department of Defense (DoD), through the Defense Environmental Restoration Program (DERP), involves State governments in the environmental restoration of DoD installations (hereinafter referred to as "cleanups"). DoD will make funds available to State governments for their support services associated with cleanups. DoD cleanups and State support services shall be consistent with the applicable provisions of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Superfund Amendments and Reauthorization Act of 1986 (SARA), State laws, and the National Contingency Plan (NCP). DoD is soliciting applications for funding for State services supporting DERP.

**DATES:** Applications will be accepted July 28, 1989.

**FOR FURTHER INFORMATION CONTACT:** Applications can be submitted to: U.S. Department of Defense, Office of the Deputy Assistant Secretary of Defense (Environment) (DASD(E)), The Pentagon, Room 3D833, Washington, DC 20301-4000. For further information contact: Lieutenant Colonel Ken Cornelius, USAF (202) 325-2211.

**SUPPLEMENTARY INFORMATION:****I. Introduction**

SARA, Section 211 (Title 10—Armed Forces, U.S. Code, Sections 2701-2707, and 2810) requires the Secretary of Defense to carry out a program of environmental restoration at facilities under his jurisdiction. The program is known as the Defense Environmental Restoration Program (DERP). Activities of the program described as "the identification, investigation, research and development, and cleanup of contamination from hazardous substances, pollutants, and contamination" must be carried out subject to, and in a manner consistent with, Section 120 of CERCLA (relating to Federal facilities). SARA Section 211 and CERCLA Sections 210 and 121

require DoD to provide the opportunity for appropriate State authorities to be involved in several specified aspects of the program. Program activities are funded through the annual Environmental Restoration, Defense (ER,D) appropriations to the Defense Environmental Restoration Account (DERA).

To resolve several issues regarding State involvement in the program, DoD and a State workgroup have developed model language for a Department of Defense and State Memorandum of Agreement (DSMOA) regarding State support services to DoD for activities funded under the ER,D appropriation. The purpose of a DSMOA is to expedite the cleanup of DoD installations within a State and to ensure compliance with applicable State laws and regulations. An executed DSMOA is an overarching agreement of commitment between DoD and a State, but it does not obligate nor commit funds. The model DSMOA language is provided at the end of this notice.

An executed DSMOA is mandatory for funding consideration. Funds from DERA will be made available through a cooperative agreement with each State that provides support services to DoD in carrying out the provisions of DERP under a DSMOA in accordance with applicable provisions of CERCLA/SARA, State laws, and the NCP.

**II. Cooperative Agreements**

It is the intention of DoD to sign one cooperative agreement with each State to cover State support services for cleanup activities at all installations in the State as they are listed in Appendix A of a DSMOA. DoD expects that pursuant to a DSMOA, reimbursements for State services shall not exceed one (1) percent of the estimated total costs for all of the work funded under DERP since October 17, 1989, and that may be funded in the future, or a total of \$50,000, whichever is greater. The State may ordinarily request that up to a maximum of twenty-five (25) percent of the total State services' funds (one (1) percent of the estimated total costs for all work funded under DERP) may be provided in accordance with Section II of a DSMOA during any fiscal year. At least ten (10) percent of a State services funding request will be provided in accordance with Section II of a DSMOA during a fiscal year if the State requests an allocation of ten (10) percent or more.

**III. Who May Apply**

DoD will accept applications only from the State Agency authorized by the State to enter into a DSMOA and a

Cooperative Agreement on behalf of the State.

**IV. What Can Be Found**

State services qualifying for reimbursement include:

(1) Technical review, comments and recommendations on all documents or data required to be submitted to the State under an agreement between the State and a DoD component, all documents or data that a DoD component requests the State to review, and all documents or data that are provided by a DoD Component to the State for review as a result of a request from the State made under applicable State law.

(2) Identification and explanation of State applicable or relevant and appropriate requirements related to response actions at DoD installations.

(3) Site visits to review DoD response actions and ensure their consistency with appropriate State requirements, or in accordance with site-specific requirements established in other agreements between the State and DoD component.

(4) Participation in cooperation with DoD in the conduct of public education and public participation activities in accordance with Federal and State requirements for public involvement.

(5) Services provided at the request of DoD in connection with participation in Technical Review Committees.

(6) Preparation and administration of a cooperative agreement to implement the DSMOA, including the estimate of State costs.

(7) Additional services that may be set forth in the DSMOA or are included in installation-specific agreements.

**V. Evaluation Criteria for Awards**

DoD will evaluate only those applications with an accompanying executed DSMOA. DoD shall use the following criteria for evaluating applications and making awards:

(1) The feasibility and responsiveness of the project's management plan;

(2) Assurance that there will be a timely provision of services;

(3) Reasonableness of cost estimates; and

(4) The capacity of the Applicant to carry out the proposed activity.

**VI. Submission Procedures**

A complete application package consists of: (1) Standard Form 424 (SF) 424 (Application for Federal Assistance); (2) SF 424A (Budget Information—Non-Construction Programs); (3) SF 424B (Assurances—Non-Construction Programs); (4) a Project Narrative

including a description on an installation by installation basis of the work to be undertaken along with associated cost/budgetary information; (5) a management plan; and (6) "Certification Regarding Drug-free Workplace Requirements."

The proposal narrative is a critical element in each application. It shall include: (1) A brief overall description of the proposed State services, personnel and resources to be utilized, and intended outcome of the State's services; (2) a description on an installation-by-installation basis of the work to be undertaken along with associated cost/budgetary information; and (3) a management plan describing the State's approach to providing appropriate and timely support services, including organizational framework, assignment and scheduling processes, and quality assurance/quality control methods.

At a minimum, the description of work to be undertaken should list the types and number of activities anticipated during each year for each installation, such as: Review and comment on draft remedial investigation/feasibility study (RI/FS) (or on other specified documents or data); identification/explanation of State applicable or relevant and appropriate requirements (ARARs); participation in public involvement activities; and participation in Technical Review Committee (TRC) meetings, etc.

The cost/budgetary information should show how estimated hours and costs are related to the proposed services for each installation, preferably in tabular or matrix form keyed to the services listed in Section I.B. of a DSMAA.

#### Mailing Address and Telephone

U.S. Department of Defense, Office of the Deputy Assistant Secretary of Defense (Environment), The Pentagon, Room 3D833, Washington, DC 20301-4000. Attn: Director of Environmental Restoration; Telephone (202) 325-2211.

#### Number of Copies of Final Proposal

All applicants must submit one (1) signed original application and two (2) copies to the Director of Environmental Restoration and one copy to the DoD point of contact for each installation covered by the application. Each copy must be covered with an executed SF 424.

#### VII. Compliance

The following laws, regulations, and procedures apply to applicants for and recipients of funding:

(1) The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Pub. L. 96-510.

(2) The Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. 99-499.

(3) The National Contingency Plan (NCP), 40 CFR Part 300.

(4) The applicable Office of Management and Budget Circulars (A-87, A-102, and A-128).

(5) Drug-Free Workplace Requirements; as embodied in the Notice of Interim Final Rules as published in the January 31, 1989 Federal Register, Part II, pp. 4946-4960 as applicable.

(6) Department of Defense Uniform Requirements for Grants and Cooperative Agreements to State and Local Governments, 32 CFR Part 278.

(7) The Department of Defense State Memorandum of Agreement (DSMOA).

(8) The cooperative agreement.

The recipient must carry out activities assisted under this program in compliance with public laws prohibiting discrimination because of race, color, national origin, sex, handicap, and age in programs and activities receiving Federal assistance.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

July 24, 1989.

#### Department of Defense and State Memorandum of Agreement (DSMOA)

In order to expedite the cleanup of hazardous waste sites on Department of Defense (DoD) installations within the State of \_\_\_\_\_ and ensure compliance with the applicable State law and regulations of the State, DoD and the [State Agency] on behalf of the State of [State] enter into this Agreement.

Except as otherwise specified, the terms in this document are unique to this document only.

#### Section I—Reimbursement of State Costs

##### A. Coverage

1. This Agreement covers reimbursement of the costs associated with providing State services to Department of Defense installations for activities funded under the Environmental Restoration, Defense (ER,D) appropriation. Installations covered by this Agreement are those owned by the Federal government on the effective date of the Agreement including installations with sites on the National Priorities List (NPL) and installations with sites not on the NPL. The installations covered by this Agreement are listed in Attachment A. This Agreement does not cover the costs of services rendered prior to October 17, 1986; services at properties not owned by the Federal government; and activities funded from sources other than ER,D appropriation.

2. Unless a site-specific agreement provides otherwise, this Agreement is the mechanism for payment of the costs incurred by the State in providing the services listed in paragraph B of this Agreement in relation to ER,D

funded activities at the installations covered by this Agreement. Full payment of State costs pursuant to this Agreement constitutes final settlement of any claims the State of \_\_\_\_\_ may have for performance of services outlined in Section I(B) with respect to ER,D funded work carried out after October 17, 1986, at all of the installations covered by this Agreement, except for those State costs covered by a site-specific agreement.

3. DoD agrees to seek sufficient funding through the DoD budgetary process in accordance with Section II and to pay the State of \_\_\_\_\_ for the services specified in paragraph B for all ER,D funded activities at installations covered by this Agreement, subject to the conditions and limitations set forth in this section.

##### B. Services

State services that qualify for payment under this Agreement include the following types of assistance provided by the State commencing at site identification and continuing through construction, as well as any other activities that are funded by ER,D:

1. Technical review, comments and recommendations on all documents or data required to be submitted to the State under an agreement between the State and a DoD Component, all documents or data that a DoD Component requests the State to review, and all documents or data that are provided by a DoD Component to the State for review as a result of a request from the State made under applicable State law.

2. Identification and explanation of State applicable or relevant and appropriate requirements related to response actions at DoD installations.

3. Site visits to review DoD response actions and ensure their consistency with appropriate State requirements, or in accordance with site-specific requirements established in other agreements between the State and DoD Component.

4. Participation in cooperation with DoD in the conduct of public education and public participation activities in accordance with Federal and State requirements for public involvement.

5. Services provided at the request of DoD in connection with participation in Technical Review Committees.

6. Preparation and administration of a cooperative agreement (CA) to implement this Agreement, including the estimates of State costs.

7. Other services that the State will provide that are set out in this Agreement or are included in installation-specific agreements.

##### C. Accounting Procedures

1. Subject to the provisions of paragraphs D and E, reimbursement of eligible State costs incurred between October 17, 1986, and the date of this Agreement shall be paid if the costs have been documented using accounting procedures and practices that reasonably identify the nature of the costs involved, the date the costs were incurred, and show that the costs were entirely attributable to activities at an installation covered by this Agreement.

2. Payment of eligible State costs for services provided after the effective date of this Agreement must comply with all applicable Federal procurement and auditing requirements.

#### D. Maximum Reimbursement

Reimbursement for services provided under paragraph B for all installations included in Attachment A shall not exceed one (1) percent of the estimated total costs for all of the work that has been funded by ER,D since October 17, 1986, and that will in the future be funded by ER,D or a total of \$50,000, whichever is greater. Estimates of cleanup costs developed under this Agreement are provided solely for the purpose of calculating the amount of funding the State is eligible to receive.

#### E. Annual Budget Limits

The State may ordinarily request that up to a maximum of twenty-five (25) percent of the total State services funds for all installations listed in Attachment A be provided in accordance with Section II during any fiscal year. DoD may approve an annual budget limit that exceeds twenty-five (25) percent of the total State services funds if the State demonstrates the need for a higher percentage based on the scope of the work projected during the fiscal year. At least ten (10) percent of a State's services funding request will be provided in accordance with Section II of this Agreement during a fiscal year if the State requests an allocation of ten (10) percent or more for services under this Agreement. The State may carry over unused funds into subsequent years. If the cost of State services during a fiscal year exceeds the annual budget limit, the State may expend its own funds to pay the costs of those services. To the extent allowable under Federal procedures for cooperative agreements, the State may then seek reimbursement of these costs in a subsequent year through a cooperative agreement as long as the total amount of the payments to the State does not exceed the one (1) percent ceiling, or the annual budget limit for that fiscal year. A payment schedule for reimbursement of past costs will be devised by the State of \_\_\_\_\_ and the DoD.

#### F. Adjustment of Cost Estimates

The State or DoD may request a review of total estimated ER,D funded project costs covered by this Agreement once during the terms of a cooperative agreement. The total project costs shall be revised to reflect the new estimates. The ceiling of one (1) percent of the total project costs shall be adjusted based on the revisions of the total project costs since October 17, 1986. If the total project costs following the Record of Decision (ROD) or equivalent document are lower than previously estimated, the State remains entitled to payment as follows:

- the State is entitled to payment of all services rendered prior to completion of the new estimate so long as they are within the ceiling of the previous estimate; and,
- reimbursement of future incurred costs for providing services, at the option of the state, in an amount either:

1. Up to a total of previous and future costs of one (1) percent of the revised estimate; or,

2. The lesser of:

- one quarter ( $\frac{1}{4}$ ) of one (1) percent of the post ROD or equivalent documents costs; or,
- the remaining balance of the one (1) percent entitlement under the previous estimate.

#### G. Procedures for Reimbursement

Procedures for State reimbursement through cooperative agreements (CAs) are as described in Attachment B and in accordance with Office of Management and Budget (OMB) Circulars A-102, A-87, and A-128. After a CA is awarded, the (State Agency) may submit a request for advance or reimbursement to DoD on a quarterly basis. DoD will process the request and transfer funds in accordance with Circular A-102. Within 60 days after the end of each quarter, the (State Agency) shall submit to DoD a status report, including cost summaries which directly relate allowable costs actually incurred by the State under this Agreement during the quarter for services at each installation. Allowable costs shall be determined in accordance with this Agreement and Circular A-87. DoD shall reconcile continuing awards and close out completed awards in accordance with Circular A-102. Auditing of States programs shall be accomplished in accordance with Circular A-128.

#### H. Additional Work

When an installation requests that a State perform a specific technical study or similar technical support that could otherwise be done by a contractor, and (State Agency) agrees to do the work, funding will be negotiated between the installation and the State outside of this Agreement.

#### I. Emergencies

In an emergency situation involving a threat to public health or the environment, the State must, unless the nature of the emergency does not permit notification, notify the DoD Component prior to taking removal action in order to be reimbursed for its reasonable costs. Reimbursement of the State for its work will be handled directly between the DoD component and the State, and outside of this Agreement. Disagreements that arise under this paragraph are subject to the Dispute Resolution process in section IV.

#### Section II—Funding and the Priority System

A. The Office of the Deputy Assistant Secretary of Defense (Environment), as the designee of the Office of the Secretary of Defense responsible for carrying out the Defense Environmental Restoration Program, and the DoD components shall seek sufficient funding through the DoD budgetary process to carry out their obligation for response actions at DoD installations within the State. Funds authorized and appropriated annually by Congress under the ER,D appropriation in the DoD Appropriations Act shall be the source of funds for all work contemplated by this Agreement.

B. Should the ER,D appropriation be inadequate in any year to meet the total DoD requirements for cleanup of hazardous or toxic contaminants, DoD shall establish priorities among sites in a manner which

maximizes the protection of human health and the environment. In the prioritization process, DoD shall employ a model which has been and will be further developed with the assistance of the States and the EPA. Future enhancements or refinements to the model shall occur in consultation with the States and the EPA. DoD shall also involve the States and the EPA in its use of this prioritization model through review of technical site data. The DoD components shall receive and give full consideration to information provided by the States regarding factors to be considered in decisionmaking in the annual prioritization process for allocating resources available for cleanups. The State accepts that a DoD prioritization system developed and operated as described in this subparagraph is needed and provides a reasonable basis for allocating funds among sites in the interest of a national worst first cleanup program. To that extent, the State will make every effort to abide by the priorities developed thereunder.

C. Nothing in this Agreement shall be interpreted to require obligation or payment with regard to a site remediation in violation of the Anti-Deficiency Act (31 U.S.C. 1341).

#### Section III—Lead Agencies

Each DoD Component shall designate an individual responsible for managing remedial and removal actions for each installation within the State. This individual shall be responsible for coordinating all tenant activities at the installation with regard to the remedial and removal action program. The individual will also act as remedial project manager (RPM) within the meaning of the National Contingency Plan (40 CFR Part 300).

The State shall designate a lead State agency for each DoD installation within the State. (This agency may vary by installation). The lead State agency for an installation shall coordinate among other State agencies to represent a single State position as to remedial/removal actions at the installation. The lead State agency shall designate a State Agency Coordinator (SAC) who shall be the single point-of-contact between the appropriate DoD component installation and the State regarding State involvement in the remedial and removal actions program at the installation.

#### Section IV—Dispute Resolution

A. The Remedial Project Manager (RPM) and the State Agency Coordinator (SAC) shall be the primary points of contact to coordinate the remedial and removal program at each military installation within the State, including the resolution of disputes. With regard to installation or sites for which there are executed Federal Facility Agreements under CERCLA section 120, dispute resolution provisions as specified in those agreements shall govern. For other sites, it is the intention of the parties that all disputes shall be resolved at the lowest possible level of authority as expeditiously as possible within the following framework. All timeframes for resolving disputes below may be lengthened by mutual consent.

1. Should the RPM and SAC be unable to agree, the matter shall be referred in writing as soon as practicable but in no event to

exceed ten (10) working days after the failure to agree, to the installation commander and the chief of the designated program office of the lead State agency or their mutually agreed upon representatives designated in writing.

2. Should the installation commander and the chief of the designated program office of the lead State agency or their mutually agreed upon representatives designated in writing be unable to agree within ten (10) working days, the matter shall be elevated to the head of the lead State agency and a counterpart member of the lead Service involved who shall be a general/flag officer or a member of the senior executive service.

3. Should the head of the lead State agency and the counterpart DoD representative fail to resolve the dispute within 20 working days the matter shall be referred to the Governor and the Service Secretary concerned for resolution.

B. It is the intention of the parties that all disputes shall be resolved in this manner. Alternative dispute resolution methods may be used. In the event that the Governor and the Service Secretary are unable to resolve a dispute, the State retains any enforcement authority it may have under State and Federal law.

#### Section V—Reopener

The terms of this Agreement may be modified at any time by mutual Agreement of the parties. If a party requests the Agreement to be reopened but the other party does not concur, the matter will be referred to an individual designated in writing by the signatories to this agreement. In the event they fail to agree within 10 working days the matter will be referred to the signatories of this agreement or their successors in office. If no resolution is reached within 20 days, the Agreement shall not be reopened.

#### Section VI—Termination

This Agreement may be terminated by either party at the expiration of any cooperative agreement entered into pursuant to this Agreement if the party seeking termination has notified the other party in writing at least 90 days prior to the expiration of the cooperative agreement. After receiving a notice of termination, a party may invoke the dispute resolution process in Section V. Each signator of the agreement may involve other officials to whom they report in the process of resolution. The parties by mutual agreement may also refer the matter to the Governor of the State of \_\_\_\_\_ and his/her counterpart within the Department of Defense. Alternative dispute resolution methods may be used. Failing their agreement, this Agreement shall be considered terminated as of the date the cooperative agreement expires.

State signature block for Agency signing on behalf of the State

DoD signature block

Attachment A to DSMOA DOD Installations Covered by this Agreement

State of \_\_\_\_\_

#### Army

1. e.g., Fort \_\_\_\_\_
2. etc.

#### Navy

1. e.g., Naval Air Station \_\_\_\_\_
2. etc.

#### Air Force

1. e.g., \_\_\_\_\_ Air Force Base
2. etc.

#### Defense Logistics Agency

1. e.g., Defense Supply Center \_\_\_\_\_
2. etc.

Installations may be added to this list periodically as necessary in accordance with Section V, Reopener.

#### Procedures for State Reimbursement

- The Deputy Assistant Secretary of Defense for Environment (DASD(E)) and the Head of the Agency signing on behalf of the State will sign the DSMOA.

- The DSMOA is the overarching agreement of commitment between the DoD and the State, but does not obligate or commit funds.

- Reimbursement will be accomplished, using Federal procedures for cooperative agreements (CAs), with States that have signed DSMOAs. Eligible activities are limited to those authorized for the Defense Environmental Restoration Program (DERP), and funded by the Defense Environmental Restoration Account (DERA), Sections 2701 et seq., of Title 10 U.S.C., and as specified in the DSMOA.

—Reimbursement will commence as soon as possible with DERA funds.

- DoD policies and procedures for processing CA applications and payments will be developed with input from the States and announced in a Federal Register notice.

—In general, these activities will be centralized in the ODASD(E).

—It is anticipated that these policies and procedures will encompass the following: who may apply; what can be funded; evaluation criteria for awards; submission procedures and closing dates for receipt of applications; and State responsibilities.

—Within this framework, it is anticipated that monitoring and quarterly reporting procedures for States' program status and financial status will be developed.

- Administration of CAs will be in accordance with Office of Management and Budget (OMB) Circular A-102, Grants and Cooperative Agreements with State and Local Governments, and Title 32 CFR Part 278, Office of the Secretary of Defense, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

—A State will submit a complete application package for Federal assistance, consisting of Standard Form 424 (SF 424) and attachments, including a proposal narrative, the signed DSMOA, and a project management plan. The State's application must also include a description of the type and amount of support services that the State plans to provide for each installation covered in the DSMOA for the specific award period of the CA.

—CAs will be awarded for a term of two years, based on an annual estimate of requirements. Applications will be accepted after signature of the DSMOA by both parties; DoD processing time for applications is expected to be two months.

—The DASD(E) will accept the application, review it, and make a decision as to the award. This CA agreement, when signed by both the DASD(E) and the Head of the Agency signing on behalf of the state, comprises the contractual relationship between the DoD and the State.

—States may request funds in accordance with the methods outlined in OMB Circular A-102 and 32 CFR Part 278. These documents provide for the following methods of payment: (1) Advances (Letter of Credit), (2) Reimbursement, and (3) Working Capital Advances. A state may request a payment method in its cooperative agreement application.

- Allowable costs will be determined in accordance with OMB Circular A-87, Cost Principles for State and Local Governments. Specific services to be provided by the States will be as described in the DSMOA.

- Auditing of States programs will be accomplished in accordance with OMB Circular A-128, Audits of State and Local Governments.

The following is additional information regarding the general procedures that DoD plans to use in implementing DSMOAs and CA's with the States:

1. DoD DASD(E) will invite States to sign DSMOAs and submit applications for CAs.

2. DASD(E) will send a memorandum (Attachment C) to the DoD Components (Army, Navy, Air Force, DLA, and other DoD agencies) asking them to cooperate with the States and compile necessary data. The States and Installations will communicate directly on response activities anticipated to take place over the next two years and on the total DERA cost estimate.

3. DoD Components will use their Chain-Of-Command to develop and pass on data to DASD(E): Component Headquarters will give the message to their Major Commands (e.g., Army Materiel Command), and the Major Commands will forward the message to their Installations (e.g., Sacramento Army Ammunition Depot).

4. The Components will provide information, obtained from their Installations and Major Commands, to DASD(E) by State.

5. Each State contacts DASD(E) about its desire to have a DSMOA and CA, and works with DoD to have State-specific information inserted into the provisions where indicated in the model language and to fill out the CA application.

6. DASD(E) and the State sign the DSMOA and the CA.

7. The State submits requests for payment in advance based on anticipated workload or for reimbursement of services provided under the CA, on a quarterly basis.

8. Quarterly In-Process Reviews (IPRs), or alternative arrangements by mutual consent, will be held between DASD(E) staff and the State agency. IPRs will include State progress reports concerning activities and funding.

9. CA audits will be carried out in accordance with OMB Circular A-128.

The Office of the Assistant Secretary of Defense

Washington, DC 20301-8000

Attachment C to DSMOA—Letter to DoD Components

July 18, 1989.

Production and Logistics

E

Memorandum for Deputy Assistant Secretary of the Army, Environmental, Safety and Occupational Health, OASA (I&L), Deputy Director for Environment, OASN (S&L), Deputy Assistant Secretary of the Air Force, (E,S&OH), SAF/RQ, Director, Defense Logistics Agency (DLA-W)

Subject: DoD Components' Cooperation with the States for Cooperative Agreements on Site Cleanups

I am sending letters to the directors of State environmental agencies inviting them to enter into DoD and State Memoranda of Agreements (DSMOAs). There has been a recent strong State expression of interest in them. I request that you inform the appropriate people in your Component that they should be ready by mid-July to respond to requests from the States for information necessary for the States to prepare applications for cooperative agreements (CAs) in accordance with Attachment B of the model DSMOA language.

Once a State and I have signed a DSMOA or started the process toward signature, the lead State agency can be expected to contact persons or offices designated by the Components as being "lead" for the Installation Restoration Program (IRP) for the installations listed in Attachment A of the DSMOA. States will need to determine what DERA-funded activities the installations have planned for the period of the proposed CAs (FY90/91). Each State will use this information to help prepare its application for a cooperative agreement and its request for funds. The designated installation representative should also give information to the State regarding probable DERA-funded activities through the life of the program, including total estimated cost. This will help the State plan its activities under the lifetime cap. The cost information should be acceptable to you before it is provided to the States.

This information is generally available from your program planning activities, FY90/91 DERA budget development data, and anticipated RI/FS results. States should also have much of this information if they are receiving notice of program activities and participating in such areas as: review of program planning and IRP documents, meetings of technical review committees, negotiation and implementation of interagency agreements, and public participation activities.

Since the CAs will be centrally administered by DoD, we request Components to give my office the same total DERA cost information you provide the States. We would also like a summary of planned activities for the next two years

(FY90/91) that the installation IRP representatives give to the States. Please try to provide this within four weeks of giving it to the States. Since the CAs are envisioned to encompass two years, the information on planned program activities and cost estimates will need to be updated every two years. During the CA period, if there is a significant change in response activities or estimated costs, the Component should notify the State as soon as possible. I will be providing you additional guidance on this matter in the next two weeks.

Please provide a copy of the attached model DSMOA language to those who will be responsible for providing the necessary information to the States.

We will also provide more detailed information in the following documents as they are developed:

- DoD Policies and Procedures for the Cooperative Agreements Program under DSMOAs
  - Federal Register notice announcing the program and the availability of funds.
- Cooperation and communication are paramount to the success of this program. I encourage you and your installations to make every effort to continually build a good working relationship with your counterparts in the State agencies. I believe that a cooperative effort with the States, to include mutual consideration of each others comments and program objectives, is the key to cost-effective and timely execution of the Defense Environmental Restoration Program.

Thank you for your continuing efforts in making the program a success. If you have questions or comments, Sam Napolitano remains my point of contact for DSMOAs, and Lt Col Ken Cornelius has the lead in carrying out the CA Program. You may reach either of them at (202) 325-2211 (Autovon: 221-2214) in our offices in Alexandria, Virginia.

William H. Parker, III,

Deputy Assistant Secretary of Defense (Environment).

Attachment

[FR Doc. 89-17614 Filed 7-27-89; 8:45 am]

BILLING CODE 3810-01-M

### DOD Advisory Group on Electron Devices; Advisory Committee Meeting

**SUMMARY:** Working Group C (Mainly Opto Electronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

**DATE:** The meeting will be held at 0900, Wednesday and Thursday, 16 & 17 August 1989.

**ADDRESS:** The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, Suite 307, Arlington, VA 22202.

**FOR FURTHER INFORMATION CONTACT:** Gerald Weiss, AGED Secretariat, 201 Varick Street, New York, 10014.

**SUPPLEMENTARY INFORMATION:** The mission of the Advisory Group is to

provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging devices, infrared detectors and lasers. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

July 24, 1989.

[FR Doc. 89-17613 Filed 7-27-89; 8:45 am]

BILLING CODE 3810-01-M

### Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, September 5, 1989; Tuesday, September 12, 1989; Tuesday, September 19, 1989; and Tuesday, September 26, 1989 at 10:00 a.m. in Room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of

an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552(b)(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D64, The Pentagon, Washington, DC 20301.

L.M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

July 24, 1989.

[FR Doc. 89-17615 Filed 7-27-89; 8:45 am]

BILLING CODE 3810-01-M

## Department of the Navy

### Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research Advisory Committee will meet on August 14-18 and August 21-25, 1989, at the Naval Ocean Systems Center, San Diego, California. All sessions of the meeting will commence at 8:00 a.m. and terminate at 5 p.m. on all days. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to discuss basic and advanced research. The agenda for the meeting will include briefings, presentations and discussions related to International Research and Development, Tactical Defense Suppression in the year 2000, and Determining the Impact of Directed Energy Weapons on U.S. Navy Warfare Mission Areas. These briefings, discussions and presentations will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive

Order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander L. W. Snyder, U.S. Navy, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217-5000. Telephone Number: (202) 696-4870.

Date: July 25, 1989.

Sandra M. Kay,

*Department of the Navy, Alternate Federal Register Liaison Officer.*

[FR Doc. 89-17631 Filed 7-27-89; 8:45 am]

BILLING CODE 3810-AE-M

## Uniformed Services University of the Health Sciences

### Call For Abstracts—USUHS Fifth Annual Conference on Military Medicine

The Fifth Annual Conference on Military Medicine will be held on October 5 and 6, 1989, at the Uniformed Services University of the Health Sciences in Bethesda, Maryland. The theme of the conference this year will be, "Health Promotion for Maximum Readiness." Abstracts for poster presentations on the theme of the Conference as well as on general topics in military medicine are requested.

The Conference will consist of speakers and panel discussions on topics including, "Success in Behavior Modification," "Health Risk Appraisal" and "Primary Prevention from a Corporate Perspective." Topics will cover the theoretical and practical implications for the present and the future. In addition to the formal presentations and poster sessions, a "Meet the Professor" luncheon is scheduled.

Poster presentations in all areas of military medicine as well as with the theme of the Conference are encouraged. Please submit an original abstract of no more than 250 words and three copies including a current curriculum vitae to Deborah Gardner, Conference Coordinator, Room C1024, 4301 Jones Bridge Road, Bethesda, Maryland 20814-4799. Please indicate your name, rank, correct title, complete military or business address including telephone number, at the top of your abstract. Poster displays should be no

larger than 6 feet long by 4 feet wide. Deadline for submission of abstracts: 1 September 1989.

L.M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

July 24, 1989.

[FR Doc. 89-17616 Filed 7-27-89; 8:45 am]

BILLING CODE 3810-01-M

## DEPARTMENT OF EDUCATION

### National Assessment Governing Board; Meeting

**AGENCY:** National Assessment Governing Board.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Analysis, Reporting and Dissemination Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

**DATE:** August 10, 1989.

*Time:* 10:00 a.m. until adjournment.

*Location:* U.S. Department of Education, National Assessment Governing Board, Suite 4060, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20202-7583.

**FOR FURTHER INFORMATION CONTACT:** Roy Truby, Executive Staff Director, National Assessment Governing Board, U.S. Department of Education, Suite 4060, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20202-7583. Telephone: (202) 732-1824.

**SUPPLEMENTARY INFORMATION:** The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), Title 2III-C of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 21988 (Pub. L. 100-297) (20 U.S.C. 1221e-1).

The Board is established to advise the Commissioner for Education Statistics on policies and actions needed to improve the form and use of the National Assessment of Educational Progress, and develop specifications for the design, methodology, analysis and reporting of test results. The Board also is responsible for selecting subject areas

to be assessed, identifying the objectives for each age and grade tested, and establishing standards and procedures for interstate and national comparisons.

The Analysis, Reporting and Dissemination Committee of the National Assessment Governing Board will meet via teleconference in Washington, DC on August 10, 1989 from 10:00 a.m. until the completion of business. Because this is a teleconference meeting, facilities will be provided so the public will have access to the Committee's deliberations. The proposed agenda includes a review of the procedures and strategies to be followed in reporting National Assessment data.

Records are kept of all Board proceedings, and are available for public inspection at the U.S. Department of Education, Mary E. Switzer Building, 330 C Street SW, Room 4060, Washington, DC from 8:30 a.m. to 5:00 p.m.

Dated: July 24, 1989.

Bruno V. Manno,

*Acting Assistant Secretary for Educational Research and Improvement.*

[FR Doc. 89-17617 Filed 7-27-89; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Alaska Power Administration

#### Proposal to Extend Wholesale Power Rates; Eklutna Project

**AGENCY:** Alaska Power Administration, Department of Energy.

**ACTION:** Notice of proposal to extend wholesale power rates—Eklutna Project.

**SUMMARY:** Alaska Power Administration (APA) is proposing to extend the existing rate schedules for the Eklutna Project for a 5-year period beginning October 1, 1989. The existing rates are 19 mills a kilowatt-hour for firm energy, 10 mills a kilowatt-hour for non-firm energy, and .3 mills a kilowatt-hour for wheeling. Under Department of Energy policies, APA reviews rate adequacy each year. The most recent review shows the existing rates are adequate to meet repayment requirements for the period covered by the extension. The proposed rate extension will be submitted to the Deputy Secretary of Energy for interim approval and to the Federal Energy Regulatory Commission for review and final approval.

**DATES:** August 28, 1989.

**FOR FURTHER INFORMATION CONTACT:** The rates proposal and supporting studies are available upon request. Submit request for this information and written comments to: Gordon J. Hallum,

Chief, Power Division, U.S. Department of Energy, Alaska Power Administration, P.O. Box 020050, Juneau, AK 99802-0050.

#### SUPPLEMENTARY INFORMATION:

Authorities for the proposed rate extension are the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended) and the Department of Energy Organization Act (Pub. L. 95-91).

Rate extensions are conducted according to procedures in 10 CFR Part 903. By Delegation Order No. 0204-108, effective May 30, 1986, 51 FR 19744 (May 30, 1986), the Secretary of Energy delegated to the Administrator the authority to develop power and transmission rates, and delegated to the Under Secretary the authority to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm, approve, and place in effect on a final basis or to disapprove rates developed by the Administrator under the delegation. By DOE N 1110.29 dated October 27, 1988, published at 54 FR 3841 (January 26, 1989) the Secretary redelegated the authority from the Under Secretary to the Deputy Secretary to approve such rates on an interim basis.

The existing rate schedules were initially approved for a 5-year period beginning October 1, 1984. The rates apply for power sold from the Eklutna Hydroelectric Project to three electric utilities serving the Anchorage and Matanuska Valley areas of Alaska.

The Administration continues to advocate divestiture of APA, and a legislative proposal to authorize the divestiture will be forwarded for Congressional consideration soon. The rate extension basically continues present rate policies under existing law until Congress acts on the divestiture.

**Environmental Impact:** The proposed rate extension will have no significant environmental impact within the meaning of the Environmental Policy Act of 1969. The proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Robert J. Cross,  
*Administrator.*

[FR Doc. 89-17704 Filed 7-27-89; 8:45 am]

BILLING CODE 6450-01-M

#### Proposal to Extend Wholesale Power Rates; Snettisham Project

**AGENCY:** Alaska Power Administration, Department of Energy.

**ACTION:** Notice of proposal to extend wholesale power rates—Snettisham Project.

**SUMMARY:** Alaska Power Administration (APA) is proposing to extend the existing rate schedule for the Snettisham Project for a 2-year period beginning October 1, 1989. The existing rate is 28.8 mills a kilowatt hour for firm energy. This rate expires September 30, 1989. Under Department of Energy policies, APA reviews rate adequacy each year. The most recent review shows the existing rate is adequate to meet repayment requirements for the period covered by the extension.

**DATES:** August 28, 1989.

#### FOR FURTHER INFORMATION CONTACT:

The rates proposal and supporting studies are available upon request. Submit request for this information and written comments to: Gordon J. Hallum, Chief, Power Division, U.S. Department of Energy, Alaska Power Administration, P.O. Box 020050, Juneau, AK 99802-0050.

#### SUPPLEMENTARY INFORMATION:

Authorities for the proposed rate extension are section 204 of the 1962 Flood Control Act (82 Stat. 875) and the Department of Energy Organization Act (Pub. L. 95-91).

Rate extensions are conducted according to procedures in 10 CFR Part 903. By Delegation Order No. 0204-108, effective May 30, 1986, 51 FR 19744 (May 30, 1986), the Secretary of Energy delegated to the Administrator the authority to develop power and transmission rates, and delegated to the Under Secretary the authority to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm, approve, and place in effect on a final basis or to disapprove rates developed by the Administrator under the delegation. By DOE N 1110.29 dated October 27, 1988, published at 54 FR 3841 (January 26, 1989) the Secretary redelegated the authority from the Under Secretary to the Deputy Secretary to approve such rates on an interim basis.

The existing rate schedules were initially approved for a 3-year period beginning November 1, 1986 through September 30, 1989. The rates apply for power sold from the Snettisham Hydroelectric Project to one electric utility serving the Juneau area and the State of Alaska, Department of Fish and Game, F.R.E.D. Division.

The Administration continues to advocate divestiture of APA, and a legislative proposal to authorize the divestiture will be forwarded for Congressional consideration soon. The rate extension basically continues

present rate policies under existing law until Congress acts on the divestiture.

**Environmental Impact:** The proposed rate extension will have no significant environmental impact within the meaning of the Environmental Policy Act of 1969. The proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Robert J. Cross,  
Administrator.

[FR Doc. 89-17705 Filed 7-27-89; 8:45 am]

BILLING CODE 6450-01-M

## Western Area Power Administration

### Power and Transmission Rates for the Boulder City Area Projects and Salt Lake City Area Integrated Projects

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of rates for economy energy service, short-term firm capacity/energy sale or exchange service, and nonfirm transmission service for the Boulder City Area (BCA) projects and Salt Lake City Area (SLCA) Integrated Projects (IP), and order placing these rates into effect on a final basis.

**SUMMARY:** In an April 13, 1989, Federal Register notice (54 FR 14859), the Western Area Power Administration (Western) announced plans to implement power and transmission rates for Economy Energy Service, Short-Term Firm Capacity/Energy Sale or Exchange Service, and Nonfirm Transmission Service. These rates would be applicable to the BCA projects and the SLCA/IP. Following the analysis of the public comments received as a result of this proposal, Western has finalized these rates.

These rates are applicable only to discretionary or coordination sales that are short-term commitments of 1 year or less. Coordination sales represent short-term firm or nonfirm power that is available over and above other marketing obligations.

Western has joined the Western Systems Power Pool (WSPP), and these rates are patterned after the WSPP rates whereby the actual rate for each transaction is negotiated and mutually agreed to by the buyer and the seller.

On April 27, 1989, the Federal Energy Regulatory Commission (FERC) approved a 1-year extension of the WSPP, through April 30, 1990. The FERC encouraged the WSPP members to file for a temporary extension or a permanent pool by January 1, 1990, with lower pool-wide price ceilings for

generation and transmission services. When Western joins the WSPP, current and future price ceilings for WSPP members will apply to all of Western's WSPP transactions taking place under these rates.

Timely implementation of the rates for Economy Energy Service, Short-Term Firm Capacity/Energy Sale or Exchange Service, and Nonfirm Transmission Service will improve Western's BCA projects and SLCA/IP operations by allowing them to offer a wider range of services.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert C. Fullerton, Director, Division of Marketing and Rates, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401-3396, (303) 231-1545.

**SUPPLEMENTARY INFORMATION:** Western is one of five power marketing administrations of the Department of Energy (DOE). It markets and transmits power in 15 Central and Western States, primarily from Federal hydroelectric powerplants. The BCA and the SLCA market the power generated from several hydroelectric powerplants, which are primarily located in the Upper and Lower Colorado River Basins. In addition, the BCA markets a portion of the generation from the Navajo coal-fired powerplant of the Central Arizona Project. The power marketing functions of both Areas include transmission service as well as power sales. The transmission systems provide interconnections between Federal powerplants as well as interconnections between various Federal, public, and investor-owned utility systems. Western markets both firm and nonfirm power and transmission service.

Western may enter into transactions both through WSPP and through other agreements. Except for the rates for Short-Term Firm Capacity/Energy Sale or Exchange Service, which will be applicable to WSPP transactions only, the rates will be used by Western for both WSPP and non-WSPP transactions, as appropriate.

#### Economy Energy Service

Western sells short-term surplus energy, called Fuel Replacement Energy, to entities that reduce power production from fossil-fueled powerplants to conserve fuel. Selling surplus energy at 85 percent of a powerplant's fuel cost provided a basis for pricing and could be adhered to when a specific powerplant could easily be identified and the price of the energy directly related to the fuel saved. However, present-day situations in the utility industry have changed from when the sale of Fuel Replacement Energy was

initiated more than 20 years ago. Today, major utilities have numerous plants in daily operation that have a wide range of operating costs. Because of multiple-unit operations, utilities often reduce power generation of more than one unit when buying energy from another utility. A utility's highest cost unit is not always the one reduced in power level because of such considerations as take or pay coal contracts or transmission constraints. Minimum power levels of large plants also affect which units may be backed down.

Economic dispatch has evolved among utilities in order to improve the economic utilization of both generation and transmission facilities. Because of this, and other considerations, pricing of short-term surplus energy transactions among power suppliers is driven by factors other than fuel savings at a particular plant. It is increasingly more difficult, and less significant, for Western to base short-term surplus energy prices on fuel savings associated with a specific generating unit.

Some short-term surplus energy sales, previously conducted as Fuel Replacement Energy sales, can be more appropriately conducted under the proposed category of Economy Energy Service. Quantifiable conservation of fuel will still be accomplished but the energy prices will directly reflect all factors, which establish short-term energy prices among thermal suppliers.

The Economy Energy Service rate is as follows:

The rate for Economy Energy Service is based upon the pricing for nonfirm energy sales among the power suppliers within the interconnected systems.

Economy Energy Service is set forth in Rate Schedules BCAP-EEI and SLIP-EEI for the BCA projects and the SLCA/IP respectively.

For marketing and operational flexibility, Western may also continue to sell surplus energy as Fuel Replacement Energy, and the methodology for determining the Fuel Replacement Energy rate will be maintained.

#### Short-Term Firm Capacity/Energy Sale or Exchange Service

From time to time, the BCA and the SLCA have firm power available for coordination transactions; i.e., firm power that is available over and above the normal marketing obligations, including seasonal offers made by the SLCA/IP. Such power, committable for less than 1 year, may be peaking only or peaking with energy. The energy may or may not be marketed on an exchange basis. The rate for this service would be

an alternative to using one or more of the components of the then current firm power rates. The Short-Term Firm Capacity/Energy Sale or Exchange Service rate will provide Western with increased marketing flexibility.

The rate for Short-Term Firm Capacity/Energy Sale or Exchange Service will be utilized for WSPP commitments of less than 1 year and will be as follows:

The rate for Short-Term Firm Capacity/Energy Sale or Exchange Service is based upon the pricing for firm capacity and energy sales among the participants of the Western Systems Power Pool.

The rate for Short-Term Firm Capacity/Energy Sale or Exchange Service is not set forth in a rate schedule. Western will offer this service only under the WSPP agreement that includes the above rate schedule.

#### Nonfirm Transmission Service

The BCA and the SLCA provide Nonfirm Transmission Service on an as-available basis. Any revenues generated from Nonfirm Transmission Service help offset the need for future power and transmission rate increases.

If a fixed nonfirm wheeling rate is too high, it may not encourage the efficient use of Western's future available transmission system capacity. If the rate is too low, it may not result in fair compensation to Western. A flexible Nonfirm Transmission Service rate is a way to encourage the most efficient and economical use of Western's transmission systems.

For the BCA projects, the Nonfirm Transmission Service rate, as provided for by Rate Schedule BCAP-NFT1, is an alternative to the current Nonfirm Transmission Service rate of 1.4 mills per kilowatt-hour (kWh) provided by Rate Schedule PD-NFT2, Parker-Davis Project, Schedule of Rates for Nonfirm Transmission Service. The new rate will also be an alternative to established charges for the Central Arizona Project and the Pacific Northwest-Pacific Southwest Intertie (Southern Division, alternating current) system Nonfirm Transmission Service.

In the SLCA, transmission is only provided through the Colorado River Storage Project (CRSP), not the SLCA/IP. Therefore in the SLCA the CRSP Nonfirm Transmission Service rate will be Rate Schedule SP-NFT3, CRSP, Schedule of Rates for Nonfirm Transmission Service, and will replace Rate Schedule SP-NFT2.

For both the BCA projects and the SLCA CRSP, the Nonfirm Transmission Service rate can be used to provide additional transmission services not

presently provided, such as firm standby service as defined by the WSPP agreement. Western will use the proposed Nonfirm Transmission Service rate for all wheeling transactions under the WSPP, provided the transaction is for less than 1 year.

The rate for Nonfirm Transmission Service is as follows:

The rates for Nonfirm Transmission Service are based upon the pricing for Nonfirm Transmission Service within the interconnected system.

#### Discussion of Issues—Public Comments

During the 30-day comment period, Western received three comment letters, one of which requested additional information that has been provided. Western's responses to the comments are as stated below:

A. One commenter expressed concern that Western may plan to limit the type of transmission service it will offer under WSPP and noted that no utility has been admitted to the WSPP under a request for special conditions that would limit use of the agreement. The commenter is also concerned that WSPP will increase competition for use of Western's transmission system and threaten priority of use of the transmission system occurring under an existing contract.

#### Response

1. Western intends to participate fully in WSPP, to the extent that services offered are for discretionary or coordination sales that are short-term commitments of 1 year or less. Coordination sales represent short-term firm or nonfirm power that is available over and above normal marketing obligations (54 FR 14859). Specifically, Western will offer, as system availability allows, nonfirm and firm standby transmission service as identified in the WSPP agreement, as long as the commitment is for less than 1 year.

Western does not feel that it is requesting special conditions of the WSPP agreement by not offering firm transmission service. The WSPP agreement carries no obligation to buy or sell. Section D-3.1 of the WSPP agreement provides that each party shall be the sole judge as to the extent and conditions under which it is willing to provide services. The intent of WSPP is to provide for supplementary market-based transactions under real-time market conditions.

2. The WSPP agreement does not replace or supersede existing commitments. Capacity, energy, and transmission services offered through WSPP will only be discretionary sales

that are over and above normal marketing obligations, including existing contracts.

B. One entity requested an explanation of how Western customers, who do not have generation/load dispatching capabilities, could make use of the proposed rates and services.

#### Response

Western, in a letter to the entity, indicated that these rates are intended primarily to be used for transactions between Western and other WSPP members or other utilities with generation/load dispatching capabilities. Benefits of WSPP membership, including extra revenues from either Economy Energy Service sales or Fuel Replacement Energy sales, having greater access to market information, keeping expenses down through better system utilization (particularly transmission facilities), lower purchase costs, and better prices for short-term discretionary sales, help hold down the rate required for firm power service and firm transmission service. These benefits are passed on to all Western customers through these lower rates.

C. One customer expressed the following concerns that the proposed transmission rates might adversely impact its costs for purchases of excess Federal power:

1. Any rate increase for transmission might be made applicable to short-term arrangements for the purchase of excess CRSP power during the summer season. Such a transmission rate applicable to that excess capacity would do serious economic damage and make those resources more expensive than alternate resources that were otherwise available when these contracts were agreed upon.

2. Any excess resources available from Hoover, Parker, or Davis Dams might not be economical if short-term transmission arrangements on the Parker-Davis Project system are at this new rate.

3. Fuel Replacement Energy and other short-term resources, otherwise available to preference entities, might not be available under the new rates.

#### Response

The proposed Nonfirm Transmission Service rates will not affect short-term purchases of SLCA/IP capacity and energy because such sales include transmission to CRSP designated points of delivery.

2. With the exception of the CRSP Nonfirm Transmission Service, the rates will not supersede rates provided for under existing contracts. The Boulder

Canyon Project customers have firm transmission contracts with Western for delivery of all of the Boulder Canyon Project energy and capacity, including entitlements to Schedule C energy. Since the Federal transmission systems in the BCA are heavily subscribed, the delivery of excess Boulder Canyon Project or Parker-Davis Project capacity, if and when available, will depend on the availability of transmission capacity at that time. Availability of transmission capacity to deliver excess capacity from such projects will be affected more by transmission system use by customers with firm delivery rights than it will by the rate structure for Nonfirm Transmission Service.

3. When available, any seasonal excess SLCA/IP capacity will continue to be offered first to preference customers under existing firm rates. After the preference customers are satisfied, any additional SLCA/IP capacity not committed to preference entities will be sold on the open market either as Short-Term Firm Capacity/Energy Sale or Exchange Service or as Economy Energy Service at the proposed rates. Long-term firm marketing and sales of seasonal firm SLCA/IP capacity and associated energy will not change with the adoption of these rates.

Fuel Replacement Energy will continue to be offered to Western's customers with Fuel Replacement contracts. Most of Western's Fuel Replacement sales (87 percent in fiscal year 1988) are to customers who are already members of the WSPP, so it is unlikely that the proposed Economy Energy Service rate or Western's membership in WSPP will significantly affect the availability of Fuel Replacement Energy or other short-term energy resources.

#### Procedural Authorization

Power rates for Western are established pursuant to the DOE Organization Act of August 4, 1977 (42 U.S.C. 7101, *et seq.*); the Reclamation Act of 1902 (43 U.S.C. 372, *et seq.*), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and the acts specifically applicable to the project system involved.

Delegation Order No. 0204-108, effective May 30, 1986 (51 FR 19744, May 30, 1986), as amended, delegated to the Administrator of Western the authority to develop and place in effect, on a final basis, power and transmission rates for short-term sales; i.e., sales of no more than 1-year duration.

#### Environmental Compliance

Section D of the DOE guidelines for compliance with the National Environmental Policy Act (NEPA) (52 FR 47662) address short-term sales. Under section D of these guidelines, the execution of contracts, marketing plans, or allocation plans for the short-term or seasonal allocations (less than 1 year) of existing or excess power resource to customers who can receive these resources over existing transmission systems are categorically excluded from NEPA analysis. Therefore, an environmental assessment or an environmental impact statement will not be prepared for this action.

#### Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act (Act) of 1980 (5 U.S.C. 601, *et seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. Under 5 U.S.C. 601(2), rates or services of particular applicability are not considered rules within the meaning of the Act. Because the rate is for services provided by Western from particular projects, no flexibility analysis is required.

#### Determination Under Executive Order 12991

The DOE has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291 (46 FR 13193, February 17, 1981). In addition, Western has an exemption from sections 3, 4, and 7 of Executive Order 12291, and therefore will not prepare a regulatory impact statement.

#### Order

In view of the foregoing, and pursuant to the authority delegated to me by the Secretary of Energy in Delegation Order No. 0204-108, dated December 14, 1983, as amended, I hereby approve and place into effect on a final basis, effective at the beginning of the August 1989 billing period, a new rate for Economy Energy Service (Rate Schedules BCAP-EE1 and SLIP-EE1), Short-Term Firm Capacity/Energy Sale or Exchange Service, and Nonfirm Transmission Service (Rate Schedules BCAP-NFT1 and SP-NFT3) for the BCA projects and the SLCA/IP.

Issued at Golden, Colorado, July 14, 1989.

William H. Claggett,  
Administrator.

[Rate Schedule BCAP-EE1]

#### Boulder City Area Projects; Schedule of Rates for Economy Energy Service

*Effective:* At the beginning of the August 1989 billing period.

*Available:* This schedule is available for the sale of economy energy including sales under the Western Systems Power Pool (WSPP) agreement. The offer of economy energy under this schedule shall be determined by Western Area Power Administration (Western) Boulder City Area.

*Applicable:* This rate is applicable for all sales of wholesale economy energy. WSPP sales shall be subject to the terms and conditions specified in the WSPP agreement.

*Character and Conditions of Service:* Alternating current 60 hertz, three-phase, delivered, and metered at the voltages and points established by contract or specified in advance by Western.

*Rate:* The rate for Economy Energy Service is based upon the pricing for nonfirm energy sales among the power suppliers within the interconnected systems. The rate will be mutually agreed to in advance by Western and the purchasing entity.

[Rate Schedule SLIP-EE1]

#### Salt Lake City Area Integrated Projects; Schedule of Rates for Economy Energy Service

*Effective:* At the beginning of the August 1989 billing period.

*Available:* This schedule is available for the sale of economy energy including sales under the Western Systems Power Pool (WSPP) agreement. The offer of economy energy under this schedule shall be determined by Western Area Power Administration (Western) Salt Lake City Area.

*Applicable:* This rate is applicable for all sales of wholesale economy energy. WSPP sales shall be subject to the terms and conditions specified in the WSPP agreement.

*Character and Conditions of Service:* Alternating current 60 hertz, three-phase, delivered, and metered at the voltages and points established by contract or specified in advance by Western.

*Rate:* The rate for Economy Energy Service is based upon the pricing for nonfirm energy sales among the power suppliers within the interconnected systems. The rate will be mutually agreed to in advance by Western and the purchasing entity.

[Rate Schedule BCAP-NFT1]

#### Boulder City Area Projects; Schedule of Rates for Nonfirm Transmission Service

*Effective:* At the beginning of the August 1989 billing period.

*Available:* This schedule is available for the Nonfirm Transmission Service on the Boulder City Area Projects transmission systems, including transactions pursuant to the Western Systems Power Pool (WSPP) agreement.

**Character and Conditions of Service:**

Transmission service on an interruptible basis for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery specified in the service contract or in advance by the Western Area Power Administration (Western). Conditions for curtailment shall be determined by Western.

**Rate:** The rates for Nonfirm Transmission Service are based upon the pricing for Nonfirm Transmission Service within the interconnected system. The rate shall be mutually agreed to in advance by Western and the purchasing entity.

**Adjustments**

**For Reactive Power:** None. There shall be no entitlement to transfer of reactive kilovolt-amperes at delivery points, except when such transfers may be mutually agreed upon by the contractor and the contracting officer or their authorized representatives.

**For Losses:** Power and energy losses incurred in connection with the transmission and delivery of power and energy under this rate schedule shall be supplied by the customer in accordance with the service contract. If a service contract is not available, the losses shall be specified in advance and may be included in the rates for the service.

[Rate Schedule SP-NFT3]

**Colorado River Storage Project; Schedule of Rates for Nonfirm Transmission Service**

**Effective:** At the beginning of the August 1989 billing period.

**Available:** This schedule supersedes SP-NFT2 and is available for the Nonfirm Transmission Service on the Colorado River Storage Project transmission system, including transactions pursuant to the Western Systems Power Pool (WSPP) agreement.

**Character and Conditions of Service:**

Transmission service on an interruptible basis for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery specified in the service contract or in advance by the Western Area Power Administration (Western). Conditions for curtailment shall be determined by Western.

**Rate:** The rates for Nonfirm Transmission Service are based upon the pricing for Nonfirm Transmission Service within the interconnected system. The rate shall be mutually agreed to in advance by Western and the purchasing entity.

**Adjustments**

**For Reactive Power:** None. There shall be no entitlement to transfer of reactive kilovolt-amperes at delivery points, except when such transfers may be mutually agreed upon by the contractor and the contracting officer or their authorized representatives.

**For Losses:** Power and energy losses incurred in connection with the transmission and delivery of power and energy under this rate schedule shall be supplied by the customer in accordance with the service contract. If a service contract is not available,

the losses shall be specified in advance and may be included in the rates for the service.

[FR Doc. 89-17706 Filed 7-27-89; 8:45 am]

BILLING CODE 6450-01-M

**Final Allocation of Power from the Navajo Generating Station**

**AGENCY:** Western Air Power Administration, DOE.

**ACTION:** Final allocation of power from the Navajo Generating Station, Central Arizona Project.

**SUMMARY:** Section 107 of the Hoover Power Plant Act of 1984 (98 Stat. 1333) (Act) provides that capacity and energy associated with the United States interest in the Navajo Generating Station (Navajo), which is in excess of the pumping requirements of the Central Arizona Project (CAP) and certain needs for desalting and protective pumping facilities under the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. 1591, *et seq.*) (Navajo Surplus), shall be marketed and exchanged by the Secretary of Energy. The Act provides that in the sale and exchange of Navajo Surplus, the Secretary of the Interior shall adopt the plan deemed most acceptable, after consultation with the Secretary of Energy, the Governor of Arizona, and Central Arizona Water Conservation District (CAWCD) (or its successor) for the purposes of optimizing the availability of Navajo Surplus and providing financial assistance in the timely construction and repayment of construction costs of the authorized features of the CAP. The Act also provides that rates for Navajo Surplus shall not exceed levels that allow for an appropriate saving for the contractor.

On December 1, 1987, the Commissioner of Reclamation (Reclamation) adopted the Navajo Power Marketing Plan (Plan) on behalf of the Secretary of the Interior. The Plan was published in the *Federal Register* on December 21, 1987 (52 FR 48328). The Plan, a cooperative effort among Federal, State, and local entities, provides the criteria to be used in the sale and exchange of Navajo Surplus after the date of initial operation of the New Waddell Dam. The date of initial operation of the New Waddell Dam, as defined in the Plan (section III (I)), is scheduled to occur on or before October 15, 1992, as determined by Reclamation.

By *Federal Register* notice (53 FR 17102) published May 13, 1988, the Western Area Power Administration (Western) requested applications and applicant profile data for Navajo

Surplus that would be available for sale and exchange after the date of initial operation of New Waddell Dam through September 30, 2011.

Western reviewed all of the applications received pursuant to its May 13, 1988, *Federal Register* notice and developed proposed allocations which were published in the *Federal Register* on May 12, 1989 (54 FR 20634). Western believed that the proposed allocations best met the intent of the Plan. Western did not conduct formal public meetings relative to the proposed allocation but did consider all written comments in making the final determination of Navajo Surplus allocations. All written comments received by Western in response to the proposed allocation are addressed herein.

**DATES:** The effective date of these final allocations will be July 28, 1989.

**FOR FURTHER INFORMATION CONTACT:** Mr. Earl W. Hodge, Assistant Area Manager for Power Marketing, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005, (702) 477-3255.

**Background**

Section 107 of the Act required the Secretary of the Interior to adopt the plan deemed most acceptable for the purposes of optimizing the availability of Navajo Surplus and providing financial assistance in the timely construction and repayment of construction costs of the authorized features of the CAP. The Act provides that electrical capacity and energy associated with the United States interest in Navajo, which is in excess of the pumping requirements of the CAP and certain needs for desalting and protective pumping facilities, shall be marketed and exchanged by the Secretary of Energy in a manner consistent with the Plan adopted by the Secretary of the Interior.

Navajo Surplus, which is primarily a capacity resource, is being marketed and allocated in accordance with the adopted Plan wherein capacity and energy will be available for sale and exchange on a long-term basis. Capacity and energy will be available for delivery throughout the year, onpeak and offpeak during the long-term contract period.

The long-term sales contracts shall become effective when executed by the parties in accordance with terms of the Navajo contracts, and shall remain in effect until September 30, 2011. Delivery of capacity and energy will begin after the date of initial operation of the New

Waddell Dam, which is scheduled for October 15, 1992.

#### Final Allocations

Navajo Surplus is being allocated for sale in accordance with the priority requirements of section VI of the Plan as set out below:

1. Federal preference entities within Arizona,
2. Federal preference entities within the Boulder City marketing area,
3. Federal preference entities in adjacent Federal marketing areas, and;
4. Nonpreference entities in the Boulder City marketing area.

In the event that a potential contractor fails to execute a contract within the period specified by Western and in accordance with the terms and conditions offered by Western, or if a contract is terminated in accordance with the terms of the contract, the allocation to that entity will be withdrawn.

Any capacity and associated energy withdrawn or returned to Western may be reallocated without further public process and reoffered by Western in accordance with the order of priority specified above. In reallocating the power, Western will use the same methodology used in these final allocations. The power being reallocated may be offered first to these allottees or contractors up to the amounts initially requested.

The Act also provides that Arizona entities, regardless of preference status, shall have first opportunity for electrical capacity and energy-exchange rights as necessary to implement the Plan. Western, in consultation with CAWCD and Reclamation, may determine that any capacity and energy not contracted for by Arizona entities for exchange may be offered for long-term sale in the order of priority stated above or may be offered to non-Arizona entities for exchange.

Pursuant to the Act and the priority criteria of the Plan, the benefits of the Navajo Surplus go first to the entities in the State of Arizona. Since there were more than sufficient applications from first-priority entities within the State of Arizona, Western has made the final allocation by prorating all available Navajo Surplus for sale and exchange to Arizona applicants in the amounts shown in Tables 1 and 2. The other applicants and the rationale for denial of an allocation were published in the May 12, 1989, *Federal Register* notice.

#### Response to Comments

Western received four comments in response to the proposed Navajo Surplus Allocations published in the

May 12, 1989, *Federal Register*. Of those comments received, two were in support of and concurred with Western's proposed allocations.

The following comments were received either in opposition to or suggesting a modification to Western's May 12, 1989, proposal:

1. Dixie-Escalante Rural Electric Association Inc., Beryl, Utah, (Dixie-Escalante) commented that its application submitted on behalf of the Littlefield, Arizona, portion of its system should be reconsidered for an allocation. Dixie-Escalante maintains that the Littlefield, Arizona, load is within the first priority requirements of section VI of the Plan. Dixie-Escalante supported its position by stating that, "The Arizona portion of our system is electrically separate from Utah and all power from such an allocation would be used only by Arizona customers. This guarantees that power from the Navajo Plant would benefit only Arizona customers."

The final allocation is consistent with the Act, the Plan, and the allocation criteria previously published in the *Federal Register*. The Plan is explicit as to priority requirements, found in section VI, with first priority being given to Federal preference entities within the State of Arizona. Western believes that the first priority for Federal preference entities within Arizona does not include Federal preference entities outside of the State of Arizona having some portion of their load in Arizona. Federal preference entities in neighboring States with some portion of their load in Arizona fall within the coverage of the second or third priorities. Western stated in the May 12, 1989, *Federal Register* notice that Dixie-Escalante is classified as a third-priority applicant because it is a Utah entity with loads in Utah and Arizona.

Western has also reviewed the applicant profile data submitted by Dixie-Escalante, in addition to the letter from the Intermountain Consumer Power Association (ICPA) that transmitted the Dixie-Escalante application. Western provided in the May 12, 1989, *Federal Register* notice (appendix B) a listing of all members of the ICPA applying for a Navajo Surplus allocation; no request is noted for Littlefield, Arizona. Furthermore, in reviewing the Dixie-Escalante applicant profile data, Western finds no mention of, or request for service to, Littlefield, Arizona. Western finds no identification of Littlefield, Arizona, on the ICPA agent's system map submitted by Dixie-Escalante, nor can Western find reference to a Littlefield, Arizona, load or request for allocation in Dixie-

Escalante's responses to "Requirement 28," "Requirement 3," "Requirement 4," or "Requirement 5" in the applicant profile data submitted.

Western believes that it has properly considered all applicants and has properly classified Dixie-Escalante as a third-priority applicant.

2. Western received one comment from the Veterans Administration's Regional Medical Center, San Diego, California (VA), a nonapplicant. The VA's comment centered on, "a reconsideration by Western of priorities or the establishment of a requirement for displacement of power from allotments established from primary consideration or on an exchange basis." Further, "The use of power within geographic areas should receive further consideration on a rating and ranking priority system. Federal agencies defraying costs from taxpayer supported revenues should receive high priority such as health care and educational institutions \* \* \*."

Western maintains that it has properly considered all applicants according to the Act, the Plan, and the published criteria which form the basis for the final allocations and the allocations are consistent with existing policies, Federal regulations, and law.

In its comments, the VA requested power for the VA's medical centers in Prescott, Phoenix, or Tucson, Arizona; San Diego, California; or Salt Lake City, Utah. These entities did not submit an application for long-term Navajo Surplus and were, therefore, not considered in the allocation process.

Subsequent to publishing the proposed allocations for long-term Navajo Surplus in the May 12, 1989, *Federal Register*, Western was notified that the following entities have withdrawn their application and returned their proposed allocation. Those entities withdrawing are Davis-Monthan Air Force Base, Luke Air Force Base, and the Department of the Army, Yuma Proving Ground. The total proposed allocation returned to Western as of the date of this notice is 5 megawatts (MW).

Western has allocated the 5 MW among the remaining applicants in accordance with the criteria published in the May 12, 1989, *Federal Register*. Any additional returned allocations will be reallocated in a like manner.

Western utilized the following formula to distribute the available Navajo Surplus to the final applicants:

[(Individual Applicant's 3-Year Average Annual Load  
- Individual Applicant's Annual Allocation of Federal Resources)

÷ (Total All Applicants' 3-Year Average Annual Load  
 - Total All Applicants' Annual Allocation of Federal Resources)]  
 × 250.0 MW (Rounded to the nearest 1 MW)

Western is allocating a total of 250 MW of Navajo Surplus for sale to the following entities that qualify as first-priority applicants for sale of Navajo Surplus as provided by the Plan, section V.A.:

TABLE 1.—FINAL ALLOCATION FOR SALE OF NAVAJO SURPLUS

Entity	Allocation in MW
Arizona Power Pooling Association, Arizona.....	42.0
Papago Tribal Utility Authority, Arizona.....	2.0
Bureau of Indian Affairs, San Carlos Irrigation Project, Arizona.....	5.0
Salt River Project, Arizona.....	200.0
Page Electric Utility, Arizona.....	1.0
Total.....	250.0

Additionally, Western is allocating a total of 150 MW of Navajo Surplus for exchange to the following entities qualified as first-priority applicants for exchange of Navajo Surplus as provided by the Plan, section V.B.:

TABLE 2.—FINAL ALLOCATION FOR EXCHANGE OF NAVAJO SURPLUS

Entity	Allocation in MW
Arizona Public Service Company, Arizona.....	102.0
Arizona Power Pooling Association, Arizona.....	11.0
Tucson Electric Power Company, Arizona.....	37.0
Total.....	150.0

These final allocations remain the same as published in the May 12, 1989, Federal Register.

#### Executive Order 12291

Under the provisions of section 3 of Executive Order 12291, dated February 19, 1981, a regulatory impact analysis must be made prior to the publication of a major rule. This proposal is of a technical nature and considered to be a nonmajor rule within the meaning of the Executive order. Western has an exemption from sections 3, 4, and 7 of Executive Order 12291; accordingly, no clearance of this procedure by the Office of Management and Budget (OMB) is required.

#### National Environmental Policy Act

In compliance with the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality Regulations, and the Department of Energy guidelines for compliance with NEPA (52 FR 47662), Western prepared an environmental assessment of the potential impacts of the marketing of long-term Navajo Surplus. The date of Finding of No Significant Impact was March 18, 1988. The Department of Energy has determined that Western's proposed actions as described in the environmental assessment will not lead to any significant environmental impacts.

#### Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*), each agency, when required to publish a general notice of a proposed rule, shall prepare for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, this proposal relates to particular electric services and rates provided by Western. Under 5 U.S.C. 601(2), such rules and practices relating to services are not considered "rules" within the meaning of this Act. Accordingly, no regulatory flexibility analysis is required.

Issued at Golden, Colorado, July 14, 1989.

William H. Clagett,  
 Administrator.

[FR Doc. 89-17707 Filed 7-27-89; 8:45 am]  
 BILLING CODE 6450-01-M

#### Notice of a Rate Order—Pick-Sloan Missouri Basin Program

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of rate order for the Pick-Sloan Missouri Basin Program (P-SMBP).

**SUMMARY:** Notice is given of Rate Order No. WAPA-35 by the Deputy Secretary placing the rate adjustment for the P-SMBP into effect on an interim basis, on the first day of the October 1989 billing period, for power marketed by the Western Area Power Administration (Western).

The P-SMBP power repayment study (PRS) for fiscal year (FY) 1987 requires a 0.88 mills/kWh increase (from 7.44 mills/kWh to 8.32 mills/kWh) in the power rate to ensure repayment of the project. The PRSs are prepared annually in accordance with the Department of

Energy (DOE) Order RA 6120.2. The last increase was based upon the FY 1982 PRS.

The results of the FY 1987 PRS are being compared to a widely distributed FY 1986 PRS. The comparison shows the following differences:

1. The projected operation and maintenance (O&M) expenses for the 100-year repayment period have increased a total of \$533 million.
2. The projected replacements in the study period have increased \$48 million.
3. Other revenue, which is projected from other services provided by the power system, is reduced in the study period by \$103 million. Because of recent experience, we have projected higher firm power load factors, which in turn reduced the surplus sales; and projected reduced transmission service revenues.
4. Due to the above factors, repayment of the interest-bearing costs is not as timely in the FY 1987 study as in the FY 1986 study, and the additional interest expense accrued over the study period is \$373 million.

Of the above factors, the one with the most impact is the matter of increased O&M expenses. O&M expenses are increasing due to inflation as well as responses to programmatic requirements. Programmatic requirements have resulted in increased personnel and equipment expenditures in such areas as: Computer support, financial system management, safety programs, conservation and renewable energy programs, and environmental concerns. Federal full-time equivalency has remained essentially the same for the past several years. However, support services contracts have increased to accommodate additional program requirements.

In keeping with the project legislation, Western's policy for rate adjustments and DOE Order RA 6120.2, I am approving on an interim basis this request for a rate adjustment for the P-SMBP.

#### FOR FURTHER INFORMATION CONTACT:

Mr. James D. Davies, Area Manager, Billings Area Office, Western Area Power Administration, P.O. Box 35800, Billings, MT 59107-5800, (406) 657-6532

Mr. Robert C. Fullerton, Director, Division of Marketing and Rates, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231-1545

Mr. Ronald K. Greenhalgh, Assistant Administrator for Washington Liaison, Western Area Power Administration, Room 8G061, Forrestal Building, 1000 Independence

Avenue SW., Washington, DC 20585,  
(202) 586-5581.

**SUPPLEMENTARY INFORMATION:** By Delegation Order No. 0204-108, effective December 14, 1983 (48 FR 55664, December 14, 1983, as amended), the Secretary of Energy delegated to the Administrator on a nonexclusive basis, the authority to develop power and transmission rates, and delegated to the Deputy Secretary on a nonexclusive basis, the authority to confirm, approve, and place in effect on an interim basis, power and transmission rates, and to the Federal Energy Regulatory Commission (FERC), the authority on an exclusive basis to confirm, approve, and place in effect on a final basis, remand, or disapprove rates developed by the Administrator under the Delegation.

The rate adjustment for the P-SMBP has been conducted in accordance with the procedural rules applicable to Western. Proceedings were initiated on November 7, 1988, with publication of a Federal Register notice (53 FR 44945), which officially announced the proposed rate adjustment and procedures for public participation. A series of public information forums were held on December 7 through December 9, 1988, in Northglenn, Colorado; Sioux City, Iowa; Fargo, North Dakota; and Billings, Montana. Two public comment forums were held January 10 and 11, 1989, at Northglenn, Colorado, and Sioux Falls, South Dakota. The consultation and comment period extended through February 6, 1989.

Various comments were received at the meetings and during the consultation and comment period. Three major issues and several miscellaneous issues were raised. After reviewing and considering the comments received, and the records of the meetings, this rate order was assembled to respond to the comments offered during the public rate adjustment process. Western has concluded that the P-SMBP rate adjustment is needed to meet cost-recovery criteria.

Therefore, Rate Order No. WAPA-35, confirming and approving the P-SMBP rate adjustment on an interim basis, is hereby issued, and the new rate schedules will be promptly submitted to the FERC for confirmation and approval on a final basis.

Issued in Washington, DC, June 28, 1989.

W. Henson Moore,  
Deputy Secretary.

[Rate Order No. WAPA-35]

### Order Confirming, Approving, and Placing in Effect a Rate Adjustment for the Pick-Sloan Missouri Basin Program

June 28, 1989.

In the matter of Western Area Power Administration Rate Adjustment for Pick-Sloan Missouri Basin Program (P-SMBP).

Pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7101, et seq., the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation (Reclamation), under the Reclamation Act of 1902, 43 U.S.C. 371, et seq., as amended and supplemented by subsequent enactments, and particularly by section 9(c) of the Reclamation Act of 1939, 43 U.S.C. 485h(c), and acts specifically applicable to the Pick-Sloan Missouri Basin Program (P-SMBP), were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-108, effective December 14, 1983 (48 FR 55664, December 14, 1983, as amended), the Secretary of Energy delegated: (1) to the Administrator of the Western Area Power Administration (Western), the authority on a nonexclusive basis to develop power and transmission rates; (2) to the Deputy Secretary, the authority on a nonexclusive basis to confirm, approve, and place in effect on an interim basis, power and transmission rates; and (3) to the Federal Energy Regulatory Commission (FERC), the authority on an exclusive basis to confirm, approve, and place in effect on a final basis, remand, or disapprove rates developed by the Administrator under the delegation.

This rate order is issued pursuant to such delegations to the Administrator and the Deputy Secretary, and the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions for the Alaska Power Administration, Southeastern Power Administration, Southwestern Power Administration, and Western at 10 CFR 903, published at 50 FR 37835 on September 18, 1985, with corrections published at 50 FR 48075, November 21, 1985.

#### Effective Date

The new rates will become effective on the first day of the October 1989 billing period and will be in effect pending the FERC's approval of them or

substitute rates on a final basis, or until superseded.

#### Description of Rates

Although the P-SMBP is considered a single entity for financial and repayment purposes, the power generated by the P-SMBP is marketed in two separate and distinct areas. These are known as the Eastern Division and the Western Division, and each has its own marketing plan and method for collecting revenues required from firm power sales.

The proposed composite Eastern and Western Division wholesale firm power rate for the P-SMBP will yield 8.32 mills/kWh versus the current 7.44 mills/kWh, which constitutes a 0.88 mills/kWh increase over the current wholesale firm power rate.

#### Eastern Division

The proposed firm power rate schedule for the Eastern Division only is expected to yield a composite rate of 8.02 mills/kWh. Current Eastern Division rate schedules are designed to yield 7.14 mills/kWh. The proposed and current firm power rates are shown below:

Class of power	Present	Proposed
Firm Capacity (kW) .....	\$1.65/kW-month.	\$1.85/kW-month
Firm Energy (kWh) up to and including 60-Percent Monthly Load Factor.	4.41 mills/kWh.	5.06 mills/kWh
Above 60-Percent Monthly Load Factor.	7.79 mills/kWh.	8.44 mills/kWh
Peaking Capacity (kW).	\$9.90/kW-season.	11.10/kW-season
Peaking Energy (kWh).	4.41 mills/kWh.	5.05 mills/kWh
Seasonal Firm .....	Same as Firm Power Rate.	Same as Firm Power Rate.

#### Western Division

The Loveland Area Office recently finalized a marketing plan entitled "Post-1989 General Power Marketing and Allocation Criteria, Pick-Sloan Missouri Basin Program-Western Division" (Post-1989 Marketing Criteria). Details of this plan were published on January 31, 1986, in the Federal Register at 51 FR 4012 and again on January 23,

1987, in the Federal Register at 52 FR 2597. A major feature of this plan was the integration for marketing purposes of the resources of the P-SMBP-Western Division with those of the Fryingpan-Arkansas Project (Fry-Ark). In addition, a blended rate for P-SMBP-Western Division/Fry-Ark power will be established.

Because of the blended rate, there will be no Loveland Area Office power rate schedules specific to just the P-SMBP or the Fry-Ark; therefore, all discussion in this rate order concerning future Western Division revenue will be expressed in terms of revenue requirements rather than the typical discussion of "mills/kWh."

**Firm Power:** Based upon the existing firm composite rate of 8.54 mills/kWh, and the projected energy sales of approximately 2,036 GWh used in the power repayment study (PRS), the Western Division's current yield from firm power is \$17,386,082. This is calculated as follows:

Current Yield:			
\$0.00854 ×	2,035,841,000		
kWh =			\$17,386,082
Proposed increase:			
\$0.00088 ×	2,035,841,000		
kWh =			1,791,540
Proposed firm revenue requirement			19,177,622

**Peaking Power:** Under the Post-1989 Marketing Criteria, excess capacity previously marketed as peaking power will be included as part of the firm power sales, with an expected return of \$1,425,600 per year.

\$1.65/kW-month × 12 months			
× 72,000 kW =			<sup>1</sup> \$1,425,600

Proposed total revenue requirements			20,603,222
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<sup>1</sup> Western Division excess capacity marketed as peaking power in the FY 1987 PRS will be included as part of the firm power sales in future power repayment studies to be consistent with the Post-89 Marketing Criteria.

The proposed rate of return for the P-SMBP-Western Division of \$20,603,222 per year will be recovered as part of the blended rate schedule being developed for the Loveland Area Projects, which will include the annual revenue requirements for Fry-Ark. This rate schedule associated with the Post-1989 Marketing Criteria will be proposed to go into effect with the October 1989 billing period and will be the subject of a subsequent and separate formal rate adjustment procedure.

#### Statement of Revenue and Related Costs

The rate adjustment would increase average annual firm power revenues for the total P-SMBP by about \$11.2 million. This is necessary to satisfy the cost-recover criteria as set forth in DOE Order No. RA 6120.2. A breakdown of costs by class of service is not available.

The following table (taken from the revised FY 1987 PRS) provides estimates of revenue data for firm power and peaking sales through the proposed rate approval period.

Year	Eastern division winter peaking	Eastern division summer peaking	Firm commercial	Western division peaking
1990.....	\$3,712,500	\$3,712,500	\$86,012,160	\$1,425,600
1991.....	3,702,600	3,653,100	86,902,400	1,425,600
1992.....	3,702,600	3,653,100	86,902,400	1,425,600
1993.....	3,702,600	3,653,100	86,902,400	1,425,600
1994.....	3,702,600	3,653,100	86,902,400	1,425,600

The data shown as "Firm Commercial" is for energy sales in both the Eastern and Western Divisions of the P-SMBP.

It should be noted that the PRS contains only one variable—the composite rate for future firm power (capacity and energy combined) sales on a per kWh basis. Revenues from other sources are estimated and entered into the study. The study adjusts this composite firm power rate until sufficient revenues are generated to meet cost recovery criteria. The actual rate schedules designed to yield these revenues are determined by adjusting both capacity and energy rates. The actual revenues collected for each class of service will vary from those estimated in the published FY 1987 PRS as hydrological and market conditions change.

Revenues from Western Division's transmission service rate are not shown separately in the published FY 1987 PRS, but are included in the "Other Revenue" column of that study.

#### Explanation of Rate Development Process and Chronological Discussion of the Procedural History of the Filing

Proceedings on the proposed rate adjustment were initiated on September 27, 1988, when a letter announcing preliminary informal customer meetings was mailed to all firm power customers and other interested persons. These meetings were conducted at four different locations on October 18 and 19, 1988. At these preliminary meetings, Western representatives explained the need for the increase and answered questions from those attending.

On November 7, 1988, a formal 90-day customer consultation and comment period was initiated with an announcement of the proposed rate adjustment published in the Federal Register at 53 FR 44945. This notice also announced four public information forums conducted December 7 through 9, 1988, and two public comment forums conducted January 10 and 11, 1989. The information forums were further advertised with a November 25, 1988, press release. On November 18, 1988, a mailing of a final customer brochure

was made to all customers and other interested persons. This mailing also included a letter announcing the public information and comment forums. At the information forums, Western representatives again explained the need for the rate increase and answered questions. The comment forums were conducted to give the public an opportunity to comment for the record. Other comments were received through February 6, 1989, and have been considered in the preparation of this rate order.

The notice of proposed power rate adjustment published at 53 FR 44945 on November 7, 1988, was for an initial composite Eastern and Western Division, P-SMBP wholesale firm power rate that would yield 8.51 mills/kWh or an increase of 1.07 mills/kWh. Following the informal meetings, which were held on October 18 and 19, 1988, Western reviewed the study data, and found projections for Western Division generation had not been properly included in the study. When these and other refinements were made, the final composite rate was reduced to 8.32

mills/kWh, which is the proposed increase of 0.88 mills/kWh.

#### *Project History and General PRS Description*

A complete discussion regarding the project history, and the general history and description of the PRS, is found in the November 1988 customer brochure.

#### *Basis for Rate Development—Eastern Division*

The Eastern Division firm power rate schedule will be increased so as to yield a net average return of approximately 8.02 mills/kWh. This is an increase of 0.88 mills/kWh over the average return of 7.14 mills/kWh anticipated from the sale of firm power under the P-SED-F2 rate schedule. The seasonal firm power rate will be adjusted to be equal to the firm power rate.

A customer's individual load characteristics determine the net revenue yield from the sale of power and energy to that customer under any rate schedule that incorporates both a demand and an energy charge. These characteristics include load factor (the relationship between the energy use and peak demand for any given time period), kW-months per year (the relationship of the offpeak monthly demands to the annual peak demand), wheeling discounts (under certain circumstances a one mill/kWh discount will be granted if the United States is relieved of the cost of delivering power over a third party transmission system), and voltage discounts (under certain circumstances a discount of 5 percent of the gross power bill will be granted to the customers if the United States is relieved of the cost of transforming power from one voltage to another). The composite of the individual customer characteristics determines what the proposed P-SMBP Eastern Division rate schedule will yield in net revenue. For example, as load factor increases (energy requirements increase faster than capacity (or demand)), the per unit net yield (mills/kWh) from this type of rate design will decline. The opposite is also true. In addition, as the kW-months per year characteristic increases, there is more revenue (demand charge), even though the overall kWh sales have not changed. If either of the discount characteristics (in lieu of wheeling and voltage) change, then the net yield under a rate schedule is altered.

Due to the comments received during our 1987 informal public meetings relating to how system characteristics affect rate design, we have altered the way we develop the characteristics. Instead of using a 5-year rolling average of actual data, we have now projected

what we estimate these characteristics will be in about 2 years after this new rate goes into effect. This should provide a rate design that reflects the system characteristics we anticipate during the time the rate is actually in effect.

#### *Basis for Rate Development—Western Division*

The rate schedules for the P-SMBP-Western Division are associated with the Post-1989 Marketing Criteria, which are scheduled to go into effect on the first day of the October 1989 billing period, and will be the subject of a subsequent and separate formal rate adjustment procedure.

#### *Discussion of Issues—Public Comments*

Most of the comments received at the public meetings, and in correspondence throughout the 90-day customer consultation and comment period, dealt with the cost allocations of the Corps joint-use expenses for O&M, the overall increases in projected O&M expenses, and the possible renegotiation of the contract with the State of Wyoming for repayment of the State's investment in Buffalo Bill Dam.

*Issue.* The changes in cost allocations of the Corps joint-use expenses for O&M work.

*Response.* The Corps has recently altered its method of assigning multipurpose O&M expense to power for repayment purposes. This began with FY 1987 data when the Corps began using the "current use" method of assigning these costs instead of the "ultimate development" percentages used in the past. This was discussed in our public meetings. Western proposed that the "current use" method be utilized for this adjustment. The customers are apparently in agreement with that proposal, but indicated that the issue be carefully reviewed prior to any future PRS. Meetings are now underway to determine the validity of this change by the Corps.

*Issue.* Projections of O&M expenses.

*Response.* Prior to the formal public participation period, customers questioned the magnitude of the O&M expenses utilized in the PRS. Accordingly, during the public information forums, Western presented a detailed analysis of the O&M expenses in one budget year for all three entities involved: Western, the Corps, and Reclamation. Also discussed were the methods used to project O&M expenses for the outyears of the PRS. The customers indicated an appreciation for being allowed to examine these costs in detail, and a good general understanding of the budget process.

As a result of this analysis, specific questions were raised about the nonrecurring replacement items included in the Western Division O&M budget as well as the assignment of direct and overhead costs among the projects administered by the Western Division. The amounts shown as nonrecurring replacement items in the Western Division O&M budget represent several smaller items that are not identified separately, but are combined and a portion of that total is included in O&M to assure repayment as an annual cost. The matter of the assignment of direct and overhead costs is a reclassification of certain administrative costs that previously were included in the construction accounts, but now are properly shown as O&M expense.

*Issue.* The possibility of renegotiating the contract terms on Buffalo Bill Dam modification with the State of Wyoming.

*Response.* Western's Office of General Council is of the opinion that the interest rate which applicable to the Buffalo Bill Dam modification is established by statute. The contract in question is a three-party agreement among Reclamation, Western, and the State of Wyoming. Informal contract was made with the State of Wyoming to advise them as to the power customers' comments about pursuing the possibility of renegotiating the contract. It is possible that some mutually agreeable change in the contract, such as a change in contract term, could address concerns expressed by the customers and also be beneficial to the State. Western will coordinate with Reclamation and the State to determine if either party has an interest in opening the contract for discussion.

#### *Additional Issues*

In addition to the above, several issues were raised by customers and other interested persons, and addressed by Western. These issues were related to the following general categories:

1. *Status of Investment Repayment.* A customer asked if the \$721 million repaid so far out of the \$1.6 billion of total power investment means that the dams are 45 percent repaid. Western explained that the \$721 million is the amount we have applied to repayment of the overall project investment, but that it would not necessarily mean that 45 percent of a particular dam has been repaid.

2. *Effects of the Bureau Reorganization.* There were questions about whether the recent Bureau reorganization, which consolidated three Regional Offices into one office at Billings, was reflected in the study, since

Bureau costs seem to be going up. The answer is that the increased Bureau costs shown in the study generally are for on-going construction; O&M costs (which include the effects of the consolidation) have not increased significantly.

3. *Interest Rate Used.* A customer asked if the interest rate in the FY 1987 PRS was the same as in the FY 1986 PRS. Western responded that the interest rate for future investments changed from 8.875 percent in the 1986 study to 8.5 percent in the 1987 study.

4. *Review of Bureau and Corps O&M Costs.* There was a question whether Western has an opportunity to determine the validity of the Bureau and Corps O&M expenses that are used in the study. Western replied the while we basically accept another agency's data, we reserve the right to ask questions, and in fact, do frequently ask for explanations of major changes or of things in the data that we do not understand.

5. *Confusion About Replacement Investment.* There was confusion about two amounts given in relation to the replacement investment during the budget period. Western understands how there could be confusion between a \$48 million and a \$43 million amount that had been mentioned in the presentation. The \$48 million amount is the total difference in replacements during the budget periods on the separate FY 1986 and FY 1987 studies. While the rest is budgeted in the Eastern Division, \$43 million of the \$48 million is budgeted in the Western Division.

6. *Clarification of the Term "Budget Year."* Someone asked for clarification of what is meant by "budget year." Western explained that in the context of the discussion, the budget year was the first year of the 5-year budget that we were operating under for the time that the study was done.

7. *Firm and Nonfirm Sales as Related to "Other Revenue."* There was a request to clarify how the relation between firm and nonfirm sales has contributed to decreased "other revenue" projections. Western said that "other revenue" is composed of income from several items, such as transmission service revenues, etc., as well as from nonfirm sales. Specifically, however, there is only so much energy generation that can be produced in any one year by a hydrosystem; and customer load factors are gradually increasing. The higher load factors result in more of the available energy being dedicated to supply firm contracts, leaving less energy for the nonfirm or surplus sales.

A related question had to do with why the trend of increasing customer load

factors did not cause an increase in the tip-up rate for those sales above a 60-percent load factor. The answer was that as load factors go up, we are in effect selling more energy at the existing tip-up rate, which provides more income for those purchases we do have to make to support the above 60-percent load factor sales.

8. *Factors Causing the Rate Increase.* There was a request to summarize the factors that were causing the rate increase. Western observed that increases in O&M costs coupled with decreases in "other revenue" result in higher interest expenses (because the unpaid balance of investment is higher than it otherwise would have been).

#### *Environmental Evaluation*

In compliance with the National Environmental Policy Act of 1969 (NEPA), Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508), and DOE Guidelines published in the Federal Register on December 15, 1987 (52 FR 47662), Western conducted an environmental evaluation of this proposed rate adjustment.

Section D of the DOE Guidelines indicates that the level of documentation for NEPA compliance is based in part on a comparison of the proposed rate adjustment and the rate of inflation since the last adjustment. Because this proposed adjustment is less than the rate of inflation since the last rate adjustment, and because there does not seem to be serious customer objection to this rate adjustment, Western has prepared a determination memorandum that concludes no further environmental analyses are required.

#### *Availability of Information*

All studies, comments, letters, memoranda, and other documents made or kept by Western for the purpose of developing the power rates are and will be available for inspection and copying at the Billings Area Office, Western Area Power Administration, 2525 4th Avenue North, Billings, Montana 59101, telephone: (406) 657-6532.

#### *Submission to FERC*

The rates herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted to the FERC for confirmation and approval on a final basis.

#### *Order*

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis,

effective the first day of the October 1989 billing period, rate Schedules P-SED-F3 and P-SED-FP3. These rates shall remain in effect on an interim basis pending the FERC confirmation and approval of them or substitute rates on a final basis, or until they are superseded.

Issued at Washington, DC, June 28, 1989.  
W. Henson Moore,  
Deputy Secretary.  
[Schedule P-SED-F3; Supersedes Schedule P-SED-F2]

#### *Billings Area Office—Pick-Sloan Missouri Basin Program—Eastern Division*

##### *Schedule of Rates for Firm Power Service*

*Effective:* The first day of the October 1989 billing period.

*Available:* Within the marketing area served by the Eastern Division of the Pick-Sloan Missouri Basin Program.

*Applicable:* To the power and energy sold to customers as firm power service through each meter at each point of delivery.

*Monthly Rate: Capacity Charge:* \$1.85 per kilowatt of billing demand for firm power service as defined by the power sales contract.

*Energy Charge:* 5.06 mills per kilowatt-hour for all energy delivered as firm power service. An additional 3.38 mills per kilowatt-hour will be assessed for all energy delivered as firm power service which is in excess of 60-percent monthly load factor and within the delivery obligations under the provisions of the power sales contracts.

*Adjustments: For Character and Conditions of Service:* Customers who receive deliveries at transmission voltage may in some instances be eligible to receive a 5-percent discount on capacity and energy charges when facilities are provided by the customer which result in a sufficient savings to the United States to justify the discount. The determination of eligibility for receipt of the voltage discount shall be exclusively vested in the United States.

*Billing for Unauthorized Overruns:* For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual firm power and/or energy obligations, such overrun shall be billed at ten times the above rate.

*For Power Factor:* None. The customer will normally be required to maintain a power factor at the point of delivery between 95-percent lagging and 95-percent leading. [Schedule P-SED-FP3; Supersedes Schedule P-SED-FP2]

#### *Billings Area Office—Pick-Sloan Missouri Basin Program—Eastern Division*

##### *Schedule of Rates for Firm Peaking Power Service*

*Effective:* The first day of the October 1989 billing period.

*Available:* To the customers of the Billings Area Office with generating resources enabling them to utilize firm peaking power service.

*Applicable:* To the power sold to customers as firm peaking power service.

*Monthly Rate: Capacity Charge:* \$1.85 per kilowatt of the effective contract rate of delivery for peaking power or the maximum amount scheduled, whichever is the greater.

*Energy Charge:* 5.06 mills per kilowatt-hour for all energy scheduled for delivery without return.

*Adjustments: Billing for unauthorized overruns:* For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual obligation for peaking capacity and/or energy, such overrun shall be billed at 10 times the above rate.

[FR Doc. 89-17708 Filed 7-27-89; 8:45 am]

BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3622-1]

### Environmental Impact Statements; Availability

*Responsible Agency:* Office of Federal Activities General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed July 17, 1989 Through July 21, 1989 Pursuant to 40 CFR 1506.9.

EIS No. 890195, Draft, FHW, CA, I-5/Santa Ana Freeway Widening and Interchanges I-5/CA-22 and I-5/CA-91 Reconstruction, Funding, Cities of Santa Ana, Orange, Anaheim, Fullerton and Buena Park, Orange County, CA, Due: September 20, 1989, Contact: Michael Cook (916) 551-1310.

EIS No. 890196, Draft, FAA, TX, New Austin Airport Construction, Airport Layout Plan and Location Approval, Cities of Austin and Manor, Travis County, TX, Due: September 11, 1989, Contact: Mo Keane (817) 624-5606.

EIS No. 890197, Final, USA, UT, Tooele Army Depot On-Site Facility for Disposal of Stockpiled Chemical Agents and Munitions, Construction and Operation, Tooele County, UT, Due: August 28, 1989, Contact: Lewis Walker (202) 695-7824.

EIS No. 890198, Final, FHW, OR, North Marine Drive Improvement, I-5 to Rivergate Industrial District, Funding and Section 10/404 Permits, Multnomah County, OR, Due: August 28, 1989, Contact: Dale Wilken (503) 399-5749.

EIS No. 890199, DSUpl, EPA, CA, City of Los Angeles Wastewater Treatment Facilities Plan, Construction/Operation, Updated Information, Grant, Los Angeles County, CA, Due: September 14, 1989, Contact: Susan Johnson (415) 974-8288.

EIS No. 890200, Final, FHW, ND, MN, I-94 Corridor Improvements, Horace

Road to US 75, Funding COE Section 404 Permit and U.S. Coast Guard Permit, Cass County, ND and Clay County, MN, Due: August 28, 1989, Contact: John Kliethermes (701) 250-4202.

EIS No. 890201, Final, AFS, ID, Wing Creek-Twenty-mile Timber Sale and Road Construction, Geographic Display Area Management Plan, Implementation, Nezperce National Forest Land and Resource Management Plan, Elk City and Clearwater Ranger Districts, Idaho County, ID, Due: August 28, 1989, Contact: Thomas Kovalicky (208) 983-1950.

EIS No. 890202, DSUpl, BLM, MT, Powder River I Regional Federal Coal Tracts, Leasing, Assessment of Economic, Social and Cultural Impacts on the Northern Cheyenne and Crow Indian Tribes, Yellowstone, Big Horn and Rosebud Counties, MT, Due: September 26, 1989, Contact: Loren Cabe (406) 255-2923.

EIS No. 890203, Draft, APH, AL, AZ, AR, CA, FL, GA, KS, LA, MS, MO, NM, NC, OK, SC, TN, TX, VA, PRO, National Boll Weevil Cooperative Control Program, Implementation and Funding, AL, AZ, AR, CA, FL, GA, KS, LA, MS, MO, NM, NC, OK, SC, TN, TX, VA, Due: September 11, 1989, Contact: Mike Werner (202) 436-8565.

EIS No. 890204, Draft, UAF, CA, Space Launch Complex 7 (SLC-7) Construction and Operation, South Vandenberg Air Force Base, Santa Barbara County, CA, Due: September 11, 1989, Contact: John Edwards (213) 643-0934.

EIS No. 890205, Final, SFW, KY, TN, Reelfoot Lake Water Level Management Plan, Implementation, Fulton County, KY and Lake and Obion Counties, TN, Due: August 28, 1989, Contact: John Oberheu (404) 331-3594.

Amended Notices: EIS No. 890145, DSUpl, AFS, AK, Alaska Pulp Long-Term Timber Sale/Road Construction, Phase II 1981-86 and 1986-89 Operating Plan Amendments, Meed-Bay, Freshwater-Whitstone, Corner Bay, and Kuia Island Analysis Areas, Tongass National Forest, AK, Due: August 15, 1989, Contact: James Pierce (907) 586-8871.

Published FR 7-21-89—Incorrect due date.

Dated: July 25, 1989.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 89-17709 Filed 7-27-89; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3622-2]

### Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared July 10, 1989 through July 14, 1989 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 7, 1989 (54 FR 15006).

#### Draft EISs

ERP No. D-AFS-J61076-CO, Rating EO2, Lake Catamount Resort Construction, Special Use Permit, 404 Permit, Routt National Forest, Routt County, CO.

*Summary:* EPA feels this document does not fully explore all feasible and practicable alternatives which would reduce project impacts to waters of the United States, including wetlands. EPA requested additional information related to proposed mitigation.

ERP No. D-AFS-J65152-MT, Rating EO2, Upper Yaak River Drainage Area, Timber Harvest and Road Construction/Reconstruction, Kootenai National Forest, Lincoln County, MT.

*Summary:* EPA supports selection of alternatives 7 and 8 of the draft EIS over alternative 6 (preferred alternative) because they provide a greater degree of protection to the Forests' resources. EPA believes that the proposed timber harvest level has the potential to adversely impact water quality, soil productivity, and riparian areas. None of the alternatives in the draft EIS appear to be consistent with the Forest Plan standards and guidelines for water quality protection and road density in grizzly habitat.

ERP No. D-FHW-E40719-SC, Rating EO2, Northern Outer Bypass Construction, US 501 to US 17, Funding, COE Section 10 and 404 Permits and US Coast Guard Section 9 Permit, City of Conway, Horry County, SC.

*Summary:* EPA has strong environmental reservations concerning the projected loss of several hundred acres of forested wetlands and recommends that alternative alignments be re-examined to reduce anticipated wetland destruction. Detailed compensation plans to offset unavoidable wetland losses also need to

be developed and included in subsequent NEPA documents.

ERP No. D-FHW-H40140-MO, Rating LO, South Riverfront Expressway Construction, Front Street Interchange on I-435 to US 24, Funding, Cities of Independence, Kansas City and Sugar Creek, Jackson County, MO.

*Summary:* EPA believes that the draft EIS satisfactorily addresses the potential impacts of the proposed project and that the coordination addressing the loss of 4(f) land will result in acceptable mitigation.

ERP No. D-SCS-E36165-MS, Rating EC2, Long Beach Watershed Plan, Flood Damage Reduction, Funding, Harrison County, MS.

*Summary:* EPA has environmental concerns regarding the secondary impacts of residential/commercial development associated with the proposed flood control measures. This development could reduce the benefits on which EPA justified the habitat losses required to provide increased flood protection.

#### Final EISs

ERP No. F-NAS-E12004-00, Galileo Mission Project, Galileo Spacecraft Preparation and Operation Plan, Implementation, Solar System Exploration Program (Tier 2).

*Summary:* EPA has no objections to the project as described in the final EIS.

Dated: July 25, 1989.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 89-17710 Filed 7-27-89; 8:45 am]

BILLING CODE 6560-50-M

#### FEDERAL HOME LOAN BANK BOARD

[LN4/2]

#### American Interstate Savings Association, F.A.; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for American Interstate Savings Association, Los Angeles, California on July 20, 1989.

Dated: July 25, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-17639 Filed 7-27-89; 8:45am]

BILLING CODE 6720-01-M

#### Amerimac Savings Bank, F.S.B.; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c(c)(2)(1982), as amended, the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Amerimac Savings Bank, F.S.B., Hillsboro, Illinois on June 28, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-17640 Filed 7-27-89; 8:45am]

BILLING CODE 6720-01-M

[LN4/2]

#### Centennial Federal Savings & Loan Association; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Centennial Federal Savings and Loan Association, Greenville, Texas on July 13, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-17641 Filed 7-27-89; 8:45am]

BILLING CODE 6720-01-M

[LN4/2]

#### Commonwealth Federal Savings & Loan Association; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended, 12 U.S.C. section 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Commonwealth Federal Savings and Loan Association, Ft. Lauderdale, Florida on July 20, 1989.

Dated: July 25, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
Assistant Secretary.

[FR Doc. 89-17642 Filed 7-27-89; 8:45 am]

BILLING CODE 6720-01-M

[LN4/2]

#### Continental Federal Savings & Loan Association, F.A.; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Continental Federal Savings and Loan Association, F.A., Oklahoma City, Oklahoma on July 13, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-17643 Filed 7-27-89; 8:45 am]

BILLING CODE 6720-01-M

[LN4/2]

#### Cornerstone Federal Savings Association; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Houston, Texas on July 13, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-17644 Filed 7-27-89; 8:45 am]

BILLING CODE 6720-01-M

[LN4/2]

#### Cross Roads Savings & Loan Association, F.A.; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal

Savings and Loan Insurance Corporation as sole conservator for Cross Roads Savings and Loan Association, F.A., Checotah, Oklahoma, on July 13, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-17645 Filed 7-27-89; 8:45 am]

BILLING CODE 6720-01-M

**First Federal Savings & Loan Association of Bakersfield; Appointment of Conservator**

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c(c)(2)(1982), as amended, the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for First Federal Savings and Loan Association of Bakersfield, Bakersfield, California, on June 28, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-17646 Filed 7-27-89; 8:45 am]

BILLING CODE 6720-01-M

[LN4/2]

**First of Kansas Savings; Appointment of Conservator**

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for First of Kansas Savings, a Federal Savings and Loan Association, Hays, Kansas on July 20, 1989.

Dated: July 25, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-17647 Filed 7-27-89; 8:45 am]

BILLING CODE 6720-01-M

[LN4/2]

**First State Federal Savings Association; Appointment of Conservator**

Notice is hereby given that pursuant to the authority contained in section

5(d)(6)(A) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance

Corporation as sole conservator for First State Federal Savings Association, San Antonio, Texas on June 28, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-17648 Filed 7-27-89; 8:45 am]

BILLING CODE 6720-01-M

**The Guardian Federal Savings and Loan Association; Appointment of Conservator**

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c(c)(2) (1982), as amended, the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for The Guardian Federal Savings and Loan Association, Bakersfield, California, on June 28, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 17649 Filed 7-27-89; 8:45 am]

BILLING CODE 6720-01-M

[LN4/2]

**New Mexico Federal Savings Association; Appointment of Conservator**

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for New Mexico Federal Savings Association, Albuquerque, New Mexico on July 20, 1989.

Dated: July 25, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-17650 Filed 7-27-89; 8:45 am]

BILLING CODE 6720-01-M

[LN4/2]

**Parish Federal Savings & Loan Association; Appointment of Conservator**

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Parish Federal Savings and Loan Association, Denham Springs, Louisiana on July 19, 1989.

Dated: July 25, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-17652 Filed 7-27-89; 8:45 am]

BILLING CODE 6720-01-M

[LN4/2]

**Pioneer Federal Savings & Loan Association, F.A.; Appointment of Conservator**

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Pioneer Federal Savings and Loan Association, F.A., Plymouth, Indiana on July 13, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-17653 Filed 7-27-89; 8:45 am]

BILLING CODE 6720-01-M

[LN4/2]

**Royal Palm FS&LA; Appointment of Conservator**

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Royal Palm FS&LA, West Palm Beach, Florida, on July 19, 1989.

Dated: July 25, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
*Assistant Secretary.*

[FR Doc. 89-17654 Filed 7-27-89; 8:45 am]  
BILLING CODE 6720-01-M

[LN4/2]

**Skokie Federal Savings & Loan Association, F.A.; Appointment of Conservator**

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Skokie Federal Savings and Loan Association, F.A., Skokie, Illinois on July 19, 1989.

Dated: July 25, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
*Assistant Secretary.*

[FR Doc. 89-17655 Filed 7-27-89; 8:45 am]  
BILLING CODE 6720-01-M

[LN-4/1]

**Alamo Savings Association of Texas; Replacement of Conservator With a Receiver**

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(D) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(D) (1982), the Federal Home Loan Bank Board duly replaced the Federal Savings and Loan Insurance Corporation ("FSLIC") as Conservator for Alamo Savings Association of Texas, San Antonio, Texas ("Association") with the FSLIC as sole receiver for the Association on June 28, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
*Assistant Secretary.*

[FR Doc. 89-17656 Filed 7-27-89; 8:45 am]  
BILLING CODE 6720-01-M

[LN-4/1B]

**American Interstate Savings; Appointment of Receiver**

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank

Board duly replaced the Federal Savings and Loan Insurance Corporation ("FSLIC") as sole receiver ("Receiver") for American Interstate Savings, A Federal Savings and Loan Association, Los Angeles, California ("Association") July 20, 1989.

Dated: July 25, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
*Assistant Secretary.*

[FR Doc. 89-17657 Filed 7-27-89; 8:45 am]  
BILLING CODE 6720-01-M

[LN-4/1]

**Centennial Savings Bank, FSB; Replacement of Conservator With a Receiver**

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(D) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(D) (1982), the Federal Home Loan Bank Board duly replaced the Federal Savings and Loan Insurance Corporation ("FSLIC") as Conservator for Centennial Savings Bank, FSB, Greenville, Texas ("Association") with the FSLIC as sole receiver for the Association on July 13, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
*Assistant Secretary.*

[FR Doc. 89-17658 Filed 7-27-89; 8:45 am]  
BILLING CODE 6720-01-M

[LN-4/1A]

**Commonwealth Savings & Loan Association; Appointment of Receiver**

Notice is hereby given that, pursuant to the authority contained in section 406(c)(1)(B)(i)(1) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Commonwealth Savings and Loan Association, Ft. Lauderdale, on July 20, 1989.

Dated: July 25, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
*Assistant Secretary.*

[FR Doc. 87-17659 Filed 7-27-89; 8:45 am]  
BILLING CODE 6720-01-M

[LN-4/1]

**Continental Federal Savings and Loan Association; Replacement of Conservator With a Receiver**

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(D) of the Home Owners' Act, as amended, 12 U.S.C. 1464(d)(6)(D) (1982), the Federal Home Loan Bank Board duly replaced the Federal Savings and Loan Insurance Corporation ("FSLIC") as conservator for Continental Federal Savings and Loan Association, Oklahoma City, Oklahoma ("Association") with the FSLIC as sole receiver for the Association on July 13, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
*Assistant Secretary.*

[FR Doc. 89-17660 Filed 7-27-89; 8:45 am]  
BILLING CODE 6720-01-M

[LN-4/1A]

**Cornerstone Savings & Loan Association; Appointment of Receiver**

Notice is hereby given that, pursuant to the authority contained in section 406(c)(1)(B)(i)(1) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Cornerstone Savings Association, Houston, Texas, on July 13, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
*Assistant Secretary.*

[FR Doc. 87-17661 Filed 7-27-89; 8:45 am]  
BILLING CODE 6720-01-M

[LN-4/1]

**Cross Roads Savings & Loan Association; Replacement of Conservator With a Receiver**

Notice is hereby given that, pursuant to authority contained in section 5(d)(6)(D) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(D) (1982), the Federal Home Loan Bank Board duly replaced the Federal Savings and Loan Insurance Corporation ("FSLIC") as Conservator for Cross Roads Savings and Loan Association, Checotah, Oklahoma ("Association") with the FSLIC as sole receiver for the Association on July 13, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
*Assistant Secretary.*  
[FR Doc. 89-17663 Filed 7-27-89; 8:45 am]  
BILLING CODE 6720-01-M

[LN-4/1B]

**First Federal Savings & Loan Association; Appointment of Receiver**

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation ("FSLIC") as sole receiver ("Receiver") for First Federal Savings and Loan Association, Americus, Georgia ("Association") June 22, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
*Assistant Secretary.*  
[FR Doc. 89-17664 Filed 7-27-89; 8:45 am]  
BILLING CODE 6720-01-M

[LN-4/1]

**First of Kansas Banking & Savings Association; Replacement of Conservator With a Receiver**

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(D) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(D) (1982), the Federal Home Loan Bank Board duly replaced the Federal Savings and Loan Insurance Corporation ("FSLIC") as Conservator for First of Kansas Banking and Savings Association, Hays, Kansas ("Association") with the FSLIC as sole receiver for the Association on July 20, 1989.

Dated: July 25, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
*Assistant Secretary.*  
[FR Doc. 89-17665 Filed 7-27-89; 8:45 am]  
BILLING CODE 6720-01-M

[LN-4/1]

**First State Federal Savings Association; Replacement of Conservator With a Receiver**

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(D) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(D) (1982), the Federal Home Loan Bank Board duly replaced the Federal Savings

and Loan Insurance Corporation ("FSLIC") as Conservator for First State Savings Association, San Antonio, Texas ("Association") with the FSLIC as sole receiver for the Association on June 28, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
*Assistant Secretary.*

[FR Doc. 89-17666 Filed 7-27-89; 8:45 am]  
BILLING CODE 6720-01-M

[LN-4/1B]

**Habersham Federal Savings Bank; Appointment of Receiver**

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation ("FSLIC") as sole receiver ("Receiver") for Habersham Federal Savings Bank, Cornelia, Georgia ("Association"), June 28, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
*Assistant Secretary.*

[FR Doc. 89-17667 Filed 7-27-89; 8:45 am]  
BILLING CODE 6720-01-M

[LN-4/1A]

**Missouri Savings Association; Appointment of Receiver**

Notice is hereby given that, pursuant to the authority contained in section 406(c)(1)(B)(i)(1) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Missouri Savings Association, Clayton, Missouri on June 28, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
*Assistant Secretary.*

[FR Doc. 89-17668 Filed 7-27-89; 8:45 am]  
BILLING CODE 6720-01-M

[LN-4/1B]

**New Mexico Federal Savings & Loan Association; Appointment of Receiver**

Notice is hereby given that, pursuant to the authority contained in section

5(d)(6)(A) of the Home Owners' Loan Act, as amended 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation ("FSLIC") as sole receiver ("Receiver") for New Mexico Federal Savings & Loan Association, Albuquerque, New Mexico ("Association") July 20, 1989.

Dated: July 25, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
*Assistant Secretary.*

[FR Doc. 89-17669 Filed 7-27-89; 8:45 am]  
BILLING CODE 6720-01-M

[LN-4/1B]

**Parish Federal Savings Bank; Appointment of Receiver**

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation ("FSLIC") as sole receiver ("Receiver") for Parish Federal Savings Bank, Denham Springs, Louisiana ("Association") July 19, 1989.

Dated: July 25, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
*Assistant Secretary.*

[FR Doc. 89-17670 Filed 7-27-89; 8:45 am]  
BILLING CODE 6720-01-M

[LN-4/1A]

**Pioneer Federal Savings & Loan Association; Appointment of Receiver**

Notice is hereby given that, pursuant to the authority contained in section 406(c)(1)(B)(i)(1) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Pioneer Federal Savings and Loan Association, Plymouth, Indiana, on July 13, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
*Assistant Secretary.*

[FR Doc. 89-17672 Filed 7-27-89; 8:45 am]  
BILLING CODE 6720-01-M

[LN-4/1]

**Royal Palm Savings Bank;  
Replacement of Conservator With a  
Receiver**

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(D) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(D) (1982), the Federal Home Loan Bank Board duly replaced the Federal Savings and Loan Insurance Corporation ("FSLIC") as Conservator for Royal Palm Savings Bank, West Palm Beach, Florida ("Association") with the FSLIC as sole receiver for the Association on July 20, 1989.

Dated: July 25, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-17673 Filed 7-27-89; 8:45 am]

BILLING CODE 6720-01-M

[LN-4/1B]

**Sierra Federal Savings & Loan  
Association; Appointment of Receiver**

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation ("FSLIC") as sole receiver ("Receiver") for Sierra Federal Savings and Loan Association, Beverly Hills, California ("Association") July 19, 1989.

Dated: July 25, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-17674 Filed 7-27-89; 8:45 am]

BILLING CODE 6720-01-M

[LN-4/1]

**Skokie Federal Savings & Loan  
Association; Replacement of  
Conservator With a Receiver**

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(D) of the Home Owner's Loan Act, as amended, 12 U.S.C. 1464(d)(6)(D), (1982), the Federal Home Loan Bank Board duly replaced the Federal Savings and Loan Insurance Corporation ("FSLIC") as Conservator for Skokie Federal Savings and Loan Association, Skokie, Illinois ("Association") with the FSLIC as sole receiver for the Association on July 19, 1989.

Dated: July 25, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-17675 Filed 7-27-89; 8:45am]

BILLING CODE 6720-01-M

[LN-4/1]

**University Savings Association;  
Replacement of Conservator With a  
Receiver**

Notice is hereby given that, pursuant to the authority contained in section 5(d)(6)(D) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(D) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation ("FSLIC") as Conservator for University Savings Association, Houston, Texas ("Association") with the FSLIC as sole receiver for the Association on May 23, 1989.

Dated: July 20, 1989.

By the Federal Home Loan Bank Board.

John F. Ghizzoni

Assistant Secretary.

[FR Doc. 89-17676 Filed 7-27-89; 8:45am]

BILLING CODE 6720-01-M

[No. AC-775; FHLBB NOS. 0042 and 2188]

**First Federal Savings & Loan  
Association of Akron and Western  
Reserve Federal Savings Bank of  
Cleveland; Final Action; Approval of  
Conversion Application**

Date: July 17, 1989.

Notice is hereby given that on June 30, 1989, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the applications of First Federal Savings and Loan Association of Akron, Akron, Ohio and Western Reserve Savings Bank of Cleveland, Cleveland, Ohio, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent at the Federal Home Loan Bank of Cincinnati, 200 Atrium TWO, 221 E. 4th Street, Cincinnati, Ohio 45201.

By the Federal Home Loan Bank Board.

John F. Ghizzoni

Assistant Secretary.

[FR Doc. 89-17677 Filed 7-27-89; 8:45am]

BILLING CODE 6720-01-M

**FEDERAL RESERVE SYSTEM****Change in Bank Control Notice;  
Acquisition of Shares of Banks or  
Bank Holding Companies**

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 21, 1989.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice president) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Donald J. Bierman, Shawnee, Oklahoma; to acquire 31.7 percent of the voting shares of Commerce Bancorporation, Inc., McCloud, Oklahoma, and thereby indirectly acquire Bank of Commerce, McCloud, Oklahoma.

Board of Governors of the Federal Reserve System, July 24, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-17626 Filed 7-27-89; 8:45 am]

BILLING CODE 6210-01-M

**Canadian Imperial Bank of Commerce,  
et al.; Applications To Engage de Novo  
In Permissible Nonbanking Activities**

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal

Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 21, 1989.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Canadian Imperial Bank of Commerce*, Toronto, Canada; to engage *de novo* through Wood Gundy Corp., New York, New York, in acting as an introducing broker with respect to transactions in futures, forward and options contracts on bank-eligible securities, including Canadian government securities, pursuant to § 225.25(b)(18) of the Board's Regulation Y. Comments on this application must be received by August 11, 1989.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *MidState Banks, Inc.*, Cordele, Georgia; to engage *de novo* in making, acquiring, or servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Financial Bancshares, Inc.* ("Applicant"), St. Louis, Missouri; to engage *de novo* through First Financial Mortgage, Inc. ("Company"), St. Louis, Missouri, in seeking to identify persons interested in obtaining long-term residential real estate financing, primarily real estate brokers and home builders. Once the prospective borrower is identified and his credit and collateral

scrutinized, the terms of the proposed loan will be negotiated with the borrower. At approximately the same time, Company will seek, from an institutional investor active in the secondary residential real estate mortgage market, a preliminary commitment to purchase the proposed loan. Once such a commitment is available, Company will close the loan principally with funds borrowed from Applicant's subsidiary banks. Shortly thereafter, Company will sell the loan to the previously committed institutional investor. Company will not retain the servicing associated with the loan; that right will also be sold by Company in the secondary market (usually to the same institutional investor). These activities will be conducted pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 24, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-17627 Filed 7-27-89; 8:45 am]

BILLING CODE 6210-01-M

#### **Multibank Financial Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies**

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than August 14, 1989.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600

Atlantic Avenue, Boston, Massachusetts 02106:

1. *Multibank Financial Corp.*, Dedham, Massachusetts; to retain ownership of 5.60 percent of the voting shares of Andover Bancorp, Inc., Andover, Massachusetts, and Andover Savings Bank, Andover, Massachusetts; 5.64 percent of the voting shares of The Waltham Corporation, Waltham, Massachusetts, and Waltham Savings Bank, Waltham, Massachusetts; and 6.70 percent of the voting shares of First Woburn Bancorp, Inc., Woburn, Massachusetts, and Woburn Five Cents Savings Bank, Woburn, Massachusetts. All of the subsidiary banks engage in Massachusetts Savings Bank Life Insurance.

Board of Governors of the Federal Reserve System, July 24, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-17628 Filed 7-27-89; 8:45 am]

BILLING CODE 6210-01-M

#### **PAER Bancorp, Inc.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies**

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 21, 1989.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. PAER Bancorp, Inc., Bushkill, Pennsylvania; to become a bank holding company by acquiring at least 61 percent of the voting shares of The Peoples National Bank of Rowlesburg, Rowlesburg, West Virginia.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. First State Bancorp, Inc., Harwood Heights, Illinois; to acquire 100 percent of the voting shares of Parkway Bank of Schaumburg, Schaumburg, Illinois.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Kansas Bank Corporation, Liberal, Kansas; to acquire 100 percent of the voting shares of Elkhart Financial Company, Elkhart, Kansas, and thereby

indirectly acquire First National Bank of Elkhart, Elkhart, Kansas.

Board of Governors of the Federal Reserve System, July 24, 1989.

William W. Wiles,  
Secretary of the Board.

[FR Doc. 89-17629 Filed 7-27-89; 8:45 am]

BILLING CODE 8210-01-M

## FEDERAL TRADE COMMISSION

### Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers

or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division by the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

### TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 7-10-89 AND 7-21-89

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Bass plc, Darryl Lapointe, Tampa Bay Hotel Associates	89-1778	07/10/89
Bass plc, L.M. Nelson, Tampa Bay Hotel Associates	89-1781	07/10/89
Asahi Corporation, PhoneMate, Inc., Phonemate, Inc.	89-1891	07/10/89
Burlington Resources Inc., The Louisiana Land and Exploration Company, The Louisiana Land and Exploration Company,	89-2006	07/10/89
Frank Lyon, Jr. Trust, Frank Lyon, Sr. and Marion B. Lyon, Frank Lyon Company (Frank Lyon Distributing Company)	89-2038	07/10/89
Dobson Park Industriess plc, Elgar Electronics Corporation, Elgar Electronics Corporation,	89-2092	07/10/89
Financiere Strafor, Hauserman, Inc., certain assets of Hauserman, Inc.	89-2094	07/10/89
Jiro Fujimaki, Persis Corporation, ASA Properties Hawaii, Inc.	89-2101	07/10/89
C.H. Industrials PLC, SGC Holding Company, Inc., Sheller-Globe Corporation	89-2106	07/10/89
Crabtree Capital Corporation, Mutual of Omaha Insurance Company, Omaha Financial Life Insurance Company	89-2109	07/10/89
Ste' Parisienne d'Enterprises et de Participations, Comstock Group, Inc. Comstock Group, Inc.	89-2116	07/10/89
J.H. Whitney & Co., Prime Computer, Inc., Prime Computer, Inc.	89-2118	07/10/89
Preferred Risk Mutual Insurance Company, Preferred Risk Life Insurance Company, Preferred Risk Life Insurance Company	89-2119	07/10/89
American Express Company, DR Holdings Inc. of Delaware, DR Holdings Inc. of Delaware	89-2123	07/10/89
Ken Miller, Kinder-Care, Inc., Kinder-Care, Inc.	89-2139	07/10/89
First Chicago Corporation, Reading & Bates Corporation, Golden Oak Mining Company and Belva Coal Company	89-2140	07/10/89
Acadia Partners, L.P., Price Right Drugs, Inc., Price Right Drugs, Inc.	89-2142	07/10/89
American Financial Corporation, ABQ Corporation, Talbot Agency, Inc.	89-2149	07/10/89
Mr. Holger Hjelm, Aktiebolaget Volvo, STC Scandinavian Trading Company AB	89-2157	07/10/89
Orix Corporation, Commodities Corporation, Commodities Corporation	89-2170	07/10/89
Tull Gearreald, Kinder-Care, Inc., Kinder-Care, Inc.	89-2173	07/10/89
Ken Miller, Kinder-Care, Inc., Kinder-Care Learning Centers, Inc.	89-2174	07/10/89
Tull Gearreald, Kinder-Care, Inc., Kinder-Care Learning Centers, Inc.	89-2175	07/10/89
Salem Carpet Mills, Inc., Howard Stein, Howard Carpet Mills, Inc. and Howard Properties, Inc.	89-2040	07/11/89
Trelleborg AB, McNally, Inc. McNally, Inc.	89-2077	07/11/89
Sequoia Ventures Inc., Grossman's Inc., Northwest Division	89-2134	07/11/89
Pennsylvania Blue Shield, Inter-County Health & Inter-County Hospitalization Plan, Inter-County Health & Inter-County Hospitalization Plan	89-1993	07/12/89
International Controls Corporation, Raymond P. Park, South Charleston Stamping and Manufacturing Company	89-2089	07/12/89
Carrefour, Office Depot, Inc., Office Depot, Inc.	89-2152	07/12/89
The Marcade Group Inc., Mr. Jeffrey Clyman, Avirex Ltd.	89-2078	07/13/89
Attwoods plc, Charles J. Carite, Atlantic Recovery and Transfer System, Inc., et al.	89-2156	07/13/89
Attwoods plc, Alvin H. White, Atlantic Recovery and Transfer System, Inc., et al.	89-2160	07/13/89
Agip S.p.A., Steuart Investment Company, Steuart Petroleum Company	89-1863	07/13/89
Farmers Union Central Exchange, Incorporated, National Cooperative Refining Association, National Cooperative Refining Association	89-2027	07/14/89
The Ochs Trust, Time, Inc., WWT Partnership	89-2041	07/14/89
The Ochs Trust, c/o Fred Mason, Dale W. Lang, WWT Partnership	89-2042	07/14/89
Mr. Chak Fu Chan, 761 Hotel Associates, 761 Hotel Associates, (Grand Bay Hotel)	89-2072	07/14/89
ESAB AB, L-TEC Company, L-TEC Company	89-2073	07/14/89
Mr. Kimio Haneda, Buyco, Inc., Ka'u Agribusiness Co., Inc.	89-2100	07/14/89
American Telephone and Telegraph Company, Sun Microsystems, Inc., Sun Microsystems, Inc.	89-2102	07/14/89
Reliance Group Holdings, Inc., Frank B. Hall & Co., Inc., Frank B. Hall & Co., Inc.	89-2111	07/14/89
First Chicago Corporation, Gefinor S.A., Duo-Tang Products Division of Sheaffer Eaton, Inc.	89-2120	07/14/89
S.A. Dolomies de Marche-les Dames, M.A. Rikard, Allied Products Company	89-2125	07/14/89
Policy Management Systems Corporation, John W. Blaney, Advanced System Applications, Inc.	89-2148	07/14/89
Ado Shoji Co., Ltd., Edward B. Slatkin, Dana Point Resort Partners	89-2150	07/14/89
Saratoga Partners II, L.P., Marshall H. Haas, Haas Publishing Companies, Inc.	89-2151	07/14/89
Caisse Centrale des Mutuelles Agricoles, Sorema N.A. Holding Corporation, Sorema N.A. Holding Corporation	89-2153	07/14/89
Citicorp, Cummins Engine Company, Inc., Cummins Financial, Inc.	89-2161	07/14/89
ABQ Corporation, Central Banking System, Inc., Coast Program of Arizona, Inc.	89-2162	07/14/89

## TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 7-10-89 AND 7-21-89—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Metropolitan Life Insurance Company, J.C. Penney Company, Inc., J.C. Penney Casualty Insurance Company	89-2164	07/14/89
Frontenac Venture V Limited Partnership, The Jesup Group, Inc., Arcco Playing Card Company, Inc. and The United States	89-2179	07/14/89
Ado Shoji Co., Ltd., Thomas F. and Paula Slatkin, Dana Point Resort Partners	89-2181	07/14/89
Household International, Inc., Atlantic Financial Federal, Atlantic Financial Federal	89-2189	07/14/89
Unilever N.V. and Unilever PLC, Minnetonka Corporation, Minnetonka Corporation	89-2198	07/14/89
Den Almindelige Gensidige Brandforsikring AF 1792, Sorema N.A. Holding Corporation, Sorema N.A. Holding Corporation	89-2216	07/14/89
Vebe Aktieselskab, Raymond B. Preston, P.B. & S. Chemical Company, Inc.	89-2057	07/17/89
The Prudential Insurance Company of America, Thomson McKinnon, Inc., Thomson McKinnon, Inc.	89-2078	07/17/89
Uniden Corporation, Gary H. and Virginia A. de Kat, Impulse Manufacturing, Inc.	89-2084	07/17/89
Omicom Group Inc., Thomas A. Schutz Co., Inc., Thomas A. Schutz Co., Inc.	89-2085	07/17/89
Standard Shares, Inc., NV Verenigd Bezit VNU, VNU Business Publications, Inc.	89-2127	07/17/89
Halliburton Company, Kuwait Petroleum Corporation, C F Braun Inc.	89-2130	07/17/89
Waterford Co-Operative Society Limited, Borden, Inc., Borden, Inc.	89-2182	07/17/89
Waste Management, Inc., The Wheelabrator Group, Inc., The Wheelabrator Group, Inc.	89-2192	07/18/89
Tyler Capital Fund L.P., Mr. Sam M. Winston, Oliver & Winston, Inc.	89-2026	07/19/89
Perbridge Associates, Inc., DRG public limited company, DRG public limited company	89-2098	07/19/89
Trion Energy Corporation, Mr. Dibo Attar, Aero Services International, Inc.	89-2099	07/19/89
Midwest Energy Company, William N. Steitz, Century Contractors West, Inc.	89-2135	07/19/89
American Capital and Research Corporation, Ben Kacyra, a natural person, Cygna Group	89-2155	07/19/89
J. Baxter Brinkmann, Charles H. Dyson and Margaret M. Dyson, Kelly Industries, Inc., KP Industries, Inc. et al.	89-2167	07/19/89
Jupiter Corporation, Household International, Inc., GC Thorsen, Inc. and Household Manufacturing Overseas	89-2190	07/19/89
Hanson PLC, Consolidated Gold Fields PLC, Consolidated Gold Fields PLC	89-2197	07/19/89
Lowe Howard-Spink & Bell plc, The Interpublic Group of Companies, Inc., Lowe Marschalk, Inc.	89-2168	07/20/89
The Interpublic Group of Companies, Inc., Lowe Howard-Spink & Bell plc, Lowe Howard-Spink & Bell plc	89-2169	07/20/89
Automatic Data Processing, Inc., Automatic Business Centers, Inc., Automatic Business Centers, Inc.	89-2186	07/20/89
Courtauld's plc, Products Research & Chemical Corporation, Products Research & Chemical Corporation	89-2200	07/20/89
Charter Medical Corporation, Park Healthcare Company, Park Place Hospital, Inc.	89-2213	07/20/89
OH Financial Corporation, Alan S. Fogg, Sr., Farm Stores, Inc.	89-2079	07/21/89
The Morgan Stanley Leveraged Equity Fund II, L.P., Amoco Company, Amoco Container Company	89-2124	07/21/89
Charles F. Dolan, Republic Cable Partners of Arizona, L.P., Republic Cable Partners of Arizona, L.P.	89-2144	07/21/89
Mark Mendelson, Trusthouse Forte PLC, The Plaza Partnership	89-2199	07/21/89
Unilever N.V. and Unilever PLC, Minnetonka Corporation, Minnetonka Corporation	89-2201	07/21/89
Merrill Lynch & Co., Inc., Emco Sales and Service Inc., Emco Sales and Service Inc.	89-2203	07/21/89
IHC Toshi Jigyo Kumiai, M.C. Holding Partners, M.C. Holding Partners	89-2204	07/21/89
Unilever N.V. and Unilever PLC, Minnetonka Corporation, Calvin Klein Cosmetics Corporation	89-2206	07/21/89
Mr. Morihito Sekiyama, Holiday Corporation, Embassy Suites, Inc.	89-2214	07/21/89
Merrill Lynch & Co., Inc., Emco Holdings Corporation, Emco Holdings Corporation	89-2223	07/21/89
JWP Inc., Computer Applications Corporation, Computer Applications Corporation	89-2231	07/21/89
Nippon Sanso K.K., Household International, Inc., The Thermos Company	89-2232	07/21/89
Harry Gray, Mel Klein & Partners, L.P., American Medical International, Inc., American Medical International, Inc.	89-2245	07/21/89
Harry Gray, Mel Klein & Partners, L.P., IMA Holdings Corp., IMA Holdings Corp.	89-2246	07/21/89
CS First Boston, Inc., IMA Holdings, Inc., IMA Holdings, Inc.	89-2247	07/21/89
Bernard and Lilly Schreier, Israel Investors Corporation, Israel Investors Corporation	89-2249	07/21/89
Scott's Hospitality Inc., Mr. Jack Lew, Manchu Global Holdings Limited	89-2263	07/21/89

## FOR FURTHER INFORMATION CONTACT:

Sandra M. Peay, Contact  
Representative, Premerger Notification  
Office, Bureau of Competition, Room  
303, Federal Trade Commission,  
Washington, DC 20580, (202) 326-3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89-17701 Filed 7-27-89; 8:45 am]

BILLING CODE 6750-01-M

## GOVERNMENT PRINTING OFFICE

Depository Library Council to the  
Public Printer; Meeting

The Depository Library Council to the  
Public Printer will meet October 18-20,  
1989, at the Rosslyn Westpark Hotel,

1900 Fort Myer Drive, Arlington,  
Virginia.

The purpose of this meeting is to  
discuss the Depository Library Program.

The meeting is open to the public.  
Anyone who wishes to attend should  
notify the Conference Manager, David  
H. Brown, U.S. Government Printing  
Office (SM), Washington, DC 20401.  
Telephone: (202) 275-2255.

General participation by members of  
the public, or questioning of Council  
members or other participants, shall be  
permitted with approval of the Chair.

Joseph E. Jenifer,

Acting Public Printer.

Dated: July 14, 1989.

[FR Doc. 89-17634 Filed 7-27-89; 8:45 am]

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND  
HUMAN SERVICES

## Food and Drug Administration

Request for Nominations for Members  
on Public Advisory Committees in the  
Center for Drug Evaluation and  
Research

AGENCY: Food and Drug Administration,  
HHS.

ACTION: Notice.

SUMMARY: The Food and Drug  
Administration (FDA) is requesting  
nominations for members to serve on  
certain public advisory committees in  
the Center for Drug Evaluation and  
Research. Nominations will be accepted  
for current vacancies and vacancies that

will or may occur on the committees during the next 12 months and beyond.

FDA has a special interest in ensuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates. Final selection from among qualified candidates for each vacancy will be determined by the expertise required to meet specific agency needs and in a manner to ensure appropriate balance of membership.

**DATES:** Because scheduled vacancies occur on various dates throughout each year, no cutoff date is established for receipt of nominations.

**ADDRESSES:** All nominations for membership, except for consumer-nominated members, should be sent to Jack Gertzog (address below). All nominations for consumer-nominated members should be sent to Catherine P. Beck (address below).

**FOR FURTHER INFORMATION CONTACT:**

Jack Gertzog, Advisors and Consultants Staff (HFD-9), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5455.

or

Catherine P. Beck, Office of Consumer Affairs (HFE-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5006.

**SUPPLEMENTARY INFORMATION:** FDA is requesting nominations of members for the following 14 advisory committees for vacancies listed below. Individuals should have expertise in the activity of the committee.

1. *Anesthetic and Life Support Drugs Advisory Committee:* Three vacancies occurring June 30, 1990.

2. *Anti-Infective Drugs Advisory Committee:* Six vacancies occurring November 30, 1989.

3. *Arthritis Advisory Committee:* Three vacancies occurring September 30, 1990.

4. *Cardiovascular and Renal Drugs Advisory Committee:* Six vacancies occurring June 30, 1990.

5. *Dermatologic Drugs Advisory Committee:* Two vacancies occurring August 31, 1990.

6. *Endocrinologic and Metabolic Drugs Advisory Committee:* Five vacancies occurring June 30, 1990.

7. *Fertility and Maternal Health Drugs Advisory Committee:* Five vacancies occurring June 30, 1990, including the consumer-nominated member.

8. *Gastrointestinal Drugs Advisory Committee:* Three vacancies occurring June 30, 1990.

9. *Oncologic Drugs Advisory Committee:* Three vacancies occurring June 30, 1990.

10. *Peripheral and Central Nervous System Drugs Advisory Committee:* Three vacancies occurring January 31, 1990.

11. *Psychopharmacologic Drugs Advisory Committee:* Four vacancies occurring June 30, 1990.

12. *Pulmonary-Allergy Drugs Advisory Committee:* Three vacancies occurring June 30, 1990.

13. *Radiopharmaceutical Drugs Advisory Committee:* Four vacancies occurring June 30, 1990, including the consumer-nominated member.

The functions of the 13 committees listed above are to review and evaluate available scientific, technical, and medical data concerning the safety and effectiveness of marketed and investigational human drugs for use in the area of medical specialties, indicated by the title of the committee, and to make appropriate recommendations to the Commissioner of Food and Drugs.

14. *Drug Abuse Advisory Committee:* Four vacancies occurring June 30, 1990.

The functions of the Drug Abuse Advisory Committee are to: (1) Advise the Commissioner regarding the scientific and medical evaluation of all information gathered by both the Department of Health and Human Services (DHHS) and the Department of Justice regarding the safety, efficacy, and abuse potential for drugs or other substances; and (2) recommend actions to be taken by DHHS regarding the marketing, investigation, and control of such drugs or other substances.

**Criteria for Members**

Persons nominated for membership on the committees described above must have adequately diversified research and/or clinical experience appropriate to the work of the committee in such fields as allergy, anesthesiology, surgery, infectious diseases, rheumatology, cardiology, dermatology, endocrinology, obstetrics and gynecology, gastroenterology, oncology, neurology, psychiatry, nuclear medicine, internal medicine, epidemiology, statistics, hematology, pediatrics, microbiology, nuclear biology, biochemistry, or other appropriate areas of expertise.

The specialized training and experience necessary to qualify the nominee as an expert suitable for

appointment is subject to review, but may include experience in medical practice, teaching, research, and/or public service relevant to the field of activity of the committee. The term of office is 4 years.

**Criteria for Consumer-Nominated Members**

FDA currently attempts to place on each of the committees described above one voting member who is nominated by consumer organizations. These members are recommended by a consortium of 12 consumer organizations which has the responsibility for screening, interviewing, and recommending consumer-nominated candidates with appropriate scientific credentials. Candidates are sought who are aware of the consumer impact of committee issues, but who also possess enough technical background to understand and contribute to the committee's work. This would involve, for example, an understanding of research design, benefit/risk, and the legal requirements for safety and efficacy of the products under review, and considerations regarding individual products. The agency notes, however, that for some advisory committees, it may require such nominees to meet the same technical qualifications and specialized training required of other expert members of the committee. The term of office for these members is 4 years. Nominations for all committees listed above are invited for consideration for membership as openings become available.

**Nomination Procedure**

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory committees. Nominations shall specify the committee for which the nominee is recommended. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 [5 U.S.C. App. I]) and 21 CFR Part 14, relating to advisory committees.

Dated: July 21, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for  
Regulatory Affairs.

[FR Doc. 89-17638 Filed 7-27-89; 8:45 am]

BILLING CODE 4160-01-M

### Health Care Financing Administration

[BPD-641-N]

#### Medicare and Medicaid Programs; ICD-9-CM Coordination and Maintenance Committee Meeting

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

ACTION: Notice.

**SUMMARY:** This notice announces the next meeting of the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM) Coordination and Maintenance Committee. The public is invited to participate in the discussion of the topic areas.

**DATES:** The meeting will be held on Thursday and Friday, August 10 and 11, 1989, from 9:00 a.m. to 4:00 p.m. Eastern Daylight Saving Time.

**ADDRESSES:** The meeting will be held in Room 800 Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC.

#### FOR FURTHER INFORMATION CONTACT:

Patrice Robins, (301) 966-9364.

**SUPPLEMENTARY INFORMATION:** The ICD-9-CM is the clinical modification of the World Health Organization's International Classification of Diseases, Ninth Revision. It is the coding system required for use by hospitals and other health care facilities in reporting both diagnoses and surgical procedures for Medicare, Medicaid, and all other health-related DHHS programs. The work of the ICD-9-CM Coordination and Maintenance Committee will allow this coding system to continue to be an appropriate reporting tool for use in Federal programs.

The Committee is composed entirely of representatives from various Federal agencies interested in the International Classification of Diseases (ICD) and its modification, updating, and use of Federal programs. It is co-chaired by the National Center for Health Statistics and the Health Care Financing Administration.

At this meeting, the Committee will discuss: contrast media with magnetic

resonance imaging (MRI), incomplete percutaneous transluminal coronary angioplasty (PTCA), duration of ventilatory therapy, condylectomy, implantable venous access devices, resection of pectoralis major and minor muscle for recurrent cancer of the breast, excision or destruction of urethral tissue or lesion (open vs. closed), excision of eyelid fascia, closed chest heart-lung bypass, subluxation of the spine, abortion with reported live fetus, Goodpasture syndrome, cystic kidney disease, intractable pain, vaginal delivery with history of c-section, angiodyplasia, radiotherapy session, maintenance chemotherapy, aftercare involving intermittent dialysis, complication of bone marrow transplant, toxic gastroenteritis; and other topics.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13.773, Medicare—Hospital Insurance Program; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: July 21, 1989.

Louis B. Hays,

Acting Administrator, Health Care Financing  
Administration.

[FR Doc. 89-17781 Filed 7-27-89; 8:45 am]

BILLING CODE 4120-01-M

### Public Health Service

#### Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on July 21, 1989.

(Call Reports Clearance Officer on 202-245-2100 for copies of package.)

1. Exempt Infant Formula—0910-0158—The Infant Formula Act authorized the Secretary of DHHS to establish terms and conditions for the continued exemption of infant formulas. This rule establishes terms and conditions and provides increased assurance of safety and appropriate nutrient content of infant formulas for consumers. Respondents: Businesses or other for-profit, small businesses or organizations.

	No. of respondents	No. of hours per response	No. of responses per respondent
Disclosure-Labeling 21 CFR 107.50(b)(3) (4)(c)(4).	4	90 hrs.....	1
Recordkeeping 21 CFR 107.50(c)(3)*.			
Reporting 21 CFR 107.50(e)(2)*.			

Estimated Annual Burden: 320 hours.

\* Burden included in OMB No. 0910-0179.

#### 2. Interim Guidelines for Implementing the Orphan Drug Act—0910-0167—

These guidelines have been established to provide sponsors with detailed instructions for seeking FDA recommendations on orphan drug protocols and/or FDA designation as an orphan drug under the Orphan Drug Act (Pub. L. 97-415). Respondents: Businesses or other for-profit, small businesses or organizations.

	No. of respondents	No. of hours per response	No. of responses per respondent
Requests for Written Recommendations. Orphan Drug Designation.	6	125 hrs.....	1
	50	125 hrs.....	1

Estimated Annual Burden: 7,000 hours.

3. Emergency Epidemic Investigations—0920-0008—The Centers for Disease Control (CDC) receives requests from State and local health departments for scientific, medical and technical assistance in the event of an epidemic or medical emergency. This clearance package is used so that CDC scientists have means of collecting data once in the field. Respondents: Individuals or households. Number of Respondents: 20,000; Number of Responses per Respondent: 1; Average Burden per Response: .25 hours; Estimated Annual Burden: 5,000 hours.

4. IHS Grants for the Development, Construction, and Operation of Facilities and Services—0917-0005—Information collected is used to select grantees to perform facility construction, operation, provision or maintenance.

Grants are awarded to improve the capacity of American Indian Tribes to enter into contracts for these purposes or to obtain technical assistance for program planning and evaluation for design, monitoring, and evaluation of Federal programs serving the tribes.

*Respondents:* State or local governments, non-profit institutions.  
*Number of Respondents:* 100; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 6 hours; *Estimated Annual Burden:* 600 hours.

5. Application for Temporary Marketing Permits (21 CFR 130.17(c).

(i)—0910-0133—This voluntary regulation allows manufacturers to market test foods to gather data for the purpose of amending food standards. It allows for potential technological advances and economic savings while assuring product safety and is in the interest of consumers. *Respondents:* Businesses or other for-profit. *Number of Respondents:* 18; *Number of Responses per Respondent:* 1.1; *Average Burden per Response:* 12.8 hours; *Estimated Annual Burden:* 255 hours.

6. National Nursing Home Survey Followup Wave III—0920-0224—There is currently great demand for data on the dynamics of long-term care use among those responsible for health policy. The National Nursing Home Survey Followup Wave III is a cost effective means of obtaining data on this topic. The survey design targets for re-interview approximately 3,200 respondents to the National Nursing Home Survey Followup Waves I and II. *Respondents:* Individuals or households, businesses or other for-profit, non-profit institutions, small businesses or organizations. *Number of Respondents:* 6,100; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 0.104 hours; *Estimated Annual Burden:* 633 hours.

*OMB Desk Officer:* Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Date: July 24, 1989.

James M. Friedman,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

[FR Doc. 89-17731 Filed 7-27-89; 8:45 am]

BILLING CODE 4160-17-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-89-1917; FR-2606]

#### Unutilized and Underutilized Federal Buildings and Real Property Determined To Be Suitable for Use for Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

**DATES:** July 28, 1989.

**ADDRESSES:** For further information, contact Morris Bourne, Department of Housing and Urban Development, Room 9140, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 755-9075; TDD number for the hearing- and speech-impaired (202) 426-0015. (These telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:** In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a notice, on a weekly basis, identifying unutilized and underutilized Federal buildings and real property determined by HUD to be suitable for use for facilities to assist the homeless. Today's notice is for the purpose of announcing that no additional properties have been determined suitable this week.

Date: July 24, 1989.

James E. Schoenberger,

General Deputy, Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 89-17679 Filed 7-27-89; 8:45 am]

BILLING CODE 4210-27-M

### Office of Administration

[Docket No. N-89-2025]

#### 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.

**ADDRESSES:** 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 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:** Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: July 20, 1989.

John T. Murphy,

Director, Information Policy and Management Division.

*Proposal:* National Survey of Lead-Based Paint in Housing.

*Office:* Office of Policy Development and Research.

*Description of the Need for the Information and Its Proposed Use:* HUD will survey potential owners and occupants of contaminated housing to

estimate the incidence of lead-based paint and the cost and benefits of abatement. The survey will also be used to develop a plan for abatement.

*Form Number:* None.  
*Respondents:* Individuals or Households, State or Local

Governments, Businesses or Other For-Profit.

*Frequency of Submission:* Other.  
*Reporting Burden:*

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Screening.....	3,000		1		.16		500
Questionnaire.....	400		1		.50		200
Testing.....	400		1		1.50		600

*Total Estimated Burden Hours:* 1,300.  
*Status:* New.

*Contact:* Steve Weitz, HUD, (202) 755-4370, John Allison, OMB, (202) 395-6880.

Date: July 20, 1989.

[FR Doc. 89-17687 Filed 7-27-89; 8:45 am]

BILLING CODE 4210-01-M

### Office of Housing

[Docket No. N-89-2024]

#### Submission of Proposed Information Collection to OMB

**AGENCY:** Office of Housing, 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.

**ADDRESSES:** 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 Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the documents submitted to OMB may be obtained from Mr. Cristy.

#### SUPPLEMENTARY INFORMATION:

This Notice informs the public that the Department of Housing and Urban

Development has submitted to OMB, for emergency processing an information collection package with respect to the section 223(f), section 221(d) and section 232 Coinsurance Programs.

The information collected will be in the form of automated data and is necessary to (1) permit the Department to complete its evaluation of the program by September 1, 1989, at which time, the moratorium on approving new coinsuring lenders is scheduled to end. At that time, the revisions to correct the present problems (i.e., unacceptable default rates, overmortgaging, etc.) are to be in place. (2) enable the Department to detect potential defaults and losses to HUD's insurance fund, and (3) assist the Department in identifying those lenders who require closer scrutiny and possible suspension from the coinsurance program. This automated data will assist the Department in its responsibility to provide on-going monitoring of the coinsuring lenders and on-going evaluation of coinsured projects to assure adherence and compliance to statutory and regulatory requirements. The Department has requested OMB to complete its paperwork review of the Coinsurance Umbrella Reporting System within three (3) working days. Any control number issued by OMB to cover this emergency situation would be valid for no more than 90 days.

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).

This 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, or reinstatement, and (9) the telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

**Authority:** Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: July 24, 1989.

**James E. Schoenberger,**  
General Deputy, Assistant Secretary for Housing.

**Proposal:** Collecting Information under the Coinsurance Umbrella Reporting System.

**Office:** Housing.

**Description of the Need for the Information and Its Proposed Use:** This automated data collection system will enable HUD to evaluate and review on an on-going basis the coinsuring lender's underwriting practices and subsequent project performance. The information will assist the Department in its responsibility to monitor lenders to assure adherence and compliance to statutory and regulatory requirements.

**Form Number:** None.

**Respondents:** Lenders that have been approved to participate in the section 223(f), section 221(d), and section 232 coinsurance programs.

**Frequency of Submission:** Monthly.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden.....	70		12		3.34		2,806

Status: New.

Contact: Steven Hans, HUD (202) 426-7113, John Allison, OMB (202) 395-6988.

Date: July 24, 1989.

[FR Doc. 89-17686 Filed 7-27-89; 8:45 am]

BILLING CODE 4210-01-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[MT-020-08-4121-09; DES 89-15]

#### Availability of Draft Powder River I Supplemental Environmental Impact Statement

**AGENCY:** Bureau of Land Management, Department of the Interior.

**ACTION:** Notice of availability of a draft supplement to the Powder River I Regional Coal Environmental Impact Statement (EIS).

**SUMMARY:** In accordance with the Montana U.S. District Court's decision in *Northern Cheyenne v. Secretary of the Interior, et al.*, Civil No. 82-116 (D. Mont. May 28, 1985), and Section 102(C) of the National Environmental Policy Act of 1969, a draft Powder River I Supplemental EIS (EIS) has been prepared by the Bureau of Land Management's (BLM) Miles City, Montana District Office. The draft EIS Supplement addresses possible economic, social, and cultural impacts on the Northern Cheyenne and Crow Tribes from leasing up to 11 Powder River Round I federal coal tracts, including 5 tracts for which the BLM actually issued coal leases following the Powder River Round I Federal coal lease sale. All the tracts being analyzed in the draft EIS Supplement are located in the Montana portion of the Powder River coal region. The draft EIS Supplement measures the socioeconomic and cultural effects of three leasing options against two baseline or "no action" alternatives. Upon completion of the final EIS Supplement, the Secretary will be asked to decide if the 5 coal leases issued by the BLM following the Powder River Round I Federal coal lease sale should have been issued and, if so, what additional lease stipulations should be imposed, if any.

**DATES:** Comments on the draft EIS Supplement will be accepted through September 26, 1989. Written comments should be sent to: Loren Cabe, Project Manager, Powder River I Supplemental EIS, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107. Oral or written comments may also be

submitted at the following scheduled meetings, which are open to the general public:

(1) September 12, 1989, 7:00 p.m., at Hardin Middle School, 611 W. 5th Street, Hardin, Montana 59034.

(2) September 13, 1989, 7:00 p.m., at the Lame Deer Bingo Hall, Lame Deer, Montana.

All comments received during the review period, whether written or oral, concerning the adequacy of the draft Supplemental EIS will be considered in the preparation of the final Supplemental EIS.

**ADDRESSES:** Copies of the draft EIS Supplement will be available at the public libraries in Hardin (Big Horn County), Forsyth (Rosebud County), and Broadus (Powder River County), Montana, and at the college libraries on the Northern Cheyenne and Crow Reservations. Copies of the draft EIS Supplement are also available from the Miles City District Office, P.O. Box 940, Miles City, Montana 59301-0940, (406) 232-4331. Public reading copies are available for review at the following locations:

BLM, Office of Public Affairs, Main Interior Building, Room 5600, 18th and C Streets, NW., Washington, DC 20240.

BLM, Montana State Office, Records Assistance, 222 N. 32nd Street, Billings, Montana 59107.

#### FOR FURTHER INFORMATION CONTACT:

Loren Cabe, Project Manager, Powder River I Supplemental EIS, BLM Montana State Office, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107, Telephone (406) 255-2920.

**SUPPLEMENTARY INFORMATION:** In April and October 1982, the Department of the Interior held the Powder River Round I Federal coal lease sale. Eight lease tracts in the Montana portion of the Powder River Federal Coal Production Region were offered for sale. High bids were accepted on 6 of these tracts. Only five leases were issued. These were: (1) Colstrip A and B; (2) Colstrip C; (3) Colstrip D; (4) West Decker; and (5) Cook Mountain.

Shortly before the April 1982 Federal coal lease offering, the Northern Cheyenne Tribe filed suit claiming that the Powder River I Regional Coal Sale Environmental Impact Statement (EIS) did not consider the effects of Federal coal leasing on the Northern Cheyenne Tribe or the Reservation. This case, *Northern Cheyenne v. Secretary of the Interior, et al.* (Civil No. 82-116), was decided May 28, 1985, in the U.S. District Court, Billings, Montana. The Court found that the Department's final EIS for

the Powder River I coal lease sale was flawed because it: (1) Failed to adequately analyze economic, social, and cultural impacts specific to the Northern Cheyenne Tribe and Reservation, and (2) did not discuss ways to mitigate such effects. In the Court's Order, also issued May 28, 1985, the Court directed the Secretary of the Interior to cancel the five Montana leases that the BLM had issued in 1982 as part of the Powder River I regional coal lease sale.

The Department, along with the successful bidders, subsequently requested the District Court to reconsider and amend that portion of its May 28, 1985, order which canceled the leases. The Government and the lessees contended that invalidating the Montana leases was an extreme remedy that was not justified in light of the Court's failure to balance the equities involved before it granted relief. In October 1986, the Court granted the motions and issued an amended Order. The amended Order rescinded the Court's earlier direction that the Montana leases were to be cancelled by the Secretary. Instead, the Court suspended the Cook Mountain and West Decker leases until a supplement to the Powder River I Regional Coal EIS is prepared. However, the Court allowed operations to continue on three maintenance lease tracts (Colstrip A and B, Colstrip C, and Colstrip D) provided that development and mining on these tracts would be halted by the Secretary if they were shown to cause significant socioeconomic impacts to the Northern Cheyenne Tribe and Reservation. In conclusion, the Court noted that once the final EIS Supplement was completed, the Secretary must reconsider whether the five Montana leases should have been issued and whether additional mitigation measures should be imposed.

The Northern Cheyenne Tribe subsequently appealed the October 1986 amended Order to the Ninth Circuit Court of Appeals. In March 1988, the Appeals Court reversed the District Court's amended Order and remanded it to the District Court for further action. In July 1988, the Appeals Court refused the Department's request for reconsideration. The District Court has not yet taken any action as a result of the Appeals Court decision.

The draft EIS Supplement, prepared in response to the District Court's decision, analyzes the socioeconomic and cultural effects of leasing 11 Federal coal lease tracts in the Montana portion of the Powder River Federal Coal Production

Region. The 11 tracts are evaluated under three Federal coal leasing alternatives. Socioeconomic and cultural effects of the three leasing options are measured against two "no action" or baseline alternatives.

A Scoping Issues Summary and Technical Report for this Supplement were also prepared and are available at the Miles City District Office location shown under ADDRESSES.

The EIS Supplement will be used by the Secretary of the Interior in reaching a decision as to whether the 5 Montana leases issued by the BLM following the Powder River Round I Federal coal lease sale should have been issued and, if so, whether additional mitigation measures should be imposed. Information in the EIS Supplement may also be used for other coal-related decisions in Montana.

Dated: July 21, 1989.

John H. Farrell,

Acting Director, Office of Environmental Project Review.

[FR Doc. 89-17495 Filed 7-27-89; 8:45 am]

BILLING CODE 4310-84-M

#### Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease U-44744 for lands in Carbon County, Utah, was timely filed and required rentals and royalties accruing from March 1, 1989, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of \$5 per acre and 16% percent, respectively. The \$500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of lease U-44744 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective March 1, 1989, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Ted D. Stephenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 89-17604 Filed 7-27-89; 8:45 am]

BILLING CODE 4310-DQ-M

[CACA 17697]

#### Realty Actions; Sales, Leases; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public lands; Lassen County, California.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

##### Mount Diablo Meridian, California

T. 37 N., R. 11 E.,  
Sec. 6: Lots 1, 2, SW1/4NE1/4, NW1/4SE1/4

A total of 160.89 acres.

In exchange for these lands, the Federal Government will acquire tracts of non-federal lands in Lassen County from Fred W. and Shirley L. Bath, Ash Valley, Adin, California 96006. The lands are described as follows:

##### Mount Diablo Meridian, California

T. 37 N., R. 11 E.,  
Sec. 5: Lots 1, 2, SE1/4NE1/4  
T. 37 N., R. 12 E.,  
Sec. 32: NE1/4NW1/4

Total of 160.93 acres.

All mineral rights in the public lands and private lands will be exchanged.

The purpose of the exchange is to acquire non-federal lands that provide rare plant habitat for inclusion in the Ash Valley Research Natural Area and Area of Critical Environmental Concern. These values far outweigh the values found on the Federal lands to be exchanged. The exchange will benefit the general public and the local agricultural economy, and provide improved management of Federal and private lands. The exchange is consistent with Bureau planning and has been discussed with Lassen County. The public interest will be well served by making the exchange.

The value of the lands to be exchanged is approximately equal and the acreage will be adjusted or money will be used to equalize the values upon completion of the final land appraisal.

There will be reserved to the United States in the public lands to be exchanged, a right-of-way thereon for ditches and canals constructed by the authority of the United States (Act of August 30, 1890, 43 U.S.C. 945).

The publication of this notice in the Federal Register shall segregate the public lands described herein from all other forms of appropriation and entry under the public land laws and the mining laws for a period of two years.

The exchange is expected to be consummated before the end of that period.

Detailed information concerning the exchange, including the environmental assessment and the record of non-federal participation, is available for review at the Bureau of Land Management's District Office, 705 Hall Street, Susanville, California 96130, and at the Alturas Resource Area Office, 120 South Main Street, Alturas, California 96101.

DATE: The publication date of this notice will commence the 45 day comment period (September 11, 1989). Within that 45 day time period, interested parties may submit comments to the District Manager.

ADDRESS: Comments should be sent to the Susanville District Manager, Bureau of Land Management, 705 Hall Street, Susanville, California 96130.

C. Rex Cleary,  
District Manager.

[FR Doc. 89-17635 Filed 07-27-89; 8:45 am]

BILLING CODE 4310-40-M

[NM-010-3110-10-9202/GP9-0116]

#### Albuquerque District, New Mexico

#### Realty Action; Exchange, Federal Surface and Subsurface in Dona Ana County, NM, for Private Minerals Within El Malpais National Conservation and National Monument Area in Cibola County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following described Federal surface and subsurface located within Dona Ana County has been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

##### New Mexico Principal Meridian

T. 23 S., R. 1 E.,  
Section 28, SW1/4NW1/4, SW1/4;  
Section 33, NW1/4.

Containing 360.00 acres.

In exchange for this Federal surface and subsurface estate, the United States has selected approximately 59,513.18 acres of privately owned minerals with Cibola County in the El Malpais National Conservation Area (NCA) and the National Monument (NM) near Grants, New Mexico, listed as follows:

T. 7 N., R. 10 W.,  
Section 7, Lots 1-4, E1/2, E1/2W1/2;  
Section 19, Lots 1-4, E1/2, E1/2W1/2.  
T. 8 N., R. 10 W.,  
Section 9, N1/2, SW1/4, NW1/4SE1/4;  
Section 11, All;

Section 15, All;  
 Section 17, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ .  
 T. 6 N., R. 11 W.,  
 Section 1, All;  
 Section 3, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Section 5, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Section 7, Lots 1-4, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Section 9, All;  
 Section 11, All;  
 Section 15, All;  
 Section 17, All;  
 Section 19, Lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Section 21, N $\frac{1}{2}$ N $\frac{1}{2}$ .  
 T. 7 N., R. 11 W.,  
 Section 1, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Section 9, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ ,  
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Section 11, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$   
 SW $\frac{1}{4}$ ;  
 Section 13, All;  
 Section 15, All.  
 T. 7 N., R. 11 W.,  
 Section 17, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Section 19, E $\frac{1}{2}$ ;  
 Section 21, All;  
 Section 23, All;  
 Section 25, All;  
 Section 27, All;  
 Section 29, All;  
 Section 31, Lots 1-4, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Section 33, All;  
 Section 35, All.  
 T. 6 N., R. 12 W.,  
 Section 5, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Section 7, Lots 1-4, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Section 9, All;  
 Section 17, All;  
 Section 19, Lots 1-4, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Section 21, All;  
 Section 27, All;  
 Section 29, All;  
 Section 31, Lots 1-4, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Section 33, All;  
 Section 35, All.  
 T. 7 N., R. 12 W.,  
 Section 1, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Section 3, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ .  
 T. 7 N., R. 12 W.,  
 Section 5, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Section 7, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Section 9, All;  
 Section 11, All;  
 Section 13, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Section 15, All;  
 Section 17, All;  
 Section 19, NE $\frac{1}{4}$ ;  
 Section 21, All;  
 Section 23, N $\frac{1}{2}$ , SW $\frac{1}{4}$ ;  
 Section 31, Lots 1-4, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ .  
 T. 8 N., R. 12 W.,  
 Section 3, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Section 9, All;  
 Section 11, All;  
 Section 13, W $\frac{1}{2}$ ;  
 Section 15, All;  
 Section 23, All;  
 Section 25, All;  
 Section 27, All;  
 Section 29, All;  
 Section 31, Lots 1-4, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Section 33, All;  
 Section 35, All.  
 T. 6 N., R. 13 W.,  
 Section 1, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Section 3, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Section 5, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;

Section 7, Lots 1-4, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Section 9, All;  
 Section 11, All;  
 Section 13, All;  
 Section 15, All;  
 Section 17, All;  
 Section 19, Lots 1-4, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Section 21, All;  
 Section 23, All;  
 Section 25, All;  
 Section 27, All;  
 Section 29, All;  
 Section 31, Lots 1-4, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Section 33, All;  
 Section 35, All.  
 T. 7 N., R. 13 W.,  
 Section 5, Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Section 7, Lots 1-4, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Section 9, All;  
 Section 15, All;  
 Section 17, All.  
 T. 7 N., R. 13 W.,  
 Section 19, Lots 1-4, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Section 21, All;  
 Section 23, All;  
 Section 25, All;  
 Section 27, All;  
 Section 29, All;  
 Section 31, Lots 1-4, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Section 33, All;  
 Section 35, All.  
 T. 8 N., R. 13 W.,  
 Section 31, Lots 1-4, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ .

Upon completion of the final appraisal, the actual acreage exchanged will be adjusted to reflect equal values as much as possible. The purpose of the exchange is to consolidate Federal mineral ownership for the Federal government within El Malpais National Conservation Area (NCA) and National Monument (NM). This action is consistent with land ownership adjustments as set forth in the Record of Decision for the Rio Puerco Resource Management Plan (RMP) approved January 16, 1986 and the Southern Rio Grande Management Framework Plan, Plan Amendment approved December 1986. The purpose of this Notice of Realty Action is twofold. First, this notice will provide a response period of forty-five (45) days during which public comments will be accepted regarding this exchange proposal. Secondly, this action as provided in 43 CFR 2201.1(b), should segregate the public lands described in this Notice from all appropriation under the public land laws, including the mining and mineral leasing laws subject to prior existing rights. This segregation will terminate upon the issuance of patent or 2 years from the date of publication of this Notice in the Federal Register or upon publication of a Notice of Termination.

**FOR FURTHER INFORMATION CONTACT:** Yolanda Vega at the above address or telephone (505) 761-4504 (FTS 474-4504).

**ADDRESS:** On or before October 12, 1989, interested parties may submit comments to the District Office at the above

address. Any comments submitted to the Las Cruces Office will be forwarded to the Albuquerque District Office. 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 actions by the State Director, this realty action will become the final determination.

**SUPPLEMENTARY INFORMATION:** 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 reservations of records.

Dated: July 20, 1989.

Jack Hall,

Acting District Manager.

[FR Doc. 89-17991 Filed 7-27-89; 8:45 am]

BILLING CODE 4310-FB-M

[AK-932-09-4214-10; AA-5964]

#### Termination of Proposed Withdrawal and Reservation of Lands; Alaska

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice terminates the segregative effect of a portion of a proposed withdrawal and reservation of land requested by the Forest Service, Department of Agriculture, for use as a scenic and recreation area.

**EFFECTIVE DATE:** July 28, 1989.

**FOR FURTHER INFORMATION CONTACT:** Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-3342.

**SUPPLEMENTARY INFORMATION:** Notice of a proposed withdrawal and reservation of lands for the Forest Service, Department of Agriculture, was published in the Federal Register on March 25, 1971 (36 FR 5624), and November 16, 1979 (44 FR 66078). The purpose of the application, serial number AA-5964, was for use as a scenic and recreation area. The Forest Service has cancelled its application insofar as it affects the following described land:

Seward Meridian (Unsurveyed)

T. 8 N., R. 1 W.

Sec. 15, all those lands within State Selection AA-17587.

The area described contains approximately 180 acres.

At 8:00 a.m. Alaska Daylight Time, on the date of this publication, such lands

will be relieved of the segregative effect of the proposed withdrawal.

Sue A. Wolf,  
Chief, Branch of Land Resources.  
[FR Doc. 89-17636 Filed 7-27-89; 8:45 am]  
BILLING CODE 4310-JA-M

[OR-943-09-4214-10; GP9-290; OR-42920(WASH)]

#### Partial Termination of Proposed Withdrawal; Washington; Correction

The land description in FR Doc. 89-15260, published on page 27217, in the issue of Wednesday, June 28, 1989, is hereby corrected as follows:

On page 27217, under Okanogan National Forest, the land description reads "T. 36 N., R. 26 E.", and is corrected to read "T. 36 N., R. 16 E".

Robert E. Mollohan,  
Acting Chief, Branch of Lands and Minerals Operations.

Dated: July 20, 1989.

[FR Doc. 89-17637 Filed 7-27-89; 8:45 am]  
BILLING CODE 4310-33-M

#### National Park Service

##### Blackstone River Valley National Heritage Corridor; Extension of Public Comment Period

Notice is hereby given that public written comment on the proposed plan for the Blackstone River Valley National Heritage Corridor will be extended to August 2, 1989.

The Blackstone River Valley National Heritage Corridor was established pursuant to Pub. L. 99-647. That law also established and directed a Commission to prepare a Cultural Heritage and Land Use Plan, and to submit the plan to the governors of the states of Massachusetts and Rhode Island and to the Secretary of the Interior for review and approval.

Under consideration for the proposed plan are the following objectives:

1. Protect Historic Resources.
2. Protect Natural Resources.
3. Complete the State Park and Forest Systems in the Corridor.
4. Promote Recreational Activities.
5. Interpret Corridor Resources.
6. Sponsor Educational and Research Activities.
7. Protect Valley Character through Wise Land Use.
8. Develop Public Awareness.
9. Promote Compatible Economic Revitalization.

Comments postmarked by August 2, 1989 and addressed to the national

heritage corridor offices will be accepted. Comments should be mailed to: Executive Director, Blackstone River Valley National Heritage Corridor, P.O. Box 34, Uxbridge, MA 01569.

James R. Pepper,  
Executive Director.

[FR Doc. 89-176304 Filed 7-27-89; 8:45 am]  
BILLING CODE 4310-70-M

#### DEPARTMENT OF LABOR

##### Employment Standards Administration, Wage and Hour Division

##### Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage

determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

##### Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

##### Volume I:

Kentucky .....	KY89-4 (Jan. 6, 1989).	p.293. p.294.
Kentucky .....	KY89-6 (Jan. 6, 1989).	p.305. p.306.
Kentucky .....	KY89-29 (Jan. 6, 1989).	p.370a. p.370c.
New York .....	NY89-2 (Jan. 6, 1989).	p.683. p.684.

New York.....	NY89-3 (Jan. 6, 1989).	p.701. pp.702-703.
New York.....	NY89-5 (Jan. 6, 1989).	p.717. p.718.
New York.....	NY89-6 (Jan. 6, 1989).	p.727. p.728.
New York.....	NY89-7 (Jan. 6, 1989).	p.737. p.738.
New York.....	NY89-10 (Jan. 6, 1989).	p.769. p.770.
New York.....	NY89-11 (Jan. 6, 1989).	p.781. p.782.
New York.....	NY89-12 (Jan. 6, 1989).	p.789. p.790.
New York.....	NY89-13 (Jan. 6, 1989).	p.799. p.800.
New York.....	NY89-17 (Jan. 6, 1989).	p.817. p.818.
New York.....	NY89-18 (Jan. 6, 1989).	p.827. p.828.
Tennessee.....	TN89-4 (Jan. 6, 1989).	p.1090. p.1091.
Tennessee.....	TN89-5 (Jan. 6, 1989).	p.1095. p.1096.

**Volume II:**

Illinois.....	IL89-14 (Jan. 6, 1989).	p.191. pp.192-194.
Illinois.....	IL89-15 (Jan. 6, 1989).	p.201. pp.202-204.
Michigan.....	MI89-7 (Jan. 6, 1989).	p.499. p.500.
Missouri.....	MO89-4 (Jan. 6, 1989).	p.665. p.666.
Ohio.....	OH89-2 (Jan. 6, 1989).	p.787. pp.790,793.
Ohio.....	OH89-28 (Jan. 6, 1989).	p.863. 865.
Ohio.....	OH89-29 (Jan. 6, 1989).	p.869. pp.873,876.

**Volume III:**

Colorado.....	CO89-1 (Jan. 6, 1989).	p.105. pp.106-107.
Washington.....	WA89-3 (Jan. 6, 1989).	p.401. pp.402-403.

**General Wage Determination Publication**

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing

Office, Washington, DC 20402, (202) 783-3238.

When ordering subscriptions(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 19th day of July 1989.

**Robert V. Setera,**  
*Acting Director, Division of Wage Determinations.*

[FR Doc. 89-17381 Filed 7-27-89; 8:45 am]

BILLING CODE 4510-27-M

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****Notice (89-55)****NASA Advisory Council; Meeting**

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council (NAC).

**DATES:** August 16, 1989, 8:30 a.m. to 5 p.m., and August 17, 1989, 9 a.m. to 12:30 p.m.

**ADDRESSES:** National Aeronautics and Space Administration, Room 5026, Federal Office Building 6, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Dr. Sylvia D. Fries, Code ADA-2, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-8766.

**SUPPLEMENTARY INFORMATION:** The NAC was established as an interdisciplinary group to advise senior management on the full range of NASA's programs, policies, and plans. The Council is chaired by Dr. John L. McLucas and is composed of 24 members. Standing committees containing additional members report to the Council and provide advice in the substantive areas of aeronautics, aerospace medicine, space science and applications, space systems and technology, space station, commercial programs, and history, as they relate to NASA's activities.

The meeting will be open to the public up to the seating capacity of the room, which is approximately 40 persons including Council members and other participants. Visitors will be requested to sign a visitor's register.

Type of meeting: Open.

**Agenda**

*August 16, 1989*

8:30 a.m.—Introductory Remarks.  
8:45 a.m.—Overview.  
9 a.m.—Space Transportation Task Force.  
10:30 a.m.—Aeronautics and Space Technology.  
11 a.m.—Space Flight.  
1 p.m.—The NASA Institution.  
1:30 p.m.—Space Science and Applications.  
3 p.m.—Space Station.  
3:30 p.m.—Space Exploration.  
5 p.m.—Adjourn.

*August 17, 1989*

9 a.m.—Commercial Programs.  
10:30 a.m.—Space Operations Planning.  
11:30 a.m.—Discussion.  
12:30 p.m.—Adjourn.

July 21, 1989.

**John W. Gaff,**

*Advisory Committee Management Officer,  
National Aeronautics and Space  
Administration.*

[FR Doc. 89-17623 Filed 7-27-89; 8:45 am]

BILLING CODE 7510-01-M

**NATIONAL LABOR RELATIONS BOARD****Rescheduling of Unfair Labor Practice Hearings; Notice of Extension**

**AGENCY:** National Labor Relations Board.

**ACTION:** Notice of Extension of Experimental Modification of Procedures Governing the Rescheduling of Unfair Labor Practice Hearings, and Re-notification of Upcoming Public Comment Period.

**SUMMARY:** Notice is hereby given that the National Labor Relations Board will extend until November 30, 1989, the one-year experiment it commenced on August 1, 1988, which transferred, under certain circumstances, the authority to reschedule unfair labor practice hearings from the Regional Directors to the administrative law judges. (See 53 FR 26,348). Parties are hereby also re-notified of the upcoming public comment period regarding the experiment.

**FOR FURTHER INFORMATION CONTACT:** John C. Truesdale, Executive Secretary.

1717 Pennsylvania Avenue NW., Room 701, Washington, DC 20570, Telephone: (202) 254-9430.

**SUPPLEMENTARY INFORMATION:** Section 102.16 of the National Labor Relations Board's Rules and Regulations, Series 8, as amended, currently permits the Agency's Regional Directors to extend the date of a scheduled unfair labor practice hearing either upon his/her own motion or upon proper cause shown by any other party. As it appeared that there was a public perception that this procedure was unfair, and recognizing the detrimental effect such adverse public perceptions may have on the Agency's continued credibility and stature, on August 1, 1988, the National Labor Relations Board implemented a one-year experiment in all of its Regional Offices whereby the authority currently granted the Regional Directors under Section 102.16 was transferred, under certain circumstances, to the administrative law judges. Specifically, the experiment provided that with respect to all unfair labor practice complaints issued between August 1, 1988 and July 31, 1989, the authority to extend the date of a scheduled hearing shall reside with the administrative law judges, except that the Regional Directors shall retain the authority to extend the date of a scheduled hearing in the following limited circumstances:

- (1) Where all parties agree to extension of the date of hearing;
- (2) Where a new charge or charges have been filed which if meritorious might be appropriate for consolidation with the pending complaint;
- (3) Where negotiations which could lead to settlement of all or a portion of the complaint are in progress;
- (4) Where issues related to the complaint are pending before the General Counsel's Division of Advice or Office of Appeals' or
- (5) Where more than 21 days remain before the scheduled date of hearing.

The experiment provided that, except in these limited circumstances, all motions to extend the date of the hearing during the one-year experimental period should be filed with the Division of Judges in accordance with the procedures set forth in § 102.24 of the Rules and Regulations. Where a motion to extend the date of a scheduled hearing has been granted by an administrative law judge, the authority to set a new date for the hearing shall be retained by the Regional Director.

The original Notice of the experiment invited parties to submit comments on or before the thirtieth day following the conclusion of the experiment (i.e. on or before August 30, 1989). Parties are

herein again invited to submit comments during this comment period. Comments should be sent to: Office of the Executive Secretary, 1717 Pennsylvania Avenue NW., Room 701, Washington, DC 20570, Telephone: (202) 254-9430. In the interim, pending the Board's review of such comments and the experiment in general, notice is hereby given that the experiment will be extended until November 30, 1989.

- Dated, Washington, DC., July 24, 1989.  
By direction of the Board.  
National Labor Relations Board.

Joseph E. Moore,

Acting Executive Secretary.

[FR Doc. 89-17678 Filed 7-27-89; 8:45 am]

BILLING CODE 7545-01-M

## NUCLEAR REGULATORY COMMISSION

### Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of the Office of Management and Budget review of information collection.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Extension.
2. The title of the information collection:
  - DOE/NRC Forms 741 & 741A—Nuclear Material Transaction Report and NUREG/BR-0006, instructions for completing forms 741, 741A, and 740M
  - DOE/NRC Form 740M—Concise Note
  - IAEA Form N-71—Design Information Questionnaire
3. The form number if applicable: Same as item 2 above.
4. How often the collection is required:
  - DOE/NRC Form 741/741A: As occasioned by special nuclear material or source material transfers, receipts, or inventory changes that meet certain criteria.
  - DOE/NRC Form 740M: When specified in Facility Attachments or Transitional Facility Attachments, or as necessary to inform the U.S. or IAEA of any qualifying statement or exception to any of the data contained in any of the other

reporting forms required under the US/IAEA Safeguards Agreement.

- IAEA Form N-71: Once.
5. Who will be required or asked to report: Persons licensed to possess specified quantities of special nuclear material or source material, and in the case of IAEA Form N-71, licensees of facilities on the U.S. eligible list who have been notified in writing by the Commission to submit the form.
  6. An estimate of the number of responses:
    - DOE/NRC Form 741/741A: 20,000
    - DOE/NRC Form 740M: 1,140
    - IAEA Form N-71: 2
  7. An estimate of the total number of hours needed to complete the requirement or request:
    - DOE/NRC Form 741/741A: 1 hour per response; total 20,000 hours
    - DOE/NRC Form 740M: 1 hour per response; total 1,140 hours
    - IAEA Form N-71: 360 hours per response; total 720 hours
  8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable.
  9. Abstract:
    - NRC and Agreement State licensees are required to make inventory and accounting reports on DOE/NRC Form 741/741A for certain source or special nuclear material inventory changes, for transfers or receipts of special nuclear material, or for transfer or receipt of 1 kilogram or more of source material.
    - Licensees affected by 10 CFR Parts 75 and related sections of Parts 40, 50, 70, and 150 are required to submit DOE/NRC Form 740M to inform the U.S. or IAEA of any qualifying statement or exception to any of the data contained in any of the other reporting forms required under the U.S./IAEA Safeguards Agreement.
    - Licensees of facilities that appear on the U.S. eligible list, pursuant to the U.S./IAEA Safeguards Agreement, and who have been notified in writing by the Commission, are required to complete and submit a Design Information Questionnaire, IAEA Form N-71.
- "Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street NW., Washington, DC.
- Comments and questions may be directed by mail to the OMB reviewer: Nicolas B. Garcia, Paperwork Reduction Project (3150-0003, -0056, & -0057), Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda Jo Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 20 day of July 1989.

For the Nuclear Regulatory Commission.

Joyce A. Amenta,

Designated Senior Official for Information Resources Management.

[FR Doc. 89-17685 Filed 7-27-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361 and 50-362]

**Southern California Edison Co., et al.; San Onofre Nuclear Generating Station, Units 2 and 3 Environmental Assessment and Finding of no Significant Impact**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses No. NPF-10 and No. NPF-15 issued to Southern California Edison Company, San Diego Gas and Electric Company, the City of Riverside, California and the City of Anaheim, California (the licensees), for operation of San Onofre Nuclear Generating Stations, Units 2 and 3, located in San Diego County, California.

**Environmental Assessment**

**Identification of Proposed Action:** The proposed amendments would revise certain technical specifications to increase the interval for the 18-month surveillance tests to at least once per refueling interval, which is defined as 24 months, in support of the nominal 24-month fuel cycle. Proposed change PCN-252 would revise Technical Specification 3/4.8.1.1, "AC Sources." Proposed change PCN-256 would revise Technical Specifications 3/4.3/1, "Reactor Protective Instrumentation," and 3/4.3.2, "Engineered Safety Features Actuation System Instrumentation." Proposed change PCN-281 would revise Technical Specification 3/4.3.3.3, "Seismic Instrumentation."

**The Need for the Proposed Action:** The proposed amendments are required to prevent unnecessary plant shutdowns to perform surveillance tests which cannot be performed during plant operation.

**Environmental Impacts of the Proposed Action:** For each of the proposed amendments, the licensees provided analyses to demonstrate the reliability of the systems. The staff reviewed the licensees' analyses and agrees that there would be little or no chance of failure during an additional testing interval of 1.5 months beyond the

maximum interval of 22.5 months currently allowed by the Technical Specifications. Therefore, the staff has approved the proposed 24 month surveillance interval for these proposed changes but has not allowed a 25% extension of the interval as is normally permitted by Specification 4.0.2.

As a result, the proposed action would not involve a significant change in the probability or consequences of any accident previously evaluated, nor does it involve a new or different kind of accident. Consequently, any radiological releases resulting from an accident would not be significantly greater than previously determined. The proposed amendments do not otherwise affect routine radiological plan effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed amendments. The Commission also concludes that the proposed action will not result in a significant increase in individual or cumulative occupational radiation exposure.

With regard to nonradiological impacts, the proposed amendments do not affect nonradiological plane effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendments.

The Notices of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action were published in the Federal Register on February 21, 1989 (54 FR 7493) for PCN-252, on February 24, 1989 (54 FR 8033) for PCN-281, and on February 24, 1989 (54 FR 8035) for PCN-256. No request for hearing or petition for leave to intervene was filed following this notice.

**Alternatives to the Proposed Action:** Because the Commission has concluded that there are no significant environmental impacts associated with the proposed action, there is no need to examine alternatives to the proposed action.

**Alternative Use of Resources:** This action does not involve the use of resources not previously considered in connection with the Final Environmental Statement related to operation of San Onofre Nuclear Generating Station, Units 2 and 3, dated April 1981 and its Errata dated June 1981.

**Agencies and Persons Consulted:** The NRC staff has reviewed the licensees' request that supports the proposed amendments. The NRC staff did not consult other agencies or persons.

**Finding of no Significant Impact**

The Commission has determined not to prepare an environmental impact statement for the proposed amendments.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the applications for amendments dated October 24, 1988, November 7, 1988, and January 16, 1989, which are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the General Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 24th day of July 1989.

For the Nuclear Regulatory Commission.

Donald E. Hickman,

Project Manager,

Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-17684 Filed 7-27-89; 8:45 am]

BILLING CODE 7590-01-M

**Advisory Committee on Reactor Safeguards; Meeting Agenda**

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on August 10-12, 1989 in Room P-110, 7920 Norfolk Avenue, Bethesda, Md. Notice of this meeting was published in the Federal Register on June 20, 1989.

Thursday, August 10, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, Md.

8:30 a.m.-8:45 a.m.: Comments by ACRS Chairman—The ACRS Chairman will report on items of current interest.

8:45 a.m.-10: a.m.: Nuclear Power Plant Technical Specifications (Open)—The Committee will have a briefing and discussion of NRC and industry efforts to improve technical specifications for nuclear power plants.

10:15 a.m.-11:30 a.m.: Nuclear Power Plant Operating Experience (Open)

The Committee will hear and discuss a report (NUREG-1275, Vol. 5) regarding progress in scram reduction in commercial power reactors.

11:30 a.m.-12:30 p.m.: Premeeting Discussion for Meeting with NRC Commissioners (Open)—The Committee

will review topics to be discussed with NRC Commissioners including NRC human factors program and initiatives, electrical power reliability at nuclear plants, occupational radiation exposure from hot particles, BWR core power stability, and reliability and diversity.

**2:00 p.m.-3:30 p.m.: Meeting with NRC Commissioners—One White Flint North, Rockville, Md. (Open)**—The Committee will discuss with the NRC Commissioners the items noted above.

**4:30 p.m.-6:30 p.m.: Maintenance of Nuclear Plants (Open)**—The Committee will review and comment on proposed NRC policy statement and an associated regulatory guide regarding maintenance of nuclear power plants.

**Friday, August 11, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, Md.**

**8:30 a.m.-9:45 a.m.: Meeting with Director, Office of Nuclear Materials Safety and Safeguards (NMSS) (Open/Closed)**—A briefing and discussion will be held regarding topics of mutual interest including the scope and nature of NMSS activities, security provisions at nuclear plants, and anticipated review of uranium enrichment plant.

Portions of this session will be closed as necessary to discuss information related to security provisions at nuclear facilities.

**9:45 a.m.-12:00 Noon and 1:00 p.m.-3:00 p.m.: GE Advanced Boiling Water Reactor (Open/Closed)**

The Committee will conduct an initial session regarding its review of the application for design certification of this standardized nuclear plant.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this facility.

**3:15 p.m.-4:30 p.m.: NUMARC Activities (Open)**—The Committee will hear a briefing by a NUMARC representative on their activities regarding the regulatory process, the NRC-industry interface, and other items of mutual interest.

**4:30 p.m.-5:30 p.m.: Future ACRS Activities (Open)**—The Committee will discuss anticipated ACRS subcommittee activities and items proposed for consideration by the full Committee.

**5:30 p.m.-6:00 p.m.: Appointment of ACRS Members (Open/Closed)**—The Committee will discuss qualifications of candidates proposed for consideration as nominees for appointment to the ACRS.

Portions of this session will be closed as appropriate to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

**Saturday, August 12, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, Md.**

**8:30 a.m.-12:00 Noon: Preparation of ACRS Reports (Open/Closed)**—The Committee will discuss proposed ACRS reports regarding items considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to matters being considered.

**1:00 p.m.-2:30 p.m.: Subcommittee Activities (Open)**—The Committee will discuss the status of assigned ACRS subcommittee activities in designated areas including proposed integration of the regulatory process, and reliability of check valves in nuclear power plants.

**2:30 p.m.-3:30 p.m.: Miscellaneous (Open)**—The Committee will complete discussion of items considered during this meeting. Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 27, 1988 (53 FR 43487). 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. Persons desiring to make oral statements should notify the ACRS Executive Director 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 Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS 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.

I have determined in accordance with subsection 10(d) Pub. L. 92-463 that it is necessary to close portions of this meeting as noted above to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). Proprietary Information applicable to the matters being discussed (5 U.S.C. 552b(c)(4)), and Safeguards/Security Information applicable to specific nuclear facilities (5 U.S.C. 552b(c)(3)).

Further information regarding topics

to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 301/492-8049), between 8:15 a.m. and 5:00 p.m.

Date: July 24, 1989.

John C. Hoyle,  
Advisory Committee Management Officer.

[FR Doc. 89-17599 Filed 7-27-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-277/278]

**Philadelphia Electric Co. et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR-44 and DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company and Atlantic City Electric Company, (the licensees), for operation of the Peach Bottom Atomic Power Station, Unit Nos. 2 and 3 located in York County, Pennsylvania.

The proposed amendment would revise the Technical Specification (TS) Limiting Conditions for Operations (LCO) and Surveillance Requirements (SRs) for the Containment Cooling System (CCS) in TS 3/4.5.B and would revise related requirements for diesel generator (DG) testing in TS 3/4.5.F and the associated BASES in accordance with the licensee's application dated August 26, 1988. The application responds to issues identified in NRC Inspection Reports 50-277/85-07; 50-278/85-07 and 50-277/86-16; 50-278/86-17 concerning (a) clarification of the specific LCO and SR requirements for components of the CCS and (b) revision of the alternate system testing requirements upon the inoperability of a diesel generator.

Inspection Report 85-07 identified concerns which are based on apparent inconsistent definitions between TS 3/4.5.B and the BASES of what constitutes the CCS. The residual heat removal system is designed for three modes or subsystems of operation: shutdown cooling, containment cooling and low pressure coolant injection to the reactor

vessel. The major equipment of the residual heat removal system (RHRS) includes four heat exchangers, four main system pumps (RHR pump) and four high pressure service water (HPSW) pumps for each unit. The containment cooling function also includes three modes of operation: drywell spray, torus spray and torus cooling depending upon the alignment of valves and piping within the system. Each of the three containment cooling modes utilizes HPSW to remove heat from the RHR heat exchangers. The BASES identify the CCS as consisting of residual heat removal (RHR or LPCI) pumps and high pressure service water (HPSW) pumps. The concern identified by the Inspection Report 85-07 was that the licensee interpreted the CCS to consist only of the HPSW pump. In addition, it was noted that the specific coolant paths for the three modes of operation of the CCS, namely drywell spray, torus cooling and torus spray, are described in the FSAR but are not specifically reflected in the TS. The Inspection Report thus concluded that the TS were incomplete in this regard.

In addition to similar comments made in IR 85-07, inspection report 86-16/17 also noted that the TS 3/4.5.F requirement to perform daily testing of 24 safety related pumps on the inoperability of one DG is not consistent with the Standard Technical Specifications which do not require such alternate testing of the ECCS pumps.

The licensee has responded with nineteen identified types of changes to the TS which augment and clarify the CCS specifications, revise the alternate testing required for inoperable DG conditions and provide associated administrative changes.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards considerations. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability of consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Changes 1 through 13 include administrative changes in nomenclature, clearer identification of components and

systems, changes to ensure consistency and editorial changes to support the remaining numbered changes discussed below. The Commission has provided guidance for the application of the criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards considerations (51 FR 7751). These examples include: Example (i) "A purely administrative change to technical specifications: For example, a change to achieve consistency throughout the technical specifications, corrections of an error, or a change in nomenclature." The proposed changes, as discussed above, are examples of such administrative changes. Since these proposed changes are encompassed by an example for which no significant hazard exists, the staff has made a proposed determination that they involve no significant hazards consideration.

Changes 14, 15, 16, 17—Jointly, these changes accomplish one of the major objectives of the licensee's proposed amendment which is to redefine, reformat and to provide greater specificity and restrictions in the technical specifications regarding the major components and systems required to effect the containment cooling function; namely the diesel generator emergency power supply, the HPSW pumps and the MDVs involved with the drywell spray and torus spray and cooling modes of the RHRS. In this regard the licensee has expanded SR 4.5.B.1 to include the MOV's (Change 14), has reworded SR 4.5.B.3 to clarify that its applicability is to the HPSW pumps (Change 15) and has expanded LCO 3.5.B.4 (Change 16) and the corresponding SR 4.5.B.4 (Change 17) to now include further restrictions specifying that two independent loops must be maintained, the components of each loop and limits on the inoperability of one or both loops for the individual modes of the RHR (drywell spray, torus spray and torus cooling). Thus, the currently defined "containment cooling subsystem loops" components would now be reflected in the TS as two loops each of RHR in the drywell spray, torus spray and torus cooling modes by the expansion of 3/4.5.B.4 into new 3/4.5.B.4, 3/4.5.B.5 and 3/4.5.B.6 and by the rewording of SR 4.5.B.3 so that it applies to the HPSW portion of the containment cooling system. These proposed changes are intended to maintain the current intent of these specifications but with further restrictions and clarifications.

The Commission has provided guidance for application of the criteria for no significant hazards consideration

determination by providing examples of amendments that are not likely to involve significant hazards considerations (51 FR 7751). These examples include: Example (ii) "A change that constitutes an additional limitation, restriction or control not presently included in the technical specifications: for example, a more stringent surveillance requirement." The proposed changes numbered 14, 15, 16 and 17, as discussed above, are examples of such changes. Since the proposed changes are encompassed by an example for which no significant hazard exists, the staff has made a proposed determination that they involve no significant hazards consideration.

Change 18 proposes to revise the operating restrictions of LCO 3.5.F.1 for one diesel generator inoperable so that only the low pressure core and containment cooling systems powered by the remaining operable DGs need be operable. This would not reduce the analyzed ability of the plant to respond to the design basis accident since the systems powered by the inoperable diesel generator would not be given credit in the analyses for mitigation of design basis accidents. The licensee has provided a discussion of the proposed changes as they relate to the three standards articulated above. The licensee states that these changes will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

Four design basis accidents described in Section 14 of the UFSAR are the: Control Rod Drop Accident, the Loss of Coolant Accident, the Refueling Accident and the Main Steam Line Break. Since no credit can be taken for operability of the Low Pressure Core and Containment Cooling Systems which are powered by the inoperable diesel generator, the precursors, initial conditions, assumptions or sequences-of-events of these conditions, as described in the UFSAR are not impacted. It is, therefore, concluded that the probability or consequences of an accident previously evaluated are not increased.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

Removing the mechanical operability requirement of systems which do not have a reliable electrical source, as the associated diesel generator is inoperable, will not introduce potential new accident precursors, since no credit can be taken for their operability.

(3) Involve a significant reduction in a margin of safety.

The inoperable diesel generator renders the power supply to the Low Pressure Core and Containment Cooling System loops unreliable. Thus, these loops are effectively

rendered inoperable. It is, therefore, concluded that removing this mechanical operability requirement does not decrease a margin of safety.

Change 19 proposes to delete the alternate testing requirements of SR 4.5.F.1 for the low pressure core and containment cooling systems when one diesel generator is inoperable. The licensee states that this change will reduce unnecessary system startup stresses as well as reduce system unavailability resulting from systems being out of service during testing and that this change is consistent with the Standard Technical Specifications. The licensee has provided a discussion of the proposed change as it relates to the three standards articulated above. The licensee states that these changes will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The reliability and redundancy of the Low Pressure Core and Containment Cooling Systems, along with the Surveillance Requirements established in other sections of the Technical Specifications, assure the operability of these systems necessary to mitigate the consequences of an accident.

Four design basis accidents described in Section 14 of the UFSAR are: the Control Rod Drop Accident, the Loss of Coolant Accident, the Refueling Accident and the Main Steam Line Break. Change request (19) will not adversely impact the precursors, initial conditions, assumptions or sequences-of-events of these accidents, as described in the UFSAR. Therefore, an increase in the probability or consequences of an accident previously evaluated is not created.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

Surveillance and operability requirements are not potential new accident precursors. The surveillance tests and their criteria will remain unchanged, and excessive challenges to the ECCS will be reduced. It is, therefore, concluded that implementation of Change Request (19) will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Involve a significant reduction in a margin of safety.

Relaxing the accelerated testing provisions will reduce longterm equipment wear-out and encourage preventive maintenance at more frequent intervals. For these reasons, a net improvement in the reliability of these essential systems can be anticipated, thus enhancing the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration for changes 18 and 19 above and agrees with the licensee's analyses. Accordingly, the Commission has proposed to determine that the above changes 18 and 19 do not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be addressed to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of the Federal Register notice.

Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 28, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rule of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interests in

the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards considerations. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards considerations, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves significant hazards considerations, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license

amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards considerations. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325-6000 (in Missouri 1 (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Walter R. Butler, Director, Project Directorate I-2, Division of Reactor Projects I/II: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Conner and Wetterhahn, 1747 Pennsylvania Avenue NW., Washington, DC 20006, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 26, 1988, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the Local Document Room, at the Government Publications Section, State Library of Pennsylvania, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Dated at Rockville, Maryland, this 21st day of July 1989.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I-2 Division of Reactor Projects I/II Office of Nuclear Reactor Regulation.

[FR Doc. 89-17683 Filed 7-27-89; 8:45 am]

BILLING CODE 7590-01-M

## OFFICE OF PERSONNEL MANAGEMENT

RIN 3206-AD69

### Absence and Leave; Voluntary Leave Bank Program

**AGENCY:** Office of Personnel Management.

**ACTION:** Notification of approved agencies.

**SUMMARY:** The Office of Personnel Management (OPM) is announcing the agencies and administrative subunits approved to participate in the voluntary leave bank program authorized by Public Law 100-566.

**FOR FURTHER INFORMATION CONTACT:** John P. Cahill, (202) 632-5056.

**SUPPLEMENTARY INFORMATION:** OPM published interim regulations governing the voluntary leave bank program authorized by Pub. L. 100-566 in the **Federal Register** on April 28, 1989 [54 FR 18267]. In response to our request for participation by interested Federal agencies, the following agencies (or, where indicated, administrative subunits of agencies) applied for and have received approval to participate in the voluntary leave bank program:

Defense Nuclear Agency (excluding the Field Command)  
Environmental Protection Agency  
Farm Credit Administration  
Federal Mediation and Conciliation Service  
National Gallery of Art  
Occupational Safety and Health Review Commission  
Department of the Treasury (Internal Revenue Service only)

The approved agencies must implement the voluntary leave bank program no later than July 31, 1989.

U.S. Office of Personnel Management.

Constance B. Newman,

Director.

[FR Doc. 89-17783 Filed 7-27-89; 8:45 am]

BILLING CODE 6325-01-M

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-62]

### Modification to the Determination To Impose Increased Duties on Certain Products of the European Community

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Modification to the harmonized tariff schedule of the United States.

**SUMMARY:** The United States Trade Representative suspends the application of the increased duty on imports of certain pork hams and shoulders from the European Community.

**EFFECTIVE DATE:** 12:01 a.m., July 28, 1989.

**FOR FURTHER INFORMATION CONTACT:** Laura Anderson, (202) 395-3074.

**SUPPLEMENTARY INFORMATION:** In Proclamation No. 5759 of December 24, 1987, the President increased United States customs duties on certain articles the product of the European Community (EC) in response to action by the EC prohibiting imports into the European Community of U.S. beef and beef products. The increased duties apply to products exported from the EC on or after January 1, 1989, or entered or withdrawn from warehouse for consumption on or after February 1, 1989.

Following imposition of the increased duties, the United States and the European Community announced the formation of the Task Force to develop ways in which U.S. meat exporters might resume shipping to the Community. As a result of the Task Force discussions, the United States and the European Community agreed on an interim measure operated by the EC to enable U.S. producers of meat not treated with hormones to ship to Europe. The United States agreed to reduce its retaliation to the extent that U.S. beef and beef products are shipped under the interim measure.

### Partial Suspension of Increased Duties

Pursuant to the authority granted to me in Proclamation No. 5759, I am hereby suspending the increased duty imposed by that Proclamation on pork hams and shoulders provided for in subheading 9903.23.05 of the Harmonized Tariff Schedule of the United States. I have determined that it is in the interest of the United States to suspend the increased duty on such pork hams and shoulders in response to the shipment of U.S. meat to the EC.

**Modifications**

Pursuant to the authority delegated by the President to the USTR in Proclamation 5759, the increased duty imposed by subheading 9903.23.05 in Annex B to Proclamation 5759 is suspended.

The Harmonized Tariff Schedule of the United States is hereby modified accordingly. The modifications to the HTS made by this amendment are effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after 12:01 July 28, 1989.

This determination shall be published in the **Federal Register**.

Carla A. Hills,

*United States Trade Representative.*

[FR Doc. 89-17726 Filed 7-27-89; 8:45 am]

BILLING CODE 3190-01-M

**DEPARTMENT OF TRANSPORTATION**

**Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q during the Week ended July 21, 1989**

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket No. 46406.*

*Date Filed: July 18, 1989.*

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 15, 1989.*

*Description:* Application of United Air Lines, Inc. Pursuant to section 401 of the Act and Subpart Q of the Economic Regulations applies for amendment of its certificate of public convenience and necessity for Route 57 to authorize service between points in the United States and Paris, France.

*Docket No. 46408.*

*Date Filed: July 18, 1989.*

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 15, 1989.*

*Description:* Application of United Air Lines, Inc. pursuant to Section 401 of the

Act and Subpart Q of the Economic Regulations applies for a certificate of public convenience and necessity to authorize service between Chicago, Illinois, Washington, DC, San Francisco, California, and New York, N.Y., on the one hand, and London, England, on the other hand.

*Docket No. 46409.*

*Date Filed: July 18, 1989.*

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 15, 1989.*

*Description:* Application of United Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Economic Regulations applies for a certificate of public convenience and necessity to authorize service between Chicago, Illinois, and Washington, DC, on the one hand, and Prestwick/Glasgow, Scotland, on the other hand.

Phyllis T. Kaylor,

*Chief, Documentary Services Division.*

[FR Doc. 89-17605 Filed 7-27-89; 8:45 am]

BILLING CODE 4910-62-M

**Federal Aviation Administration**

[Change 2, Advisory Circular 27-1]

**Certification of Normal Category Rotorcraft**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of issuance.

**SUMMARY:** Change 2, Advisory Circular (AC) 27-1 Certification of Normal Category Rotorcraft, consolidates FAA guidance and provides information on methods of compliance with the airworthiness standards for normal category rotorcraft. As part of the FAA effort to achieve national standardization in rotorcraft certification, it serves a ready reference for manufacturers, modifiers, FAA design evaluation engineers, flight test engineers, and engineering flight test pilots. This material has no legally binding status and must be treated as advisory only.

**DATE:** Change 2, AC 27-1, was issued by the Rotorcraft Directorate, Aircraft Certification Service, in Fort Worth, Texas, on April 24, 1989.

**How to Order:** A copy of Change 2, AC 27-1, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or from any of the Government Printing Office bookstores located in major cities throughout the United States. Identify

the publication as Change 2, AC 27-1, Certification of Normal Category Rotorcraft, Stock Number 050-007-826-1. The cost is \$6.50 per copy. Send a check or money order, made payable to the Superintendent of Documents, with your request. Orders for mailing to foreign countries should include an additional 25 percent of the total price to cover handling. No c.o.d. orders are accepted.

**FOR FURTHER INFORMATION CONTACT:**

Debra H. Myers, FAA, Regulations Group, Rotorcraft Directorate, Aircraft Certification Service, Fort Worth, Texas 76193-0111, telephone (817) 624-5118.

Issued in Fort Worth, Texas, on July 11, 1989.

James D. Erickson,

*Acting Manager, Rotorcraft Directorate Aircraft Certification Service.*

[FR Doc. 89-17632 Filed 7-27-89; 8:45 am]

BILLING CODE 4910-13-M

[Advisory Circular 21-27]

**Production Certification Multinational/Multicorporate Consortia**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of Advisory Circular 21-27, Production Certification Multinational/Multicorporate Consortia. Advisory Circular 21-27 provides information and guidance concerning an acceptable means, but not the only means, of demonstrating compliance with the requirements of Federal Aviation Regulations Part 21. Certification Procedures for Products and Parts, Subpart G, regarding the evaluation and approval of the quality control system of a multinational and/or multicorporate consortia seeking a production certificate (PC).

**ADDRESS:** Copies of AC 21-27 can be obtained from the following: Federal Aviation Administration. Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591.

Issued in Washington, DC, on July 19, 1989.

David W. Ostrowski,

*Acting Assistance Director, Aircraft Certification Service.*

[FR Doc. 89-17698 Filed 7-27-89; 8:45 am]

BILLING CODE 4910-13-M

**Research and Special Programs Administration**
**Office of Hazardous Materials Transportation; Applications for Exemptions**

**AGENCY:** Research and Special Programs Administration, DOT.

**ACTION:** List of applicants for exemptions.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions

from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

**DATES:** Comments must be received on or before August 28, 1989.

**ADDRESS COMMENTS TO:** Dockets Branch, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

**FOR FURTHER INFORMATION:** Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

**NEW EXEMPTIONS**

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10200-N	Van Leer Verpackungen GmbH, Hamburg, Germany.	49 CFR Part 173, Subparts D, E, F, H....	To authorize manufacture, marking and sale of a non-DOT specification 55 gallon steel drum for those materials authorized for shipment in a DOT specification 17E STC 20/18 gauge steel drum. (modes 1, 2, 3).
10201-N	Amax Metals Recovery, Inc., Braithwaite, LA.	49 CFR 173.154.....	To authorize shipment of a spent catalyst, flammable solid, n.o.s., classed as a flammable solid in non-DOT specification 1-ton flexible intermediate bulk containers with a plastic liner. (modes 1, 3).
10202-N	Degussa Corp., Ridgefield Park, NJ.....	49 CFR 173.266.....	To authorize shipment of hydrogen peroxide up to 70%, classed as an oxidizer, in IM 101 portable tanks. (modes 1, 2).
10203-N	Morton Thiokol, Inc., Marshall, TX.....	49 CFR 173.91(a)(2).....	To authorize shipment of an illuminating projectile, Special Fireworks, Class B explosive, in a specially designed package (pallet top, skidded bottom configuration). (modes 1, 3).
10204-N	KECO R.&D., Inc., Houston, TX.....	49 CFR 173.331, 175.3.....	To auth. shpmt. of gas identification sets containing various flam. & nonflam., gases; poison A; flam. liqs; and corr. mats. in ltd. quantities sealed in metal tubes, not to exceed 40CC, in 40 carbon steel butt welded pipe 1 1/4" d closed w/threaded caps w/teflon sealant to form gas tight seal. (modes 1, 2, 3, 4).
10205-N	Celtic Trading of Florida, Seminola, FL.....	49 CFR 173.260(a)(3).....	To authorize shipment of spent electric storage batteries, wet, classed as corrosive mat., on pallets, with 200lb test cardboard layer separators with each layer stretch wrapped and banded in plastic with pallets placed in a strong outside container. (modes 1, 2, 3).
10206-N	E.I. du Pont de Nemours & Co., Wilmington, DE.	49 CFR 179.101-1, Table Note 4.....	To authorize painting of the upper two-thirds of DOT specification 112/114 tank cars in a color other than white when used for transportation of aniline oil and nitrobenzene, Class B poisons. (mode 2).
10207-N	Atlantic Research Corp., Gainesville, VA.	49 CFR 173.89(e)(2)(ii).....	To authorize shipment of Rocket Motors in a propulsive state, classed as Class B explosive in a DOT specification 16A container. (modes 1, 3).
10208-N	Sensidyne, Inc., Clearwater, FL.....	49 CFR 172.101 Table, 173.328, 173.332, 173.343, 175.3.....	To auth. shipment of limited quantities of Class B poisons & Class A poisons in 10ml glass ampules, flame sealed, with 5 ampules sealed in heat-sealed wrap with 2 of these packets in an intermediate cont., encapsulated in a heat-sealed bag overpacked in a 600 lb test double-wall fiberboard box. (modes 1, 4, 5).
10209-N	Southwest Energy, Inc., Tucson, AZ.....	49 CFR 173.114(i).....	To authorize transportation of a blasting agent, n.o.s., classed as a blasting agent, in DOT specification MC-306, MC-307, and MC-312 cargo tanks. (mode 1).
10210-N	Gowan Co., Yuma, AZ.....	49 CFR 173.359(b)(1).....	To authorize shipment of methyl parathion and parathion mixtures (over 50% solution), classed as Poison B, in 55 gallon DOT specification 5C stainless steel drums. (mode 1).
10211-N	CP Industries, Inc., McKeesport, PA.....	49 CFR 173.302, 173.304, 175.3.....	To authorize mfg., marking & sale of non-DOT cylinders built in conformance with the requirements of the DOT spec. 3A, 3AX, 3AA, & 3AAX cylinders except that 2 bend tests may be performed in lieu of the flattening test for shipment of flammable & nonflammable liquified & non-liquified gases. (modes 1, 2, 3, 4, 5).
10212-N	Puerto Rico Marine Management, Inc., San Juan, PR.	49 CFR 172.325(a)(1); (2)(ii).....	To authorize use of IM-101 and 102 and IMO designation types 1 and 2 without marking the name of the hazardous material on them. (modes 1, 2, 3).
10213-N	Occidental Chemical Corp., Dallas, TX.....	49 CFR 172.202, 172.3, 172.301, 172.400, 172.504.....	To authorize shipment of various hazardous materials in quantities not to exceed 5 gallons without complying with the packaging, marking, and labeling requirements when being shipped between sections of a plant separated by a public road and between operations 2.9 miles apart. (mode 1).
10214-N	Van Leer Verpackungen GmbH, Hamburg, Germany.	49 CFR 173.262, 173.266.....	To authorize shipment of a Hydrogen Peroxide solution (not over 60% peroxide), classed as an oxidizer and Hydrobromic acid not to exceed 63% concentration, classed as a corrosive material in DOT specification 34 drums. (modes 1, 2, 3).

## NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10215-N	Champagne Specialties Inc., Fairport, NY.	49 CFR 173.34(h)	To authorize removal & replacement of footrings on cylinders by welding or brazing on DOT 3A, 3AA, 3B, & 3C cylinders used for transport of liquified and non-liquified compressed gases, classed as flammable and non-flammable. (mode 1).
10216-N	Motor Transportation Services, Cortland, NY.	49 CFR 173.34(j)	To authorize rebuilding of DOT 4B, 4BA, 4BW cylinders without destructive testing for transportation of Propane, classed as a flammable gas. (mode 1).
10217-N	Molif Energy Ltd., Burnaby, BC, Canada.	49 CFR 172.101, 172.420, 175.3	To authorize transportation of four cell series-parallel connected lithium batteries without diodes. (modes 1, 2, 3, 4, 5).
10218-N	Federit Otto Danielsen, Holte, Denmark.	49 CFR 176.315(c)	To authorize use of a fire hose with a nozzle which is permanently open but is activated with a pump switch in a cargo vessel. (mode 3).
10219-N	Bayern-Chemie GmbH, Ottobrunn, Germany.	49 CFR 171.11	To authorize shipment of automotive system passenger side inflators as flammable solids. (modes 1, 2, 3, 4).
10220-N	Martin Marietta, Denver, CO	49 CFR 172.500, 173.77, 177.821	To authorize shipment of space launch hardware, containing detonating cord, Class A explosive in a vehicle without placarding transported over a specially designated route by commercial carrier. (mode 1).
10221-N	Williams International, Walled Lake, MI.	49 CFR 173.102	To authorize Turbofan Engines F107-WR-400 containing an explosive power device, Class B explosive to be shipped as a Class C explosive when packaged as authorized in the Department of Navy container Certificate NA-85-517. (modes 1, 4).
10222-N	Baker Sand Control, Houston, TX	49 CFR 172.101, 173.182, 173.234	To authorize shipment of ammonium nitrate in water and sodium nitrite in water, classed as oxidizers in marine portable tanks, MC-307 or MC-312 cargo tanks. (modes 1, 3).

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on July 21, 1989.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 89-17619 Filed 7-27-89; 8:45 am]

BILLING CODE 4910-68-M

#### Office of Hazardous Materials Transportation; Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

**AGENCY:** Research and Special Programs Administration, DOT.

**ACTION:** List of applications for renewal or modification of exemptions or application to become a party to an exemption.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are

not repeated here. Except as otherwise noted, renewal application are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described on footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

**DATES:** Comments must be received on or before August 14, 1989.

**ADDRESS COMMENTS TO:** Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

**FOR FURTHER INFORMATION:** Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
3128-X	U.S. Department of Defense, Falls Church, VA	3128
5112-X	do	5112
5923-X	Linde Gases of the Midwest, Inc., Chicago, IL	5923

Application No.	Applicant	Renewal of exemption
5923-X	Union Carbide Industrial Gases, Inc., Danbury, CT	5923
5923-X	Linde Gases of the Southeast, Inc., Wilmington, NC	5923
5923-X	Linde Gases of Florida, Inc., Tampa, FL	5923
5923-X	Linde Gases of the West, San Ramon, CA	5923
5923-X	Linde Gases of the Mid-Atlantic, Inc., Moorestown, NJ	5923
5923-X	Linde Gases of the Great Lakes, Inc., Cleveland, OH	5923
5923-X	Linde Puerto Rico, Inc., Gurabo, PR	5923
5923-X	Linde Gases of New England, Inc., West Hartford, CT	5923
5945-X	Cardox Corp., Walnut Creek, CA	5945
6016-X	Huber Supply Company, Inc., Mason City, IA	6016
6250-X	U.S. Department of Defense, Falls Church, VA	6250
6325-X	Austin Powder Co., Cleveland, OH	6325
6530-X	AGL Welding Supply Company, Inc., Clifton, NJ	6530
6530-X	Brown Welding Supply, Inc., Salina, KS	6530
6769-X	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE	6769
6800-X	Sonoco Plastic Drum, Inc., Lockport, IL	6800
6816-X	General Dynamics/Convair Div., San Diego, CA	6816
6861-X	Teledyne McCormick Selph, Hollister, CA	6861
6974-X	Tawco, Inc., Chatsworth, CA	6974
7052-X	Proxim Inc., Mountain View, CA	7052
7052-X	Northrop Electronics System Div., Hawthorne, CA	7052
7087-X	3M/Transportation, St. Paul, MN	7087

Applica- tion No.	Applicant	Re- newal of exemp- tion	Applica- tion No.	Applicant	Re- newal of exemp- tion	Applica- tion No.	Applicant	Re- newal of exemp- tion
7205-X	U.S. Department of Defense, Falls Church, VA.....	7205	9047-X	Linde Gases of the Midwest, Inc., Chicago, IL.....	9047	9822-X	U.S. Department of Defense, Falls Church, VA.....	9822
7235-X	Luxfer USA Ltd., Riverside, CA (See Footnote 1).....	7325	9047-X	Linde Puerto Rico, Inc., Gurabo, PR.....	9047	9889-X	Assmann Corp. of America, Garrett, IN <sup>5</sup> .....	9889
7607-X	The Foxboro Co., South Nor- walk, CT.....	7607	9047-X	Linde Gases of New Eng- land, Inc., West Hartford, CT.....	9047	9971-X	Fisher Scientific Co., Fair Lawn, NJ <sup>6</sup> .....	9971
7753-X	FMC Corp., Philadelphia, PA.....	7753	9047-X	UNIGAS, Inc., Mercedita, PR.....	9047	10028-X	E.I. Du Pont De Nemours & Co., Wilmington, DE <sup>7</sup> .....	10028
7835-X	Sunoz Inc., Charlotte, NC.....	7935	9066-X	BMW of North America, Inc., Montvale, NJ.....	9066	10184-X	Union Carbide Industrial Gases Inc., Danbury, CT <sup>8</sup> .....	10184
7835-X	Lincoln Big Three, Inc., Baton Rouge, LA.....	7835	9066-X	Porsche Cars North America, Inc., Reno, NV.....	9066	10192-X	Eli Lilly and Co., Indianapolis, IN <sup>9</sup> .....	10192
7907-X	Hercules, Inc., Wilmington, DE.....	7907	9114-X	AT&T Technologies, Inc., Lee's Summit, MO.....	9114	10196-X	Penox Technologies Inc., Pitt- ston, PA <sup>10</sup> .....	10196
7907-X	C-I-L Inc., North York, Ontar- io, Canada.....	7907	9116-X	Hoover Group, Inc., Beatrice, NE.....	9116			
8006-X	Esquire Novelty Corp., Am- sterdam, NY.....	8006	9130-X	Great Lakes Chemical Corp., El Dorado, AR.....	9130			
8180-X	Dow Corning Corp., Midland, MI.....	8180	9130-X	Hydrotech Chemical Corp., Marietta, GA.....	9130			
8230-X	Seastar Chemicals, Sidney, British Columbia, CN.....	8230	9130-X	Olin Chemicals, Stamford, CT.....	9130			
8244-X	Vann Systems, a Division of Halliburton Co., Houston, TX.....	8244	9144-X	Cajun Bag & Supply Co., Crowley, LA.....	9144			
8244-X	Halliburton Services, Duncan, OK.....	8244	0149-X	Ethyl Corp., Baton Rouge, LA.....	9149			
8278-X	Maintenance Mechanical Corp., Houston, TX.....	8278	9169-X	PASCO Zinc Corp. (formerly Pacific Smelting), Torrance, CA.....	9169			
8307-X	U.S. Department of Defense, Falls Church, VA.....	8307	9174-X	McDonnell Aircraft Co., St. Louis, MO.....	9174			
8445-X	Monsanto Chemical Co., St. Louis, MO.....	8445	9312-X	National Aeronautics & Space Administration (NASA), Washington, DC.....	9312			
8445-X	Aqua-Tech, Inc., Port Wash- ington, WI.....	8445	9355-X	Eastman Kodak Co., Roches- ter, NY.....	9355			
8445-X	U.S. Department of Defense, Falls Church, VA.....	8445	9380-X	ARCO Pile Line Co., Inde- pendence, KS <sup>4</sup> .....	9380			
8445-X	The Dow Chemical Co., Mid- land, MI.....	8445	9436-X	Union Carbide Industrial Gases, Inc., Danbury, CT.....	9436			
8445-X	McDonnell Aircraft Co., St. Louis, MO.....	8445	9456-X	General Electric Co., Water- ford, NY.....	9456			
8445-X	Dow Brands, Indianapolis, IN.....	8445	9456-X	Dow Corning Corp., Midland, MI.....	9456			
8453-X	Pacco Inc., So., Olympia, WA.....	8453	9460-X	Tracor Aerospace, Inc., East Camden, AR.....	9460			
8453-X	El Dorado Chemical Co., St. Louis, MO.....	8453	9464-X	Broco, Inc., Rialto, CA.....	9464			
8602-X	Minnesota Valley Engineering, Inc., New Prague, MN.....	8602	9480-X	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.....	9480			
8698-X	Taylor-Wharton, Inc., Theo- dore, AL.....	8698	9480-X	Air Products and Chemicals, Inc., Allentown, PA.....	9480			
8708-X	Great Lakes Chemical Corp., El Dorado, AR.....	8708	9506-X	Akzo Chemicals Inc., Chicago, IL.....	9506			
8716-X	Whittaker-Yardney Power Sys- tems, Waltham, MA.....	8716	9512-X	Bryson Industrial Services, Inc., Lexington, SC.....	9512			
8716-X	Cyprus Foote Mineral Co., Malvern, PA <sup>5</sup> .....	8716	9530-X	National Refrigerants, Inc., Plymouth Meeting, PA.....	9530			
8750-X	Applied Companies, San Fer- nando, CA.....	8750	9536-X	Transway Systems, Inc., Stoney Creek, Ont. Canada.....	9536			
8772-X	Akzo Chemicals Inc., Chicago, IL.....	8772	9610-X	Federal Cartridge Co., Anoka, MN.....	9610			
8901-X	Great Lakes Chemical Corp., El Dorado, AR.....	8901	9717-X	Mobay Corp., Kansas City, MO.....	9717			
8915-X	Union Carbide Industrial Gases, Inc., Danbury, CT <sup>3</sup> .....	8915	9728-X	Smith Systems Operation, Corpus Christi, TX.....	9728			
8988-X	Schlumberger Well Services, Houston, TX.....	8988	9751-X	C-I-L Inc., North York, Ont., Canada.....	9751			
9047-X	Linde Gases of the Southeast, Inc., Wilmington, NC.....	9047	9755-X	Explosive Technology, Inc., Fairfield, CA.....	9755			
9047-X	Union Carbide Industrial Gases, Inc., Danbury, CT.....	9047	9769-X	Aqua-Tech, Inc., Port Wash- ington, WI.....	9769			
9047-X	Linde Gases of the West, San Ramon, CA.....	9047	9769-X	Safety-Kleen Envirosystems Co., Inc., Manati, PR.....	9769			
9047-X	Linde Gases of Florida, Inc., Tampa, FL.....	9047	9780-X	Majestic Lubricating Co., Tulsa, OK.....	9780			
9047-X	Linde Gases of Southern Cali- fornia, Inc., Santa Ana, CA.....	9047	9782-X	Grumman Aircraft Systems, Bethpage, NY.....	9782			
9047-X	Linde Gases of the South, Inc., Houston, TX.....	9047	9797-X	National Aeronautics & Space Administration (NASA), Washington, DC.....	9797			
9047-X	Linde Gases of the Mid-Atlan- tic, Inc., Moorestown, NJ.....	9047						
9047-X	Linde Gases of the Great Lakes, Inc., Cleveland, OH.....	9047						
9047-X	GenEx, Ltd., Des Moines, IA.....	9047						

<sup>1</sup> To renew and modify FRP-2 cylinder standard to require 3000 psi minimum shear strength instead of 5000 psi.

<sup>2</sup> To authorize reuse of 55-gallon capacity DOT-17C drums exempt from certain reconditioning requirements when shipping lithium metal, classed as a flammable solid between various company facilities.

<sup>3</sup> To authorize atmospheric gases, helium, tetrafluoromethane or mixtures thereof containing up to 21 percent oxygen, classed as a nonflammable gas and mixtures of atmospheric gases (except oxygen).

<sup>4</sup> To authorize two 15 gallon sump tanks and one 15 gallon or one 38 gallon sump tank containing a flammable liquid, n.o.s. to be shipped on a 2-ton truck.

<sup>5</sup> To authorize polyethylene portable tanks containing certain corrosive liquids, flammable liquids, or an oxidizer to be shipped in optional metal frames.

<sup>6</sup> To authorize rail freight and cargo vessel as additional modes of transportation.

<sup>7</sup> To modify the exemption to authorize DOT specification 112A200W tank cars for shipment of dimethyl sulfate, classed as a corrosive material.

<sup>8</sup> To reissue exemption originally issued on an emergency basis to authorize shipment of a specific gas mixture in DOT-4BW cylinder retested in accordance with Section 173.34(e)(9)-(10) modes 1, 2, 3.

<sup>9</sup> To renew exemption issued on an emergency basis to authorize shipment of Isopropyl Alcohol classed as a flammable liquid in a DOT Specification 12B fiberboard box with handholes by modes 1, 2, and 4).

<sup>10</sup> To reissue exemption issued on an emergency basis to authorize the manufacture, mark and sell of non-DOT cylinders similar to DOT-4L for shipment of oxygen classed as non-flammable gas by modes 1-4.

Applica- tion No.	Applicant	Parties to exemp- tion
6016-P	Linde Gases of the Great Lakes, Inc., Cleveland, OH.....	6016
6874-P	Sino Pacific Trading Co., Bris- bane, Queen's Land, Aus- tralia.....	6874
6874-P	Nevada Chemicals, Inc., Salt Lake City, UT.....	6874
6874-P	Mining Services International (MSI), Salt Lake City, UT.....	6874
7052-P	Environmental Pacific Corp., Lake Oswego, OR.....	7052
7835-P	Welders Supply Company (WESCO), Billerica, MA.....	7835
8009-P	Marlin Gas Transport, Inc., Palm Harbor, FL.....	8009
8156-P	National Specialty Gases, Durham, NC.....	8156
8214-P	Mitsubishi Motor Sales of America, Inc., Cypress, CA.....	8214
8426-P	Gallighen, Inc., Ventura, CA.....	8426
8445-P	Dow Corning Corp., Midland, MI.....	8445
8451-P	Trojan Corp., Allentown, PA.....	8451

Application No.	Applicant	Parties to exemption
8451-P	United Technologies Corp., San Jose, CA	8451
8451-P	Talley Defense Systems, Inc., Mesa, AZ	8451
8518-P	Gallighan, Inc., Ventura, CA	8518
8519-P	Lykes Brothers Steamship Company, Inc., New Orleans, LA	8519
8931-P	Marsulex, Inc., North York, Ontario, Canada	8931
9271-P	The Atchison, Topeka and Santa Fe Railway Co., Chicago, IL	9271
9331-P	Albright & Wilson Americas, Toronto, Ont., Canada, Toronto, Ont., Canada	9331
9610-P	ACTIV Industries, Inc., Kearneysville, WV	9610
9632-P	Chemical Industries of Northern Greece (SICNG), 541.10 Thessaloniki, Greece	9632
9711-P	Fuji Photo Film USA, Inc., Elmsford, NY <sup>1</sup>	9711
9741-P	Batteries Recovery Services, Inc. (B.R.S.), Medley, FL	9741
9845-P	Marsulex, Inc., North York, Ontario, Canada	9845
10054-P	The Atchison, Topeka and Santa Fe Railway Co., Chicago, IL	10054
10094-P	Air Products and Chemicals, Inc., Allentown, PA	10094
10184-P	Linde Gases of the South, Inc., Houston, TX	10184
10184-P	Linde Gases of the Southeast, Inc., Wilmington, NC	10184
10188-P	Chevron Pipe Line Co., San Francisco, CA	10188
10188-P	Point Arguello Pipeline Co., San Francisco, CA	10188

<sup>1</sup> Request party status and to authorize an alternate type packaging consists of a 2.1 gallon polyethylene container packaged in a fiberboard box.

This notice of receipt of application is for renewal of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on July 21, 1989.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 89-17620 Filed 7-27-89; 8:45 am]

BILLING CODE 4910-60-M

## UNITED STATES INFORMATION AGENCY

### Culturally Significant Objects Imported for Exhibition

#### Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "International Impressions: Recent Prints from Belgium's Frans Masereel Center" (see list <sup>1</sup>), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Georgia Museum of Art in Athens, Georgia, beginning on or about October 21, 1989 to on or about December 3, 1989, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**.

Richard H. Swan,

Acting General Counsel.

Date: July 21, 1989.

[FR Doc. 89-17600 Filed 7-27-89; 8:45 am]

BILLING CODE 8230-01-M

## DEPARTMENT OF VETERANS AFFAIRS

### Advisory Committee on Readjustment Problems of Vietnam Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Pub. L. 92-463 that a meeting of the Advisory

<sup>1</sup> A copy of this list may be obtained by contacting Ms. Lorie J. Nierenberg of the Office of the General Counsel of USIA. The telephone number is 202-485-8827, and the address is Room 700, U.S. Information Agency, 301 4th Street SW., Washington, DC 20547.

Committee on Readjustment Problems of Vietnam Veterans will be held August 9 and 10, 1989. This is a regularly scheduled meeting for the purpose of reviewing VA and other relevant services to Vietnam veterans and to formulate Committee recommendations and objectives. The meeting on Wednesday, August 9, 1989, will be held in the Omar Bradley Conference Room at VA Central Office, 810 Vermont Avenue NW., Washington, DC 20420. The following day's meeting will be held in Room 119 at VA Central Office.

The meeting on August 9 will begin at 9 a.m. and conclude at 4 p.m. The day's agenda will consist of internal Committee planning and work activities to include special task group reports, subcommittee assignments, plans for future objectives and field visits, and review of Committee organization and role. The meeting on August 10 will begin at 8 a.m. and conclude at 4 p.m. The second day's agenda will consist of a report on the interagency liaison activities and service availability regarding recently separated military personnel, an update on the new National Center for Post-Traumatic Stress Disorder, an update on Readjustment Counseling Service with particular attention to contract programs, and a discussion on the coordination of treatment and compensation of PTSD. Both days' meetings will be open to the public up to the seating capacity of the room.

Due to limited seating capacity of the room, those who plan to attend or who have questions concerning the meeting should contact Arthur S. Blank, Jr., M.D., Director, Readjustment Counseling Service, Department of Veterans Affairs, (phone number: 202-233-3317/3303).

Due to delays in administrative processing, this notice provides less than 15 days advance notice to the public.

Dated: July 25, 1989.

By direction of the Secretary.

Sylvia Chavez Long,

Committee Management Officer.

[FR Doc. 89-17760 Filed 7-27-89; 8:45 am]

BILLING CODE 8320-01-M

# Sunshine Act Meetings

Federal Register

Vol. 54, No. 144

Friday, July 28, 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).

## FEDERAL RESERVE SYSTEM

**TIME AND DATE:** 10:00 a.m., Wednesday, August 2, 1989.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

**STATUS:** Closed.

### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

### CONTACT PERSON FOR MORE

**INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank

holding company applications scheduled for the meeting.

Dated: July 25, 1989.

Jennifer J. Johnson,

*Associate Secretary of the Board.*

[FR Doc. 89-17762 Filed 7-25-89; 4:51 pm]

BILLING CODE 6210-01-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 9:21 a.m. on Friday, July 21, 1989, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider (1) matters relating to an assistance agreement pursuant to section 13(c) of the Federal Deposit Insurance Act; and (2) matters concerning the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller

of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Dated: July 25, 1989.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

*Deputy Executive Secretary.*

[FR Doc. 89-17785 Filed 7-26-89; 8:45 am]

BILLING CODE 6714-01-M

# Corrections

Federal Register

Vol. 54, No. 144

Friday, July 28, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1787]

### Petitions for Reconsideration and Clarification of Actions in Rule Making Proceedings

#### Correction

In notice document 89-17084 beginning on page 30601 in the issue of Friday, July 21, 1989, make the following correction:

On page 30601, in the 3rd column, in the 1st paragraph, in the 13th line, "[insert date of 16 days after FR pub date]" should read "August 7, 1989".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 310

[Docket No. 80N-0357]

RIN 0905-AA06

### Hair Grower and Hair Loss Prevention Drug Products for Over-the-Counter Human Use

#### Correction

In rule document 89-15955 beginning on page 28772 in the issue of Friday, July 7, 1989, make the following corrections:

1. On page 28772, in the 2nd column, in the second complete paragraph, in the 10th line, "1989" should read "1990".

2. On page 28774, in the first column, in the last line, "is" should read "in".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Parts 314 and 320

[Docket No. 85N-0214]

RIN 0905-AB63

### Abbreviated New Drug Application Regulations

#### Correction

In proposed rule document 89-16024 beginning on page 28872 in the issue of Monday, July 10, 1989, make the following corrections:

#### § 314.127 [Corrected]

1. On page 28933, in the third column, in § 314.127(h)(2)(i)(C), in the second and fourth lines, "parental" should read "parenteral".

#### § 320.1 [Corrected]

2. On page 28938, in the third column, in the section heading reading "329 § 320.1 Definitions.", remove "329".

BILLING CODE 1505-01-D

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Parts 192, 193, and 195

[Docket No. PS-108, Amdt. No. 192-64, 193-6, and 195-41]

RIN 2137-AB68

### Incorporation by Reference of Portions of American Petroleum Institute Standard 1104, Seventeenth Edition, 1988

#### Correction

In rule document 89-15435 beginning on page 27881 in the issue of Monday, July 3, 1989, make the following correction:

#### Appendix A to Part 193 [Corrected]

On page 27882, in the third column, in amendatory instruction 4, in the fourth line, "188" should read "1988".

BILLING CODE 1505-01-D





## DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

## 29 CFR Part 1910

[Docket No. S-700 A]

RIN 1218-AA33

## Powered Platforms for Building Maintenance

AGENCY: Occupational Safety and Health Administration (OSHA).

ACTION: Final rule.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) is amending its Standard for Powered Platforms for Building Maintenance, 29 CFR 1910.66, Subpart F, to allow the use of alternate stabilization systems. The standard had allowed only stabilization systems which provided continuous positive means of engagement between the platform and the building facade. Such systems had proven to be infeasible for application to many new buildings with discontinuous vertical facades. In addition, the amendment updates existing requirements using performance-oriented language, expands the scope to include coverage of interior installations (atriums) and includes requirements for emergency planning, employee training and personal fall protection for employees using powered platforms.

**EFFECTIVE DATE:** January 24, 1990.

**ADDRESS:** In compliance with 28 U.S.C. 2112(a), the Agency designates for receipt of petitions for review of the standard, The Associate Solicitor for Occupational Safety and Health, Office of the Solicitor, Room S-4004, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3649, 200 Constitution Ave., NW., Washington, DC 20210, (202) 523-8148.

**SUPPLEMENTARY INFORMATION:****I. Background**

A powered platform is a suspended, manned platform that is installed on a building and is used to maintain the building facade. It is part of an installation which consists of the working platform, suspension means, fall arrest systems and the requisite operating and control devices.

The previous OSHA powered platform standard (29 CFR 1910.66), adopted in 1971, required that all platforms be stabilized by direct

attachment to continuous guide rails in the building facade, whenever the building height is greater than 130 feet (39.6 m) in height. For structures less than 130 feet (39.6 m) in height, continuous guide rails were not required, but the platform had to be equipped with building face rollers and angled suspension wire ropes, which would cause the platform to exert pressure against the building facade. The purpose of these requirements was to stabilize the platform while it is in use by absorbing wind forces and horizontal forces caused by personnel movement on the platform.

During the years immediately following the promulgation of the OSHA standard, most high rise buildings were designed with straight building facades. This design adapted readily to the continuous guiderail requirement. In recent years, however, architects have also been designing buildings with multiple vertical planes, setbacks and complicated corner arrangements. These design changes may be the result of aesthetic considerations or an effort to conserve energy. Energy costs, for example, have led to building designs with fewer and smaller windows, projecting awnings to reduce cooling needs and recessed windows to provide insulation from outside temperatures.

These changes in building design have often made it difficult, infeasible, or costly to use continuous guide rails on many building facades. As a result, the new designs for high rise buildings have been responsible for the development of new types of stabilization systems for powered platforms. These new systems have provided employers the opportunity to select appropriate stabilization equipment that is capable of providing equivalent safety for workers and significant cost savings.

The previous OSHA powered platform standard did not address or allow this developing technology, and OSHA had received a significant number of requests for variances from the standard. These requests addressed the use of alternate stabilization systems on newly designed single and multiple faced buildings, and allowed for employee fall protection and platform related training. However, while these requests were often successful, the OSHA variance process is a regulatory procedure that can result in delays, and which must be pursued for each project. A compliance directive, OSHA Instruction STD 1-3.3, was issued by OSHA in November 1982 to allow intermittent stabilization in some circumstances, but it is limited in scope and cannot address the rapid changes in

building design and related platform stabilization methods.

A need existed, therefore, to update the OSHA standard to address alternate stabilization systems for the purpose of providing industry with alternate methods of adapting to the new building designs. At the same time, an updated standard would have to continue to provide employers with an equivalent level of safety and to improve safety where possible in other areas of powered platform work. For these reasons, OSHA began the rulemaking process for amending the OSHA standard covering powered platforms.

**II. History of Regulation**

The previous OSHA standard for powered platforms (29 CFR 1910.66) was promulgated in 1971 from a national consensus standard (American National Standards Institute (ANSI) A120.1-1970) under section 6(a) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 655(a).

In the response to the need for employers to select alternate stabilization systems to the system required in the OSHA standard, OSHA published an Advance Notice of Proposed Rulemaking (ANPR) in the Federal Register on February 11, 1983 (48 FR 6368). The ANPR solicited data and views regarding the appropriate content and scope of an amendment to 29 CFR 1910.66. Information was sought on alternate stabilization systems and the need to revise or add other provisions in this section. Also, the ANPR addressed a number of issues pertinent to the standard. First, is there a need for the development of performance criteria in addressing hazards associated with stabilization systems? Second, what should OSHA require in the identification, design, maintenance and use of alternate stabilization systems? Third, what are the best methods for the training of employees in the inspection and operation of powered platforms? Fourth, should more comprehensive criteria be developed for fall protection systems? Fifth, should appropriate changes be made in the standard to reflect changes in industry practice and changes in related provisions of OSHA's General Industry Standard? Sixth, what limitations should be placed on operating powered platforms under severe weather conditions?

The ANPR invited interested persons to submit written comments on the issues raised in the ANPR by March 14, 1983. The comment period was extended to May 16, 1983 (48 FR 14005) in response to commenters who requested

additional time to make their submissions. Thirty written comments were received in addition to seven requests for extending the comment period. Commenters recommended that OSHA use performance criteria in addressing alternate stabilization systems; require training of employees in the operation of powered platforms; notify building owners of installation deficiencies and amend the current standard to reflect changes in related OSHA's General Industry Standards and ANSI standards. Also, information and data were received in response to the specific issues raised in the ANPR.

On January 22, 1985, OSHA published (50 FR 2890) a proposed amendment of its powered platform standard. The Notice of Proposed Rulemaking (NPRM) invited interested persons to submit written comments on the proposed standard and to file objections and requests for a public hearing. The original date for the close of the comment period was set for March 25, 1985, but was subsequently extended, at the request of commenters, to June 3, 1985 (50 FR 15756).

OSHA reopened the comment period on June 26, 1985 to permit the filing of written comments on the Preliminary Regulatory Impact Assessment (PRIA), which had not been available for public review during the earlier comment period. Written comments on the PRIA were to be received by August 1, 1985 (50 FR 27307). Forty-nine written comments were received, including nine requests for a hearing. These comments identified seven primary issues:

1. Should the equipment that is used to maintain the elevated interior of buildings (atriums) be addressed in a separate standard, or should the proposal be revised to address atriums?
2. Is there a need for a limit on the horizontal movement of an intermittently stabilized platform?
3. Should OSHA modify the proposed requirement that a secondary suspension system be used in conjunction with horizontal lifelines, if vertical lifelines are not selected for employee fall protection?
4. Should the proposed formula for calculating the safety factor of the suspension wire rope be amended, if the efficiency of the rope termination is taken into account?
5. Should OSHA retain the proposed electrical requirements, such as a voltage drop limit and a circuit disconnect switch, now addressed in the National Electric Code, but which is not addressed in OSHA's electrical standards under 29 CFR Part 1910, Subpart S?

6. Should OSHA expand its requirements for the protection of platform members if heat producing processes or corrosive substances are used on the platform?

7. Should OSHA require that written work procedures be provided for employee training?

In addition to these primary issues, OSHA requested information and suggestions on a number of other issues. These issues addressed intermittent and button guide stabilization systems, supported equipment, davit sockets and weight limits, wire rope terminations and inspections, cable stabilization, platform passage and roll, roof carriage stability and personal fall arrest systems. All of these issues are reviewed in the Summary and Explanation of the Final Rule (Section IV).

In response to the hearing requests, OSHA published a notice of informal hearing, listing these issues, on November 22, 1985 (50 FR 48222). The informal hearing was convened by Judge Leonard N. Lawrence on February 19, 1986, pursuant to section 6(b)(3) of the Act (29 U.S.C. 655(b)(3)) and 29 CFR Part 1911. The hearing included testimony from 25 witnesses. Judge Lawrence established a post-hearing period for the submission of additional comments and briefs extending through April 13, 1986. In response to requests from several hearing participants to extend the time to file additional data and evidence, Judge Lawrence extended the time to receive post-hearing data, evidence and briefs through May 23, 1986.

The entire record, including 112 exhibits and 928 transcript pages, was certified by Judge Lawrence on April 5, 1986, in accordance with 29 CFR 1911.17. Copies of materials in the record, as well as an index of the record, may be obtained from the OSHA Docket Office, Room N-2634, Frances Perkins Building, 200 Constitution Avenue NW., Washington, DC 20210.

The final standard is based on a full consideration of the entire record of this proceeding including materials discussed or relied on in the proposal, the record of the informal hearing, and all written comments and exhibits received.

### III. New Issues

#### A. Portable Suction Cups

During the post-hearing comment period, OSHA received a suggestion (EX. 50) that OSHA should investigate the use of portable suction cups (glazier type) as an alternate means of stabilizing a powered platform. Although the suggested alternative was

received by OSHA very late in the rulemaking process, OSHA considered it to be an interesting concept and sought by letter comments (EX. 112) from all hearing participants on its possible use, so that OSHA would have a basis to reopen the rulemaking and offer guidelines on the method, if appropriate.

A significant number of commenters (EX. 48, 52, 54, 59, 68, 69, 78, 80, 85) opposed the use of glazier type portable suction cups for platform stabilization. These commenters were concerned that the suction cups would require extreme surface cleanliness; could be applied only to smooth hard surfaces such as glass and granite; and might not safely support the loads imposed on them.

In addition, they expressed concern that the building curtain wall or glass area would not be designed to sustain the imposed loading; the vacuum could not be maintained over a long period of time; and the location of the suction cups on the building would be determined by the operator rather than on the basis of an engineering stabilization system.

One commenter (EX. 54) stated that he could not support the use of suction cups without extensive testing. Even if such tests proved that the cups would support the loads, he believed it was essential that the operator be trained in their care and use to insure that the cups were kept clean enough to maintain a holding effect at the building face. Also, if the cups should lose their vacuum, they could fall and injure operators on the platform.

In support of the use of suction cups, one commenter (EX. 60) believed that these cups could be applied to existing buildings, provided the glass or building curtain wall could support the imposed loads.

Another supporting commenter (EX. 50, 86) stated that although the stabilization device had not been extensively studied, he believed that an engineered system for platform stabilization, using suction cups, was feasible with existing technology. He believed that a properly engineered system would provide equivalent platform stabilization and result in substantial installation and operating cost savings. This commenter noted that suction cups are only one of many other devices or systems which could be utilized for platform stabilization. The others include permanent magnets, electromagnets in the building, a vacuum system and regenerative adhesives.

OSHA has not directly addressed the use of suction cups as stabilization devices in the final rule, since there is

insufficient evidence and data for a standard on these devices at this time and since notice and comment on this specific issue was not provided. OSHA notes however that the final rule, requires that all equipment installations, including stabilizing components such as suction cups, would be designed by a professional engineer, paragraph (f)(1)(i). Therefore, a stabilization method, such as suction cups, would be acceptable if designed by a professional engineer and equivalent to existing stabilization methods listed in the standard (f)(5)(i)(F). OSHA intends, as noted in Appendix A, item 11, that one acceptable method of demonstrating the equivalency of a stabilization method is to provide an engineering analysis by a registered professional engineer. Such an engineering analysis would address the equivalency of a proposed stabilization method in its function, ease and method of use, durability and adaptability to the work environment. In addition, the analysis would determine the capability of the building and the stabilizer devices to meet the required loading and other relevant safety criteria.

#### B. Level-Sensing Devices

During the informal hearing period, a commenter (TR 2/20, p. 26) recommended that OSHA require a level sensing device on the platform. This device would sense an out-of-level condition (more than five degrees) on a two-point suspended platform, and discontinue power to the hoist causing this condition until the platform is brought to a level condition by the use of the opposite hoist unit.

This commenter claimed there have been a number of incidents in New York City where a platform has gotten out of level, causing it to become jammed in the mullion track. This condition necessitated a rescue of the operators from the stranded platform. No injury or accident data was provided to OSHA to support the need for this device.

A New York State official (EX. 87), in a post hearing comment, stated that there was only one notable incident (with no injury) which led to the inclusion of the level-sensing device requirement in the New York safety standards. New York is currently considering whether it should change its requirement for out-of-level criteria on platforms from five degrees to ten degrees.

Several individuals (TR 2/20, pp. 70, 109, 369) who gave testimony at the hearing disagreed with the need for requiring a level-sensing device on a two-point suspended powered platform. They contended that since employee

operation is the primary reason for out-of-level platforms, if employees are properly trained in platform operation and in the handling of emergencies this would prevent the occurrence of an out-of-level condition. Since a mercury switch is used in the device, they noted that the device would be extremely sensitive to any platform vibration or swaying, and that this vibration or swaying would cause the switch to go on and off continuously. This on and off operation could cause the hoist motors to operate on starting currents which can eventually contribute to a motor burnout. A motor burnout could place the operators in jeopardy, since they would be stranded on the platform until rescued.

A platform manufacturer (TR 2/20, p. 369) testified that his company's experience with these devices in New York has convinced him that these devices are unreliable, costly and a major source of maintenance service calls.

From the hearing testimony presented, OSHA did not receive sufficient evidence of an employee hazard due to out-of-level platforms to warrant the need for a standard requirement on this issue. In fact, the commenters pointed out that the device itself can present unique hazards for employees when it is used. OSHA believes that employee training in the operation of a powered platform, as required in paragraph (i)(1)(i), and the perception by employees of an out-of-level platform would prompt them to take the necessary action to prevent a hazardous condition from occurring.

#### IV. Summary and Explanation of Final Rule

The final standard revising 29 CFR 1910.66 follows the language and format of the proposal, except for a number of changes based on OSHA's review of the entire rulemaking record. The rulemaking record includes the written comments, hearing testimony, data and comments submitted during the hearing and post-hearing period.

Following is a discussion of the requirements in the amended powered platform standard. This preamble discusses only those provisions which were addressed by public comment or testimony. For those proposed provisions for which no post-proposal submissions were received, and which are unchanged from the proposed rule, the preamble references the specific page in the Notice of Proposed Rulemaking of January 22, 1985 (50 FR 2890) where a discussion of the provision can be found. The numbers in brackets refer to specific references in

the comments to the January 22, 1985 proposal, the February 19, 1986 hearing Exhibits (EX.), and hearing transcript page numbers, e.g. (TR 2/19, p. 100).

OSHA defines the scope of this standard in paragraph (a). In most major respects, OSHA has retained the scope of the previous powered platform standard and of the proposal. Thus, § 1910.66 continues to cover powered platform installations for building maintenance which are permanently dedicated to maintaining a specific structure or group of structures. OSHA has expanded the previous scope to include powered platforms used to perform maintenance on elevated interiors of buildings (atriums), as well as on building exteriors.

OSHA proposed to continue to limit this standard to permanent installations. Temporary suspended scaffolds are presently covered by 29 CFR 1910.28(g) and a proposed revision of that standard is scheduled for the coming year. For this reason OSHA did not raise the issue of whether to incorporate coverage of temporary scaffold installations into § 1910.66.

During this rulemaking, however, some participants questioned continuation of separate standards. One major concern recited was that permanent and temporary installations use similar equipment and employees face similar hazards and, therefore, these installations should be regulated by the same standard (see EX. 9-30, 9-37), and testimony of Lee B. Herzog (TR 2/20, p. 195). Additional comments noted specific deficiencies in 29 CFR 1910.28(g), such as not providing scaffold stabilization when a scaffold is moving between work stations. (See Lawrence R. Stafford, EX. 9-28, TR 2/20, p. 87; Kurt W. Daigel, EX. 9-22; TR 2/20, p. 342.)

On the other hand, other participants noted potential problems in combining temporary scaffolds and permanent platform installations in one standard. Safety concerns were raised by both union and industry groups. Window Cleaners Local #16 (EX. 84) and the Scaffold Industry Association (EX. 9-40) contended that inclusion of the temporary units in the proposal would impose requirements on these units that would, in effect, reduce the number in use. The union claimed that such a reduction would reduce the number of jobs for employees operating these temporary units. Economic concerns were cited by Joseph Puccinelli of Safeway Steel Products (TR 2/20, p. 276) and the Window Cleaning Contractors Association (TR 2/20, p. 474), who speculated that if the more expensive requirements of § 1910.66 were imposed

on temporary units, this would result in less frequent building maintenance and losses for companies performing maintenance.

OSHA appreciates the concerns and suggestions presented by commenters and hearing participants during this rulemaking proceeding on the subject of temporary suspended scaffolds. OSHA has summarized the comments received on this subject, and has presented them here to provide a public record of the concerns expressed by the interested parties. However, as noted previously, temporary suspended scaffolds are presently covered in § 1910.28(g) and a proposed revision of this standard is scheduled for the coming year.

Comments on temporary units received in the present rulemaking will be more properly addressed at the time of that proposed revision. Addressing those comments in this rulemaking would delay both rulemakings because of the need to evaluate differing technical and economic issues. Paragraph (a) has been reworded to clarify the exclusion of temporary suspended scaffolds from coverage by this standard.

In the Notice of Hearing of November 22, 1985 (50 FR 48222), OSHA requested comment on whether the coverage of platform installations used to maintain the elevated interior of buildings (atriums) should be addressed in a separate standard or whether the proposed paragraph (b)(1) which applied only to "exterior maintenance" should be revised to address atriums. This question was addressed by a number of commenters (EX. 9-10, 9-25, 9-31 9-35, 9-45; 14-1, 14-3; 15-4, 15-8, 15-13, 15-18; 50) and hearing participants (TR 2/19, pp. 50, 170, 171, 178, 203, 229, 239; TR 2/20, pp. 31, 85, 86, 98, 315, 334, 459, 474).

The Tennessee Valley Administration (TVA) (EX. 14-3) supported the need for a separate standard to address atriums, since these installations generally had unique structural configurations which presented problems in platform rigging, suspension, stability and operational procedures. This commenter also noted that the securing of vertical life lines and emergency rescue procedures in this interior environment had to be separately addressed.

The Window Cleaning Contractors Association (TR 2/20, p. 459) concurred with TVA in that atriums generally have designs which pose special problems for building maintenance that should be addressed in a separate standard.

Lerch, Bates and Associates (TR 2/19, p. 178) also favored a separate standard for atriums. This commenter observed that interior installations are generally not self-powered or subjected to wind forces.

OSHA Consultant David E. Hoberg (TR 2/29 pp. 50, 170) recommended that the proposed paragraph (b)(1) be revised to include the coverage of atriums under this standard. He pointed out that the equipment and operating methods for interior and exterior installations are similar and are used by the same employees in maintaining a building. He further stated that with the absence of wind forces, work station tie-in devices would be sufficient for platform stability and would eliminate the need for continuous or intermittent restraints in atrium installations.

The California Department of Industrial Relations (EX. 9-45) agreed with Mr. Hoberg that exterior and interior platform installations were closely related, and that atrium installations should be addressed in the proposal.

Kurt W. Daigel (TR 2/20, p. 334) of the New York State Department of Labor and Lawrence R. Stafford (TR 2/20, p. 85, 86) also favored the revision of the proposed paragraph to include atrium coverage, provided that the platform installation is designed by a professional engineer. In addition, they recommended that adequate operating instructions and emergency rescue procedures for an atrium installation be addressed in the proposal.

OSHA agrees with the commenters and those testifying at the hearing that the standard should address permanent platform installations used in atriums. First, there are more significant similarities in the equipment and operations used at the interiors and exteriors of buildings. Second, the proposed standard's provisions easily address atrium installations, with minor exceptions. Third, including protection of employees working in atriums against similar powered platform hazards is appropriate and avoids the unnecessary delay in providing specific coverage for these workers. Employee training requirements in the standard would address the difference in work procedures for exterior and interior work. Paragraph (a), therefore, now extends this standard to permanent exterior and interior installations.

In response to the need expressed for emergency rescue requirements, paragraph (e)(9) adequately provides requirements for both interior and exterior building maintenance, including atriums. Further, since the building and equipment installations are required to be designed by a professional engineer under paragraphs (e)(1)(i) and (f)(1)(i), OSHA believes that concerns expressed about unique atrium structural problems affecting employee safety are adequately addressed.

Proposed paragraph (a) stated that this section did not apply where building maintenance is performed at heights 35 foot (10.1 m) or below. The 35 foot (10.1 m) exclusion was based on Section 101 of the ANSI A120 draft standard—November 1981. OSHA now recognizes, however, that this exclusion by ANSI was meant to avoid requiring that buildings which are less than 35 foot (10.1 m) in height have a permanent powered platform installation. OSHA does not require that a building owner install a permanent powered platform installation for building maintenance. However, if such a platform is installed, then this standard would apply to the total height of the building, including the initial 35 foot (10.1 m). OSHA believes that employees should be protected from hazards at all levels where the platform is used. OSHA, therefore, is deleting the 35 foot (10.1 m) exclusion in the standard.

One participant (TR 2/20, p. 458, 459) believed that temporary suspended scaffolds can be used safely on buildings up to 300 feet (91.5 m), and suggested that OSHA not require permanent powered platform installations below 300 feet (91.5 m). In addition, this commenter believed that powered platforms installations are costly and cannot be justified at the lower levels.

The issue of when permanent powered platforms installations should be required was not raised by OSHA in the proposal, and OSHA finds that there is insufficient evidence to suggest how such a requirement for permanent installations would be triggered. In addition, OSHA believes that the building owner is in the best position to determine the type of building maintenance equipment he or she should use based on considerations of feasibility, aesthetics, costs, safety and other relevant factors.

OSHA notes that both the scope and application language remain essentially unchanged from the proposal. However, OSHA has partly transposed the contents of these paragraphs as proposed. Thus, OSHA proposed that the "application" of this standard be limited to permanently dedicated exterior installations. OSHA has determined that this criterion more properly defines the "scope" of the standard, with the inclusion of interior installations.

Also, OSHA had proposed the "scope" of this standard be limited to maintenance performed in excess of 35 feet (10.1 m). The "scope" also described the building maintenance tasks. Upon review, OSHA determined, as noted

above, that the 35 foot (101.1 m) limitation be deleted. The description of building maintenance tasks remains in the "scope" in paragraph (a) of the standard.

Paragraph (b)(1) states that the standard applies to all permanent installations completed 180 days after the effective date of this standard. This paragraph clarifies proposed paragraph (b)(3) which addressed new installations.

OSHA notes that paragraph (b)(1) does not prevent an employer from adhering to the requirements of the standard for an installation completed during the 180 day period.

An equipment manufacturer (EX. 9-43) noted that 180 days may not be adequate, since it may take a year or more to complete a building. James W. Fortune (TR 2/20, p. 317), who testified for OSHA stated, however, that the proposal properly addresses new construction.

This provision is consistent with the six months exclusion in the ANSI A120 draft standard January 1986 (EX. 15-8). In addition, OSHA observes that there has been adequate notice in the Federal Register of the proposed changes to the present regulation, and ample time for review has been given to all parties so they can adjust to the proposed changes.

Paragraph (b)(1) also states that the standard applies to all major modifications to existing installations completed after the 180 day period.

This provision was supported by Brian L. Gartner (TR 2/20, p. 169) and Thomas J. O'Shea (TR 2/20, p. 317) who agreed that major replacements or modifications to existing platform installations which affect the building and/or platform equipment should comply with the standard. They believe it was incumbent on building owners to apply the latest safety standards to these major modifications.

OSHA also notes that the ANSI A120 draft standard January—1986 (EX 15-8) requires that major changes to those portions of the building that provide primary support for the platform equipment should be accomplished in such a manner as to meet requirements of current safety standards.

OSHA is in agreement with the need for applying the requirements of this standard to major modifications of existing installations and is including this application in the Final Rule under paragraph (b)(1). Major modifications would include work similar to that involved when a new building or facility is built or when a new wing or floors are added to an existing building. Major modifications would not include work involving window replacements or other

building facade and roof changes which do not affect the suspension or stabilization of the platform equipment.

Several commenters (EX. 9-34, 9-37, 9-43) supported the need to exempt existing platform installations from the revised standard, as in proposed paragraph (b)(2). OSHA agrees that the design of many existing buildings and platform equipment may prohibit complete compliance with the revised standard. Also many of these existing installations may already be designed to meet the stabilization requirements listed in OSHA Instruction Standard 1-3.3 of November 1, 1982.

OSHA, however, has determined it is necessary that existing installations at least comply with paragraphs (g), (h), (i) and (j) as well as Appendices C and D. Paragraph (g) addresses the inspections and tests to be conducted on powered platforms. Paragraph (h) addresses powered platform maintenance.

Paragraph (i) addresses platform operations (employee training and platform use) which is not covered in the unrevised standard. Paragraph (j) addresses personal fall protection for employees on all types of working platforms, while the existing standard only addresses personal fall protection for employees on two-point working platforms. Appendix C, referenced in paragraph (j), addresses personal fall protection. Appendix D addresses building and equipment requirements for installations purchased and used after August 27, 1981, but before July 23, 1990, and carries forward the requirements of paragraphs a, b, c, and d of the standard. These paragraphs cover building and equipment design, construction and inspection. The discussion of the testimony and comments received on paragraphs (g), (h), (i), (j), Appendix C and Appendix D is found in the preamble sections addressing these paragraphs.

OSHA had proposed in paragraph (c) that the employer be required to obtain a certification from the building owner that the powered platform installation meets paragraphs (e), (f), (g) and (h), of the standard. The reason for this proposed requirement was OSHA's recognition that in many cases the employer is a contractor who provides employees to perform building maintenance using powered platforms installed by the building owner. The structural integrity and operational safety of those platforms, their anchorages, and related equipment such as hoists depends on their design, installation and maintenance. The building owner will have the knowledge to evaluate whether the platform installations were designed, installed

and maintained in compliance with this standard. If the building owner is also the employer of the employees who perform the building maintenance no burden would be created by the proposed requirement that the employer obtain a certification from the building owner. If however, as in the majority of cases, the building owner does not employ the maintenance workers, concern was expressed that the building owner's reluctance to issue a certification would be unfair and ineffective (TR 2/20, pp. 461, 426). Under the proposal only the employer of the maintenance workers could be cited for the failure to obtain a certification. Little incentive would be provided in the standard to encourage the building owner to certify: his options would be to contract with employers who were willing to take their chances and work on uncertified platforms, or where feasible to use temporary platforms.

OSHA recognizes that it is the building owner who has the information to design his building to conform to these standards. The Agency therefore has determined that in order to advance the remedial purposes of the Act that the standard will require that the building owner be responsible for assuring the employer that his building and equipment conform to specified requirements of the standard.

OSHA also has reduced the scope of the required certification rather than, as in the proposal, requiring the certification to broadly attest to total compliance with provisions of paragraphs (e), (f), (g) and (h). The provision now requires certification that the platform installation meets the critical design criteria set out and that it be designed and installed under the supervision of a registered professional engineer. These design criteria are not amenable to evaluation by the employer who is not the building owner, since compliance or non compliance is concealed from view or even close inspection. Since most of the design requirements are expressed in the standard as performance criteria, and the performance can be evaluated only by sophisticated tests and calculations, OSHA is also concerned about Agency capability to inspect for hidden defects.

As stated above, the requirement in paragraph (c)(1) does not reference each provision which it covers. Rather, the relevant subject areas, such as load capabilities, stability factors, horizontal forces and the design of carriages, hoisting machines, wire ropes, stabilization systems and electrical equipment, are stated. OSHA believes that the provisions to be covered by the

assurance requirement are easily identifiable in the standard. To assist the public in identifying major design criteria, however, OSHA is describing the provisions which it intends to cover by subject matter immediately below.

Load requirements apply to both building and equipment design. The major provisions deal with building anchors, stabilizer ties and guide buttons in (e)(2)(iii); (A)(5), (A)(6) and (B)(6). Building load factors cover occupant loads, (f)(1)(ii), as does the counterpart equipment provision, (e)(1)(iv). Paragraph (f)(3) contains load requirements for hoist motors, (i)(M), and transportable outriggers, (ii) (F) and (H); paragraph (f)(4) specifies load capabilities for hoisting machines, (v), and the winding drum attachment, (viii). Load factors for suspended unit components are contained in paragraph (f)(5); for platforms and wire ropes, (f)(5)(v)(I), and platforms and attachments in (f)(5)(vi)(F), and wire rope connections in (f)(7)(i).

Stability factors for designated equipment are set apart in paragraph (f) of the standard. They cover carriage stability, (f)(3)(i) (G) and (G)(i), anchorages for outriggers, (f)(3)(ii)(C), lateral stability of outriggers, (f)(3)(ii)(E), and stability of davits, (f)(3)(iii)(A) and of units not suspended at the ends, (f)(5)(i)(D). Platform roll, which affects stability, is covered in paragraph (f)(5)(ii)(C).

Design requirements linked to specified forces apply to buildings and equipment. Thus, an angulation force of at least 10 pounds (44.4 N) must be maintained when angulated roping permitted for the top 75 feet of the building is used (e)(2)(ii). The force required to push a manually propelled carriage or to rotate a davit shall not exceed 40 pounds per person (44.8 N), (f)(3)(i)(C) and (f)(3)(iii)(D).

Design requirements related to carriages are set apart in paragraph (f)(3)(i) of the standard. They cover traversing speed, (i)(B), protective devices and interlocks, (i)(F), resistance to overturning, (G)(2), interlocks for the tie-down device, (G)(3), and breaking systems, (H), and (H)(1).

Primary and secondary brake requirements for hoisting machines are listed in paragraphs (f)(4)(ix), (ix)(A), (ix)(B)(1) and (ix)(B)(2). In addition, requirements for hoisting machines are listed for arresting overspeed descent, (f)(4) and limiting platforms speed, (f)(5)(ii)(G).

Design factors and material requirements for suspension wire rope are set apart in paragraphs (f)(7) (ii) and (iii).

The maintenance of continuous contact of the platform with the building facade is required with intermittent stabilization systems, (e)(2)(iii)(A), and angulated roping systems, (e)(2)(iii)(C).

In addition to the basic requirement that powered platform electrical wiring and equipment design must comply with Subpart S (§§ 1910.302-1910.308), design criteria in paragraphs (e) and (f) include the following provisions: limiting service voltage droppage to five percent at any power circuit outlet, (e)(11)(ii), and an independent equipment power circuit, (e)(11)(iii). Electrical components must be designed for exterior use, (f)(8)(ii); cables protected against overvoltage damage; (f)(8)(iii); controls included to protect against overloads, three phase reversal and phase failure, (f)(8)(iv); controls operative only under limited circumstances, (f)(8)(vi) (A) and (B); power to be interrupting automatically when wire rope slackens, (f)(8)(vi)(C); prevent unsafe upward and downward travel with directional switches, (f)(8)(vii); supply emergency stop switches for remote controlled roof-powered platforms, (f)(8)(viii); and supply overload devices for cables in constant tension, (f)(8)(ix).

The Agency believes that this requirement is squarely within the permitted range of regulation. In various regulatory contexts, the Agency has required employers who are not the direct employers of the employees exposed to a particular hazard to warn of defects, take remedial action or provide information to the directly employing employer. For instance, the Hazard Communication standard requires that upstream manufacturers provide information to downstream employers to protect their employees (29 CFR 1910.1200). A similar requirement in the earlier benzene standard was upheld by the Court of Appeals. The Court stated; "(p)lacing the responsibility to warn downstream employees of concealed hazards on those upstream employers who create the hazards and know of the hazards is consistent with the remedial purpose of the Act and is within OSHA's broad authority to prescribe warning labels." *American Petroleum Institute v. OSHA* (581 F. 2d 493, 51 (1978)). cf. *Mourning v. Family Publications Services*, 411 U.S. 356 (1973).

Paragraph (d) establishes terms for definitions used in the standard and commonly recognized in the industry. No comments were received on the following terms: Anemometer, angulated roping, cable, carriage, certification, control, guide shoe, interlock, operating device, primary brake, prime mover, registered professional engineer,

building face roller, rope, speed reducer, stability factor, stabilizer tie, tie-in-guides, transportable outriggers, verify, weatherproof, winding drum hoist. No change is made in these definitions in the Final Rule. The discussion of each of these proposed definitions is found in the preamble of the Notice of Proposed Rulemaking of January 22, 1985 (50 FR 2890) on pages 2909 and 2910. Major clarifying changes have been made to the definitions for "combination cable" and "installation."

Kurt W. Daigel (EX. 9-31, 9-41) recommended that the proposed definition for "babbitted fastenings" be eliminated, since babbitted fastenings are no longer accepted practice. Hoberg (EX. 19B, 19-c; TR 2/19, p. 53) noted the term "babbitted fastenings" should be replaced by the term "speltered sockets" or a more generic term such as "poured sockets," since babbitted fastenings should be prohibited for wire rope used for powered platforms. This commenter observed that babbitted fastenings are used in elevator rope terminations, but such fastenings would be unacceptable if used in a traction hoist because of the wire rope turning in the socket. In addition, Mr. Hoberg noted that babbitted fastenings are rated at 25 percent efficiency while fastenings for wire rope should have at least an 80 percent efficiency.

OSHA notes that the recommendations made by these commenters for the prohibition of babbitted fastenings for hoisting rope is supported in the text "Handbook of Rigging for Construction and Industrial Operations," 3rd edition, by W. Rossnagel, P.E., on page 55, which addresses wire rope fastenings.

OSHA is deleting the proposed definition for "babbitted fastenings" and is adding a definition for the generic term "poured socket" in the Final Rule. This definition is based on a definition of this term on page 28 of the *Wire Rope Manual*, second edition, published by the American Iron and Steel Institute.

Spider Staging Sales Company and Daigel (EX. 9-22, 9-31, 9-41) recommended deletion of the word "exterior" in the proposed definition of building maintenance, claiming the standard should also cover interior maintenance activities as well. The California Department of Industrial Relations (EX. 9-45) suggested that the definition include the terms "scheduled maintenance," which would cover window cleaning activities, and "unscheduled maintenance," which would cover caulking, sandblasting, etc.

Since, as explained above, OSHA is expanding the scope of the standard to

include interior maintenance, it therefore agrees that the definition of "building maintenance" should reflect this change and is deleting the proposed modifying phrase, "exterior."

OSHA is not adding the terms "scheduled maintenance" and "unscheduled maintenance" in the Final Rule since it believes it is unnecessary to show this differentiation in the definition. Windows are washed, stones cleaned, glass replaced—sometimes regularly, and sometimes on an as-needed basis, as determined by inspection.

Daigel (EX. 9-22) and Hoberg (EX. 19B) concurred in suggesting that the definition for "traveling cable" as proposed in paragraph (d)(9) be deleted. They believed that this definition is unnecessary, since the term "cable" is adequately defined in the Final Rule and there is no specific need to define cable types in the standard. OSHA agrees, and the definition for traveling cable is deleted in the Final Rule.

It was suggested that the term "catalog strength" be changed to the term "rated strength" since it is more generic and permits the engineer to adjust for arbitrary catalog listings and installation limits (TR 2/19, p. 53, EX. 19B). OSHA accepts the suggestion of a commenter and is changing the term in the Final Rule.

OSHA is including a definition for "competent person" to substitute for a proposed definition for "qualified person." OSHA notes that the term is meant to identify persons who will conduct equipment and wire rope inspections and persons who will train other employees in the use and inspection of powered platforms. The building owner has the responsibility for the designation of the person he or she deems qualified to conduct equipment and wire rope inspections, while the employer would designate the person that would train other employees in the use and inspection of powered platforms. Because the term "qualified person" is used in Appendix C, and in Part 1926 to refer to formally trained persons, OSHA believes that it is inappropriate and confusing to use "qualified person" as proposed. OSHA had made specific the areas of competence for the "competent person" as suggested by a commenter (EX. 9-20).

It was claimed (EX. 19B) that the proposed definition of "continuous pressure" was awkward and difficult to interpret, because of the use of the terms "device" and "control." OSHA agrees and has changed the definition in the Final Rule.

Daigel (EX. 9-22) suggested deleting the phrase "and for transferring the

platform between these locations" in the proposed definition of "davit." The phrase might imply it is permissible to use a davit for moving a platform horizontally across a building face.

Hoberg (TR 2/19, p. 54, EX. 19B, 19C) noted that the davit definition could also describe a carriage, and that it was important to differentiate between davits, carriages and outriggers to obtain effective compliance with the standard. Mr. Hoberg recommended specific changes in the definition which would conform to the equipment described in the proposal and illustrate the characteristics unique to davits. In addition, this commenter recommended adding two additional definitions: "ground-rig davit" and "roof-rig davit" in the final rule since requirements for these two types were included in the proposal. OSHA agrees with the suggestions made by both commenters and is changing the "davit" definition and adding definitions for ground-rig davit and roof-rig davit in the Final Rule.

The proposed standard had provided a generic definition for equipment tie-ins. OSHA is deleting this definition in the final rule since the specific tie-in used in the proposal is defined under "stabilization tie."

Daigel (EX. 9-31) stated that the proposed definition for "equivalent" was far too broad and should include the phrase "protect against a hazard" to make it more specific. OSHA believes that there may be alternative designs, materials or methods which can contribute to a safe workplace but which may not directly "protect against a hazard." OSHA, therefore, has determined that the definition for "equivalent" remain unchanged in the Final Rule.

Daigel (EX. 9-22) and Hoberg (EX. 19B) suggested that the proposed definition for "ground rigging" be clarified. The proposed definition, as stated, might wrongfully imply that roof-powered platforms may not be used when ground rigging. OSHA concurs with the commenters and is changing the definition in the Final Rule to eliminate this implication.

A commenter (EX. 9-41) suggested that the proposed definition for "guide roller" be changed and made similar to the proposed definition for "guide shoe." OSHA notes, however, that a "guide shoe" is different from a "guide roller" in that it provides a sliding contact between the building guides and the shoe. In addition, comments by Hoberg (EX. 19-B) and the proposed definition in the ANSI A120 draft standard—January 1986 (EX. 15-8) concur in support of the definition as stated in the proposal. OSHA believes a guide roller

is adequately described in the proposed definition and the paragraph, therefore, is unchanged in the Final Rule.

The proposed definitions for "multiple wrap drum hoist" and "single wrap drum hoist" are deleted since these terms are not used in the Final Rule.

The proposed definition for a "hoist machine" has been modified for clarification. The word "powered" is added before the word "device."

The proposed definition for "installation" has been changed to improve clarity. In addition, OSHA is deleting the word "exterior" in the definition since the rule is to apply to exterior and interior building maintenance.

The proposed definition for "intermittent stabilization" specifies the vertical placement of the building anchors on a building face. Hoberg (EX. 19-B) claims there is nothing unique about the verticality, since the anchors are spaced horizontally and vertically, and suggested that the phrase "vertical" be deleted. OSHA accepts the suggestion and the definition is changed in the Final Rule.

The California Department of Industrial Relations (EX. 9-45) recommended that the proposed definition for "lifeline" be broadened to include both horizontal and vertical lifelines. OSHA agrees and is changing the definition in the Final Rule.

It was noted (TR 2/19, p. 54, EX. 19-B) that the term "live load" means "moving and dynamic" in other related regulations and standards. For consistency with other standards, the commenter suggested deleting the word "static" in the title of the proposed definition for "live load." OSHA agrees and is changing the title of the definition in the Final Rule.

A comment from Hoberg (EX. 19-B) was intended to clarify the proposed definition for "obstruction detector." He suggested the substitution of the term "control," which is defined in the proposal, for the term "device." OSHA agrees with this suggestion and is changing the definition in the Final Rule.

The term "operating control" was used in the proposal at (f)(3)(i)(F) and was not defined. OSHA agrees with Hoberg (EX. 19-B) and developed a definition that is added in the Final Rule.

Comments received from the New York State Department of Labor (EX. 9-41), Kurt W. Daigel (EX. 9-31) and Hoberg (EX. 19-B) concurred in the need for clarification of the proposed definition for "outrigger." Because an outrigger is differentiated from a davit in the regulations, Mr. Hoberg suggested

the definitions should be similar so that differences are clear when definition comparisons are made. OSHA agrees with the commenters and the definition for "outrigger" is changed in the Final Rule. In addition, OSHA is substituting the term "working platform," which is defined, for the term "powered platform."

Comments received from Spider Staging Sales Company (EX. 9-43), Daigel (EX. 9-31), and Hoberg (EX. 19-B) regarding the proposed definition for "rated load" reveal a variety of opinions on how this definition should be written. Mr. Daigel would prefer that the definition address only a hoist load, while the Spider Staging Sales Company suggested the definition should address the loading for the powered platform system. Mr. Hoberg noted that there could be serious consequences in the misinterpretation of this term and recommended a series of load term definitions to avoid this problem. OSHA accepts Mr. Hoberg's recommendations, which also address suggestions by Mr. Daigel and Spider Staging Sales Company, and the proposed definition of rated load is replaced in the Final Rule with four separate load definitions. These definitions are used in the Final Rule text.

K.W. Daigel (EX. 9-22) suggested that the proposed definitions for a roof-powered platform and a self-powered platform be simplified through the appropriate use of the word "hoist." OSHA agrees and both definitions are modified in the Final Rule.

Daigel (EX. 9-22) and the New York State Department of Labor (EX. 9-41) suggested that the phrase "protected against injury" be replaced in the proposed definition for "safe surface" with the phrase "protected against falling." OSHA agrees that protection against falling is the major concern for employees who use a building surface to prepare rigging or to gain access to powered platforms. Accordingly, OSHA is changing the definition in the Final Rule.

OSHA is making minor changes to the proposed definition for "secondary brake." The term now focuses on the function, i.e., to arrest the descent of a powered platform in the event of an overspeed condition or in an emergency. In addition, OSHA has dropped proposed language which described other possible reasons for activating secondary brakes in reply to comments (EX. 9-22, 9-31, 9-41).

Although no comment was received on the proposed definition of "stability factor," OSHA believes it is appropriate to explain the criteria used in the stability factor. The stabilizing moment

is the algebraic sum of the moments of force acting on the inboard side of the fulcrum in a platform installation support. The overturning moment is the algebraic sum of the moments of force acting on the outboard side of the fulcrum in a platform installation support. The physical significance of the moment of a force about an axis lies in the fact that it is a measure of the tendency of the force to turn the body on which the force acts about that axis. The definition remains unchanged in the Final Rule.

The New York State Department of Labor (EX. 9-41) and Daigel (EX. 9-31) recommended that the proposed definition for "supported equipment" be revised to show the characteristics distinguishing that term from "suspended equipment." These commenters also recommended that OSHA consider deleting this definition entirely since this type of equipment may not be in use.

OSHA is aware of at least one instance where supported equipment has been built, tested and installed on a building. Such equipment uses building members rather than wire rope for support, and is best applied on sloped surfaces and in atriums. In addition, the draft standard ANSI A120—January 1986 (EX. 15-8) continues to include provisions addressing supported equipment. OSHA has decided to retain the provisions addressing supported equipment in the Final Rule and, as a consequence, is leaving unchanged the proposed definition for supported equipment in the Final Rule. OSHA believes the definition adequately describes the unique characteristics of supported equipment and provides an easy comparison with the definition for suspended equipment.

Daigel (EX. 9-22) claimed that the proposed definition for "suspended equipment" would negate all the effort that has been expended in the industry to preclude horizontal movement of platforms across the building face except when in the uppermost storage position. He also suggested that the definition should be compatible with the definition for a two-point (two suspension wire ropes) suspended scaffold in the OSHA standard 29 CFR 1910.21(f)(34).

OSHA agrees that the definition should be modified to avoid the implication that platforms can be moved horizontally across a building face, but does not agree that the definition should follow the format of 29 CFR 1910.21(f)(34). The proposed definition was intended to be a generic definition for suspended equipment and would cover one point (one suspension wire

rope), two-point (two suspension wire ropes), and four-point (four suspension wire ropes) types of powered platforms.

OSHA addresses the issue of platform horizontal movement in its change of the definition for "suspended equipment" in the Final Rule.

The New York State Department of Labor (EX. 9-41) and Daigel (EX. 9-22) recommended that the proposed definition for "suspended scaffolds" be deleted, since it is covered under the definition for suspended equipment. However, each term is used in a different context at paragraphs (b)(1) and (f)(5)(i), and therefore requires a separate definition. The definition is unchanged from the proposal in the Final Rule.

The New York State Department of Labor (EX. 9-41) stated that the proposed definition for "tail line" could also mean a line between a safety belt and a hanging lifeline. However, in the context of this standard, the tail line is only used in reference to a suspension wire rope and a clarifying change is made in the Final Rule.

The proposed definition for "tie-in device," paragraph (d)(54), is deleted since this term is not used in the Final Rule.

The proposed definition for a "traction drum hoist" did not refer to a traction sheave hoist, which is another basic type of traction hoist. It was suggested (EX. 19-B) that the definition be given the generic title of "traction hoist" and include both traction drum hoist and traction sheave hoist references in the definition text. OSHA agrees with the suggestion and the definition is changed in the Final Rule.

The proposed definition for "transportable equipment" is deleted, since the term is not used in the Final Rule.

It was suggested (TR 2/19, p. 56, EX. 19-B) that the definition for "trolley system" be changed to a definition for a "trolley carriage" for the purpose of providing clarity and consistency in the Final Rule. The commenter noted that carriages and trolley systems are defined as having identical functions, and reasoned there should be safety controls on overhead supported trolleys equal to those provided on underfoot supported carriages. OSHA believes the commenter's suggestion has merit and is changing the definition in the Final Rule. Appropriate changes are also made in the text of the Final Rule to reflect the definition change.

Kurt W. Daigel (EX. 9-22) and the New York State Department of Labor (EX. 9-41) suggested eliminating the term "exterior" in the definition for

"working platform." OSHA agrees, since the application of the proposal is being expanded to include interior maintenance. OSHA also is adding the term "Manned" to be consistent with regulatory text.

Paragraph (e) proposed general requirements for buildings which utilize powered platform installations. No comments were received on paragraphs (e)(1)(ii), (e)(1)(iii), (e)(1)(iv), (e)(2)(iii)(A)(4), (e)(6), (e)(10), (e)(11)(i), (e)(11)(iii), (e)(11)(v), and no change is made in these paragraphs in the Final Rule. The discussion of each of these provisions is found in the preamble of the Notice of Proposed Rulemaking of January 22, 1985 (50 FR 28990) on pages 2896, 2897 and 2898. Proposed provision (e)(2)(iii)(A)(4) is included in paragraph (e)(2)(iii)(A) of the Final Rule.

Paragraph (e)(1) proposed the general requirements which apply to buildings that utilize working platforms.

The California Department of Industrial Relations (EX. 9-45) suggested that the proposed paragraph (e)(1) include a requirement for locating detailed engineering plans at the work site to ensure that proper replacement parts will be provided when needed. The Final Rule addresses the commenter's concern regarding installation repairs in paragraph (e)(10). This paragraph requires that repairs to the building affecting suspended equipment installations not affect the capability of the building to meet the requirements of the standard.

The Spider Staging Sales Company (EX. 9-43) suggested changing the application of proposed paragraph (e)(1) to "building maintenance which utilize suspended systems." In response, OSHA points out that the paragraph addresses specific building requirements in an installation which must be met for compliance. The paragraph does not address building maintenance.

Proposed paragraph (e)(1)(i) required that building attachments and equipment be designed by a registered professional engineer experienced in such design. Hoberg (TR 2/19, p. 49) stated that this was a sound approach, but noted that the design criteria to be used were not included. The commenter observed that in many states an engineer attests to technical compliance with a reference design standard or standards. This was confirmed in at least one state by a submission received from Carl J. Thurnau (EX. 87) of the New York State Department of Labor. In the New York State Advisory Standard #101 for the construction, operation and maintenance of swinging scaffolds, recognized design standards are listed which the state considers acceptable in

applications for approval of suspended scaffolds.

In the ANSI A120 draft standard—January 1986 (EX. 15-8), design criteria are addressed in section 202. In this section, the criteria are based on the limitations (stresses, deflections, etc.) established by nationally recognized standards promulgated by a number of organizations.

OSHA agrees that some guidelines are needed for the design criteria used by the engineer. Following the approach used by the ANSI A120 draft standard—January 1986 (EX. 15-8), OSHA is adding to Appendix A a list of organizations which have established nationally recognized design standards applicable to powered platform installations.

The New York State Department of Labor (EX. 9-41) and Kurt W. Daigel (EX. 9-31) suggested deleting the proposed requirement for building installations in (e)(1)(v) because it was too broad. This requirement stated that the building installation shall allow for the safe use and operation of the equipment. OSHA agrees and has changed the provision of the Final Rule to require that only those affected parts of the building be designed to allow the equipment to be used without exposing employees to hazards.

Proposed paragraph (e)(2)(i) would have required building exteriors to have tie-in guides which are building face components that provide a continuous means of positive engagement between the building and suspended unit. The definition of the term "tie-in guides" states that the guides provide continuous positive engagement between the suspended equipment and the building. For reasons of consistency, OSHA is changing the revision at paragraph (e)(2)(i) in the Final Rule by requiring that building exteriors be provided with tie-in guides and deleting those phrases which are in the definition of the term "tie-in guides."

The proposal, in paragraph (e)(2)(ii), would have allowed tie-in guides to be eliminated if not feasible due to exterior building design, for uppermost elevations. Tie-in guides would have been eliminated from the upper 75 feet (22.9 m) provided angulated roping is employed and continuous contact is maintained by the platform with building face. For the upper 50 feet (15.3 m), no angulated roping or continuous contact would have been required.

Two commenters (EX. 9-23, 9-43) recommended that the tie-in guide exclusion for upper elevations be increased to 130 foot (39.6 m), the same distance as was permitted in proposed paragraph (e)(2)(iii)(c) for elevations above ground level. OSHA believes the

two environmental conditions are not comparable. First, the wind pressure effect on tall buildings is usually greatest at the top corners of a building. Second, the column effect of air on the exterior of a building increases with building heights. This uplifting wind tends to "dam up" under a platform and get between the platform and the building, moving the platform away from the building. For these reasons, OSHA cannot accept the recommendation that the tie-in guide exclusion for upper elevations be increased to 130 foot (39.6 m).

Kurt W. Daigel (EX. 9-22) and Hoberg (EX. 19B) concurred in suggesting that OSHA should reword this exclusion to require that there should be continuous contact between the platform and the building face at the 50 foot (15.3 m) upper-most elevations. This suggestion addresses the objection to the upper 50 foot (15.3 m) exclusion by Leonard Nork (TR 2/20, p. 23) who stated that employees can be subjected to hazards at elevated building heights due to the windy conditions if tie-in guides are not used.

Other commenters (EX. 9-31, 9-41, 15-8) and hearing participants (TR 2/19 p. 182; 2/20-311, 334) supported the upper 75 foot (22.9 m) exclusion. James W. Fortune (TR 2/19, p. 182) and Douglas A. Greenaway (EX. 15-8) also believed that the upper 75 foot (22.9 m) exclusion should be reworded to require a minimum angulation force of 10 pounds (44.4 N) on the building face.

In response to these comments, OSHA agrees that an exception to continuous positive engagement of the working platform the building should be made in such a manner so as not to increase the risk to employees when they are working near roof top elevations. Accordingly, if tie-in guides are excluded at the uppermost elevations, there is a real need to provide an alternate method of platform stabilization because of the wind forces which can occur at these elevations. The platform stabilization required for the upper 50 foot (15.3 m) should be no less than is required at the upper 75 foot (22.9 m) level. Therefore OSHA is deleting the reference to 50 foot (15.3 m), retaining the 75 foot (22.9 m) exclusion as proposed and adding the requirement for a minimum angulation force of 10 pounds (44.4N) in the Final Rule. This revision from the proposal is requiring a continuous contact between the platform and the building face, if the platform is not stabilized with tie-in guides for the upper 75 foot (22.9 m) level. In addition, OSHA is deleting the word "continuous" in the Final Rule,

since the word is contained in the definition of tie-in guides and therefore is redundant.

Proposed paragraph (e)(2)(iii) is being modified in the final rule for clarity and for consistency with other related provisions. First, as in the previous paragraph the word "continuous" is deleted since this word is already contained in the definition of tie-in guides. Second, the phrase "required in (e)(2)(i)" is added to show the relationship of this exclusion provision to the original requirement. Third, a reference to paragraphs (e)(2)(iii) (A), (B) and (C) is added to complete the reference to three guide systems—anyone of which is required if tie-in guides are not used.

Requirements for powered platform installations using intermittent stabilization systems were proposed in paragraph (e)(2)(iii)(A). A considerable number of commenters (EX. 9-22, 9-23, 9-25, 9-28, 9-29, 9-31, 9-34, 9-35, 9-37, 9-41; EX. 15-4, 15-8, 15-13; 19B; 38; 50; 88) and hearing witnesses (TR 2/19, pp. 58, 153, 174, 230; TR 2/20, pp. 23, 115, 311, 333) addressed this provision. The three primary issues raised were the proposed 14-inch (355.6 mm) limit on platform displacement, the wind velocity of 40 miles per hour (64.3 km/hr) as a design criteria, and the related lateral displacement tables in Appendix C.

Daigel (TR 2/20, p. 333), Thomas J. O'Shea (TR 2/20, p. 311), and James W. Fortune (TR 2/19, p. 230) claimed that the 14-inch (355.6 mm) limit on platform displacement was based on the faulty premise that normal platform movement in excess of 14 inches (355.6 mm) would cause a worker to fall. They contended that normal wind forces will move a 2,000-pound (89.6 kg) platform very slowly along the face of a building because of the platform weight and the frictional forces which are in opposition to these wind forces. In addition, they claimed the platform would remain level and tend to right itself during this movement. Only high winds, they continued, have a significant effect on platform stabilization, and this is the main reason for using stabilizer ties.

Daigel (TR 2/20, p. 333) also pointed out that under normal operating conditions, in the absence of winds, the platform may displace in excess of 14 inches (355.6 mm) laterally, due to variables such as worker movement on the platform, building face roller condition and contact, and differences in actuation of the platform hoist controls.

Lawrence R. Stafford (EX. 15-4), Thomas J. O'Shea (EX. 15-13), and Hoberg (TR 2/19, p. 58) noted that the rate of platform displacement and a

worker's reaction time would determine a worker's stability on a platform. Since these criteria are so variable, they contended that assigning numerical limits for platform displacement for the purpose of assuring worker stability is not feasible and should be omitted. These same commenters observed that the designer of the building installation can limit the horizontal displacement of a platform for a specific building through proper vertical spacing of the building anchors, platform weight and stabilizer tie length.

Hoberg (EX. 19-B) recommended that OSHA should delete the 14-inch (355.6 mm) limit on platform displacement, and require instead that the intermittent stabilization system be designed to prevent sudden horizontal movement of the platform. It is the sudden movement of the platform, Hoberg contended, that is more likely to cause a worker to lose his or her stability on the platform.

OSHA is appreciative of this new data submitted by the commenters and witnesses relative to the 14-inch (355.6 mm) proposed limit on platform displacement. This new data, which indicated that the proposed limit would not achieve OSHA's intended purpose, had not been considered in the study (EXH. 2) prepared for OSHA on intermittent stabilization. After considering the new data, OSHA is deleting this proposed requirement and substituting performance language which requires the system to be capable of preventing sudden platform horizontal movement. The Agency believes that this provision addresses the hazard more effectively.

Several commenters (EX. 9-23, 9-25, 9-28, 9-37, 9-41) and persons who testified at the hearing (TR 2/20, pp. 23, 311) objected to the 40 miles per hour (64.3 km/hr.) velocity criterion in the proposed requirement (e)(2)(iii)(A). These commenters believed that workers should not be required to work on a platform when exposed to winds even approaching this velocity. However, it was not OSHA's intention that this criterion be used as a limit on worker exposure. The 40 miles per hour (64.3 km/hr) velocity criterion was intended to serve as the design basis for the proposed 14-inch limit (355.6 mm) on platform displacement. Since OSHA is not promulgating the proposed displacement limit, the 40 miles per hour (64.3 km/hr) criterion also is eliminated in the Final Rule.

OSHA also is eliminating the tables proposed for inclusion in Appendix C in the Final Rule. They were intended to provide guideline data to building installation designers on lateral displacement in an intermittent

stabilization system. James W. Fortune (TR 2/19, p. 174), Thomas J. O'Shea (TR 2/20, p. 311), and Daigel (TR 2/20, p. 311) noted during the public hearing that these tables should be deleted for several reasons. First, the introduction of wind velocity variables in the tables in excess of 25 miles per hour (40.2 km/hr) implied that workers would be permitted to work on a platform in these wind exposures. Second, building installation designers would develop their own designs for intermittent stabilization systems specifically suited to each building and would not utilize the guidelines presented in Appendix C. Third, if OSHA should decide to delete the 14-inch (355.6 mm) displacement limit in the proposal, the tables would be unnecessary. Since OSHA has agreed that the limit on platform displacement is to be eliminated in the Final Rule, the tables in Appendix C are also deleted.

OSHA had proposed that the maximum vertical interval between building anchors in an intermittent stabilization system be 50 foot (15.3 m). A large number of comments (EX. 14-1; 15-4; 9-13, 9-25, 9-31, 9-41, 9-43; TR 2/19, pp. 60, 185; TR 2/20, pp. 23, 92, 267, 313) were received in response to OSHA'S request for comments on this provision in the November 22, 1985 Notice of Hearing (50 FR 48222).

Some commenters, James W. Fortune (TR 2/19 p. 185), Daigel (EX. 9-31) and the New York State Department of Labor (EX. 9-41) suggested that the maximum interval between building anchors should be less than 50 foot (15.3 m) for buildings in excess of 500 foot (153 m) in height because of the generally higher wind velocities at those elevations.

Thomas J. O'Shea (TR 2/20, p. 313) and Lawrence R. Stafford (EX. 15-4) believed there was no engineering justification to reduce the anchor interval to a specific distance at the higher elevations in the regulation. They contended that this spacing should be decided by a competent professional engineer based on an evaluation of the entire system, platform size, wind design values for the site, and the profile of the facade.

The Travelers Insurance Company (EX. 14-1), Daigel (EX. 9-31), and Lawrence R. Stafford (TR 2/20, p. 92) recommended that the proposed 50 foot (15.3 m) interval be reduced to 40 foot (12.2 m) regardless of the building height. Lawrence R. Stafford noted that New York State has had excellent experience with the 40 foot (12.2 m) limit.

Another group of commenters, Hoberg (EX. 19-B, TR 2/19, p. 60), Acme

Fabricators (EX. 9-13), Spider Staging Sales (EX. 9-43), and Richard W. Hoffman (TR 2/20, p. 207) recommended that the building anchor interval be limited to three floors or 50 foot (15.3 m), whichever is less. These commenters argued that the three floor limit has worked out quite well in their experience and is acceptable to most architects. In addition, if a floor limit is not introduced it is possible that in some buildings with eight feet six inch floors (2.6 m), the proposed provision permitting a maximum of 50 foot (15.3 m) would allow building anchors every four floors. Therefore, it is conceivable for some buildings to have building anchors every four floors and on other buildings every three floors. These commenters concluded that for uniformity and safety, ease of installation, operation and design, the three floor limit of not greater than 50 foot (15.3 m) was recommended.

OSHA agrees with the latter group of commenters and is changing the proposed requirement in the Final Rule accordingly. OSHA believes that because of the variability of conditions which exist at each building site, it is appropriate that this provision establish a set of minimum criteria for spacing of anchors allowing the necessary flexibility to deal with the particular conditions encountered. Due to the various site conditions that have been identified such as the wind environment at various elevations, the platform length and weight, and the facade profile, the responsible architect or engineer should have the latitude to consider these variables in locating the appropriate building anchors. If a tall building requires additional building anchors, or if certain conditions along a building edge require a building anchor at every floor, the provision should allow the architect or engineer to address each situation. Furthermore, OSHA believes that in a time of crisis, a worker will look for a building anchor at a given floor level rather than at a distance that is irregularly spaced with respect to the building facade panels.

Finally, the change in the Final Rule for the building anchor interval to a three floor limit is consistent with current OSHA Instruction STD 1-3.3 of November 12, 1985 (EX. 102), which addresses intermittent stabilization systems.

Other requirements for building anchors are also changed from the proposal. Hoberg (EX. 19-B, 19-C) suggested that the proposed provision requiring the anchors to be in vertical rows be modified, since some buildings have different spacings at different

elevations as part of the architectural design. This commenter also believed that it is an unsafe practice to use the building anchors to move the platform horizontally across the face of the building, and suggested OSHA address this practice in the provision. Lee B. Herzog (EX. 9-29) noted that the proposal would imply that four stabilizer attachments are required for a platform using a four wire rope suspension system. This commenter suggested changing the provision to require that only two stabilizer attachments need be used for this type of system.

OSHA agrees with the commenters and has changed provisions (e)(2)(iii)(A)(2) and (e)(2)(iii)(A)(3) in the Final Rule to reflect their suggestions.

Hoberg (EX. 19-B, 19-C) suggested that OSHA also address the hazard which could occur if building anchors were to cut or entangle lifelines, wire ropes or cables. This commenter noted that the catching of suspension wire ropes and life-lines on external anchors was an almost universal complaint among workers using these systems he contacted. OSHA agrees and is addressing this hazard in a new paragraph (e)(2)(iii)(A)(4) in the Final Rule.

The required capability of intermittent stabilization system components was also at issue. The proposal required intermittent stabilization system components to be capable of supporting, without failure, at least four times the maximum intended load applied or transmitted to the components.

Daigel (EX. 9-31) and Thomas J. O'Shea (TR 2/20, p. 213) recommended that OSHA also address the loading requirement on each building anchor. These commenters believed that the minimum load for each anchor should be 600 pounds (2668 N) based on their field observations of these systems.

Hoberg (EX. 19B, 19c) supported the need for addressing anchor loading requirements. This commenter recommended, however, that the minimum anticipated load on a single building anchor should be 300 pounds (1334 N). This recommendation was based on criteria that included a platform end area of 10 square feet (0.9 m<sup>2</sup>) enclosed with steel mesh, a wind force from a 100 miles/hour (160.8 km/hr.) wind, a four to one safety factor and the sharing of the wind load by two building anchors. Mr. Hoberg believed that only those building anchor arrangements in which one anchor must withstand all of the load should have a greater capability factor than where two anchors can share the load.

OSHA agrees that the 300 pound (1334 N) minimum anticipated loading per anchor is adequate if both anchors share the load, and this requirement is included in paragraph (e)(2)(iii)(A)(5) in the Final Rule. For installations, where both anchors do not share the load, paragraph (e)(2)(iii)(A)(6) addresses those instances.

Hoberg (EX. 19c) suggested that OSHA require the building anchors and stabilizer ties to have the capability of withstanding anticipated wind loads if a platform should be stranded on a building face due to some mechanical or electrical failure. In addition, he suggested that a single anchor should have the capability to sustain these wind loads if the anchors have different spacing than the suspension wire ropes.

OSHA believes these suggestions have merit and is including them in the Final Rule in paragraph (e)(2)(iii)(A)(6).

Several commenters, Lawrence R. Stafford (EX. 15-4), Thomas J. O'Shea (EX. 15-13), and Daigel (EX. 15-14) supported the proposed paragraph which would have prohibited the use of ground rigged platforms on intermittent stabilization systems. They claimed a feasible system has not been developed which will provide the necessary stabilization of the platform. OSHA's proposed prohibition also was based on the Agency's belief that "on a ground rigged platform, the stabilizer ties cannot be attached to the building anchors during the first ascent to the roof" (50 FR 2897, January 22, 1985).

Many other commenters (EX. 9-13, 9-23, 9-34, 9-37; 19B) and hearing witnesses (TR 2/19, p. 184; TR 2/20 pp. 306, 309), however, recommended that such platforms not be prohibited based on their experience and observations.

Powered Platforms Company (EX. 9-23), Acme Fabricators Company (EX. 9-13), and Joseph Puccinelli (TR 2/20, p. 306) claimed that special provisions can be made to provide stabilizers at each floor level as a ground rigged platform ascended. James W. Fortune (TR 2/19 p. 184) provided OSHA with a drawing of a building in California in which stabilization was provided for a ground rigged platform and contended that employee work procedures, similar to those used for roof rigged platforms, could be used in deploying the intermittent ties. Robert W. Hursh (EX. 101) also provided OSHA with sketches and analysis of a similar ground rigged platform arrangement. Hoberg (EX. 19B) claimed that the proposed prohibition is based on the assumption that the ropes or platforms cannot be restrained except by a worker on the platform, and that this assumption is incorrect. This

commenter noted that access panels in the building face would allow the suspension wire rope to be restrained to the building anchors prior to the ascent of a ground rigged platform.

Based on the new data provided by the commenters which show that ground rigged platforms can be stabilized intermittently, OSHA agrees to eliminate the prohibition in the Final Rule. Stabilization of the ground rigged platform during its ascent, however, is required under paragraph (f)(5)(v)(H).

In addition, the Final Rule contains other provisions which will also ensure that the use of ground rigged platforms on intermittent stabilization systems will not present a hazard to employees. First, under paragraph (e)(1)(i) and (f)(1)(i), the building and equipment components are to be designed by a registered professional engineer. Second, under paragraph (c), the employer is required to obtain a certification from the building owner that the installation meets the requirements of this standard. Third, under paragraph (i)(1)(iii), employees must be trained in the operating procedures peculiar to ground rigged platforms with intermittent stabilization systems.

Requirements for powered platform installations using button guide stabilization systems are set out in paragraph (e)(2)(iii)(B). These systems include a guide track mounted on the platform and guide buttons mounted on the building face which engage the track during ascent and descent. Lawrence R. Stafford (EX. 9-35; TR 2/20, p. 153), Daigel (EX. 9-22, 9-31; TR 2/20, p. 334), and the Window Cleaning Contractors Association (EX. 9-20) objected to the inclusion of this alternate stabilization system in the standard. These commenters claimed that there were certain problems with these systems, such as lifelines catching on the buttons and button misalignment due to the variance in building construction. Other problems that were claimed included possible button breakage due to guide track hang-up and hand injuries from handling the guide tracks mounted on the platform.

James W. Fortune (EX. 43; TR 2/19, pp. 176, 186) and Hoberg (EX. 19B, 19C; TR 2/19, pp. 57, 163) supported the use of a button guide stabilization system as an alternate stabilization system. In response to the objections raised against these systems, these two commenters noted that the problems noted were a function of improper design, improper suspension of safety lines and inadequate training of employees. These commenters claimed to have observed a number of button guide stabilization

systems which have operated satisfactorily. Hoberg (EX. 19B) recommended that several provisions be added to this section which address the problems of lifelines, button breakage and alignment, and guide track operation.

OSHA agrees with these commenters, for the reasons stated, that this alternate stabilization system should be retained in the standard. OSHA also is including the relevant provisions recommended by Hoberg in the Final Rule and these are identified as paragraphs (e)(2)(iii)(B)(1), (e)(2)(iii)(B)(2), (e)(2)(iii)(B)(3), (e)(2)(iii)(B)(5) and (e)(2)(iii)(B)(6). In summary, OSHA is changing the proposed requirements for button guide stabilization systems under paragraph (e)(2)(iii)(B) in the following manner.

First, the word "continuous" and the last sentence of proposed paragraph (e)(2)(iii)(B) are deleted. The word "continuous" is already contained in the definition of tie-in-guides. The last sentence of this paragraph which addressed guide bar requirements is transferred in the Final Rule to paragraph (f)(5)(vi)(A), which addresses equipment requirements. Second, for purposes of clarity, proposed paragraph (e)(2)(iii)(B)(1) is rewritten as paragraphs (e)(2)(iii)(B)(2) and (3). Their content remains the same. Third, proposed paragraph (e)(2)(iii)(B)(2) is being rewritten as paragraph (e)(2)(iii)(B)(4). The word "bar" is changed to the more descriptive word "track," and OSHA is clarifying the fact that when the guide track initially engages the first building anchor a gap in the continuous engagement will occur. Fourth, the proposed paragraph (e)(2)(iii)(B)(3) is being rewritten as paragraph (e)(2)(iii)(B)(6), since OSHA agrees with Hoberg's (EX. 19B) comment that the proposed provision does not properly address the loading of button guide stabilization system components. This commenter suggested that the paragraph be changed to insure that the anchor and building components be capable of sustaining without damage at least the weight of the platform. If this capability is not provided, then provisions must be made in the guide tracks or guide track connectors to prevent the platform and its attachments from transmitting the weight of the platform to the anchor and building components.

In addition to these specific requirements, OSHA notes that a number of other provisions in the final rule generally address the issues raised with regard to button guide stabilization systems. These provisions include paragraph (e)(1)(i), which addresses design of any building installation by a

registered professional engineer, and paragraphs (i)(1)(i) and (i)(1)(ii), which address the training of employees operating powered platforms.

Requirements for powered platform installations, where the suspended portion of the equipment does not exceed 130 feet (39.6 m) above a safe surface, were set out in proposed paragraph (e)(2)(iii)(c). A number of commenters (EX. 9-22, -23, -28, -34, -35; 15-8, -14; 88) and persons who gave hearing testimony (TR 2/19, pp. 96, 103; TR 2/20, pp. 23, 333) addressed this provision. The primary issues raised were the 14-inch (355.6 mm) limit on platform displacement and the wind velocity criteria of 40 miles per hour (64.3 km/hr).

Daigel (EX. 9-22, 15-14, TR 2/20, p. 333) raised the same objections to the 14-inch (355.6 mm) limit on platform displacement in proposed paragraph (e)(2)(iii)(C) as he had on this same limit in proposed paragraph (e)(2)(iii)(A).

Hoberg (EX. 19B) also recommended that OSHA delete the proposed 14-inch (355.6 mm) limit on platform displacement, since it is the rate of displacement and not the displacement distance that would affect a worker's stabilization in a suspended platform. Since the rate of displacement is so variable and the assignment of a numerical limit is not feasible, this commenter suggested that OSHA require that the installation be designed to prevent sudden movement of the platform. After considering this new data presented by the commenters on the proposed 14-inch (355.6 mm) limit, OSHA finds that platform displacement is due to many factors and thus OSHA is deleting this requirement in the Final Rule and substituting performance language for controlling the platform displacement.

Several commenters (EX. 9-23, 9-34, 9-35; 15-14) and a hearing participant (TR 2/20, p. 29) objected to the 40 miles per hour (64.3 km/hr) wind velocity criterion in the proposed requirement (e)(2)(iii)(c). These commenters believed it is an unsafe practice to require employees to work on a platform when exposed to winds of this velocity. OSHA is deleting the velocity criterion in the Final Rule for the same reasons that were given in the deletion of this same criterion in proposed paragraph (e)(2)(iii)(A).

Hoberg (EX. 19B, 88; TR 2/19, p. 96) and Douglas A. Greenaway (EX. 15-8) recommended that OSHA retain the requirement in the present standard for a minimum angulation force of 10 pounds (44.4 N) as required in the proposed paragraph (e)(2)(iii)(C).

Hoberg stated that such a requirement would ensure there is a force available of given magnitude that can resist the lateral movement of the platform caused by employees walking on the platform. This commenter stated that, from his own experience, such a requirement is feasible even at the bottom of a 130-foot (39.6 m) drop. The 10-pound force (44.4 N), he continued, may be obtained by tie-backs or any other feasible method applicable to the installation.

OSHA agrees with these commenters that the platform should remain in contact with the building facade with a force of not less than 10 pounds (44.4 N), and this provision is retained in the Final Rule. Such a provision will ensure platform stabilization for employees working on platform installations with suspensions of less than 130 feet (39.6 m) without tie-ins to the building facade. Such a provision will also address Leonard Nork's (TR 2/20, p. 23) concern for employee safety on such installations because of the lack of tie-ins.

Since OSHA has decided that the scope of the Final Rule will cover platform installations used in the interiors of buildings (atriums) which have areas requiring maintenance, platform stabilization in this environment is addressed by this standard. Comments received on proposed stabilization provisions for platforms used on building exteriors concluded that employee movement on the platform contributed to platform displacement and an unsafe work surface. Tie-in guides and other equivalent methods are required in the final rule for the purpose of addressing this employee movement on exterior platforms. Hoberg (TR 2/19, p. 17), Daigel (EX. 9-31), and the Tennessee Valley Administration (EX. 14-3) concur in the need for a similar stability requirement for platforms used in atriums. Although a continuous or intermittent tie-in may not be necessary in an atrium because wind conditions are not a factor, they recommended that the platform be tied off at each work station to ensure platform stability. Hoberg noted that a restraint is necessary because of the extensive platform movement that results from employees pushing off from a work surface or from walking on the platform during work activities.

OSHA agrees that a tie-off of the platform at each work station is one method of providing stability in an atrium environment, but it is not the only method. OSHA believes that the building owner should have the option of utilizing stabilization methods

generally used for exterior environments if one of these methods serve his purpose. OSHA, therefore, is providing this flexibility in selecting a stabilization method in paragraph (e)(2)(iv).

Guarding requirements for employees working on roofs while performing exterior building maintenance were proposed in paragraph (e)(3).

Proposed paragraph (e)(3)(i) provided that guarding be provided on the roof perimeter to protect employees from falling while they were performing exterior building maintenance. This guarding was to have met the provisions of Subpart D of 29 CFR 1910. In the Final Rule, paragraph (e)(3)(i) references a specific standard, rather than all of Subpart D, to provide a more specific reference in the current General Industry Standards.

Several commenters (EX. 15-23, 57, 87) and persons who gave testimony at the hearing (TR 2/21, pp. 19, 26, 28) addressed paragraph (e)(3)(ii). Raymond Horvath (TR 2/21, p. 19) noted that the referenced Subpart D of Part 1910 in the proposed provision does not address the required horizontal distance of the perimeter roof guard from the face of the building being serviced. This commenter also noted that the ANSI draft standard A120.1—January 1986 (EX. 15-8) requires 12 inches (309 mm) for this horizontal distance, but he believed that this distance is insufficient because many parapet walls are in excess of 12 inches thick. If a builder were strictly to comply with a 12-inch (309 mm) distance in these cases, a guard rail (perimeter roof guard) would require bends or angles, at additional cost, or the guard rail would have to penetrate the top of the parapet.

For feasibility and with due regard to employee safety, Mr. Horvath recommended that the perimeter roof guard be located no less than six inches (152 mm) inboard of the inside face of the parapet wall or roof edge curb of the building being serviced. Further, he recommended that the location of this guard not exceed 18 inches (457 mm) from the exterior building face.

Lawrence R. Stafford (TR 2/21, p. 28) agreed with Mr. Horvath on the 18-inch (457 mm) limit, since any larger dimension could conceivably inhibit the use of davit installations. Mr. Stafford also agreed that bending of a guardrail above a parapet is undesirable, since it would provide a ledge on the inboard side of the guardrail and thus reduce the effective height of the guardrail if a person were to stand on the ledge.

OSHA agrees with these commenters and is modifying the perimeter roof guard provision in the final rule under

(e)(3)(ii) to conform with Mr. Horvath's recommendation, for the purpose of affording feasibility in complying with the perimeter roof guarding requirements.

Powered Platforms Manufacturing Company (EX. 9-23) suggested that proposed paragraph (e)(4), which addresses stops for trackless equipment, require stops only if an event could occur that would cause hazardous conditions for employees. Douglas A. Greenaway (EX. 15-8), in his submission of the ANSI A120 draft standard—January 1986, recommended that equipment stops be required by OSHA for trackless type equipment. Hoberg (EX. 19B, 19C) recommended that OSHA require equipment stops for the purpose of protecting employees from a crushing or shearing hazard if equipment should leave its intended travel areas.

OSHA agrees that a requirement for equipment stops should be included for three reasons. First, if trackless equipment should leave its designated areas, a hazard could result for employees due to a structural failure of the roof when the equipment is moved away from its structural support. Second, since most trackless surfaces are concrete slabs mounted on a roof, equipment dropping from this surface could create a pinch, crush or fall hazard for employees. Third, an employee could be trapped between a wall and the equipment if the equipment moved away from its designated path.

In addition to retaining the requirement for equipment stops (e)(4), in the final rule, OSHA is addressing the crushing and shearing hazard for employees, and removing the redundant proposed phrase "or being positioned."

Acme Fabricators Inc. (EX. 9-13) supported the need to provide safe areas for maintenance and storage of carriages as proposed in paragraph (e)(5). Hoberg (EX. 19B) concurred and also suggested replacing the words "supported equipment" with "suspended equipment" for clarity and for consistency with the definition of trolley carriage, in the Final Rule.

OSHA agrees and the appropriate revisions are made in the Final Rule in paragraph (e)(5).

Several commenters (EX. 15-8, 19B, 57) supported the need for tie-down anchors to be of noncorrosive metal as proposed in paragraph (e)(7). Douglas A. Greenaway (EX. 15-8) would also require inspection of these anchors for compliance with design requirements by a registered professional engineer, followed by an inspection report. Hoberg (EX. 19B) suggested clarifying

language to improve the meaning of the provision.

OSHA agrees to clarify the provision in the Final Rule as suggested by Hoberg. However, OSHA believes that a requirement for an inspection of the anchors would be unnecessary, since the building installation requirements are to be designed by a registered professional engineer under paragraph (e)(1)(i), the employer would have to be assured by the building owner that the installation has met those requirements under paragraph (c) in the Final Rule, and there is no evidence indicating failure of anchors.

James W. Fortune (TR 2/19, p. 196) suggested deleting the requirement for cable stabilization in proposed paragraphs (e)(8)(i) and (e)(8)(ii), since he believed this was a design function. However, a number of commenters (EX. 9-13, 9-31, 9-41; 15-4, 15-8; 19B, 19-C; 57) supported the need for the stabilization of cables and hanging lifelines. Lawrence R. Stafford (EX. 15-4) noted that such stabilization will prevent these cables and lifelines from creating an employee hazard as a result of striking building glass areas. Richard W. Hoffman (EX. 57) commented that strong winds acting on a lifeline can move employees to the leeward side of a platform and severely limit their movements. Daigel (EX. 9-31) recommended deleting the phrase "any other force" in the provision, while Hoberg (EX. 19B) suggested that paragraphs (e)(8)(i) and (e)(8)(ii) be combined because of their similarity.

OSHA agrees that the proposed requirement for cable and lifeline stabilization should be retained in the Final Rule. In addition to the reasons expressed by commenters in support of this requirement, OSHA believes that stabilization will help to further reduce employee hazards by reducing the abrasion of cables and lifelines. The stabilization of cables and lifelines can be provided by any method which limits their displacement by wind or other forces. OSHA also agrees to combine proposed paragraphs (e)(9)(i) and (e)(8)(ii) in the Final Rule into a new paragraph (e)(8)(i) for the purpose of reducing verbiage.

Several commenters (EX. 15-8, 19B, TR 2/20, p. 334) supported the proposed stabilization requirement for tensioned hanging cable in paragraph (e)(8)(iii). Acme Fabricators Inc. (EX. 9-13) also supported the need for this requirement but suggested that stabilization be provided at the more frequent intervals of 200 foot (61 m) rather than the proposed 600 foot (183 m). Swing Stage Inc. (EX. 9-29) questioned the need for this requirement since it believed that

unstabilized tensioned cables might mark a building face but not affect the safety of employees on the platform.

OSHA believes it is necessary for these cables to be stabilized for a number of reasons. First, many of these cables are brought directly over a parapet and can become chafed through movement since they are adjacent to the building face. Second, if these cables become damaged, employees may be exposed to shock hazards from failed power conductors. Third, on high buildings wind forces can be greater on these cables than on the platform itself. Finally, the tensioned cables need to be stabilized so as to prevent the tension from interfering with the overload limiting devices on the hoisting cables.

OSHA cannot support the need for cable stabilization at the more frequent intervals of 200 foot (61 m) rather than the proposed 600 foot (183 m), since there is no evidence that a hazard exists when tensioned cables are stabilized at 600 foot (183 m). The requirement remains unchanged in the Final Rule and is renumbered as paragraph (e)(8)(ii).

A significant number of commenters (EX. 9-25, 9-37, 9-45; 14-3; 15-8; 19B; 65-20) and hearing witnesses (TR 2/19, pp. 55, 63; TR 2/20, pp. 24, 35, 54, 65, 84, 109, 496) recommended that OSHA require a written emergency action plan for employees in lieu of communicating such a plan orally as in proposed paragraph (e)(9). Becor Western Inc. (EX. 9-37) believed the plan should be written to assure that it has been thought out in advance and that the plan has been accurately communicated to employees. Hoberg (2/19, p. 63) noted that few employees remember an oral plan during an emergency and suggested that the written plans be kept at the manned communication facility in the building along with the emergency phone numbers and equipment logs. Leonard Nork (TR 2/20, p. 24) stated that employees should be given a written copy of the emergency action plan for their training to insure proper implementation of the plan. Mr. Nork also suggested that a record be kept of the employee who had been trained in these emergency procedures and the name of the instructor who performed the training. Other commenters (EX. 14-3, 9-45) and a hearing participant (TR 2/20, p. 84) observed that it was especially important to utilize written emergency action plans for building work sites having complicated atriums and exterior facades.

OSHA did not receive any comments which supported the use of oral methods rather than written methods in the

training of employees in an emergency action plan.

OSHA has considered the comments received on this issue and agrees that written emergency action plans are necessary for employees who use powered platforms. The work site of a powered platform may require unusual methods to correct a hazardous situation and employees must be knowledgeable in these methods to prevent further risk or injury. Such knowledge would be difficult for employees to retain over a period of time without reference to a written plan, since many buildings are maintained on three- and six-month cycles. OSHA believes that if employees are made aware of and have ready access to the emergency procedures that would be necessary if they have an accident on a suspended powered platform, they will have a heightened awareness of the need to follow safe procedures and use fall arrest equipment at all times.

Accordingly, OSHA is revising proposed paragraph (e)(9) in the Final Rule. The revision requires employers to develop and implement emergency procedures through the use of written emergency action plans. The plan must explain the procedures to be followed by employees when emergencies occur during platform operations. In addition, the plan is required to explain to employees that they inform themselves about the building emergency escape routes, procedures and alarm systems before they operate a platform to service the building.

OSHA is removing the word "exterior" in the Final Rule as it was proposed in paragraph (e)(11), since the scope of this standard is changed to include interior building maintenance.

The National Conference of States on Building Codes and Standards (NCSBCS) (EX. 9-15) questioned the need for OSHA to address voltage drop for building electrical wiring in paragraph (e)(11)(ii), since it is currently addressed in the National Electrical Code. Lawrence R. Stafford (EX. 15-4) and the Tennessee Valley Administration (EX. 14-3) argued that OSHA should address voltage drop in the standard since the National Electrical Code may change and the desired requirements would be lost. In response to these comments, OSHA notes that the National Electrical Code is no longer referenced in Subpart S (Electrical) of OSHA's General Industry Standards and therefore, the subject of voltage drop was addressed in the proposal. It was the intent of the provision to ensure that proper voltage is available at the electrical outlets to

ensure reliable platform operation. Low voltage may reduce lifting capacity of the hoist and/or may cause overheating. High voltage may increase torque and the lifting capacity beyond the overload limit settings.

Hoberg (EX. 19B, TR 2/19, p. 63) agreed that the proposed provision requiring the voltage drop to be limited to five percent is reasonable. However, he contended that the control of equipment voltage is often beyond the capability of the employer or building owner to correct. This commenter suggested that the voltage drop addressed in the standard should be measured from the building service vault and not from the power circuit outlet. It was his belief that it is only possible to ensure that the building electrical wiring be of such capacity that when full load is applied to the equipment power circuit, not more than a five percent drop from building service vault voltage shall occur at any power circuit outlet.

OSHA agrees and proposed paragraph (e)(11)(ii) is revised in the Final Rule to reflect this change in measurement of the voltage drop.

Paragraph (e)(11)(iii) requires that the equipment power circuit be an independent electrical circuit separate from other equipment used within or on the building. Powered platforms often require nearly all the power available on a roof circuit. Inadvertent use of a power tool or other equipment on a circuit while the platform hoists are using that circuit can trip the overcurrent protection of the circuit, stranding the platform personnel. The National Conference of States on Building Codes and Standards (EX. 9-15) suggested that this requirement be incorporated in the National Electrical Code (NEC) in lieu of the standard. However, OSHA does not control the requirements listed in the NEC and no longer references the NEC in its standard. Therefore, the provision is retained as proposed in the Final Rule.

As proposed, paragraph (e)(11)(iv) would have required that the disconnect switch for the power circuit have the capability of being locked in the "off" position. This provides the employees with the capability of preventing unauthorized operation of the platform. Hoberg (EX. 19B, TR 2/19, p. 64) recommended that the provision should also require that the disconnect switch have the capability of being secured in the "ON" position. He noted that this capability is important during equipment operation when workers are suspended over the side of the building and are not near the disconnect switch. The disconnect switch should then be

secured in the "ON" position so that power cannot be inadvertently interrupted.

The New York State Department of Labor (EX. 87) concurred with Mr. Hoberg. The New York Advisory Standard #101 requires that means be provided so that all switches are locked in the "ON" position while a platform is in use.

OSHA agrees with the commenters and proposed paragraph (e)(11)(iv) is revised in the Final Rule to require a disconnect switch to have the capability to be locked both in the "ON" and "OFF" positions and also requires that the disconnect switch be locked in the "ON" position when the platform is in use.

OSHA requested specific comment on the feasibility of the requirement in proposed paragraph (e)(11)(vi) that electrical service receptacles not be located on the parapet side of the carriage. Several commenters (EX. 9-30, 9-31, 9-41; 19B) and a hearing witness (TR 2/19, p. 54) recommended that this prohibition be deleted for a number of reasons. First, receptacles located on the parapet side are on the side of the roof carriage where the operator is looking while aligning the carriage with the edge of the building. While this aligning is being done, the power cable is in sight and serves as a continuous reminder to the operator not to run over it. Second, receptacles located on the parapet are above the flashing so workers never have to stand in water or shovel out snow to make an electrical connection. This potentially dangerous condition could occur, however, if non-parapet receptacles were used. Third, curbs are required in the standard to prevent roof carriages from traveling outside intended travel areas.

OSHA agrees with these commenters and is deleting this paragraph in the Final Rule. Deletion of this paragraph will also permit the employer and/or owner of the building to locate the receptacles in the optimum location for feasibility and employee safety.

Paragraph (f)(1) introduces the general requirements for equipment used for building maintenance. Since this standard is to apply to exterior and interior building maintenance, the word "exterior" in the proposal is removed in the final rule. No comments were received on proposed paragraphs (f)(3)(i)(B), (f)(3)(i)(D), (f)(3)(i)(F), (f)(3)(i)(G), (f)(3)(i)(K), (f)(3)(i)(L), (f)(3)(i)(N). The discussion of each of these provisions is found in the preamble of the Notice of Proposed Rulemaking of January 22, 1985 (50 FR 2890) on page 2912.

A commenter (EX. 31) and hearing witness (TR 2/23, p. 314) supported the requirement in paragraph (f)(1)(i) that equipment shall be designed by or under the direction of a registered professional engineer. However, another commenter (EX. 9-28) and hearing participant (TR 2/20, p. 331) claimed that this requirement as proposed was not complete, since the proposed definition of equipment only referred to the platform. These commenters believed that the entire equipment installation should be engineered to assure compatibility with the building on which it is installed. An equipment installation, in their opinion, would include carriages, davits and outriggers. OSHA agrees with these commenters, and is changing the requirement in the Final Rule for paragraphs (f)(1) and (f)(1)(i) to address all equipment in powered platform installations. In addition, OSHA notes that for equipment installations, guidelines for the design criteria are needed by the engineer. OSHA is adding to Appendix A a list of organizations which have established nationally recognized design standards applicable to powered platforms. The basis for this list was discussed above under paragraph (e)(1)(i) in this preamble.

Several commenters (EX. 9-17, 9-31, 9-34) recommended that the minimum live load of 250 pounds (11.2 kg) for each occupant of a platform proposed in paragraph (f)(1)(ii) be revised to include the weight of the occupants and any tools and materials used on the platform. Douglas A. Greenaway (EX. 15-8), recommended that OSHA retain the requirement for occupant loading as proposed.

In response to the commenters, OSHA notes that the common load capacities of equipment made in the United States are in increments of 250 pounds (11.2 kg), starting at 500 pounds (22.4 kg). In addition, the average adult male does not weigh more than 180 pounds (8.1 kg) and adding tools, equipment and materials per occupant would probably only raise the load to approximately 210 pounds (9.4 kg). The live load factor raises this to 250 pounds (11.2 kg), which is a conservative total. The provision, therefore, is unchanged in the Final Rule.

A number of commenters (EX. 9-35, 9-43, 15-8, 19B) and a hearing testifier (TR 2/19, p. 65) recommended that the minimum storage wind design load proposed in paragraph (f)(1)(iii) be changed from forces generated by a 75 mile per hour (33.5 m/s) wind to forces generated by a 100 mile per hour (44.7 m/s) wind. Lawrence R. Stafford (EX. 9-

35), Hoberg (EX. 19B), and Spider Staging Sales Company (EX. 9-43) noted that 100 mile per hour winds are not uncommon on some building roofs and many local building codes require higher loads. In addition, many modern buildings do not have the wind protection for exposed equipment that the older flat-topped buildings have. OSHA agrees with these commenters and further observes that wind damage to equipment may put employees at risk from equipment failure during later operations. This provision is revised in the Final Rule to address forces generated by a 100 mile per hour (44.7 m/s) wind.

Paragraph (f)(1)(iv) as proposed had required equipment installations exposed to wind during operation to have the capability of withstanding forces generated by winds of 60 miles per hour (26.9 m/s). This provision was based on a proposed limitation on employee exposure to 40 miles per hour (17.9 m/s) winds while operating a continuous positively engaged platform. Since OSHA has agreed with previous commenters that employees should not be exposed to winds in excess of 25 miles per hour (11.2 m/s) while operating a platform, the 60 miles per hour (26.9 m/s) proposed requirement can be reduced appropriately. Therefore, OSHA is in agreement with several commenters (EX. 9-31, 9-35, 9-41, 15-8) who have recommended that the proposed 60 miles per hour (26.9 m/s) requirement be changed to 50 miles per hour (22.4 m/s) in paragraph (f)(1)(iv).

Bolted connections were required to be self-locking or secured to prevent loosening by vibration in proposed paragraph (f)(2). Hoberg (EX. 19B) noted that the only reliable methods to prevent loosening of connections by vibration are design and torque. By contrast, he noted that lock nuts and other devices can prevent loss of the connections by vibration. This commenter suggested that the provision be revised to address loss rather than loosening by vibration. OSHA agrees and this provision is so changed in the Final Rule.

The California Department of Industrial Relations (EX. 9-45) suggested that OSHA require that fasteners and platform components be made of materials suitable for exterior maintenance and galvanically compatible with one another, under paragraph (f)(2). It was also suggested (EX. 19B) that OSHA also require that the equipment comply with recognized standards for design and construction under paragraph (f)(2). In response to these commenters, OSHA notes that

provision (f)(1)(i) requires that the equipment be designed by a registered professional engineer experienced in such design. It can be expected that such a qualified person would be familiar with the materials and standards for such equipment installations. In addition, a list of recognized standards applicable to this equipment has been provided in Appendix A. The paragraph (f)(2), therefore, has not been changed in the Final Rule.

Proposed paragraph (f)(3) listed a number of methods for suspending equipment, and also permitted equivalent methods of suspension. Hoberg (EX. 19B) recommended the deletion of the trolley system method since it is redundant. OSHA agrees, since the listed carriage method would also include trolley carriages, and the deletion is made in the Final Rule.

Two commenters (EX. 9-31, 9-41) suggested deleting the term "equivalent methods" and would have OSHA use the variance process to address nonlisted methods of suspension. OSHA believes that the proposed provision adequately places the responsibility on the employer for proving to OSHA that any new suspension method is equivalent to the listed methods, without using the variance process. Also, this provision, as proposed, will not inhibit an employer from developing new suspension methods. It remains unchanged in the Final Rule.

A number of commenters (EX. 9-31, 9-35, 9-37, 9-43; 19B) objected to the wording in the proposed introductory paragraph (f)(3)(i) for carriage requirements which included a description of how a carriage may be used. They stated there is an implication that it is the only way it can be used. In addition, there was the implication that if all elements noted in the description were not included on an installation, a violation of the regulation would exist. It was recommended (EX. 19B) that the provision be replaced with a more suitable introduction for carriage requirements. OSHA agrees that the proposed wording in the introductory paragraph may unnecessarily imply a limit on the use of a carriage, and therefore has changed the wording in the Final Rule.

Proposed paragraph (f)(3)(i)(A) required that the horizontal movement of a carriage be controlled to ensure safe operation. Hoberg (TR 2/19, p. 66) stated that this provision does not address the shear or crush hazard for employees due to a moving carriage when one operator has his or her attention directed to alignment, and the

other operator is watching the cable or aiding in the alignment. The commenter recommended that the carriage have a control to interrupt power should an operator be caught between a wall or parapet and the machine. OSHA agrees that such a hazard can occur and is adding this requirement in paragraph (f)(3)(i)(E) in the Final Rule to address this hazard.

The maximum allowable horizontal force necessary for an employee to move a manually propelled carriage is addressed in paragraph (f)(3)(i)(C). OSHA agrees with comments which noted there are a number of hazards for employees pushing carriages at applicable elevated areas. These hazards include pinching, falling, tripping, and strain on the worker during the pushing operation. These hazards are further compounded by a work surface which may be slippery due to rain, ice and snow, or sloped due to drainage requirements. OSHA had proposed a limitation of 100 pounds (44.8 N) for the maximum allowable force needed for horizontal movement. Leonard Nork (TR 2/20, pp. 24, 56) objected to the use of any manually propelled carriage because of the surface hazards faced by employees. This commenter also believed that if manually propelled carriages were used, the 100 pounds (44.8 N) force should be reduced since it discriminated against female and older employees who generally do not possess the necessary strength to move such carriages. Hoberg (TR 2/19, pp. 66, 106, EX. 19B) also questioned the 100 pound (44.8 N) limit. In his review of Human Factors data (data utilized in the designing of equipment for human use) and their application to pushing a manually propelled carriage, he calculated that the limit should be changed from a 100 pound (44.8 N) force to a 40 pound (17.9 N) force. Hoberg's calculations were based on data developed by Stover H. Snook (1978) for industrial workers, which is illustrated in *Human Factors Engineering and Design*, fifth edition, published in 1982 by McCormick and Sanders, figure 7-24, page 210, and verified by Hoberg's own experience in designing roof carriages.

The proposed limit of a 100 pounds (44.8 N) horizontal force was based on the ANSI A120 draft standard—November 1981. In a review of current relevant Human Factors data, OSHA did not locate any information which supported the 100 pound (44.8 N) limit. OSHA agrees that the Human Factors data, as referenced by Hoberg (TR 2/19, pp. 66, 106) in his comments supporting a 40 pounds (17.9 N) limit, are applicable

to the work done by employees pushing a manually propelled carriage on a smooth level surface.

Importantly, the published data supporting this limit in the text referenced above are readily obtainable by the registered professional engineer in developing his criteria for a platform installation. In the Final Rule, therefore, OSHA is changing the 100 pounds (444.8 N) limit on the horizontal force required of employees in pushing a carriage to a 40 pounds (177.9 N) limit.

Paragraph (f)(3)(i)(E) addresses requirements for traversing controls of a powered roof carriage. Lee B. Herzog (EX. 9-29) and Hoberg (EXH. 19B) each recommended that this provision should require an emergency stop device for interrupting power to the carriage drive motors. These commenters gave several reasons for this recommendation. First, during alignment with roof indicators to ensure proper placement of the carriage with respect to the building tie-in guides, it is not uncommon for a second employee to be on the other side of the carriage, unseen by the operator, helping to direct the carriage movement. Second, roofs often are noisy, due to the noise from chiller fans, pumps and other running equipment; and warnings often cannot be heard. Third, large carriages may weigh as much as 40 tons (36,363 kg), have several drive motors, and have the capability of moving in either direction. Fourth, these carriages generally operate in very tight areas, especially when moving into a garage. In this type of working environment, these commenters believed it is essential that the employee who is not operating the carriage have access to an overriding stop button opposite the control end of the carriage, which will stop the carriage if a shear or crush hazard exists. OSHA agrees with these commenters and the emergency stop devices are required in the Final Rule.

Paragraph (f)(3)(i)(G)(1) addresses the stability factor of a carriage against overturning during horizontal traversing. Lee B. Herzog (EX. 9-29) and Hoberg (EX. 19B, 19c) recommended that the stability factor include the effects of wind forces as well as the effects of impact which were already included in the proposal. The commenters observed that if a platform is carried outside the wheelbase of a carriage, it could overturn. Since the load of a platform is carried by the carriage at the suspension points overhead, whenever the carriage strikes a curb the resulting impact can severely affect the stability of the carriage. The crush and pinch hazards for employees which could result from this impact were addressed in the

proposed paragraph. These commenters noted, however, that the wind forces on such a suspended platform can also greatly reduce the stability of the carriage and introduce crush and pinch hazards for employees, and they believed that these wind forces should also be addressed in this provision.

OSHA agrees and the effect of wind on carriage stability is addressed in the Final Rule in paragraph (f)(3)(i)(G)(1).

Several comments were received on the stability factor of a carriage during the operation of a system as addressed in proposed paragraph (f)(3)(i)(G)(2), which would have required a stability factor of four against overturning. Acme Fabricators Company (EX. 9-13) supported the proposed stability factor. Richard W. Hoffman (EX. 9-30) believed the stability factor should be three rather than four. Hoberg (EX. 19B) noted, however, that under certain conditions the stability factor of four in the proposal can be seriously exceeded at hoist motor stall, and the carriage can overturn. His concern was that the proposed provision addressed operating loads, but did not address the greatest source of overturning force, motor torque, which is addressed in the present regulation. He suggested that OSHA retain the present requirements for roof carriage stability, § 1910.66(c)(3) (ii) and (iii), and also prohibit the use of flowing counter weights. These weights have been used to achieve proper stability, but have resulted in fatalities.

OSHA agrees that the regulation should ensure that the suspended equipment and the hoists do not pull the carriage over the side. The installation should be so designed that no source of force, such as motor torque, can upset the carriage, and flowing counter weights should not be necessary to achieve stability.

In the Final Rule, new paragraphs (f)(3)(i)(M) and (f)(3)(i)(G)(2) replace proposed paragraph (f)(3)(i)(G)(2). The new paragraphs are a clarification of the present requirements under § 1910.66(c)(3) (ii) and (iii) relating to stability factors for carriages. Paragraph (f)(3)(i)(G)(2) addresses the overturning criteria and the design stresses which may not be exceeded in the installation. Paragraph (f)(3)(i)(M) addresses the forces imposed on the hoist motors by the installation.

In a number of platform installations, the carriage system's stability is provided by a tie-down device secured to the building structure. This stability option was not addressed in the proposal and OSHA requested comments on the feasibility and utility of this option in the Notice of Hearing

(50 FR 48222). A number of commenters (EX. 9-29, 9-31, 9-41; 15-4) and a hearing witness recommended that OSHA address this option in the standard. James W. Fortune (TR 2/19, p. 198) noted that the carriage tie-downs are normally utilized in conjunction with rubber tired roof carriages running on concrete runways. Mr. Fortune noted that the purpose of the tie-down is to give the carriage system the required safety factor against overturning, without having to add excessive amounts of counterweights. Mr. Fortune and the other commenters also recommended that the tie-down be equipped with an interlock that will not permit vertical platform movement unless the interlock is engaged. OSHA agrees with these commenters and a provision on tie-downs is included in the Final Rule as paragraph (f)(3)(i)(G)(3).

In the proposal, at paragraph (f)(3)(i)(I), an automatic brake or locking system was required for preventing unintentional traversing of power traversed carriages. Spider Staging Sales Company (EX. 9-43), Douglas A. Greenaway (EX. 15-8), and Hoberg (EX. 19B) suggested that the intent of the provision would be better served if OSHA issued a more general requirement. In addition, Hoberg (EX. 19B) suggested that power assisted carriages should also be included in this provision.

OSHA agrees that an automatic brake or lock would not be the only acceptable means of preventing the carriage from traversing unintentionally. However, from a performance point of view, OSHA can accept only equivalent means that are used to prevent the carriage from inadvertent movement which could injure an employee. The provision is changed in the Final Rule by eliminating the specific requirement, and it is also renumbered as paragraph (f)(3)(i)(H).

For the same reasons, proposed paragraph (f)(3)(i)(j) which addressed the means to prevent unintentional traversing of manually propelled carriages is also changed in the Final Rule. Any equivalent means which will prevent inadvertent movement of the carriage is acceptable, and this revised paragraph is renumbered as paragraph (f)(3)(i)(I).

Proposed paragraph (f)(3)(i)(K) is unchanged in the Final Rule and renumbered as paragraph (f)(3)(i)(j).

Proposed paragraph (f)(3)(i)(L) is unchanged in the Final Rule and renumbered as paragraph (f)(3)(i)(K).

Proposed paragraph (f)(3)(i)(M) is unchanged in the Final Rule and renumbered as paragraph (f)(3)(i)(L).

OSHA is deleting from the Final Rule the provisions addressing trolley systems which had been proposed as (f)(3)(ii), (f)(3)(ii)(A) and (f)(3)(ii)(B) because they are redundant with other provisions.

A number of commenters (EX. 9-13, 9-23, 9-37; 15-8, 15-22 and a hearing witness (TR 2/19, p. 193) supported the proposed height limits for transportable outriggers when used with a ground rigged platform, paragraph (f)(3)(ii). The Acme Fabricators Company (EX. 9-13) and Douglas A. Greenway (EX. 15-8) agree that an outrigger installation with points of suspension in excess of 130 foot (39.6 m) and below 300 foot (91.5 m) should provide continuous positive means of engagement for the platform. Some commenters (EX. 9-31, 9-41) suggested that the 300 foot (91.5 m) limit should be 150-200 foot (45.8 m) because of the possible exposure by employees during the rigging operations to wind gusts in excess of 25 miles per hour (40.2 km/hr.). OSHA has not received any accident data or other evidence which supports the need for reducing the 300 foot (91.5 m) limit. In addition, OSHA does not expect employers to put employees at risk by rigging in high winds and in violation of operating wind limits (paragraph (i)(2)(v)). The suspension height limits, therefore, are unchanged in the Final Rule.

In the Notice of Informal Hearing (50 FR 48222) published on November 22, 1985, OSHA requested comments on whether it should permit the 300 foot (91.5 m) limit on the outrigger installations, provided some mechanical means is provided to raise and lower cables, life lines and wire rope. OSHA received a diversity of comments on this issue. Hoberg (TR 2/19, p. 241) suggested that no more than 40 pounds (177.9 N) of manual effort should be required of employees to raise or lower lines whether or not they are mechanically assisted. James W. Fortune (TR 2/19, p. 189) noted that California regulations require mechanical assistance for employees in rigging installations over 130 foot (39.6 m) in height. This commenter believed these regulations had some merit since working conditions can be hazardous for employees in handling lines over a parapet.

Other commenters (EX. 9-20, 9-23, 15-22), however, have experienced no problems for employees in handling lines in these installations for suspension heights up to 300 foot (91.5 m). Designed Equipment Corporation (EX. 15-22), for example, stated that lengths of electrical cable used at 300 foot (91.5 m) heights weigh less than 100

pounds (45.3 kg), and employees have not experienced any difficulty in handling these cables.

OSHA believes employers should be concerned with the effort required of their employees to lift electrical cables and lines when rigging for an outrigger installation. The need for mechanical assistance in this operation for employees would vary considerably depending on the weight of the line or cable, the height of the parapet, the condition of the work surface, and the age and physical condition of the specific employee involved in the operation. Sufficient Human Factors data is not available for OSHA to specify a limit on the weight of cable and lines an employee may raise from ground level without mechanical assistance, and therefore, such a limit is not included in the Final Rule.

Paragraph (f)(3)(ii)(A) sets the suspension height limits for transportable outriggers at 300 foot (91.5 m), and references the tie-in guides in paragraph (e)(2) of the standard. The reference to the tie-in guide systems provides options for the employer in selecting the means for stabilizing the platform.

Several commenters (EX. 9-25, 9-31, 9-35, 9-41; 15-8; 19B) recommended that OSHA eliminate the proposed requirement which addressed the storage of ground rigged platforms on the face of a building after each day's use. Leonard Nork (EX. 9-25) stated that such platforms are difficult to tie in safely overnight and are subject to unpredicted overnight storms. Another commenter (EX. 19B) agreed and noted that this practice would require anchorages to be designed for storm loads; prevent inspections of suspension ropes, cables and lifelines before use; and promote exiting of platforms by employees at elevated levels without fall arrest equipment. OSHA agrees with the commenters that platform storage on a building face can impose additional hazards on employees.

The requirements for disengagement of ground rigged working platforms which prohibit the practice of storing ground rigged platforms on the face of a building after each day's use are listed below under paragraph (f)(5)(iv)(B). Proposed paragraph (f)(3)(iii)(B) which would have permitted this practice is revised and renumbered to be (f)(3)(ii)(B) in the Final Rule.

Spider Staging Sales Company (EX. 9-43) and Hoberg (EX. 19B) have stated that if an anchorage for an outrigger is to be verified as to its suitability for use as an outrigger anchorage, then it should be so designed. However, they noted

that the proposed paragraph (f)(3)(iii)(C) did not include a design reference. OSHA agrees with the commenters that a clarification is warranted, and is including the design reference in the Final Rule. In addition, this paragraph is renumbered as (f)(3)(ii)(C).

No comments were received on proposed paragraph (f)(3)(iii)(D), and this paragraph is renumbered as (f)(3)(ii)(D) in the Final Rule. The discussion of this provision is found on page 2899 in the preamble of the Notice of Proposed Rulemaking of January 22, 1985 (50 FR 2890).

OSHA proposed in (f)(3)(iii)(E) that a transportable outrigger be designed to prevent roll-over. Several commenters (EX. 19C, 9-37, 9-43) and a hearing witness (TR 2/19, p. 68) stated that the accidental lateral load addressed in the provision is difficult to determine in advance, but suggested a reasonable load be stated in the provision. One commenter (TR 2/19, p. 68) observed that the greatest potential source of roll-over is the hoist. He noted that the worst condition to be considered is when the outriggers are incorrectly spaced. Under this condition, the suspension ropes angle towards the center of the platform and this angle increases as the platform ascends. As a result, the hoist generates a roll-over force as the outriggers are drawn together. This commenter recommended that the outriggers be designed to prevent roll-over from a force of at least 70 percent of the rated load of the hoist.

OSHA agrees with the commenter's recommendation for lateral load in this lateral stability requirement, and this is included in the Final Rule. In addition, the paragraph is renumbered (f)(3)(ii)(E).

No comments were received on proposed paragraph (f)(3)(iii)(G). However, OSHA is replacing the word "capacity" in the paragraph with the word "load" to ensure consistency with the definition of the "hoist rated load." In addition, the paragraph is renumbered as (f)(3)(ii)(F). No comments were received on proposed paragraph (f)(3)(iii)(G), and the paragraph is renumbered as (f)(3)(ii)(G).

A number of commenters (EX. 9-35, 9-45; 15-8) strongly suggested that OSHA add requirements for outrigger tiebacks. The California Department of Industrial Relations (EX. 9-45) noted that such tieback requirements have been in Section 3292(f) of California's General Industry Safety Orders since 1965 (EX. 104). This commenter stated that the cost of providing tieback anchorage is incidental during the construction of the building, especially when one considers the safety benefits gained from having

such anchorages. Lawrence R. Stafford (EX. 9-35) suggested that OSHA follow the ANSI A120 draft standard—January 1986 (EX. 15-8) which requires that the tieback be a wire rope with a minimum diameter of  $\frac{1}{4}$ -inch (8.0 mm).

OSHA agrees with these commenters that tiebacks for transportable outriggers are necessary, since they would provide a back-up system in case the counterweights become displaced. Although the tiebacks alone may not keep a scaffold from tipping, they will keep the system from falling to the ground. Standpipes, vents, other piping systems, and electrical conduits are not acceptable points of anchorage because they are often made of materials that cannot support the loads that would be imposed on them if a counterweight system were to fail.

To address the use of transportable tiebacks in the Final Rule, OSHA is adding two provisions—paragraphs (f)(3)(ii)(H) and (I). Paragraph (f)(3)(ii)(H) requires that the tieback rope be strong enough to sustain the same load sustained by the suspension rope. Performance language is used rather than specifying the tieback rope diameter. In addition, this paragraph requires that the tieback rope be secured to a verified building anchorage. A verified anchorage, as defined in paragraph (d), is one that is accepted by a registered professional engineer. Paragraph (f)(3)(ii)(I) describes how the tieback rope is to be installed on the installation.

Paragraph (f)(3)(iii) covers requirements for davits used to support working platforms. Paragraph (f)(3)(iii)(A) requires that all davit systems have a stability factor of four against overturning.

OSHA agrees with the comments of a commenter (EX. 19B) that the requirements for davits used on "roof rigged systems" and "ground rigged systems" should be clarified. The Final Rule sets out the specific requirements for davits used on "roof rigged systems" in paragraph (f)(3)(iii)(B) and for "ground rigged systems" in paragraph (f)(3)(iii)(C). To further clarify the application of the various requirements, OSHA has also defined "roof rigged davits" and "ground rigged davits."

Lawrence R. Stafford (EX. 9-35) and Douglas A. Greenaway (EX. 15-8) suggested that proposed paragraph (f)(3)(iv)(C)(1) be revised by replacing the term "guarded area" with the term "safe surface" which is defined in the proposal. In addition, they suggested that the access or egress to and from a platform not require a worker to climb over a building's parapet or guard railing.

OSHA believes that both of these suggestions have merit, and is including them in the Final Rule under renumbered paragraph (f)(3)(iii)(B)(1).

No comments were received on proposed paragraph (f)(3)(iv)(C)(2), and this paragraph is renumbered as (f)(3)(iii)(B)(2) in the Final Rule.

A number of commenters (EX. 15-8; 9-35, 9-37, 9-45) and a hearing witness (TR 2/19, p. 189) supported the proposed height limits for davits when used with ground rigged platforms in proposed paragraph (f)(3)(iv)(D)(1). Powered Platforms Manufacturing Company (EX. 9-23) and Becor Western (EX. 9-37) agreed with OSHA that a davit installation with points of suspension in excess of 130 foot (39.6 m) and below 300 foot (91.5 m) should provide continuous means of engagement for the platform.

At the other end of the comment spectrum, several commenters (EX. 9-7, 9-13; 15-22) have suggested that OSHA place no limit on the height at which davits can be used with ground rigged platforms. These commenters claimed that a davit system usage should be limited solely by the capability of the davit based on its design. California's Department of Industrial Relations (EX. 9-45), however, argued that a 300 foot (91.5 m) limit is necessary because davit installations are labor intensive and require special knowledge and training for proper rigging and safe use. In addition, California noted that these concerns increase with higher installations, as do electrical problems associated with long flexible cords. Douglas A. Greenaway (EX. 15-8) also promoted a 300 foot (91.5 m) limit for davits used with ground-rigged platforms.

After considering all the comments received on height limits for proposed paragraph (f)(3)(iv)(D)(1), OSHA has determined that the proposed limits should not be deleted and is retaining the proposed limits in the Final Rule in paragraph (f)(3)(iii)(C)(1).

In the Notice of Hearing (50 FR 48224) published on November 22, 1985, OSHA requested comments on whether it should require mechanical means to raise and lower cables, life lines and wire rope when the point of suspension exceeds 130 foot (39.6 m). Hoberg (EX. 19B) recommended that no more than 40 pounds (177.9 N) of manual effort should be required of employees to raise or lower lines, whether or not they are mechanically assisted. Designed Equipment Corporation (TR 2/21 p. 9), however, noted that in their experience employees have not had any problems in raising or lowering 300 foot (91.5 m) of electric cable.

This discussion on the manual effort required of employees to raise or lower lines and cables over a building parapet for a davit installation is similar to the previous discussion on outrigger installation under paragraph (f)(3)(ii)(A). OSHA's conclusion following that previous discussion also applies to paragraph (f)(3)(iii)(C)(1). Sufficient Human Factor data is not available for OSHA to specify a limit on the weight of cables and lines an employee may raise or lower from ground level without mechanical assistance, and therefore, such a weight limit is not included in the Final Rule.

OSHA is revising proposed paragraph (f)(3)(iv)(D)(1) to clarify the suspension height limits for davits and to reference the tie-in guides on paragraph (e)(2) of the standard. The reference to the tie-in guide systems provides options for the employer in selecting the means for stabilizing the platform. In addition, the paragraph is renumbered as paragraph (f)(3)(iii)(C)(1).

A commenter (EX. 19B) noted that the word "horizontal" is redundant and should be deleted from proposed paragraph (f)(3)(iv)(D)(2). OSHA agrees and the word is deleted in the Final Rule in renumbered paragraph (f)(3)(iii)(C)(2).

Proposed paragraph (f)(3)(iv)(E)(1), which addresses a davit rotation locking device, was based on provision 305.1(d)(1) of the ANSI A120 draft standard—November 1981. The current ANSI A120 draft standard—January 1986 no longer includes the provision. Several commenters (EX. 9-23, 9-29, 9-43) and a hearing witness (TR 2/19, p. 191) recommended that this provision be deleted from the standard. James W. Fortune (TR 2/19, p. 191) commented that requiring the davits to be locked would also require an employee to climb back and forth over a parapet, and on and off a powered platform each time a platform was to be deployed or retracted—a dangerous practice. Swing Stage Inc. (EX. 9-29) stated that the preferred practice is to strike a balance between ease of rotation and sufficient resistance to turning so that the davit remains in its working position. This commenter urged that the locking requirements be dropped in the absence of any evidence of a safety hazard resulting from the lack of a rotation lock.

OSHA agrees and the provision is deleted in the Final Rule. In addition to the comments in support of the deletion, OSHA notes that the stabilization provisions under paragraph (e)(2) will limit any employee risk due to any movement of the davit while it is in the working position.

The horizontal force necessary for an employee to move a rotatable davit was to be limited to 100 pounds (444.8 N) by proposed paragraph (f)(3)(iii)(E)(2). Several commenters (EX. 15-8; 9-31, 9-41) suggested that OSHA eliminate the force requirement and substitute a requirement that the davit be provided with bearings to permit easy rotation. Hoberg (TR 2/19, P. 159) disagreed and stated that bearings are not as important as keeping the davit socket base in a vertical position. If the socket base is at an angle from a vertical position, he contended, it becomes much more difficult for an employee to push a platform uphill to get it over a parapet.

Several commenters (EX. 9-25, 9-35; 19B) claimed the 100 pounds (444.8 N) was excessive, especially for women and older employees. Leonard Nork (EX. 9-25) supported Hoberg (EX. 19B) who recommended that OSHA use performance language which addresses the ability of employees to rotate the davit within Human Factors data limits. For this provision, Hoberg (EX. 19B) suggested that OSHA use a 40 pound (177.9 N) limit. Hoberg (EX. 19B) used the same arguments in support of the 40 pound (177.9 N) limit for a force to be employed in moving a carriage under paragraph (f)(3)(i)(C).

In addition to the comments expressed, OSHA recognizes a risk to employees in allowing them to exert a 100 pound (444.8 N) horizontal force on a davit when they are in close proximity to the edge of a parapet. OSHA, therefore, is changing the 100 pound (444.8 N) limit to 40 pounds (177.9 N) in the final rule under renumbered paragraph (f)(3)(iii)(D). OSHA's reasons for supporting the change to 40 pounds (177.9 N) in paragraph (f)(3)(i)(C) for carriages also apply to the change being made in this provision.

An employer would have been required by the proposal (paragraph (f)(3)(iv)(F)(7)) to provide a means of transport for a transportable davit if it weighed more than 75 pounds (34 kg). This proposed weight limit was based on an evaluation of comments received in response to the ANPRM (48 FR 30-6371). Two commenters (EX. 9-13; 15-8) and two hearing witnesses (TR 2/19, p. 110; TR 2/20, p. 103) suggested that OSHA require all davits, regardless of weight, be provided with a means of transport, since many davits weigh between 70 and 100 pounds (31.7 kg and 45.3 kg). Lawrence R. Stafford (2/20-103) stated that the costs for providing the means of transporting all davits would be small compared to the cost of injuries sustained by employees. No accident data or costs were provided to support

this claim. Hoberg (EX. 19B, TR 2/19, p. 70, TR 2/19, p. 110) recommended, however, that an employee should not be required to carry a davit or part of a davit weighing more than 40 pounds (18 kg). If the davit weighed more than 40 pounds (18 kg) per person for a two-man team, he recommended that transporting means be provided, and that the center of gravity of the davit be kept below 36 inches (914 mm) during transport.

The recommendation by Mr. Hoberg is based on Human Factors data developed by Stover H. Snook (1978) and illustrated in *Human Factors Engineering and Design*, fifth edition, published in 1982 by McCormick and Sanders, Fig. 7-23, p. 209, and also verified by Hoberg's own experience in designing davits. Mr. Hoberg noted that since most maintenance operations have two employees working together, davits or parts of davits weighing over 80 pounds (36 kg) should have a means of transport which two employees can use. It was Mr. Hoberg's opinion that the regulation should not penalize engineering ingenuity if the owner wishes to use a davit that comes in 25 or 30 pound (11.3 kg or 13.6 kg) sections and eliminates the need for providing transporting means.

Mr. Hoberg gave several reasons for recommending a 36-inch (914 mm) height limit for the center of gravity of a davit while being transported. First, he noted that the real problem in transporting the davit is not the weight, but the weight distribution. Some davits are 14 feet (4.3 m) long, and weigh 150-190 pounds (67.5 kg-85.5 kg) with the center of gravity above the head of the employees when the davit is held upright while transported. If the transporting means, such as a cart, were to strike a roof crack, the davit could easily fall if it were held upright, becoming a hazard to employees.

OSHA has considered all the comments and Human Factors data presented and concludes that there is insufficient data to support a requirement that all davits be provided with a means for transport. Since Human Factors data supports an 80 pound (36 kg) weight limit for two persons, OSHA is changing the proposed 75 pound (34 kg) weight limit to 80 pounds (36 kg). *Human Factors Engineering and Design*, which contains Human Factors data, is a recognized text and is readily available to engineers who design davits. In addition, OSHA is adding in the Final Rule, under renumbered paragraph (f)(3)(iii)(E)(7) the requirement that the center of gravity of the davit shall be at or below 36 inches (914 mm) above a

safe surface during transport. Since many building parapets are 42 inches (1066 mm) high, the limit on the center of gravity height will also reduce the likelihood of loss of the davit over the parapet.

Several commenters (EX. 9-13, 9-31, 9-41; 15-4) suggested that the proposed paragraph (f)(3)(iv)(F)(2) be changed to allow davits to be inserted into sockets horizontally before being raised to a vertical position. Other commenters (EX. 19B, TR 2/19, p. 190) supported a requirement which allows davits to be inserted or removed at a position of not more than 35 degrees above the horizontal.

Acme Fabricators Inc. (EX. 9-13) stated that positioning of a davit other than from the horizontal would require lifting of the davit, with the possibility of employees sustaining injury or losing control of the davit. Hoberg (EX. 19B) believed that the elevation of the pivot point in respect to the worker's position is the critical factor when planning for the safe use of the heavy davits.

Because of a typographical error in the proposal, the proposed requirement would have permitted the insertion of a davit into its socket at a position of more than 35 degrees above the horizontal. The provision should have read, "not more than 35 degrees above the horizontal." OSHA is adding the word "not" in the Final Rule and renumbering the paragraph (f)(3)(iii)(E)(2).

This change, OSHA believes, properly addresses the comments received on this provision, and also affords the equipment designer the option of designing the davit for insertion and removal from a horizontal position up to and including a position which is 35 degrees above the horizontal.

No comments were received on proposed paragraph (f)(3)(iv)(F)(3) and this paragraph has been renumbered as (f)(3)(iii)(E)(3).

A number of commenters (EX. 9-31, 9-41; 15-8; 19B) recommended that OSHA change the requirement that a hoist be capable of preventing any overspeed descent of the load in proposed paragraph (f)(4)(ii) to a requirement that the hoist be capable of arresting such overspeed descent. Daigel (EX. 9-31) noted that the overspeed descent is arrested rather than prevented by the hoist. OSHA agrees and this change is made in the Final Rule.

No comments were received on proposed paragraph (f)(4)(ii)(A), which lists the acceptable power sources for hoists, and it is rephrased but unchanged in the Final Rule under paragraph (f)(4)(iii).

A number of commenters (EX. 9-31, 9-41, 9-43; 15-8; 19B) and hearing witnesses (TR 2/19, p. 70; TR 2/20, p. 497) addressed the proposed paragraph (f)(4)(ii)(B) which prohibited the use of gasoline engines as prime movers for any hoisting machine. Becor Western Inc. (TR 2/20, p. 497) recommended that OSHA change the word "gasoline" to a generic term such as "internal combustion" since diesel and propane engines have similar fire hazards. Spider Staging Sales Company (EX. 9-43) recommended that OSHA should not consider any flammable energy source as an acceptable power source.

Hoberg (TR 2/19, p. 20) believed that flammable liquids of any kind should be prohibited from the elevated work platform because of the limited egress. Also, he noted there would be a loss of support when the aluminum of most platforms became heated if a fire occurred as well as the danger of igniting the overhead ropes.

OSHA agrees that the provision should address all flammable energy sources because of the hazards in their use that may be faced by employees. However, since paragraph (f)(4)(iii) has identified the only acceptable power sources, OSHA believes there is no need to identify the unacceptable power sources. In paragraph (f)(4)(iv), OSHA is prohibiting the carrying of flammable liquids on the platform.

A commenter (EX. 19b) suggested that proposed paragraph (f)(4)(iii), which addressed the capability of a hoist to raise or lower a load be shortened for clarity.

OSHA agrees and this clarification is made in the Final Rule in paragraph (f)(4)(v).

Spider Staging Sales Company (EX. 9-43) and Hoberg (EX. 19B) recommended that the prohibition against the use of friction type speed reducers in hoisting machines be deleted in proposed paragraph (f)(4)(iv). They believed that this prohibition is contradictory, since friction type hoists are permitted and friction type brakes are used to stop the hoists.

OSHA agrees and this provision is deleted in the Final Rule.

Douglas A. Greenaway (EX. 15-8) supported proposed paragraph (f)(4)(v), which requires that the moving parts of a hoisting machine be guarded. However, paragraph (f)(4)(vi) references § 1910.212(a) (1) and (2) instead of § 1910.219 as proposed. OSHA believes these paragraphs are a more specific reference for the guarding of hoisting machines than § 1910.219, which primarily addresses the guarding of machines with power transmission belt systems.

Proposed paragraph (f)(4)(vi) required that hoisting drums and sheaves be compatible for use with the required rope size. Becor Western (EX. 9-37) suggested that OSHA include the ratio of the pitch diameter of the sheave or drum (D) to the nominal diameter of the rope (d), and recommended a ratio of sixteen to one. Another commenter (EX. 19B, 19C) recommended that OSHA modify the proposed requirement to include performance language rather than require a specific ratio be met.

OSHA agrees with this commenter that a specific ratio for this purpose has not been established in the industry because of the many variables involved such as sheave and hoist diameter, wire rope diameter, loading, etc. OSHA is, therefore, using performance language in the Final Rule to address the issue of compatibility and size in paragraph (f)(4)(vii).

Proposed paragraph (f)(4)(vii) required that the wire rope attachment in a winding drum be capable of developing four times the rated capacity of the hoist. Daigel (EX. 9-31) suggested that the provision include a requirement that the wire rope portion of the attachment shall develop at least 90 percent of the wire rope breaking strength. He noted that a poor and inefficient connection could result if the wire rope portion of the attachment is not given proper consideration.

In response, OSHA notes that in proposed paragraph (f)(7)(i), the suspension wire rope and connections (terminations) used must meet the specifications recommended by the hoisting machine manufacturer. Consequently, the manufacturer would be expected to specify connections which would be compatible with its equipment. OSHA is, therefore, retaining proposed paragraph (f)(4)(vii) as written in the Final Rule in paragraph (f)(4)(viii), except the word "load" is substituted for the word "capacity." This change in wording is to assure consistency with the definition of the rated load of the hoist.

Becor Western (EX. 9-37) recommended that OSHA delete the word "radial" in proposed paragraph (f)(4)(viii), which addressed the frictional contact between the wire rope and a traction drum or sheave. Becor Western stated that equivalent methods have been developed by manufacturers which are completely reliable and which do not depend on radial forces for reliable frictional contact.

Hoberg (EX. 19B) suggested deleting this whole provision. He noted that if the word "radial" is deleted, the remaining phrase "continuous force" would apply equally to winding drums,

since these drums require "continuous force" for frictional contact.

OSHA has considered the comments presented and agrees that the word "radial" is misleading and incorrect in its proposed context. If the word "radial" is deleted, the balance of the requirement would have no special relevance to traction hoists. OSHA is deleting this provision in the Final Rule.

A commenter (EX. 19B, TR 2/19, p. 71) observed that proposed paragraph (f)(4)(ix) would mean that the primary and secondary braking systems could be used together to stop and hold 25 percent over the rated hoist load. He stated that the real needs are for each brake system to stop and hold what the hoist is capable of lifting, and for assured independent braking action.

Douglas A. Greenaway (EX. 15-8) supported the above commenter's statement on the necessary capability of each system.

OSHA notes that the rated load of the hoist is defined as the operating load allowed by the manufacturer. The hoist can actually lift more than its rated load. OSHA, therefore, agrees with the commenters that this provision should address each braking system's ability to stop and hold 125 per cent of the lifting capacity of each hoist rather than the rated load of each hoist.

Daigel (EX. 9-31), William Ayres (EX. 91), Hoberg (EX. 19B) and Douglas A. Greenaway (EX. 15-8) noted that OSHA had not included the function of the primary braking system in proposed paragraph (f)(4)(ix)(A). They suggested that the primary braking system be required to engage automatically when power to the prime mover is removed.

OSHA agrees that the primary braking system should not be manually actuated after the hoist motor is stopped, but should automatically set when power to the prime mover is interrupted for any reason. In the Final Rule, OSHA is adding the function of the primary braking system to the provision which is renumbered as (f)(4)(ix)(A).

In the Notice of Hearing (50 FR 48222) OSHA requested comments on suggestions made by a pre-hearing commenter (EX. 9-31) to expand the secondary brake provisions in proposed paragraph (f)(4)(ix)(B). The commenter (EX. 9-31) claimed that the proposed provisions were inadequate.

The first pre-hearing comment would have required that the secondary brake actuate only under prescribed emergency conditions. Hoberg (TR 2/19, p. 71) believed that this suggested requirement is counter to the concept of a secondary-emergency back-up brake being the stop of last resort, and that the

brake should stop the hoist and its load under any condition, known or unknown. He argued that a "prescribed emergencies" exemption should not be permitted in the regulation.

The second pre-hearing comment would have required that the secondary brake act on a specific component of a winding drum, traction drum or traction-sheave hoist. James W. Fortune (TR 2/19, p. 195) and Hoberg (TR 2/19, p. 71) agreed that this suggested addition should not be included in the criteria for secondary brakes. These commenters stated that any brake always acts on a specific component of equipment whether it is intended or not, and without a definition of the component, the statement is meaningless. In addition, they indicated that as a performance regulation, the regulation should say what is to be done, not how to do it.

The third pre-hearing comment would have required that the secondary brake not fail to operate because of outside contamination. Hoberg (TR 2/19, p. 72) argued that this brake criteria should not be included in the Final Rule for a number of reasons. First, the addition is redundant since the proposed requirement that the brakes stop and hold the hoist and its load has no implicit or explicit exemption for contamination, temperature, height of building or any other criterion. Second, since the term "contamination" is not defined, it can mean the brake must operate if submerged in water and frozen; if packed in hot sand; if covered with hot grease—or any other imaginable contaminant. Third, the suggested addition has the implication that reasonable care and maintenance is not necessary to insure proper operation of these brakes.

The fourth pre-hearing comment would have required that the brake actuation impose no more than a specified amount of loading on hoisting system components. Hoberg (TR 2/19, p. 73) disagreed that this criteria should be added to the secondary brake provision. He believed that the specified amount of loading could be addressed in his recommended change to proposed paragraph (f)(4)(ix) that the hoist stop and hold what it can lift. In addition, he believed that the loading issue is also addressed in the requirement of proposed paragraph (f)(1)(i) that equipment be designed by a registered professional engineer.

The fifth pre-hearing comment would have required that the secondary brake not be bypassed or prevented from operating by any other device.

Cliff Theve (TR 2/20, p. 180) objected to this addition because it would

prohibit the use of a hoisting machine with a controlled descent feature or a speed governor for emergency descent of a platform without power. He argued that hoisting machines of this type have been built and used safely for a number of years in the industry. Other reasons given by Mr. Theve not to include this additional criteria were: One, a controlled descent feature in a hoist is a quicker safer alternative to hand cranking by workers who are stranded and/or injured on an elevated platform; two, his own company has a ten-year history in the manufacture and sale of this type of hoist without a worker injury or accident; and three, the controlled descent feature does not prevent the secondary brake from becoming actuated if the primary brake fails and the platform reaches an overspeed condition.

Several other commenters (EX. 14-2, 14-4, 14-5) who are users of hoists with controlled descent features also objected to any prohibition of this type of hoist. In their experience, the controlled descent feature had not been the cause of hoist failures and had been effective in providing a safe descent when necessary.

OSHA has considered all the comments presented and is not adding the five additional criteria to proposed paragraph (f)(4)(ix)(B). Based in the record of this Rulemaking, OSHA has determined that these criteria are either redundant, unreasonable or inappropriate for secondary brake regulation. OSHA is renumbering the provision as paragraph (f)(4)(ix)(B)(1).

In the submission of the ANSI A120 draft standard—January 1986 by Douglas A. Greenaway (EX. 15-8), the secondary brake criteria included a provision which required the secondary brake, when activated, to stop and hold the platform within a vertical distance of 24 inches (609.6 mm). OSHA believes that a specific limit on this stopping distance is necessary to assure adequate fall protection for employees, and is adding this provision in the Final Rule as paragraph (f)(4)(ix)(B)(2).

Several commenters (EX. 9-29, 19B, 91) argued that the proposed requirement for lubrication of a hoisting machine in paragraph (f)(4)(x) was too broad. According to these commenters, a strict interpretation of this provision would mean lubrication of all parts, whether needed or not. Swing Stage Inc. (EX. 9-29) noted that there are many modern materials which provide years of reliable service without conventional lubrication and many components are stationary without any need for lubrication.

OSHA agrees with these commenters and is revising the lubrication provision to address only those components in a hoisting machine which require lubrication in paragraph (f)(4)(x).

Werner Company Inc. (EX. 9-34) suggested that the load reference in proposed paragraph (f)(5)(i)(A) be more clearly defined. This commenter believed that the intended load should include the weight of the users and any material on the platform. OSHA agrees with this commenter and is changing the phrase "maximum intended load" to be "maximum intended live load" in the Final Rule. The term "live load" is defined in the standard.

Werner Company Inc. (EX. 9-34) has questioned whether the terms "suspended unit," "unit weight" and "live load" in proposed paragraph (f)(5)(i)(B) are referring to the platform itself or the total system. In response, OSHA states that the term "suspended unit" is referring to the platform itself. The load rating plate provides information which is used to prevent the loading of a platform in excess of its maximum intended load. The load rating plate addressed in the proposed paragraph is required to state the "unit weight" and the "live load rating" of the platform. For consistency with the definitions used in the Final Rule, the term "live load rating" is changed to "rated load" in the Final Rule at (f)(5)(i)(C).

Douglas A. Greenaway (EX. 15-8) and Hoberg (EX. 19C) agreed that proposed paragraph (f)(5)(i)(C) is incomplete. These commenters believed that the paragraph should address both the position of the live load and the stability factor ratio that is to be used in maintaining continuous stability of the suspended unit. OSHA agrees with these commenters that the use of a 1.5 to 1 stability factor against upset and the need to address the position of the live load in the suspended unit is necessary in the Final Rule. OSHA addresses these issues in paragraph (f)(5)(i)(D).

Several commenters (EX. 9-22, 9-31, 9-35) suggested deleting proposed paragraph (f)(5)(i)(E)(3), which addressed button guide systems. The same arguments for deletion of these systems were presented earlier when commenters addressed proposed paragraph (e)(2)(iii)(B). OSHA did not find the arguments presented for deletion persuasive then and retained paragraph (e)(2)(iii)(B), and is doing likewise for proposed paragraph (f)(5)(i)(E)(3) by retaining it in the Final Rule as (f)(5)(i)(F)(3).

In paragraph (f)(5)(i)(F)(1), OSHA proposed that a suspended unit shall be

provided with a guardrail system and a four inch (102 mm) high toeboard. OSHA is revising the toeboard provision to provide equivalent protection and consistency with OSHA's proposed Construction Standard addressing the use of scaffolds (Notice of Proposed Rulemaking (51 FR 42708) published on November 25, 1986. The revised toeboard provisions which will also be considered in OSHA's proposed revision of Subpart D of Part 1910, are added as (f)(5)(i)(G) (5), (6), (7) and (8).

Several commenters (EX. 9-35, 9-37) suggested that OSHA revise proposed paragraph (f)(5)(i)(F)(2) to include a 42 inch (106.6 cm) high limit for the top guardrail on the ends and outboard side of the platform. Also, Spider Staging Sales Company (EX. 9-43) suggested that the top guardrail have the capability of withstanding a 200 pound (890 N) force rather than a 100 pound (445 N) force. OSHA's proposed requirements for a 36-inch (91.4 cm) top guardrail with a capability of withstanding a 100 pound (445 N) force are consistent with proposed related OSHA scaffold standards for construction (51 FR 42708) and reflect the fact that this type of guardrail is intended to be supplemented by personal fall arrest systems.

This consistency of approach in OSHA's fall protection standards for powered platforms and scaffolds is based on the use of two types of guardrail systems. The first type is capable by itself of providing adequate fall protection for employees. The second type of guardrail system is one which is used primarily as an edge delineator and to prevent misstepping. Personal fall arrest systems must be worn with the second type of guardrail system because of the reduced strength characteristics (100 pounds (445 N) force) and lower top rail heights (36 inches (91.4 cm)) of this type of system.

Since this powered platform standard requires employees to be protected by personal fall arrest systems (paragraph j), as the primary means of fall protection, guardrails on the platform need not be strong enough to prevent falls. Accordingly, the standard provides for the second type of guard rail system to be used on powered platforms. Proposed paragraph (f)(5)(i)(F)(2), therefore, is unchanged in the Final Rule.

Two commenters (EX. 9-31, 9-43) recommended that OSHA increase the capability of the midrail in a guardrail system from a 75-pound (333 N) force as proposed in paragraph (f)(5)(i)(F)(3) to the same force as the top rail. Again, since OSHA is proposing that a personal fall arrest system be used for employees,

the midrail in this guardrail system is primarily part of the edge delineation and need not have the greater strength. Accordingly, the paragraph is unchanged in the Final Rule.

OSHA proposed in paragraph (f)(5)(i)(F)(4) that the material used between the toeboard and top guardrail on a platform contain no opening large enough to allow the passage of a ball two inches (51 mm) in diameter. The New York State Department of Labor (EX. 9-41) recommended that this provision be changed to agree with the New York State requirement of three-quarters of an inch (19 mm). Hoberg (EX. 19B) was concerned that a two-inch (51 mm) opening would allow employees to pass a lifeline through these openings which could be hazardous if the platform suspension ropes should fail. This commenter suggested a one-inch (21.5 mm) opening.

OSHA has considered these comments and the need for the openings in the material to be small enough to prevent potential falling objects from passing through. OSHA, therefore, has rewritten this provision as a performance requirement in paragraph (f)(5)(i)(G)(4) in the Final Rule, which is also consistent with related proposed OSHA construction standards on scaffolds.

In the Notice of Hearing (50 FR 48225), OSHA solicited comment on the proposed requirement in paragraph (f)(5)(ii)(A) that a 12-inch (305 mm) wide passage be provided at or past any obstruction on the platform. A number of commenters (EX. 9-20, 9-35, 9-37, 9-43, 9-45; 15-4, 15-8; 88-6) and hearing witnesses (TR 2/19, pp. 23, 111, 197; TR 2/20, pp. 64, 78, 154, 187, 369, 497) addressed this provision.

Leonard Nork (2/20-64) suggested that the passage be increased to 18 inches (458 mm), otherwise some workers might climb on the midrail or top guardrail to pass by any obstruction on the platform. A number of commenters (EX. 15-4, 15-8; 9-35, 9-45) and hearing witnesses (TR 2/19, p. 197; TR 2/20, pp. 154, 187, 497), however, supported OSHA's 12-inch (305 mm) proposed requirement. Becor Western (TR 2/20, p. 497), for example, noted that a 12-inch space (305 mm) is more than adequate for platform occupants, while an 18-inch (458 mm) space would have an economic impact since it would require a 36-inch (916 mm) wide platform or undesirable counterweights due to a relocation of the hoist.

Spider Staging Sales Company (EX. 9-43; TR 2/20, p. 369) observed that OSHA should be more concerned with a safe passage past an obstruction on the platform and not physical dimensions.

Hoberg (EX. 88-6) supported the 12-inch (305 mm) passage, but suggested that OSHA also be concerned with other hazards at the obstruction location such as moving parts and the potential of inadvertent operation of hoisting machine controls.

OSHA notes that proper training of employees, as required by paragraph (i)(1)(ii), will inform employees of obstruction hazards and machine guarding, as required by paragraph (f)(4)(vi), and will help to prevent employee exposure to hazards when passing obstructions on the platform. Based on the record of this rulemaking, OSHA has decided to retain the 12-inch (305 mm) provision in the Final Rule under paragraph (f)(5)(ii)(A).

OSHA proposed in paragraph (f)(5)(ii)(B) that any opening in a platform flooring be capable of preventing the passage of a one-inch (25 mm) diameter ball. If the opening were larger, a metal screen capable of rejecting a one-inch (25 mm) ball would need to be placed under the opening.

OSHA received a variety of opinions from commenters (EX. 9-13, 9-41, 9-43; 15-8; 19B; 87; 91) on the proper size of the opening in the flooring. The New York State Department of Labor (EX. 9-43) recommended that OSHA match the New York regulations on platforms, which call for an opening which would prevent the passage of a three-quarter inch (19 mm) ball. Spider Staging Sales Company (EX. 9-43) and Douglas A. Greenaway (EX. 15-8) supported OSHA's proposed opening dimension. Hoberg (EX. 19-B) expressed concern that the one-inch (25 mm) opening criteria would allow employees to pass life lines and cables through the openings, and suggested that a nine-sixteenths of an inch (14 mm) criteria be used.

Following a review of the comments on this provision, OSHA has concluded that a performance requirement should be used in paragraph (f)(5)(ii)(B) to address the identified hazards instead of a specific size opening. In this requirement, the flooring shall contain no opening that would allow the passage of lifelines, cables and potential falling objects. This performance requirement addresses the potential failure of a personal fall arrest system if life lines should be passed through a platform floor and the suspension system should fail, and the hazard to other employees from objects falling through the platform openings.

OSHA had proposed in paragraph (f)(5)(ii)(C) that the means of suspension for a platform shall limit the roll about its longitudinal axis to a maximum of 15

degrees from a horizontal plane. R. D. Werner (EX. 9-34) suggested that OSHA change the maximum limit to five degrees since he believed that the 15 degree maximum was too large due to the additional loading that would be introduced into the platform as a result of such a platform roll.

A number of commenters and hearing witnesses (EX. 15-4, 15-8; TR 2/19, pp. 75, 197) supported the 15 degree maximum limit on platform roll. Lawrence R. Stafford (EX. 15-4) noted that every two-point suspended platform will roll since it is suspended at its center of gravity, and that to reduce the roll limit below 15 degrees one would have to change the center of gravity or add weight, either of which would be objectionable. In addition, this commenter noted that a reduced roll limit would virtually outlaw the use of many traction hoists since the mass of the hoist is above the platform deck and not under the platform deck as is the case with most drum type hoists. James W. Fortune (TR 2/19, p. 197) noted that the proper location of building face rollers would help to limit any platform roll. In addition, Mr. Fortune noted that the 15 degrees is a maximum roll limit and it is unlikely that platforms would be designed to reach this limit.

OSHA has considered all the comments received and has decided to retain the proposed paragraph (f)(5)(ii)(C) in the Final Rule. Properly designed suspension means and the use of proper stabilization methods used can limit the platform roll to a 15 degree maximum limit. Most platforms are built to the Underwriters Laboratory Standard, UL 1322, "Fabricated Scaffold Stages and Planks". This standard states that the platform shall withstand, without failure or visible damage to the structure, a load equal to three times the rated load of the platform, when one side rail is raised so that the decking is at an angle of 15 degrees to the horizontal. In addition, most employees would find it difficult to work on a platform with a platform surface at an angle of greater than 15 degrees from the horizontal plane, and would endeavor to return the work surface to a normal position. Finally, OSHA has not received any accident data that would support a change from the 15 degree roll limit.

Hoberg (EX. 19B) recommended that OSHA delete the words describing the different types of cable in proposed paragraph (f)(5)(ii)(D) since they were redundant. OSHA agrees and the words are deleted in the Final Rule.

Douglas A. Greenaway (EX. 15-8) and Hoberg (EX. 19B) recommended that OSHA clarify proposed paragraph

(f)(5)(ii)(F) which addressed the interruption of the power supply on a platform. They noted that the provision should make it clear that the requirement provides for the interruption of the power supply for all hoist motors at each operating station on the platform. OSHA agrees that a clarification is warranted and the change is made in the Final Rule.

Some commenters (EX. 9-13, 9-35, 9-43) recommended that OSHA lower the maximum platform speeds limited by proposed paragraph (f)(5)(ii)(G). OSHA proposed maximum rated speeds of 50 and 75 feet per minute (0.3 ms and 0.4 ms) with single and multi-speed hoists, respectively. Lawrence R. Stafford (EX. 9-35) suggested that OSHA limit the platform speed to 20 feet per minute (0.12 m/s) when intermittent stabilization is used. Spider Staging Sales Company (EX. 9-43) suggested that OSHA limit the platform speed to 35 feet per minute (0.21 m/s) when continuous stabilization is used because of the potential hangup of the platform in the guides. Douglas A. Greenaway (EX. 15-8), supported OSHA's proposed platform speeds.

In response to the comments, OSHA notes that the proposed platform speeds are maximum rated speeds and not speeds which must be met for all conditions of stabilization. Also, the proposed maximum speeds are not required speeds for either roof-powered or platform-powered platforms. The need for higher platform speeds often occurs on very tall buildings, employing continuous guides, when it is desirable to reduce the ascent time for efficiency reasons. The registered professional engineer who is responsible for the design of the equipment in the installation (paragraph (f)(1)(i)) would determine the proper platform speed that is suitable for the stabilization system and building site. OSHA, therefore, is retaining the proposed provision in the Final Rule.

Proposed paragraph (f)(5)(ii)(I) required fire extinguishers to be installed on working platforms. Spider Staging Sales Company (EX. 9-43) believed that the requirement for fire extinguishers on platforms would be ineffective. This commenter claimed that the extinguishers would be stolen and were potentially dangerous if they dropped from the platform. Acme Fabricators Incorporated (EX. 9-13) and California's Department of Industrial Relations (EX. 9-45) supported OSHA's proposed requirements for extinguishers.

OSHA agrees with the latter commenters that a fire extinguisher should be installed on a powered

platform. Employees need to have the capability of protecting themselves from fires involving combustible materials, flammable materials or electrical equipment which might occur on an elevated platform. If extinguishers are stolen or dropped because of poor installation or usage, these are conditions which employers can correct through training and monitoring of the worksite, and these conditions are not valid reasons for not installing extinguishers. OSHA is retaining the proposed paragraph (f)(5)(ii)(I) in the Final Rule.

Daigel (EX. 9-31) suggested that OSHA replace the term "self-locking" with the term "self-latching" in proposed paragraph (f)(5)(ii)(J) which addressed platform access gates. OSHA agrees that the term "self-latching" is a more appropriate term because the gates are closed with a latch rather than a lock. A self-latching provision would ensure that the access gates do not open inadvertently and expose employees to a fall hazard.

OSHA is making this change in the Final Rule and transferring this provision to paragraph (f)(5)(ii)(J).

Paragraph (f)(5)(ii)(K), as in the proposal, requires a guardrail system or ladder handrails if the access to or the egress from a platform is 48 inches (1.2 m) above a safe surface. This guarding requirement is consistent with the related OSHA General Industry Standard, § 1910.23(a)(1), which addresses employee protection when working on open sided floors, platforms and runways. Support for the requirement was received from Lawrence R. Stafford (EX. 9-35). OSHA is retaining this proposed provision in the Final Rule.

Several commenters (EX. 15-8; 9-31, 9-35, 9-41) recommended that OSHA revise proposed paragraph (f)(5)(ii)(L) which addressed platforms containing overhead structures which would restrict emergency access from the platform, and which would have required such platforms to have a secondary wire rope suspension system or a suspension by four wire ropes. Daigel (EX. 9-31) noted that the actual intent of the provision was to prevent the use of vertical lifelines by employees when working on platforms with overhead structures. Employees using such vertical life lines would be exposed to the hazard from the overhead structure if the suspension wire rope should fail. Douglas A. Greenaway (EX. 15-8), concurred with Mr. Daigel and also recommended that the platform occupant be secured to a fall arrest system employing a horizontal life line,

and that the platform also be equipped with a secondary wire rope system or be suspended by four wire ropes as stated in the proposal.

OSHA believes that the recommendations addressing proposed paragraph (f)(5)(ii)(L) have merit. For employee protection, it is important to clarify and emphasize the necessary measures to be taken to avoid risks to employees working on platforms with overhead structures. The use of horizontal life lines for employees, and the suspension methods listed in the proposal, together provide the means to address these risks. OSHA is revising proposed paragraph (f)(5)(ii)(L) in the Final Rule to reflect the above comments.

Becor Western (EX. 9-37) and Hoberg (EX. 19 B) agreed that OSHA should remove the prohibition in proposed paragraph (f)(5)(ii)(L) which stated that the secondary wire rope tail line cannot hang below the platform. This provision was based on Section 307.5.10(c) of the ANSI A120 draft standard—November 1981. Mr. Hoberg noted that the prohibition would require that the secondary rope be gathered in or below the platform with a powered tensioning device. Powered Platform Manufacturing Company (EX. 9-23) also agreed that the prohibition on the tail line should be deleted.

OSHA has concluded that the prohibition should be removed since no evidence has been provided to show that a freely hanging tail line presents a hazard for employees. This conclusion is also supported by the change in the latest ANSI draft standard A120—January, 1986 which no longer includes this prohibition. The removal of this prohibition will also remove the need for employers to install tension devices to avoid piling of the rope above the platform.

Paragraph (f)(5)(ii)(M) requires the use of vertical lifelines on two point suspended platforms, however, if a secondary suspension system is used in conjunction with horizontal lifelines anchored to the platform, vertical lifelines need not be used for fall arrest protection on such working platforms. This provision is unchanged from the proposal.

In the Notice of Hearing (50 FR 48225), OSHA solicited comment on this requirement. In response to this notice, some commenters (EX. 9-24, 9-31, 9-41, 9-45) claimed that horizontal lifelines are used because of the limitations that exist in the use of vertical lifelines on tall buildings. For example, the use of long lifelines can result in abraded lifelines due to excessive rigging and handling; can require special rescue

efforts if a suspension wire rope fails; and can cause employees to be pulled off the platform if a strong wind force bears on the lifeline.

In response to the comments on the limitations of vertical lifelines, OSHA makes the following observations. First, all lifelines are subject to routine inspection by users, paragraph (g)(5)(ii), to detect any condition, such as abrasion, which might affect their continued capability of protecting employees from falls and necessitating removal. Second, when lifelines exceed 200 foot (61 m), paragraph (e)(8) requires that lines be stabilized to restrict their displacement by wind or any other force. This provision would address concerns expressed by commenters regarding broken windows and employees being pulled off platforms because of wind. In addition, employees would be prohibited from working on platforms when the wind velocity on the platform exceeds 25 miles per hour (40.2 km/hr). Also, OSHA has not received any accident data which has shown that employees have been pulled off platforms because of wind forces on vertical lifelines. Third, proposed paragraph (i)(1)(ii)(C), would require employees to be trained in emergency action plan procedures. Such training would include employee instruction on procedures to follow in the event the employees were suspended from a vertical or horizontal lifeline. Finally, as discussed further below, if the employer does not want to use a vertical lifeline for any reason, the standard provides the option of using a horizontal lifeline system with a secondary suspension system.

OSHA also received a number of comments from hearing witnesses (TR 2/19, p. 192, TR 2/20, pp. 105, 156) and other commenters (EX. 9-3, 9-24, 9-43) who objected to the required use of a secondary suspension system in conjunction with horizontal lifelines on two-point suspended working platforms. Lawrence R. Stafford (TR 2/20, p. 105) stated that this provision would eliminate the use of davits and outriggers because of the additional weight of storing the secondary rope on the platform, and the lack of a physical location to hang the secondary rope. This commenter noted that this would result in the use of more roof carriages and larger and heavier building roofs to accommodate these carriages. The same commenter stated that it would also be impractical to use secondary suspension systems with selfpowered platforms.

Hoberg (EX. 88-4) disagreed that the additional weight of a secondary wire rope on a platform would inhibit the use of davits and outriggers. He noted that

the total weight of two 500 foot (153 m) secondary lines would be approximately 170 pounds (77 kg) and would only have a minor effect on very long platforms. Since the Final Rule would not address existing installations in the use of davits and outriggers, he stated that properly designed davits and outriggers would have the capability of supporting secondary lines and power winders.

James W. Fortune (EX. 43-2, TR 2/20, p. 162) and Hoberg (EX. 88-4) also disagreed with the previous commenter that secondary systems cannot be used on self-powered platforms. These commenters concurred that there were a number of buildings in the United States that were utilizing secondary suspension systems on such platforms, some with dual-wired traction hoists and dual-eyed movable davits.

A significant number of commenters (EX. 15-20, 19 B, 43-2, 88-4, 99) and hearing witnesses (TR 2/19, pp. 27, 76, 128, 240; TR 2/20, pp. 162, 272, 496) supported the use of a secondary suspension system with a horizontal lifeline on a two-point suspended working platform. Hoberg (TR 2/19, pp. 27, 128) stated that if one of the two suspended wire ropes should fail, an employee attached to a horizontal lifeline would be subjected to a pendulum effect and a free fall the length of the platform plus the length of the body belt lanyard. Such a fall could result in serious injury or death. From his own experience (EX. 99), and from a review of OSHA accident data (EX. 100-7), Mr. Hoberg noted that the forces resulting from such a fall have been severe enough to cause failure of the belt lanyard attachment and the death of the employees. It was Mr. Hoberg's (EX. 99) belief that the centrifugal forces resulting from the failure of one out of two suspension ropes could also cause the failure of the remaining suspension rope and/or its support. Mr. Hoberg concluded that the potential injury that an employee might endure, if a suspension wire rope failed while using a fall arrest system containing a horizontal lifeline, warranted the use of a secondary suspension system.

When questioned at the hearing, a number of witnesses (TR 2/20, pp. 156, 344, 496) who had objected to the use of secondary suspension systems in their comments responded that they had not considered the pendulum effect and free fall resulting from a failure of one of two suspension wire ropes.

After reviewing the comments and the hearing testimony, OSHA is retaining the proposed paragraph (f)(5)(ii)(M) in the Final Rule. This conclusion is based on a number of reasons. First, the

primary purpose of the provision is to provide an employee with an adequate personal fall arrest system when working on a two-point suspended platform. An independent vertical lifeline, as part of the fall arrest system, should be the first choice in achieving this protection. However, if a vertical lifeline is not used, then a horizontal lifeline anchored to the platform and a secondary suspension system would be the other available option. The secondary suspension system is necessary to provide fall arrest in the event one of the two suspension ropes should fail. Second, the provision would only apply to new installations which must all be designed by a registered professional engineer for a specific building site. Third, secondary suspension systems have been used in the industry for a number of years. Fourth, employers are not limited in the type of secondary suspension systems they may employ. As noted by Hoberg (TR 2/19, p. 76), an employer may use another set of suspension ropes, a nontensioned independent rope equipped with an automatic auxiliary over-speed brake, or a tensioned combination cable also used as a traveling cable. Although OSHA is retaining proposed paragraph (f)(5)(ii)(M), it is changing some of the terms used in the paragraph to achieve consistency with other provisions in the Final Rule.

Under (f)(5)(ii)(N) in the Final Rule, OSHA is clarifying the reference to the traveling cable system in the proposal. The phrase "traveling cable system" in the proposal is replaced with the phrase "cable connected to the platform" in the Final Rule. OSHA is also clarifying several other terms in the proposal.

A number of provisions, (f)(5)(iv)(A), (f)(5)(v)(B), (f)(5)(v)(D), and (f)(5)(v)(F) which address single point and ground rigged platforms, as well as intermittently stabilized platforms, are set out in the Final Rule and are unchanged from the proposal.

Proposed paragraph (f)(5)(iii)(A) permitted employers to have the option of providing a separate vertical life line as part of a fall arrest system for each employee on a single point suspended platform. A number of commenters and hearing witnesses (EX. 9-23, 9-31, 9-41; 19 B; TR 2/19, pp. 77, 132) recommended that OSHA delete this option on this type of platform. Daigel (EX. 9-31) stated that this option is deficient since a failure of the primary suspension rope would cause the platform to fall and injure other employees below. Hoberg (TR 2/19, pp. 77, 132) agreed and noted that such a failure could also cause an

overhead device, used for stability on this platform, to strike an employee on the platform or hook the vertical lifeline. This commenter also stated that the employee should be secured to a horizontal lifeline anchored to the platform, in lieu of a vertical lifeline, to arrest any fall from the platform.

OSHA agrees with these commenters and is revising the proposed requirement in the Final Rule. In addition, OSHA is deleting proposed paragraph (f)(5)(iii)(B) since paragraph (f)(5)(iii)(B) in the Final Rule addresses all single point suspended platforms.

Hoberg (EX. 19B) recommended that OSHA delete proposed paragraph (f)(5)(iii)(C) since this provision required that single point suspended working platforms be either continuously engaged to a building guide or intermittently secured. Hoberg noted that these requirements are also listed in proposed paragraph (f)(5)(i)(E). OSHA agrees to this deletion in the Final Rule.

Several commenters and hearing witnesses (EX. 9-25, 9-35, 9-43; TR 2/19, p. 158; TR 2/20, pp. 25, 39, 107) recommended that OSHA delete the provision in proposed paragraph (f)(5)(iv)(B) that would have allowed a platform to be secured in a suspended position against a building face after each day's use. Leonard Nork (EX. 9-25; TR 2/20, p. 25) stated that this current practice is contributing to a number of unsafe conditions and procedures. First, it is very difficult, if not impossible, to secure a suspended platform overnight against the face of many buildings built in recent years. Second, such platforms can be subjected to sudden overnight storms which can cause a great amount of damage to the platform and the building. Third, employees are subjected to fall hazards due to the difficulties of access and egress to and from such suspended platforms.

OSHA had requested comment on the feasibility and adequacy of this requirement in the Notice of Proposed Rulemaking (50 FR 2914). OSHA agrees with these commenters, and is changing proposed paragraph (f)(5)(iv)(B) in the Final Rule to disallow the practice of storing a platform overnight against the building face.

OSHA is deleting proposed paragraph (f)(5)(iv)(C) which addressed two stabilization methods to be used with ground-rigged platforms. These stabilization methods are regulated by paragraph (f)(5)(i)(E) in the general requirements for suspended platforms. That provision permits the use of any of four stabilization methods (continuous, intermittent, button guide and angulated

roping) or their equivalent with ground-rigged platforms.

Lawrence R. Stafford (EX. 9-35) and Daigel (EX. 9-31) objected to allowing the use of button guide stabilization systems with ground rigged platforms. Similar objections were raised by these commenters on proposed paragraph (e)(2)(iii)(B) which permits the use of button guide stabilization systems. These objections were addressed by OSHA in the discussion of proposed paragraph (e)(2)(iii)(B) above and which explained why button guide stabilization was retained in that provision of the Final Rule. For the same reasons, OSHA is retaining the use of button guide stabilization systems for ground rigged platforms.

Section (f)(5)(v) regulates intermittently stabilized platforms. Several commenters (EX. 9-22, 9-31, 9-35; 19 B) and a hearing witness (TR 2/19, p. 113) suggested that OSHA not require in proposed paragraph (f)(5)(v)(A) that stabilizer ties be adjustable in length. The stabilizer ties were proposed to be adjustable to affect the predetermined angulation of the suspension wire rope by changing the tie length, as necessary. These commenters noted however, that the length of the stabilizer tie is set by the design of each installation and adjustability is not required. Hoberg (TR 2/19, p. 113) noted that there are acceptable methods of tie-in, using a stabilizer tie, that are not adjustable. This commenter stated that OSHA should not require an adjustable tie since there are other methods which can be utilized.

OSHA agrees with these commenters and is revising proposed paragraph (f)(5)(v)(A) in the Final Rule to provide this flexibility. In addition, this paragraph is renumbered as (f)(5)(v)(E).

Proposed paragraph (f)(5)(v)(C) which addresses the hazards associated with storing stabilizer ties on the platform has been modified and included in paragraph (i)(2)(vii) in the Final Rule. The modification incorporates Hoberg's (TR 2/19, p. 80, EX. 19C) suggestion that the provision address the hazards associated with the ties becoming entangled in the machinery. Proposed paragraph (f)(5)(v)(D) addressed the requirement that the hoist power supply be interrupted if the platform contacts the stabilizer tie during its ascent. This provision is retained, clarified and renumbered as (f)(5)(v)(C).

Powered Platforms Manufacturing Company (EX. 9-23) recommended that OSHA delete proposed paragraph (f)(5)(v)(E) which prohibited intermittently stabilized platforms from extending beyond the building corner.

This commenter stated that if the stabilization system is designed properly to allow for proper suspension rope tie-in, continuous contact with the building face and expected wind loading, there is no reason that a platform cannot extend beyond the building corner.

OSHA agrees that this provision is too restrictive and makes the following observations. First, it is expected that the registered professional engineer designing an intermittent stabilization system (paragraph (f)(1)(i)) for a platform that extends beyond the building corners would address specific criteria such as proper suspension rope tie-in, continuous contact and expected wind loading. Second, intermittent stabilization provisions under paragraph (e)(2)(iii)(A) in the Final Rule require that the platform be kept in continuous contact with the building facade. Third, employee training provisions in paragraph (i)(1)(i) in the Final Rule require employees to be proficient in the operation and safe use of the particular powered platforms to be operated. Fourth, platforms on buildings with unusual corner arrangements may require extensions for employees to perform maintenance beyond or around building corners.

OSHA, therefore, is deleting the prohibition against intermittently stabilized platforms from extending beyond building corners.

Several commenters (EX. 9-31, 9-35, 9-41, 9-43) recommended that the proposed requirement for upper and lower building face rollers in proposed paragraph (f)(5)(v)(F) be deleted. These commenters stated that experience with intermittent stabilization systems has shown that upper and lower building face rollers do not make platforms more stable. However, they do contribute to more weight and cost. Hoberg (EX. 19B) suggested that OSHA require that rollers not be placed at the anchor placing if exterior anchors are used on the building face.

Based on the information provided by the commenters, OSHA is deleting the requirement for upper and lower building face rollers in the Final Rule. OSHA believes Mr. Hoberg's suggestion has merit and is including his suggestion in the Final Rule under renumbered paragraph (f)(5)(v)(D). OSHA also notes that the basic requirement for building face rollers for all suspended equipment remains in paragraph (f)(5)(i)(E).

OSHA had proposed a 10-foot (3.0 m) required distance between building face rollers in paragraph (f)(5)(v)(G). Powered Platforms Manufacturing Company (EX. 9-23) stated that the distance was excessive and that a six-

foot (1.8 m) distance is sufficient for stabilization. Daigel (EX. 9-22) supported the 10-foot (3.0 m) requirement, but recognized there would be a number of building designs in which this would be unattainable. For example, this commenter noted that when a platform is encompassed in an interior building corner, a 10-foot (3.0 m) distance may not be available to the designer.

OSHA has considered the views of the commenters and has decided to delete the provision. This has been done in recognition of the fact that the distance between face rollers is affected by a number of variables at each specific building site. The registered professional engineer, under paragraph (f)(1)(i), is expected to design the equipment to meet the OSHA requirement at paragraph (e)(2)(iii)(A) for stabilization at each building site. The engineer, therefore, would select the appropriate distance between face rollers to ensure stabilization.

Proposed paragraph (f)(5)(v)(H) is renumbered as (f)(5)(v)(A) in the Final Rule.

Hoberg (EX. 19 C; 2/19, p. 61) recommended that OSHA maintain consistency with the building section of the Final Rule at paragraph (e)(2)(iii)(A) and require that the platform shall be in constant contact with the building face. OSHA agrees, and is adding this provision at paragraph (f)(5)(v)(F).

A commenter (EX. 19C) suggested that OSHA ensure that the attachment and removal of a stabilizer tie not require the platform to be moved horizontally. OSHA believes this suggestion has merit since these ties are not meant to be used for repositioning a platform on a building face. In addition, such a repositioning operation could expose employees to a pinch point hazard in the attachment and removal of a stabilizer tie. OSHA is incorporating this provision under paragraph (f)(5)(v)(G) in the Final Rule.

In his comments and hearing testimony, Hoberg (EX. 19C; TR 2/19, p. 61, 100) recommended that OSHA require that the platform-mounted equipment and suspension wire rope shall not be structurally damaged by the loads from the stabilizer tie or its building anchor when the stabilizer tie is attached to the suspension wire rope. In addition, it was recommended that the wire rope and platform-mounted equipment shall have the capability of withstanding a load that is at least twice the ultimate strength of the stabilizer tie. It was Mr. Hoberg's belief that the stabilizer tie should not be the cause of a wire rope or platform-mounted

equipment failure which could endanger the personnel using the platform.

OSHA agrees that this issue is a matter of concern and should be addressed in the Final Rule. The registered professional engineer, who is responsible in paragraphs (e)(1)(i) and (f)(1)(i), for the design of the installation must consider the possible failure of the suspension wire rope and platform-mounted equipment and the need to avoid this occurrence. OSHA addresses this issue in the Final Rule under paragraph (f)(5)(v)(H).

Requirements for powered platform installations using button guide stabilized systems were proposed in paragraph (f)(5)(vi). Lawrence R. Stafford (EX. 9-35; 15-4; TR 2/20, p. 113) objected to the inclusion of this alternate stabilization system in the standard. This commenter stated that there were certain problems with these systems, such as button breakage and guardrail damage due to guide track hangup, and possible hand injuries from handling the guide tracks mounted on the platform. Mr. Stafford believed that these systems must be engineered to work properly. Daigel (TR 2/20, p. 357) agreed with Mr. Stafford that these systems have to be engineered to be effective and also noted that New York State does not preclude the use of these systems.

James W. Fortune (TR 2/19, p. 235) stated that in his experience with button guide systems, the guide track does not present a hazard for employees. In addition, he noted that button guide systems developed by his company have operated satisfactorily.

Hoberg (EX. 19B) recommended that OSHA require that the platform and its attachments in a button guide stabilization system not be structurally damaged by the loads imposed on it by the guide track. OSHA agrees and is adding this provision at paragraph (f)(5)(vi)(F).

In response to the comments received on this alternate stabilization system, OSHA observes that the Final Rule is requiring in paragraphs (e)(1)(i) and (f)(1)(i) that a registered professional engineer be responsible for the design of these installations. This requirement should address the problems associated with improper design that result in button breakage and guide track hangups. In addition, any problems associated with the operation of these systems are addressed in paragraph (i)(1)(i) which requires employees to be trained in the particular platform to be operated.

In large part, OSHA is retaining the button guide stabilization system as

proposed. A few provisions have been renumbered and some word changes have been made.

In the Notice of Hearing (50 FR 48222), OSHA requested comments on a recommendation made by some pre-hearing commenters that requirements for supported equipment be deleted, as listed in paragraphs (f)(6)(i), (ii) and (iii). Lawrence R. Stafford (EX. 15-4) and Daigel (EX. 15-14) reiterated their pre-hearing comments that these requirements be deleted, and stated that supported systems have not been fully proven and should not be a part of the standard.

The ANSI A120 draft standard—January 1986, submitted by Douglas A. Greenaway (EX. 15-8), continued to list the requirements for supporting equipment that were listed in the earlier ANSI A 120 draft standard—November 1981. These requirements served as the basis for the requirements listed in the proposal.

Hoberg (EX. 19B) stated that supported platform systems do exist and have been in operation for some time. This commenter recommended that OSHA continue to retain these requirements in the Final Rule.

In response to commenters who have objected to the placement of the supported systems requirements in the proposal, OSHA has not received any information which has shown installation deficiencies or hazards to employees for supported installations which are in use. In addition, proposed paragraphs (e)(1)(i) and (f)(1)(i) would require that all future supported installations be designed by a registered professional engineer experienced in such design.

OSHA, therefore, has determined that there should not be any unnecessary restriction on the means available to employers for elevating and lowering powered platforms, and is retaining the proposed requirements for supported equipment in paragraphs (f)(6)(i), (ii), (iii) and (iv) in the Final Rule. Paragraph (f)(6)(i) requires that supported equipment maintain a vertical position relative to the building facade without the use of friction. Paragraph (f)(6)(ii) requires that means be employed to provide climbing traction for the supported equipment. Paragraph (f)(6)(iii) requires the use of launch guide mullions to align drive wheels. Paragraph (f)(6)(iv) requires that supported platforms shall comply with certain requirements of suspended platforms.

In the Notice of Hearing (50 FR 48222) OSHA requested specific comments on proposed paragraph (f)(7)(i) which required suspension wire ropes and

connections to meet the specifications recommended by the hoisting machine manufacturer. Pre-hearing commenters (EX. 9-17, 9-19) have suggested that OSHA list the types of connections that can be used, and require the connections to have the capability of developing at least 80 percent of the rated breaking strength of the wire rope. The wire rope connection capability is presently a requirement in ANSI A120-1970.

Douglas A. Greenaway (EX. 15-8) and Hoberg (EX. 19B) supported OSHA's proposed requirements in paragraph (f)(7)(i), which do not list the types of connections. In addition, Mr. Hoberg recommended that combination cable should also be a component that must meet the specifications of a hoisting machine manufacturer, since it is also used to suspend equipment.

OSHA has considered the comments received and in the Final Rule is revising paragraph (f)(7)(i) in the following manner. First, combination cable is added to the provision as a component that must meet the specifications recommended by the hoist manufacturer. Second, in response to the prehearing commenters, OSHA is adding a requirement that the wire rope connections be capable of developing at least 80 percent of the rated breaking strength of the wire rope. Third, OSHA has decided not to provide a listing of rope connections since such information is available in industrial catalogs. Also, any such listing would imply that only the listed connections are acceptable to OSHA.

In the Notice of Hearing (50 FR 48222), OSHA requested specific comments on proposed paragraph (f)(7)(ii), which provided the formula to be used in calculating the safety factor of the suspension wire rope and which is contained in the existing standard. A pre-hearing commenter (EX. 9-17) suggested that the formula be amended to take into account the efficiency of the termination by adding the efficiency (E) of the wire rope termination to the numerator as follows:

$$F = \frac{(S)(E)(N)}{W}$$

where, "F" is the factor of safety; "S" is the manufacturer's catalog strength of one suspension rope; "N" is the number of suspension ropes under load; and "W" is the maximum static load at any point of travel.

Although the commenter admitted that this change would require a reduction in the working load of the platform to

maintain the required 10:1 safety factor, he believed this would provide a much more accurate factor of safety. In a post-hearing comment, this commenter (EX. 30) stated that introducing the terminal efficiency factor into the formula would take into account the strength of the total rope system.

Hoberg (EX. 19B, 88-5; TR 2/19, p. 78) stated that this formula may be incorrectly considered an "engineering factor" of safety, as opposed to a "design factor," if the termination efficiency is included. An engineering factor of safety, in his view, would include terminal efficiency, bending efficiency and any other engineering consideration. In addition, Mr. Hoberg noted that the term "factor of safety" in the proposed formula was used in establishing minimum requirements for the wire rope itself and not for the wire rope assembly which includes terminal efficiency and bending efficiency. In order to eliminate confusion, Mr. Hoberg recommended that OSHA change the term "factor of safety" to "design factor," as the American Iron and Safety Institute had done in its *Wire Rope Manual*, Second Edition, 1981, page 77.

Douglas A. Greenaway (EX. 15-8) supported the use of the term "design factor" in this provision.

Lawrence R. Stafford (EX. 15-4) claimed that if OSHA introduced the terminal efficiency factor into the formula, this action would doom all existing platform type hoists since larger size ropes would be needed.

OSHA agrees that the term "factor of safety" is inappropriate for the formula in proposed paragraph (f)(7)(ii). This formula is used to calculate the capability of the suspension wire rope to support, without failure, its working load. The formula is only a ratio of the rated strength of the wire rope to the rated working load, and should be more appropriately identified as a "design factor."

The formula is not intended to provide an engineering safety factor for the total rope system, which would necessarily include a number of other engineering criteria. OSHA, therefore, is changing paragraph (f)(7)(ii) in the following manner. First, the term "design factor" replaces the term "factor of safety." Second, the term "rated strength" replaces the term "catalog strength" since it is more generic and permits the engineer to adjust for arbitrary catalog listings. The term "rated strength" is defined in the Final Rule. Third, the term "rated working load" replaces the term "maximum static load" and the phrase "on all ropes" is added for clarification.

"Rated working load" is also defined in the Final Rule.

Several commenters (EX. 9-17, 9-19; 15-8; 19B; 30; 91) believed that proposed paragraph (f)(7)(iii) was too restrictive in requiring that suspension ropes shall be of improved plow steel or equivalent. The Mac Whyte Company (EX. 9-17, 9-30) stated that improved plow steel should be the minimum grade acceptable to OSHA, since there are many equipment designs that required higher strength ropes to maintain the design factor. OSHA agrees with these commenters that the proposed provision should be clarified to permit the use of wire rope that is of a higher strength than improved plow steel. OSHA, therefore, is revising the proposed provision in the Final Rule by requiring the grade of suspension wire rope to be at least improved plow steel or equivalent rather than improved plow steel or equivalent.

No comments were received on proposed paragraph (f)(7)(iv), however, OSHA is changing the term "factor of safety" to "design factor" for consistency with paragraph (f)(7)(ii).

Proposed paragraph (f)(7)(v) prohibited the use of more than two reverse bends in each suspension wire rope. Daigel (EX. 9-31) suggested that reverse bends in a wire rope be prohibited with respect to wire rope lay length. Hoberg (EX. 19B) agreed and suggested that, based on accepted standards, more than one reverse bend in six wire rope lays should be prohibited.

OSHA understands that the reason for caution in using reverse bends in wire rope is because undue stresses are introduced into the rope if adequate wire rope lay length is not allowed for the rope to relax before reverse bending. OSHA, therefore, is changing this provision in the Final Rule to permit no more than one reverse bend in six wire rope lays.

One commenter (EX. 9-19) suggested that OSHA add two other requirements: First, that the diameter of the sheave used to accomplish the change in direction of the wire rope must be the same as the diameter required for the hoisting sheaves and drums; and second, that a reference be added as to the minimum drum and sheave diameter to be used for any application.

In response, OSHA notes that paragraph (f)(4)(vii) addresses the issue of drum and sheave diameters in performance language in the hoisting section of the standard. OSHA believes that the drum and sheave diameters to be used for a specific application would be more properly determined by the engineer responsible for the design of

the installation. Paragraph (f)(4)(vii), therefore, does not include any reference to drum and sheave diameters in the Final Rule.

Two commenters (EX. 9-13, 15-8) and one hearing witness (TR 2/19, p. 193) supported OSHA's requirements in proposed paragraph (f)(7)(vi)(A) relative to rope tags. Acme Fabricators (EX. 9-13) stated that the information on the tag is very useful for safety reasons. For example, it is important that the date the wire rope was installed appear on the tag as well as the size and manufacturer of the rope. From this information, an employer will have knowledge of the age of the rope and can replace the rope with a rope of the same specifications from the same manufacturer, when necessary. This provision remains unchanged in the Final Rule, except the term "rated strength" replaces the term "catalog strength" in renumbered paragraph (f)(7)(vi)(E). The term "rated strength" is defined in paragraph (d).

Proposed paragraphs (f)(7)(vi) (B) and (C), which address rope tag requirements, remain unchanged from the proposal, and are renumbered as paragraphs (f)(7)(vii) and (f)(7)(viii).

Proposed paragraphs (f)(7)(vii) and (f)(7)(ix) are also unchanged from the proposal and are renumbered as paragraphs (f)(7)(ix) and (f)(7)(xi). Paragraph (f)(7)(ix) requires a sufficient wire rope length when a winding drum hoist is used, and paragraph (f)(7)(xi) prohibits the lengthening or repairing of suspension wire ropes.

Becor Western Inc. (EX. 9-37) and Douglas A. Greenaway (EX. 15-8) supported proposed paragraph (f)(7)(viii), which requires a sufficient wire rope length when traction and sheave type hoists are used. Becor Western Inc. (EX. 9-37) also suggested that OSHA change the phrase "lowest point of vertical travel" in the paragraph to read "lowest possible point of vertical travel," and eliminate the unnecessary verbiage following the word "feet." This commenter believed this change was necessary to achieve consistency with proposed paragraph (f)(7)(vii). OSHA agrees and the provision is changed in the Final Rule and renumbered as paragraph (f)(7)(x).

Paragraph (f)(7)(x) prohibits the use of babbitted fastenings for suspension wire rope. The reasons for this prohibition are contained in a discussion above which addresses the deletion of the term "babbitted fastenings."

Concerning paragraph (f)(8)(i), also unchanged from the proposal, Hoberg (TR 2/19, p. 79) had suggested that OSHA require that an independent ground lead be connected to the platform frame and hoist. In response,

OSHA notes that in Subpart S, electrical, there are generic grounding requirements under § 1910.304(f)(5)(v) which would cover the platform frame and hoist.

Paragraph (f)(8)(ii) covering design and location of electrical runway conductor systems remains unchanged in the Final Rule and was supported during the rulemaking (EX. 15-8).

Daigel (EX. 9-31) suggested that OSHA delete proposed paragraph (f)(8)(iii) which required cables to be protected from damage due to striking the building, because other provisions cover this hazard.

OSHA agrees that paragraph (e)(8), which addresses cable stabilization, is meant to prevent the cable from being damaged by striking the building, and is deleting the redundant part of paragraph (f)(8)(iii) in the Final Rule.

Proposed paragraph (f)(8)(iv) is deleted in the final rule because it is redundant with paragraph (f)(5)(ii)(D).

Spider Staging Sales Company (EX. 9-43) and Hoberg (EX. 19B, C) noted that the protective devices for phase reversal and phase failure, addressed in proposed paragraph (f)(8)(v), are a polyphase phenomenon and are not required on single phase equipment. Accordingly, it was suggested that the term "three phase reversal" be substituted to clarify this provision. OSHA agrees and is setting this requirement in paragraph (f)(8)(iv) in the Final Rule.

Paragraph (f)(8)(v), which requires the operator to follow predetermined procedures established by the control system, remains unchanged from the proposal.

Paragraph (f)(8)(vii)(A) in the proposal has been revised and redesignated in the Final Rule as (f)(8)(vi)(A). Daigel (EX. 9-31) questioned the need for requiring a tie-down (mechanical retainment) for carriages which are counter-weighted with a four to one stability factor against overturning as proposed. Richard W. Hoffman (EX. 9-30) questioned the need for mechanical retainment of trackless carriages at an established operating point. This commenter believed that the only function of this requirement was to prevent horizontal traversing of the carriage when the platform is over the side of the building.

OSHA agrees that a carriage with the required stability factor against overturning does not need a tie-down anchor, and is revising the provision accordingly in the Final Rule. OSHA does believe, however, that all carriages, trackless or not, should be

required to have a tie-down anchor if sufficient counterweight is not provided.

Daigel (EX. 9-31) suggested that OSHA delete proposed paragraph (f)(8)(vii)(B) which addressed the electrical operating device for power-operated carriages. This commenter noted that paragraph (f)(3)(i)(F) in the carriage section of the standard addresses a similar hazard. OSHA agrees, and paragraph (f)(8)(vii)(B) as proposed is deleted in the Final Rule.

Several commenters (EX. 15-8; 9-30, 9-43) recommended that OSHA change its overload protection requirements to permit down travel when excess suspension wire rope tension is encountered. Richard W. Hoffman (EX. 9-30) noted that if an excess load is applied to the wire rope when a platform is on the rise, it should be possible to lower the platform to clear any obstruction.

Also, Daigel (EX. 9-30) has suggested that OSHA clarify the conditions now listed in the present standard under which the load limiting device will be utilized. This commenter suggested that OSHA require that the overload protection be utilized when the load is in excess of 125 percent of the rated load of the platform than when the tension in a hoisting rope exceeds 150 percent of its normal tension based on the rated load divided by the number of suspension ropes.

OSHA believes these comments have merit and is revising proposed paragraph (f)(8)(vii)(C) in the Final Rule to reflect the changes suggested by the commenters. In addition, OSHA is renumbering this paragraph to be (f)(8)(vi)(B).

OSHA proposed in paragraph (f)(8)(vii)(D) that an automatic detector be provided that will interrupt power to the hoisting motors and apply the primary brakes if any suspension wire rope becomes slack. Hoberg (EX. 19B, 19C; TR 2/19, pp. 79, 122, 123) and Douglas A. Greenaway (EX. 15-8) supported this provision. Hoberg noted, however, that this is the most commonly removed safety device because it is nearly impossible to move the platform to a new station if it is necessary to ground rig or store the platform. As soon as the platform sets down, the motors stop, and there is no wire rope slack available. This commenter, therefore, suggested that a constant pressure bypass switch provision be made available during rigging operations.

OSHA believes the suggestion proposed by Mr. Hoberg has merit and this is included in the Final Rule. In addition OSHA is rephrasing the paragraph for clarification and

renumbering the paragraph to be (f)(8)(vi)(C).

Several commenters (EX. 9-30; 15-8; 19B, 19C) recommended that OSHA apply the requirements addressing directional limit switches to self-powered platforms. Richard W. Hoffman (EX. 9-30) stated that these requirements are as pertinent to self-powered equipment as they are to roof powered equipment. In addition, Daigel (EX. 9-31) recommended that OSHA delete the phrase "if required by the configuration of the building" in the requirement addressing lower directional switches. Mr. Daigel believed that some form of lower limit protection is required for all powered platforms.

OSHA accepts the recommendations presented by the commenters and is revising these proposed provisions in the Final Rule. In addition, the paragraphs are combined in one paragraph in (f)(8)(vii). OSHA notes that the lower directional limit switch requirements are especially important when platforms are used over skylights and atriums.

A commenter (EX. 9-35) suggested that OSHA require emergency stop switches on all platforms, and not just on remote controlled, roof powered manned platforms, as required in proposed paragraph (f)(8)(ix). No accident data or other justification was provided by this commenter to support this suggestion. OSHA is retaining proposed paragraph (f)(8)(ix) in the Final Rule without change and is renumbering the paragraph to be (f)(8)(viii).

Hoberg (EX. 19C) recommended that OSHA require that an overload device be provided for cables which are in constant tension. This commenter stated that this requirement is necessary to prevent the tensioned cables from affecting the operation of the load limiting device required under proposed paragraph (f)(8)(vii)(C), or affecting the platform roll limiting requirement which affects stability under proposed paragraph (f)(5)(ii)(C). This commenter also stated that it was important that the setting of these overload devices be coordinated with the overload settings of other devices so as not to affect their proper function. In addition, the commenter noted that the overload device should be designed to interrupt equipment travel in the down direction when the tension limit is reached.

OSHA believes this recommendation has merit and is adding a provision in the Final Rule as paragraph (f)(8)(ix).

Paragraph (g) covers inspection and testing requirements. Daigel (EX. 9-31) suggested that OSHA add the word "initial" before the word "service" in

proposed paragraph (g). OSHA accepts this suggestion as an aid in clarifying when field testing must be done. This commenter further suggested that the phrase "no installation shall be subjected to a load in excess of 125 percent of its rated load" be added to this paragraph. The purpose of this addition is to forestall possible damage to an installation during initial testing and avoid exposure of employees to risks which might be incurred during subsequent operation of the installation. OSHA agrees with this commenter and his concerns about the hoist and is adding a modified phrase in the Final Rule to limit testing loads for hoists to 125 percent of their rated load.

Becor Western Inc. (EX. 9-37) recommended that OSHA add the phrase "at intervals specified by the manufacturer/ supplier" after the word "person" in paragraph (g)(2)(ii).

OSHA agrees with this commenter that such an addition to the requirement would contribute to a safer working environment for employees. Manufacturers and their agents, such as suppliers, can provide useful information to the employer/owner on inspection procedures as well as proper inspection intervals for the equipment they have supplied. In addition, this requirement would be consistent with the reference to manufacturer procedures required in proposed paragraph (g)(3). The addition to paragraph (g)(2)(ii) is made in the Final Rule. OSHA is substituting the term "competent person" for the term "qualified person" in paragraphs (g)(2)(i) and (g)(2)(ii) for the reasons noted earlier in the discussion on definitions of these terms.

Leonard Nork (TR 2/20, pp. 26, 59) and Acme Fabricators Inc. (EXH. 9-13) recommended that OSHA require that a recordkeeping program be provided by employers for the inspection of platform installations in proposed paragraphs (g)(2)(i) and (ii). It was their belief that these records be kept for the use of all concerned parties involved in the safety of the installation.

OSHA revised many of its existing recordkeeping requirements in 29 CFR Part 1910 in a Final Rule published in the *Federal Register* (51 FR 34552) on September 29, 1986. This rulemaking revision was in response to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), which set goals for the phased reduction of Federal information gathering activities. In this rulemaking, OSHA replaced provisions which required more detailed written records with provisions that would require a "certification record" to

distinguish the new form of documentation from the records previously required. The certification record contains the date the work was performed, the signature of the person who performed the work, and an identifier for the equipment or installation which was tested or inspected. For the purpose of maintaining a consistency with this certification record procedure used in other OSHA standards, and in response to the commenters, OSHA is requiring in paragraph (g)(2)(iii) that a certification record be kept by the building owner for the inspections and tests required in paragraphs (g)(2)(i) and (ii). OSHA believes, based on the past use of certification records, that such records provide useful information without an unnecessary recordkeeping burden. OSHA also notes that paragraphs (c)(1) and (c)(2) require the building owner to assure the employer on a continuing basis that the installation meets the major design and structural requirements of this standard.

OSHA requires, in paragraph (g)(2)(iv), that platforms be inspected for visible defects before every use and after each occurrence that could affect the platform's structural integrity. Several commenters (EX. 32, 87, 91) supported this requirement and it remains unchanged in the Final Rule, except the word "powered" is replaced with the word "working" since "working platform" is defined in the Final Rule.

Acme Fabricators Inc. (EX. 9-13) and Thomas J. O'Shea (TR 2/20, p. 314) supported the maintenance inspection requirements proposed in paragraph (g)(3). Other commenters and a hearing witness (EX. 9-37, 9-45; 87; TR 2/20, p. 26) recommended that OSHA include a requirement that a detailed maintenance log be kept for each inspection. California's Department of Industrial Relations (EX. 9-45) stated that a formalized record of maintenance kept on the site provides a uniform means of determining the maintenance status of the equipment to assure safe operations.

As noted previously in this document, OSHA has developed a method which requires building owners to provide a "certification record" for inspections and tests which are required to be performed. OSHA intends to use this certification requirement to ensure that maintenance inspections required in (g)(3)(i) are completed by the building owner. This certification requirement will not prohibit a building owner from maintaining additional records for his or her own use. The wording in proposed paragraph (g)(3) addressing certification is changed in paragraph (g)(3)(ii) of the

Final Rule to provide consistency with other certification provisions in the standard.

OSHA had intended to continue to require maintenance inspections to be performed at least every 30 days in proposed paragraph (g)(3), at the same frequency as required by paragraph (e)(3) of the present standard. The discussion on this frequency was found in the preamble to the Notice of Proposed Rulemaking in the Federal Register on January 22, 1985 (50 FR 2903). However, the language of proposed paragraph (g)(3), as published, appeared to allow periods of greater than 30 days. This was not OSHA's intention. As the preamble explained, the frequency was to remain the same as in the existing standard. Therefore, paragraph (g)(3) should have stated that the inspection and test of each platform shall be made every 30 days, except where the cleaning cycle is less than 30 days such inspections and tests shall be made prior to each cleaning cycle. OSHA is changing the proposed wording of paragraph (g)(3) in the Final Rule to correct this error in the maintenance inspection frequency. In addition, OSHA is substituting the term "competent person" for the term "qualified person" in paragraph (g)(3)(i) for the reasons noted in the definition section of this document.

OSHA proposed in paragraph (g)(4)(i) the inspection and testing of governors and secondary brakes at intervals not exceeding 12 months. Becor Western Inc. (EX. 9-37) suggested that OSHA require inspections "at intervals specified by the manufacturer/supplier" after the word "tested," but not to exceed 12 month intervals.

OSHA agrees with this commenter that the suggested addition would improve the working environment for employees. Manufacturers and suppliers provide employers with important information on proper inspection intervals and procedures for the equipment that has been provided. The addition to paragraph (g)(4)(i) is made in the Final Rule.

No comments were received on proposed paragraphs (g)(4)(ii), (iii) and (iv) and these are retained in the Final Rule.

OSHA is substituting the term "competent person" for the term "qualified person" in paragraph (g)(4)(v) for the reasons noted in the definitions section of this document.

Hoberg (TR 2/19, p. 80; EX. 19C) recommended that OSHA require a daily test be made of the secondary brake governor and actuating device before each day's use. This commenter

believed it was important that this be done to make sure that this equipment would operate properly if an emergency should occur. Harry Fisher (TR 2/19, p. 121) believed that this recommendation would be too restrictive for winding drum equipment where the brake and governor device are enclosed within the drum and not easily accessible. This commenter noted, however, that there are provisions on the drum of such equipment for inspection of the brake drum to make sure that the brake itself is free to move.

OSHA believes that the recommendation made by Mr. Hoberg has merit. Two recent investigations (EX. 100-1, 100-7) by OSHA of powered platform accidents have illustrated the need for this requirement. In each accident, secondary brakes did not function in an emergency situation and this resulted in the death of two employees. If a test of the secondary brake governor and activating device had been performed before use and appropriate corrective measures taken, the deaths might have been prevented. OSHA, therefore, is requiring at paragraph (g)(4)(vi) that a daily test be conducted of the secondary brake governor and actuating device before use. For equipment where this test is not feasible, as suggested by Harry Fisher (TR 3/20, p. 368), a visual inspection of this equipment will be required before use to ensure that the brake can function when necessary.

In the Notice of Hearing (50 FR 48222) OSHA requested comments on the proposed inspection and replacement requirements for suspension wire rope located in paragraph (g)(5). In addition, OSHA also requested comments on the related issue of suspension wire rope maintenance and inspection records.

Several commenters and a hearing witness (EX. 9-37, 15-8, 87; TR 2/19, p. 81) responded on the issue of wire rope maintenance and use. Hoberg (TR 2/19, p. 81) stated that in his opinion there were few properly installed and lubricated wire ropes that experienced fatigue or wear. This commenter also observed that there were many wire ropes left on roofs with little environmental protection for long periods of time before they were used.

Becor Western Inc. (EX. 9-37) and Carl J. Thurnau (EX. 87) supported requirements for wire rope maintenance and use. These commenters recommended requirements for proper wire rope storage to prevent damage or deterioration; proper installation to avoid crushing, nicks or sharp bends; and the following of unreeling and

lubricating provisions recommended by the wire rope manufacturer.

OSHA agrees with these commenters that the subject of wire rope maintenance and use should be addressed by OSHA. If the wire rope is not maintained and used properly, it will have reduced capability to suspend equipment and reduced ability to operate properly with the equipment. These factors can immediately increase the risk for employees using powered platforms. OSHA is not assigning specific requirements for wire rope maintenance and use because of the variety of suspension wire rope applications, and the need for the employer to follow the wire rope manufacturer's recommendations in these applications. In addition, OSHA notes that the New York State Department of Labor Standard 101 (EX. 87) requires suspension wire rope to be maintained in accordance with manufacturer's recommendations. OSHA, therefore, for the reasons stated, is requiring that the employer shall follow procedures recommended by the wire rope manufacturer in the maintenance and use of wire rope in paragraph (g)(5)(i) of the Final Rule.

On the subjects of wire rope inspection and replacement, OSHA received a significant number of comments on the issues of inspection frequency, who should inspect wire ropes, wire rope replacement criteria and inspection records.

On the first issue of inspection frequency, a number of commenters (EX. 87; TR 2/19, p. 81; 2/20, p. 491) supported the monthly inspection of suspension wire rope in proposed paragraph (g)(5). A number of other commenters (EX. 9-17, 9-37; 15-8; 87; TR 2/19, pp. 80, 193; TR 2/20, p. 491) suggested that OSHA also require a visual inspection of the wire rope before every use. Becor Western Inc. (TR 2/20, p. 491) believed it was essential that employees using the wire rope be trained to discover gross damage to the wire rope, which may be an immediate hazard, before using the platform.

OSHA agrees that a visual inspection of the wire rope for defects has merit. An OSHA fatality investigation involving a powered platform (EX. 100-7) revealed that the primary cause of the fatality was the failure of the suspension wire rope which had not been inspected on a regular basis. OSHA, therefore, is requiring in paragraph (g)(5)(ii) that a visual examination is to be made of a suspension wire rope by a competent person before every use. The term "competent person" is substituted for the term "qualified person" in paragraphs (g)(5)(ii) and (g)(5)(iii) for the

reasons noted in the definitions section of this document.

On the second issue, who should do the inspection of wire rope, Becor Western Inc. (TR 2/20, p. 491) and Hoberg (TR 2/19, p. 81) stated that a wire rope inspector should have the experience and training to judge the capability of the wire rope to continue to suspend equipment.

OSHA agrees, since the results of the monthly inspection are used to determine the need to replace the wire rope. This inspector would determine whether the wire rope has sufficient integrity to support the platform with the desired design factor until the next inspection is performed. OSHA, therefore, is requiring in paragraph (g)(5)(iii) of the Final Rule that a competent person conduct the monthly inspection of the suspension wire rope.

On the third issue, wire rope replacement, OSHA received many comments (EX. 9-25, 9-37; 15-8; 30; 87; 88; TR 2/19, p. 81, 159, 193; TR 2/20, pp. 41, 491) on whether the suspension wire rope should be replaced at a regular interval, or be replaced based on the condition of the wire rope at the time of inspection. This latter method was proposed in paragraph (g)(5). Leonard Nork (EX. 9-25, TR 2/20, p. 41) suggested that OSHA require wire rope to be replaced on an 18-month interval, rather than rely only on replacement criteria used during an inspection. This commenter believed it was the only way to ensure that deficient wire ropes would be replaced on a regular basis.

Some commenters (EX. 87; TR 2/19, p. 81; TR 2/20, p. 491) suggested that OSHA require wire rope replacement at a specified interval, in addition to relying on the results of regular inspections of the wire rope. Hoberg (EX. 88) suggested that a wire rope might continue in use after a specified interval had passed if a qualified person inspected the wire rope and found it in good condition.

Other commenters (EX. 9-37; 15-8; 30; TR 2/19, pp. 159, 193; TR 2/20, p. 491) rejected the use of a specified interval and supported OSHA's provision in proposed paragraph (g)(5) which states that the need for replacement shall be determined by regular inspection and based on the condition of the wire rope inspected. Becor Western Inc. (EX. 9.37) noted that it would be difficult to establish a proper wire rope replacement interval because of the variety of factors which affect wire rope at each worksite, such as environment, maintenance and usage. This commenter believed that a daily inspection by the operators of the platform, a thorough monthly inspection by a qualified

person, and the use of proper replacement criteria during the inspection would be the best program for determining the need for wire rope replacement.

In addition, Becor Western Inc. (EX. 9-37) recommended that OSHA transfer the wire rope replacement criteria, which were proposed for inclusion in the non-mandatory Appendix A, to the standard itself. This commenter stated that OSHA should list the criteria in the standard that would serve as the minimum conditions for replacing the wire rope during an inspection.

OSHA has considered all the comments on the issue of wire rope replacement and has determined that the proposed method in paragraph (g)(5) of replacing wire rope is the preferred method, and is retained in the Final Rule. This method provides for daily and monthly inspections by qualified persons and the use of criteria for determining the need to replace the wire rope. This determination is based on several reasons.

First, in addition to the proposed monthly inspection, OSHA is requiring in paragraph (g)(5)(ii) that the wire rope be inspected before every use for gross deficiencies. This inspection will provide an early alert on any wire rope deterioration.

Second, OSHA is requiring in paragraph (g)(5)(iii) that the monthly inspection be conducted by a competent person. This requirement will enhance the quality of the inspection conducted since the replacement of the rope is a decision based on the replacement criteria and the judgment and experience of the inspector. Replacement of the wire rope in this method is focused on the capability of the wire rope to suspend equipment, and not an arbitrary replacement interval.

Third, the selection of a specific rope replacement interval for all wire rope would be arbitrary and without any supporting data to justify the selected interval. The life of a wire rope on a worksite is greatly affected by such variables as exposure to the environment, proper handling, storage, usage and maintenance. In addition, the use of a mandatory replacement interval may cause some employers to rely more on this as a means of wire rope replacement control, and less on a regular inspection by a competent person during the intervening period. Also, if an inspection by a competent person shows the wire rope to be sound, it would be unnecessary and costly to discard the wire rope because a mandatory replacement time has been reached.

OSHA is requiring in paragraph (g)(5)(i) that the employer shall follow procedures recommended by the wire rope manufacturer in the maintenance and use of the wire rope. The adherence to these manufacturer's recommendations by the employer would have a noticeable effect on the life of the wire rope, and would be a major factor affecting wire rope replacement.

Since OSHA is requiring in paragraph (g)(iv) that the wire rope be replaced based on the condition found during an inspection of the wire rope, it is appropriate that the minimum conditions for replacement be listed in the standard rather than the Appendix. The listing of these minimum criteria does not prevent the employer from using more stringent criteria in determining the need for replacing wire rope during an inspection. OSHA, therefore, is transferring the wire rope replacement criteria from Appendix A to paragraph (g)(5)(iv)(A).

A number of comments were received on the wire rope replacement criteria listed in proposed Appendix A. Some commenters (EX. 9-19, 15-8, 19B, 30) and a hearing witness (TR 2/20, p. 493) suggested that wire ropes should be removed if four randomly distributed broken wires are found in three lays or if two broken wires are found in one strand of three lays. Hoberg (EX. 19B) recommended that Table 1 in proposed Appendix A be clarified to show that replacement criteria can be either three wires in one strand or six wires in one rope lay. The MacWhyte Company (EX. 30) also noted that wire rope classification, as shown in Table 1, is not a factor in the criteria for wire rope replacement according to the *Wire Rope Users Manual*, Second Edition, 1981. This criteria is listed on page 57 (Table 13) of the Manual published by the American Iron and Steel Institute.

OSHA has considered all the comments and related available information and determined that three broken wires in one strand, or six broken wires in one rope lay, is a sufficient condition for replacement of a wire rope, regardless of its classification. Table 1 in Appendix A is being deleted, and the information from that table is renumbered as paragraph (g)(5)(iv)(A).

No comments were received on two other listed conditions for wire rope removal, which included rope distortion from crushing or kinking and evidence of heat damage. These conditions are listed in paragraphs (g)(5)(iv)(B) and (C) of the Final Rule.

The reduction of the original wire rope diameter was listed as a criterion for

wire rope removal in proposed Appendix A. Hoberg (EX. 19B) suggested that for the measurement to be meaningful the diameter measurement of the wire rope should be done while it is under a specified load and compared against previous measurements of the original rope diameter under the same load. However, the Manual points out that even using these criteria may not always indicate the need for removal. The Manual lists the various conditions which may reduce rope diameter (Manual, page 53). Each safety related listed condition, such as abrasion, corrosion, loosening of rope lay and inner wire breakage has been separately identified by OSHA as an independent reason for removing the rope (§ 1910.66(g)(5)(iv)). Further, some reasons for rope diameter reduction are not safety related. Therefore, as recommended by the Manual, OSHA has omitted the reduction of wire rope diameter as a criterion for determining wire rope replacement. Therefore, the listed criteria in the Final Rule and the wire rope inspector's knowledge and experience should provide a sufficient basis for making the proper decision in replacing wire rope.

No comments were received on other wire rope replacement criteria listed in the proposed Appendix A, such as rusting, corrosion and pitting. OSHA is retaining these criteria and these are listed in paragraphs (g)(5)(iv)(D) and (F).

Two broken wires in the vicinity of end attachments was listed as a criterion for wire rope replacement in proposed Appendix A. Hoberg (EX. 19B) recommended that wire rope be replaced if a wire break occurred within 18 inches (460.8 mm) of the end attachments. From his experience, this commenter believed that a wire break in this area of the wire rope is significant since it is an indicator of severe stress conditions existing near the termination. OSHA also notes that the present phrase "in the vicinity of the end attachments" does not provide an inspector with a defined area of inspection for wire breaks.

OSHA, therefore, believes this comment has merit and is including the instance of a wire break occurring within 18 inches (460.8 mm) of the end attachments as a condition for wire rope removal. This criterion is listed in paragraph (g)(5)(iv)(E).

Proposed Appendix A lists core failure as another criterion for wire rope removal. Hoberg (EX. 19B) suggested that protrusion of the wire rope core be considered as evidence of core failure. This suggestion is supported by a statement on page 55 of the Manual.

OSHA accepts this suggestion and is modifying the criterion accordingly in paragraph (g)(5)(iv)(G).

Another condition for wire rope removal listed in the proposal, a valley break, is retained as paragraph (g)(5)(iv)(H). A "valley break" is a break in a wire located in one of two adjacent strands in a wire rope.

Hoberg (EX. 19B) noted that a wire rope is subjected to a significant amount of abrasion during its use, and suggested that the wire rope be replaced if the outer wire of the rope has lost one-third of the original diameter. This suggestion is supported by a statement on abrasion of wire rope on page 52 of the Manual.

OSHA recognizes the need to address severe abrasion of the wire rope as one of the criterion for replacement, and is including this in the Final Rule as a condition for wire rope removal. This condition is listed in paragraph (g)(5)(iv)(I).

On the fourth issue, inspection records, the California Department of Industrial Relations (EX. 9-45) and Becor Western Inc. (EX. 9-37, TR 2/20, p. 492) suggested that OSHA require written, dated and signed reports of the wire rope conditions found during monthly inspections, and that these reports be kept on file. California's Department of Industrial Relations stated that detailed records of wire rope inspections are necessary for efficient preventive maintenance practices.

OSHA agrees that a record of the wire rope monthly inspection is necessary to ensure its completion on a regular basis. As noted previously in this document, OSHA has developed a method which requires building owners to provide a "certification record" for inspections which are required to be performed. OSHA intends to use this certification requirement to ensure that wire rope inspections required in paragraph (G)(5)(iii) are completed by the building owners. OSHA, therefore, is requiring a certification record for each monthly inspection in paragraph (g)(5)(v) of the Final Rule.

Douglas A. Greenaway (EX. 15-8) supported proposed paragraph (g)(6) which addressed the testing of a hoist in the lifting direction prior to the lowering of personnel below the top elevation of the building. Lawrence R. Stafford (EX. 9-35) suggested that the provision be eliminated, since he believed this requirement would be fulfilled by the nature of the use of a platform. After consideration of the comments on this provision, OSHA is retaining it in the Final Rule under paragraph (g)(6).

A number of hearing testifiers (TR 2/20, pp. 314, 370; TR 2/21, p. 18) and a

commenter (EX. 87) supported proposed paragraph (h)(1) which required equipment that affected safe operation to be maintained in proper working order. Harry Fisher (TR 2/20, p. 370) noted that in his experience, the lack of maintenance and training were the major causes of accidents.

OSHA is retaining this requirement in paragraph (h)(1) in the Final Rule.

Paragraphs (h)(2)(i) and (h)(2)(ii) required the cleaning of parts which are affected by dirt or other contaminants, and are basically unchanged from the proposal. In proposed paragraph (h)(2)(i), the phrase "and free from dirt" is redundant and OSHA has deleted this phrase in the Final Rule.

Douglas A. Greenaway (EX. 15-8), supported proposed paragraphs (h)(3)(i), (ii) and (iii) which addressed periodic resocketing of wire rope fastenings. OSHA is retaining these requirements in paragraphs (h)(3)(i), (ii) and (iii) in the Final Rule. The term "babbitted fastenings" is replaced with the term "poured sockets." The reason for this change is given in the explanation for deleting the definition for "babbitted fastenings" earlier in this document.

In the Notice of Hearing (50 FR 48222), OSHA requested comments on a recommendation made by a pre-hearing commenter that the proposed requirement for periodic reshackling of suspension wire ropes (paragraph (h)(4)) be deleted. This commenter had stated that the periodic reshackling requirement would be more appropriate to the elevator industry, since the wire ropes used for elevators were more subject to failure due to more frequent operation of the equipment it suspended.

Leonard Nork (EX. 9-25) suggested that the interval between reshackling be decreased from 24 months to 18 months. No justification was given for this suggested change in frequency.

James W. Fortune (TR 2/19, p. 194) and Hoberg (TR 2/19, p. 82) recommended that OSHA retain the proposed requirement in the Final Rule. Mr. Fortune stated that the shackles are exposed to the elements, corrosion and caustic chemicals. In addition, he said that it was difficult to ascertain the condition of the wire rope inside the shackle.

OSHA agrees that reshackling of the suspension wire rope is necessary at a designated interval to maintain a reasonable level of safety for platform occupants. OSHA, therefore, is retaining this requirement in the Final Rule at paragraph (h)(4).

No comments were received on proposed paragraph (h)(5) which addressed the maintenance of roof

systems. OSHA is retaining this provision in paragraph (h)(5) in the final rule.

Douglas A. Greenaway (EX. 15-8) supported proposed paragraphs (h)(6) and (h)(7) which addressed the maintenance of building face guiding members and the prohibition against making a safety device inoperative. OSHA is retaining both provisions in paragraphs (h)(6) and (h)(7) in the Final Rule.

Several hearing witnesses (TR 2/19, p. 83; TR 2/20, pp. 26, 102, 314) and a commenter (EX. 87) supported proposed paragraph (i)(1)(i) which required that employees be proficient in the operation, safe use and inspection of the particular platform they are operating. Lawrence R. Stafford (TR 2/20, p. 102) stated that it should be mandatory that each employer ensure that his or her employees use the equipment as it has been designed to be used.

OSHA is retaining this requirement in paragraph (i)(1)(i) in the Final Rule. The requirement to train all employees who work on powered platforms in their safe operation and inspection does not specify frequency of training. OSHA did not specify frequency because of the varying patterns of employment in the industry, with some employees working constantly for contractors doing building maintenance and others doing occasional maintenance on buildings their employers own. OSHA expects that employers will evaluate the need for refresher training based on the difference in equipment and buildings and the amount of time elapsed since the last training session.

The word "powered" in proposed paragraphs (i)(1)(i), (i)(1)(ii), (i)(1)(ii)(B), (i)(1)(iii) and (i)(1)(iv) is changed to "working" in the Final Rule since the term "working platform" is defined in the standard.

A significant number of commenters (EX. 9-20, 15-8, 15-12; 38-3; 86-2; 88-6; 89) and hearing witnesses (TR 2/20, pp. 269, 278, 322, 370, 462, 494; TR 2/21, pp. 8, 17, 79) supported proposed paragraph (i)(1)(ii)(A) which required employee training in recognizing and preventing safety hazards associated with individual work tasks. The Window Cleaning Contractors Association (EX. TR 2/20, p. 462) and Becor Western Inc. (EX. TR 2/20, p. 494) each have developed training programs for employees which are now being used. Lee Herzog (TR 2/21, p. 17) stated that Canada has an employee training program for platform operators organized by manufacturers and distributors, in conjunction with a trade school. The Scaffold Industries Association (EX. 86-2) was developing a

training program for its member companies at the time of the hearing.

Harry Fisher (TR 2/20, p. 370) of Spider Staging Sales Company stated that in his experience one of the major causes of platform accidents was the lack of training of the employee prior to the accident.

OSHA agrees that training of employees is as important as any other aspect of the standard for powered platforms. In Appendix A, paragraph 10 of the Final Rule, OSHA provides guidelines for employee training programs. Specific training requirements for their employees are to be determined by each employer.

OSHA is retaining paragraph (i)(1)(ii)(A), which addresses training, in the Final Rule.

Proposed paragraph (i)(1)(ii)(B) addresses the need for employee training in recognizing and preventing safety hazards on the particular type of platform being used. A large number of commenters (EX. 15-3, 15-8, 15-18, 37-2, 49-1, 87) and hearing witnesses (TR 2/20, pp. 36, 469; TR 2/21, pp. 12, 13, 17, 148) supported the need for this requirement. Leonard Nork (TR 2/20, p. 36) noted that employees must be trained in the use of different equipment they will be using because of the variations in equipment, stabilization methods and worksite conditions. Douglas A. Greenaway (EX. 15-8), emphasized that the equipment should be used only by persons who have been instructed and trained in its use. Carl J. Thurnau (EX. 87) submitted a copy of the New York State Department of Labor regulations which address the standard conditions for the operation and maintenance of this equipment. One of the conditions requires a person who operates a powered platform to be thoroughly instructed in its use and control.

In addition, OSHA notes that lack of employee training in a specific platform installation was one of the major causes in at least four different powered platform accidents (EX. 97, 98, 100-3, 100-4). These accidents resulted in the death of two employees and in serious injuries to five other employees. In response to the comments received and the pertinent accident data, OSHA is retaining proposed paragraph (i)(1)(ii)(B) in the Final Rule.

Paragraph (i)(1)(ii)(C) required that employees be trained in emergency action plan procedures. Brian L. Gartner (EX. 37-2) and Lee B. Herzog (EX. 58) strongly supported the need for this requirement. Mr. Gartner believed that teaching an employee to be prepared for an emergency on an elevated powered

platform is as important as teaching him his operating work procedures. Mr. Herzog provided information on the difficulty encountered by firemen in attempting to rescue untrained workers who were stranded on an elevated powered platform.

OSHA agrees with these commenters and is retaining proposed paragraph (i)(1)(ii)(C) in the Final Rule.

Several commenters and hearing witnesses (EX. 9-1, 15-8; TR 2/20, p. 463, TR 2/21, p. 8) supported proposed paragraph (i)(1)(iii) which requires that a qualified person shall train employees in the operation and inspection of a platform. Douglas A. Greenaway (EX. 15-8), endorsed the need for employees to receive instruction by a qualified person in the use and control of a powered platform. Jacquelyn Kopp (TR 2/20, p. 463) suggested that this qualified person could be the building engineer, the foreman or the employer. Pedus Building Services (EX. 9-1) suggested that the instructor (qualified person) have no less than five years of work experience.

OSHA is in agreement with these commenters that employees should receive instructions only from a person who has had the proper experience and training. The proper selection of instructors for this purpose is critical in the safety training of employees and should be given due consideration by the employer. OSHA, however, does not believe it should specify the number of years of experience an instructor should have to be considered qualified. The term "competent person" is substituted for the term "qualified person" in paragraph (i)(1)(iii) for the reasons noted in the definitions section of this document.

In the Notice of Hearing (50 FR 48222), OSHA requested specific comment on proposed paragraph (i)(1)(iv) which required that written work procedures be provided for employee training. OSHA was seeking information on whether employers can use other methods of employee training in lieu of written work procedures as the core of the training program.

A significant number of commenters (EX. 14-1, 14-13, 15-4, 15-18, 86-2, 87, 88-6) and hearing witnesses (TR 2/19, pp. 83, 238, 248; TR 2/20, pp. 314, 324, 463, 502) overwhelmingly supported the need to require written work procedures for operator training. The Travelers Insurance Company (EX. 14-1) noted that its experience in reviewing employee training programs has shown that those programs which include written work procedures are far superior to those that do not have such procedures.

Daigel (TR 2/19, p. 238) noted that the complexity of current building exteriors and atriums requires designs by professional engineers, and detailed instructions for employees who are to maintain the facades of these buildings through the use of powered platforms. He claimed such detailed instructions are necessary to properly train employees in the rigging and operation of platforms used on new buildings with complex exteriors and atriums.

The Tennessee Valley Administration (EXH. 14-3) noted that written operating procedures, if properly prepared, provide continuity and consistency to the training effort. Related to this comment, Thomas J. O'Shea (TR 2/20, p. 314) stated that written procedures are important in the training of initial and future operators of powered platforms, since this training method insures training uniformity in an industry that experiences a high turnover in instructors and building managers who are responsible for the training.

A number of commenters (EXS. 15-18, 87) and hearing witnesses (TR 2/19, p. 248, TR 2/20, p. 463) stated that many of the manufacturers of this equipment provide operating manuals which employers can use as a basis for training their employees. Some manufacturers (TR 2/20, p. 502, EX. 9-13) conduct free operator training programs, using written work procedures, for employers who purchase their equipment. For example, Becor Western (EX. 55), a hoist manufacturer, conducts training programs for employees who use their equipment. This company, which utilizes written instructions in its training program, claimed that no one who had ever gone through their training program had ever been involved in an accident involving their equipment. A platform manufacturer, Spider Staging Sales Company (EX. 87), provides its customers with a written operating and maintenance plan for the equipment. An employer can utilize such a written plan in developing his own work procedures for training his employees.

Several employer organizations recommended the use of written work procedures for training. First, the Window Cleaning Contractors Association (TR 2/20 p. 463) strongly supported the need for written instructions in employee training. This Association stated that these instructions should be available to employees at all times should any question arise as work progresses on the job site. The Association also noted that the manufacturer can supply much of the information needed to develop these instructions. Second, the Scaffold Industries Association (EX. 86) is

currently completing a core training program involving written procedures, which will be available to all members. The training program can then be supplemented as necessary by employers to suit their own training needs.

Hoberg (EX. 88-6) and the Window Cleaning Contractors Association (TR 2/20, p. 463) suggested the use of pictorial instructions when necessary. These commenters believed this type of instruction would be useful in communicating with employees having a language disability, and with those employees who must be familiar with a variety of rigging, operating and inspecting procedures for different building installations.

No objections were raised by any commenter or hearing witness to the use of written work procedures in employee training.

After consideration of the many comments received supporting the requirement for written work procedures, OSHA is in agreement with the commenters that this proposed provision should be retained. In addition to the reasons given by the commenters, OSHA has a number of other concerns which support the need for this requirement.

First, employees cannot be reasonably expected to remember work procedures for the rigging, operation and inspection of platforms with different stabilization systems that are used on a variety of building exteriors and interiors, each of which are only maintained two or three times a year.

Second, in some areas of the United States, where the literacy rate and the language facility for operators is low, it is absolutely necessary to provide appropriate communication materials in a training program for such operators. Pictorial instructions, in lieu of written instructions, may be very useful in these areas.

Third, the elevated work environment of a powered platform operator, by its very nature, can be very hazardous if the operator does not receive and have ready access to detailed instructions in the safe operation of the equipment, and is prepared to handle emergencies when they occur. The record indicates that a lack of proper training has directly contributed to the death of at least one platform operator. An OSHA investigation (EX. 100-4) of a powered platform fatality and the injury of another employee revealed that lack of proper training was a major factor in causing the accident.

Fourth, the potential is great for serious injury or death to other

employees and public individuals below the platform due to unsafe practices or equipment failure.

OSHA, therefore, is retaining the requirement that the employer provide written work procedures at paragraph (i)(1)(iv) and is adding the requirement that employees be trained in these work procedures at paragraph (i)(1)(ii)(D). In addition, OSHA is permitting the use of pictorial methods of instruction, in lieu of written work procedures, if the training of employees is improved through the use of this method.

OSHA is transferring the training requirement for personal fall arrest systems from proposed Appendix D to the training section of the standard itself, under paragraph (i)(1)(ii)(E). This was done to consolidate all the training requirements in one section of the standard. USTAG (EX. 8-33) supported the proposed requirement for employee training in personal fall arrest systems and recommended minor clarifications to the provision. OSHA agrees with these recommendations and these have been included in paragraph (i)(1)(ii)(e).

A large number of commenters (EXS. 9-13, 15-8, 15-18) and hearing witnesses (TR 2/20, pp. 26, 55, 495, 500; TR 2/21, pp. 9, 17) have suggested various means by which OSHA should require written certification from the employer that an employee has satisfactorily completed his or her training. Becor Western (TR 2/20, p. 500) and Douglas A. Greenaway (EX. 15-8) have suggested that a certificate should be given to an employee by whoever performs the training. Leonard Nork (TR 2/20, p. 26) suggested that a record be kept of the date each employee was trained and the responsible instructor. Acme Fabricators Inc. (EX. 9-13) suggested that the employer be responsible for showing visible evidence that his or her employees have attended the necessary training sessions.

OSHA believes that the commenters' suggestions have merit. There is a definite need to insure that employees have been properly trained before working on elevated platforms, since equipment failures and improper operating practices can be hazardous. A record of such training is an important part of any employee training program. The record serves as a basis for determining the proficiency of operators on the platforms they are using for maintenance, as required in paragraph (i)(1)(i).

For consistency with other "certification record" requirements used in this standard, OSHA is requiring in paragraph (i)(1)(v) that the employer certify in writing that an employee has received training in the safe operation

and inspection of a particular powered platform. The certification record would not prohibit employers from maintaining additional training records for their own use. Employers can comply with this requirement in such a way which least disrupts their operation. The employer may choose any method deemed to demonstrate compliance with the training requirements as long as it provides the identity of the person trained, the signature of the employer or person who conducted the training, and the date the training was completed.

Paragraph (i)(2)(i) addresses the loading of powered platforms. The R. D. Werner Company Inc. (EX. 9-34) noted that the phrase "not be loaded in excess of their maximum intended load ratings" was ambiguous and needed clarification. This commenter suggested that the load ratings be defined to include the load of the users and any material on the platform.

OSHA agrees, and is changing the provision to require that platform not be loaded in excess of the rated load. Paragraph (i)(2)(ii) in the proposal prohibited employees from working on platforms covered with "slippery materials, and it remains unchanged in the Final Rule.

In the Notice of Hearing (50 FR 48222); OSHA requested specific comment on proposed paragraph (i)(2)(iii) which required that platform members, including wire and synthetic rope, be shielded when a heat producing process or a corrosive substance is used for maintenance purposes.

A number of commenters (EX. 9-34, 9-43; 19B, 19C) and a hearing witness (TR 2/20, p. 263) stated that the provisions were insufficient to address the hazards for employees when using a heat producing process or corrosives. R. D. Werner Company, Inc. (EX. 9-34) and Richard W. Hoffman (TR 2/20, p. 263) recommended that employers should follow the recommendations of qualified persons, such as the manufacturer of the platform and the producer of the corrosive substance, to protect the platform members and rope from damage. R. D. Werner Company, Inc. (EX. 9-34) also recommended that if a wire rope is contacted by a heat producing process, it should be considered permanently damaged and should not be used to support platforms. Spider Staging Sales Company (EX. 9-43) and Hoberg (EX. 19B) strongly suggested that the platform be washed down with a neutralizing solution if acids or corrosives are used.

OSHA is in agreement with these commenters that additional measures are required to address the hazards posed to platform occupants when they

use corrosives and heat producing processes. Most of the platforms built today are made of aluminum. Acids and corrosives have a tendency to degrade the heat treatment of the aluminum. This degradation greatly weakens the aluminum and makes it subject to failure. It is necessary, therefore, to take the necessary precautions to protect the platform members as well as the wire rope.

OSHA, therefore, is revising the proposed paragraph (i)(2)(iii) in the following manner:

First, employers will be required to follow the recommendations of acid or corrosive substance producers and the platform manufacturers to protect the platform members and wire rope from damage. If these recommendations are not available, the employer may obtain equivalent information from other available sources. In addition, the employer shall be required to wash down platforms with neutralizing solutions if exposed to acids or corrosives.

Second, in addition to protecting components of a platform and the wire or synthetic ropes when using a heat producing process, the employer shall not use ropes which have been contacted by a heat producing process to support a platform.

Paragraphs (i)(2)(iii) and (i)(2)(iv) in the Final Rule address these points.

Proposed paragraph (i)(2)(iv)(A) prohibited any work activity on a platform when the wind velocity at the platform level exceeded 40 miles per hour (64.3 km/hr). A number of commenters (EX. 9-31, 9-35, 9-37, 87) recommended that OSHA change this limitation to 25 miles per hour (40.2 km/hr). Leonard Nork (TR 2/20, p. 26) stated that the 40 miles per hour (64.3 km/hr) limitation is excessive, unsafe, and unnecessary.

OSHA has considered these comments in conjunction with other changes made to the proposal on the subject of wind velocity at paragraphs (e)(2)(iii)(A) and (e)(2)(iii)(C). The proposed 40 miles per hour (64.3 km/hr) velocity limitation was intended to serve as the design basis for the proposed 14-inch limit (355.6 mm) on platform displacement. Since this 14-inch (355.6 mm) limitation is eliminated in the Final Rule, the associated wind velocity of 40 miles per hour (64.3 km/hr) has also been eliminated.

Accordingly, OSHA is reducing and combining the verbiage in proposed paragraphs (i)(2)(iv)(A) and (B) by prohibiting work activity on all platforms, regardless of stabilization method, if the wind velocity exceeds 25

miles per hour (40.2 km/hr). The 25 mile per hour (40.2 km/hr) prohibition was supported by commenters (EX. 2-14, 2-22, 2-26, 2-28) who responded to questions raised on this subject in OSHA's Advance Notice of Proposed Rulemaking (48 FR 6368). In addition, the 25 mile per hour prohibition is also supported in the ANSI A120 draft standard—January 1986 (EX. 15-8). OSHA is permitting an exception to this limit on wind velocity of 25 miles per hour (40.2 km/hr) when the occupants are returning the platform to storage. Proposed paragraphs (i)(2)(iv)(A) and (B) are eliminated and replaced with renumbered paragraph (i)(2)(v) in the Final Rule.

Proposed paragraph (i)(2)(v) required that an anemometer be provided on the building to give information of on-site wind velocities prior to using the platform.

R. D. Werner Company, Inc. (EX. 9-34) stated that it was necessary for OSHA to define the location of the anemometer on the building, such as the roof, mid-height or ground level.

Some commenters (EX. 9-30, 19B) and hearing witnesses recommended that a portable (hand held) anemometer be used by platform occupants rather than relying on an anemometer located on the building. Richard W. Hoffman (EX. 9-30) stated that it was important to measure the wind velocity at the actual worksite while on the platform, while Hoberg (TR 2/19, p. 127) noted that roof-mounted anemometers cannot be relied on to give accurate wind velocity readings for each building face.

Leonard Nork (TR 2/20, p. 42) stated that, in the absence of building anemometers, employees have been using portable (hand held) anemometers on platforms in New York City.

OSHA has considered the comments addressing the issue of anemometers and makes a number of other observations. First, for employees to avoid working in winds in excess of 25 miles per hour (40.2 km/hr), it is necessary for them to have information on wind velocities just prior to and during their work periods on the platform. An anemometer on the roof of a building may have little or no correlation to the wind conditions on any given face of the building. It may record a much higher or much lower wind velocity than what is occurring at a work station area on the building face.

Second, due to current building designs which include irregular shapes and multi-roofs, one building face and elevation area could be virtually wind-free while at another nearby building face the wind could be quite strong.

Third, employers cannot rely only on local wind forecasts as a true measure of the wind velocity at a specific worksite.

Fourth, an anemometer mounted on a platform would provide employees with wind velocity information before and during any work activity on a building face.

OSHA, therefore, has concluded that proposed paragraph (i)(2)(v) should be changed and is requiring that an anemometer may be permanently mounted on the platform or it may be a portable (hand held) anemometer which is temporarily mounted on the platform during the working period. In addition, the phrase "on exterior installations" is added since an anemometer would not be required for interior installations (atriums).

Proposed paragraph (i)(2)(v) is replaced with renumbered paragraph (i)(2)(vi) in the Final Rule.

Paragraph (i)(2)(vii), which addresses the removal of unnecessary tools, materials and debris on a platform is changed from proposed paragraph (i)(2)(vi). As noted previously, paragraph (i)(2)(vii) incorporates the provision proposed in paragraph (f)(5)(v)(c).

Proposed paragraph (j) required employees to be protected by personal fall arrest systems and referenced an Appendix to the standard which covered fall arrest systems (originally proposed as Appendix D). Comments (EX. 14-1, 14-7, 15-4; TR 2/19, pp. 49, 198, 242; TR 2/20, p. 496, TR 2/21, p. 146) were received by OSHA on paragraph (j) and comments on similar issues were received on the proposed Appendix D. OSHA is addressing all of these issues in its response to comments received on the proposed Appendix D which follows. In addition, "Appendix D" in the proposal is redesignated as "Appendix C" in the Final Rule.

A new paragraph (k) is being added to establish an effective date of January 24, 1990. Paragraph (b) of the standard provides for different application of § 1910.66 to new and existing installations, depending on whether the installations are completed within 180 days of the effective date.

#### Appendices

The final standard contains four appendices. Two of the appendices, A and B, provide guidelines to assist employers and employees to implement provisions of the standard. Appendix C and D, however, set out mandatory provisions. Appendix C sets out the requirements for personal fall arrest systems, and Appendix D sets out the requirements for powered platform installations which exist or are

completed no later than 180 days following the effective date of the standard, and which were installed after the effective date of the unamended standard (August 27, 1971, 36 FR 10466).

OSHA notes that none of the statements in Appendices A and B should be construed as imposing a mandatory requirement on employers that is not otherwise imposed by the standard. In addition, these appendices are not intended to detract from any obligation that the standard imposes.

#### Appendix A

Some of the guideline data in proposed Appendix A have been changed or new data have been added in the final rule. These changes and additions were based on public comments that were received or information that has become available to OSHA since the proposal was issued.

Paragraph 1 describes the content of Appendix A and the options the employer has in complying with the standard.

Paragraph 2 (assurance) was added to provide additional information for employers to comply with the requirements of paragraph (c) in the Final Rule which required the owner of the installation to provide the employer with specific information.

Paragraph 3 (design requirements) was added to list some of the design criteria that a professional engineer would use in designing an installation as required in paragraphs (e)(1)(i) and (f)(1)(i) in the Final Rule.

Hoberg (EX. 19B, 106) suggested that the guide sizes listed for both internal and external tie-in guides in the proposal are too large for standard installations and should be changed in the Final Rule to a minimum of one inch (25 mm) deep, two inches (50 mm) wide, with a three-quarter inch (19 mm) throat. Spider Staging Sales Co. (EX. 9-43) also suggested that a reduction in guide sizes was warranted.

OSHA accepts this suggestion and is changing these items in Appendix A in the Final Rule and renumbering them as Paragraph 4.

Hoberg (EX. 19B) also recommended that OSHA should point out in Appendix A that a poor design of continuous tie-in guides frequently is the cause of a hazardous situation in the use of these units. OSHA believes this suggestion has merit and is including a reference to this design problem in Paragraph 4 of Appendix A of the Final Rule.

No comments were received on paragraph 5 of Appendix A and this remains unchanged in the Final Rule.

Paragraph 6, covering stabilizer tie lengths, is added in the Final Rule. Daigel (EX. 9-31) and Hoberg (TR 2/19, p. 60) agreed that a stabilizer tie should be long enough to affect the predetermined angulation of the suspension cables, but that OSHA should not, as proposed, consider the specific length alone to be an important factor in maintaining platform stability. OSHA accepts their recommendation that the Agency should emphasize the need for a stabilizer tie that is easily installed, and yet short enough not to become entangled in parts of the platform.

Based on testimony and comment, OSHA agrees that Appendix A should not list unique or specific materials and products. Building owners and employers should have the option of selecting any type of stabilization system which meets the performance criteria and suits their needs. Accordingly, OSHA is replacing specific terms for components and materials with generic terms in Paragraph 7 and other portions of Appendix A.

General maintenance guidelines proposed in paragraph 8 of Appendix A are retained in the Final Rule under paragraph 9.

Becor Western Inc. (EX. 9-39) recommended that OSHA use mandatory language in the training guidelines provided in proposed Appendix A. For example, this commenter recommended that OSHA require employers to use on-the-job training and formal classroom training rather than have them consider the use of these training methods in meeting the training requirement.

In response, OSHA notes that in paragraph (i)(1)(ii), employers are required to train their employees in the safe operation of platforms. The Appendix provides guidelines which can be used by the employer in meeting this performance requirement. In this way, the employer has the option of selecting methods which are most suitable for training employees in meeting the performance requirement in the specific workplace.

Becor Western Inc. (EX. 9-39) also recommended that OSHA add a requirement that the employer provide a certificate of training for employees completing a training program. Without this certificate, an employee would not be permitted to operate a platform.

OSHA notes, in response, that in paragraph (i)(1)(i) it is required that a platform be operated only by persons who are proficient in the operation, safe use and inspection of the particular powered platforms to be operated. The employer is then required to certify that

each employee has been trained. These requirements are utilized, in lieu of a requirement for a training certificate, to meet the goals of the Paperwork Reduction Act.

OSHA, therefore, is retaining the proposed training guidelines under item 10 in Appendix A of the Final Rule. In addition, the training guidelines are emphasizing the need to include employee instruction in handling emergencies at the workplace.

Guidelines for determining equivalency in the suspension and securing of powered platforms are retained in item 11 of Appendix A.

#### Appendix B

Appropriate changes are made in the text of Figures 2 and 3 of Appendix B to ensure consistency with relevant sections of the standard.

#### Appendix C

Paragraph (j) of the powered platform standard, § 1910.66(j), requires employees on powered platforms to be protected by personal fall arrest systems, meeting the requirements of Appendix C, Section I of this standard.

Appendix C, Section I establishes mandatory criteria and test methods for personal fall arrest systems. Section II sets out test methods which may be used to show compliance with certain criteria in Section I. Section III of the Appendix provides non-mandatory guidelines for employers to use in complying with the proposed criteria.

Appendix C is technologically feasible because it requires the use of personal fall protection systems that are already in use by many window washer and exterior building maintenance contractors. The performance criteria for personal fall protection components and systems are criteria that are well-established for manufacturers of this equipment.

OSHA has received a number of comments and testimony on the proposed Appendix. The following discussion summarizes this body of comments and testimony relative to Appendix C and identifies the changes to the proposal which have been made in this final rule and gives OSHA's reasons for the changes. It should be noted that this Appendix (Appendix C) had been proposed as Appendix D.

All comments and testimony received on the fall protection Appendix supported requirements that would protect employees on powered platforms from fall hazards. Two commenters recommended a separate standard (EXS. 8-14, 8-21), but supported the requirements in the proposed Appendix. Although OSHA

has placed fall protection requirements in a separate appendix, this in no way indicates that the fall protection requirements are less important than others pertaining to powered platform workers. The reasons for placing these requirements in an Appendix to the final rule relate to OSHA's intention to develop a generic fall protection equipment standard for general industry in the future. These reasons are discussed further in the summary and explanation of the scope and application paragraph of Appendix C (paragraph (a)) below.

One participant (EX. 9-31) questioned whether proposing to place the fall protection rules in an Appendix would limit rulemaking participation by equipment designers and manufacturers. It should be noted, however, that the trade association representing manufacturers of personal fall protection equipment, other equipment manufacturers, and the U.S. Technical Advisory Group on Personal Equipment for Protection Against Falling, ISO/TC94/SC4, all participated in this rulemaking by providing comments and testimony on proposed Appendix D. Therefore, OSHA believes that substantial public participation has taken place. Further, although OSHA plans to develop a separate "generic" standard for personal fall protection equipment (see Item 1539 (RIN: 1218-AA48) of the Semi-Annual Regulatory Agenda (52 FR 40527, October 26, 1987)), the Agency has determined that it is necessary at this time to provide requirements and performance criteria for personal fall protection equipment used on powered platforms to protect employees from fall hazards while working from these platforms, because of the significant risks of fall hazards faced by such employees.

OSHA has considered alternative approaches suggested by participants. The United States Technical Advisory Group, an advisory group representing Government and private interests on personal equipment for protection against falling, ISO/TC94/SC4 (USTAG) recommended a "substitute" appendix which, unlike the proposed appendix that only specified significant design criteria and overall "system" requirements, would define components and subsystems of personal fall arrest systems, and recommended that specific requirements be provided for these, as well as for the complete system (EX. 8-33). While OSHA does not object to this approach in theory, it cannot be accomplished until requirements and standards for all such components and subsystems have been developed and

validated. The USTAG did not recommend the actual requirements and test methods for components in their "substitute" appendix. There are no American National Standards, or other national consensus standards which include requirements for all the components and subsystems recommended for inclusion by the USTAG.

OSHA believes that it is not necessary to establish detailed requirements and test methods for all components and subsystems of a fall protection system in order to provide employee safety. The requirements set forth in Appendix C establish the performance criteria for the overall system as the employee would use it. OSHA believes that this will assure employee safety without addressing the specifics of all components. It should be noted that OSHA's approach in Appendix C does not preclude the future development of requirements for components, which could be accomplished by voluntary standards writing bodies. OSHA's systems approach is consistent with the approach currently taken in existing voluntary standards for personal fall protection equipment.

Paragraph (a) of Section I, scope, states that this section includes the requirements for personal fall arrest systems required for use by all employees using powered platforms. OSHA has determined that the provisions in Appendix C, Section I, contain appropriate requirements for personal fall arrest systems used by employees working on powered platforms, based on the record of this rulemaking. As noted earlier, however, the Agency is also currently developing a "generic" proposed rule which will provide criteria for such fall arrest systems wherever they are used in general industry. The comments and data on fall arrest systems which were submitted to the record of the powered platforms rulemaking are also being used in the development of the generic rule. OSHA anticipates that the provisions on personal fall arrest systems in Appendix C, Section I, of the powered platforms standard will be consistent with the proposed requirements for those systems in the proposed generic rule.

Ultimately, OSHA intends to apply the generic rule to all uses of personal fall arrest systems in general industry, including powered platforms. Accordingly, the rulemaking on the generic rule will raise the issue of whether Appendix C, Section I, should be superseded by the generic

requirements. One of the reasons for placing the fall arrest system requirements for powered platforms in a mandatory appendix instead of in the text of the standard itself was to facilitate its replacement in the future. Should OSHA later decide to apply the generic rule, the deletion of the appendix would not involve detailed reworking of the regulatory text in the powered platforms standard.

Paragraph (b) of Section I sets out definitions for terms used in Appendix C. OSHA is using the term "anchorage" rather than "fixed anchorage" as proposed. The rulemaking considered whether requirements for anchorages should be included in the criteria for personal fall arrest systems. USTAG recommended that the topic of anchorages be the subject of a separate standard for the voluntary standards community to address and for OSHA to then reference (EX. 8-33). At this time there are no separate voluntary standards for anchorages, so OSHA cannot rely on then for a proper and safe anchorage. OSHA disagrees with USTAG's view that an anchorage is not part of the personal fall arrest system, since without an anchorage the equipment will not function to arrest a fall. OSHA notes also that the equipment manufacturer, although usually not directly supplying the anchorage, can specify what anchorage is necessary to have the overall system function properly. Dr. Nigel Ellis in his written testimony (EX. 15-20) agrees with OSHA that the anchorage is part of the personal fall protection system.

Several comments were received on the definition of "body belt" (EXS. 8-14, 8-21, 8-33). All comments suggested deleting a reference to additional optional straps around the rib cage because it would combine two different types of equipment, i.e., body belts and chest-waist harnesses, into one definition. OSHA agrees with these comments and has deleted the reference to the secondary straps.

One comment was received on the definition of "buckle" (EX. 8-33) which suggested that the term was superfluous, and should be addressed in a separate national consensus standard for body support systems. OSHA disagrees since the term is used in the OSHA standard and there is not yet a national consensus standard for body support systems which includes this term. This definition has not been changed in the final standard.

One comment was received on the definition of "competent person" (EX. 8-33) which recommended that such a person must have technical competency

on more than just components. OSHA agrees with this comment and has revised the definition in the final standard to require knowledge in the complete system, its application and its use. The definition is similar to the definition of the same term in the powered platform standard, but is more specific as it relates to fall protection.

OSHA is replacing the proposed term "hardware" with the term "connector." Two comments stated that "hardware" was too broad and one suggested that the term "connector" be used instead (EXS. 8-21, 8-33). OSHA agrees with these suggestions, notes that "connector" connotes the specific function at issue, has deleted the term "hardware," replaced it with the term "connector" and has expanded the definition.

Comments were received on the definition of "deceleration device" (EXS. 8-33, 15-20). It was suggested that this term be eliminated and replaced with three terms, "fall arrester," "energy absorber," and "self-retracting lifeline/lanyard" because the examples listed by OSHA in its proposed definition of deceleration device serve varying combinations of the function of these three suggested components. In particular, it was pointed out that a rope grab may or may not serve to dissipate a substantial amount of energy in and of itself. The distinction that the commenter was making was that some components of the system were "fall arresters" (purpose to stop a fall), others were "energy absorbers" (purpose to brake a fall more comfortably), and others were "self-retracting lifeline/lanyards" (purpose to take slack out of the lifeline or lanyard to minimize free fall). OSHA notes however, that it is difficult to clearly separate all components into these three suggested categories since fall arrest (stopping) and energy absorption (braking) are closely related. In addition, many self-retracting lifeline/lanyards serve all three functions very well (a condition which the commenter labels as a "subsystem" or "hybrid component"). OSHA believes that the only practical way to accomplish what is suggested would be to have test methods and criteria for each of the three component functions. However, at this time, there are no national consensus standards or other accepted criteria for any of the three which OSHA could propose to adopt.

In addition, OSHA's approach in the final standard is to address personal fall arrest equipment on a system basis. Therefore, OSHA does not have separate requirements for "fall

arrestors," "energy absorbers" and "self-retracting lifeline/lanyards" because it is the performance of the complete system, as assembled, which is regulated by the OSHA standard. OSHA's final standard does not preclude the voluntary standards writing bodies from developing design standards for all of the various components and is supportive of this undertaking. OSHA notes that manufacturers may advertise specific attributes of deceleration devices, such as low arresting forces (shock absorbing qualities) and stopping distance (arresting qualities).

OSHA has, however, used the commenters' suggestions to clarify the definition of "deceleration device," as well as, further clarify the test methods applicable to the various assembled systems. This is discussed further below.

Several comments were received on the proposed definition for "deceleration distance" (EXS. 8-14, 8-33, 15-20). Concern was expressed by all commenters that it was only possible to evaluate the stopping distance for the device itself once it was activated. OSHA agrees with these comments and has revised the definition of deceleration distance to exclude lifeline elongation and any free fall distance which occurs before the device is activated. In addition, suggestions for clarification of the definition were accepted.

OSHA has added a definition for "equivalent" to clarify the meaning of this term as used in paragraph (c)(1), which provides for connectors made of equivalent materials to those made of drop forged, pressed or formed steel. "Equivalent" is defined to mean alternative designs, materials or methods to protect against a hazard which the employer can demonstrate will provide an equal or greater degree of safety for employees than the methods, materials or designs specified in the standard.

Comments received on the proposed definition of "force factor" (EXS. 8-33, 15-20, 8-4, 8-27, 15-10) and testimony presented (2/19-258, 2/21-128, 2/21-140-142, 2/21-38, 39, 44, 45, 46) all suggest that the term "force factor" is confusing, even to systems experts, and that it would not be needed if the factor was incorporated into the test methods. OSHA agrees with these comments and is deleting the term "force factor" from the final standard, but is incorporating the concept in the test methods in Section II.

One comment was received on the proposed definition of free fall (EX. 8-33) suggesting that the phrase "personal

fall arrest system" should be used as well as the definition being further clarified to define when the free fall period ends. OSHA agrees with this suggestion and has revised the definition of free fall accordingly.

A comment was received on the proposed definition of "free fall distance" (EX. 8-33) which provided suggestions for clarification. OSHA agrees with this suggestion and has revised the definition of free fall distance accordingly, so that it is clear which extensions of equipment are excluded.

A commenter (EX. 8-33) pointed out that the proposed definition of body harness neglected to mention the pelvis as an important body support member and suggested a revised definition. OSHA agrees with the suggestion and has revised the definition of body harness accordingly.

USTAG (EX. 8-33) commented that the terms "lanyard," "lifeline," and "tie-off" which are used throughout the proposed standard are not defined and suggested that definitions be added for these terms. OSHA notes that the terms "rope grab" and "self-retracting lifeline/lanyard" which were used in the proposed standard were also not defined. OSHA believes that all these terms should be defined and has added definitions for each of the five terms in the final standard based on USTAG's comments.

Two comments were received on the proposed definition of "personal fall arrest system" (EX. 8-21, 8-33). Both suggested revisions to clarify the definition, and one recommended excluding "anchorages" from the definition. As discussed above, OSHA has determined that inclusion of anchorages in the system is proper. OSHA agrees with the other suggestions for clarification, and has revised the definition of personal fall arrest system accordingly.

USTAG (EX. 8-33, 2/21-39) recommended that a definition for qualified person be added since it is their belief that a qualified person is necessary for designing or selecting horizontal lifelines. Another commenter (EX. 15-20) recommended that a definition of qualified person be added and used in anchorage design. OSHA agrees with these comments and has added the suggested definition, which is consistent with other OSHA definitions.

Many comments (EX. 8-14, 8-21, 8-27, 8-33), and testimony (2/19-253, 259, 2/21-38, 47, 128) were received on "snap-hook." Suggestions were received to better define snap-hooks, distinguishing between locking and non-locking snap-hooks. OSHA agrees with the

suggestions for a more comprehensive definition and has revised the definition of snap-hook accordingly.

USTAG commented (EX. 8-33) that the term "strength factor," like the term "force factor," was useful in theoretical discussion but confusing when used in the standard. OSHA agrees with this comment and has deleted the terms "strength factor" and "force factor" from the definitions and final standard, but has incorporated them into paragraph (d)(1)(iv) by requiring that personal fall arrest systems withstand twice the potential impact load.

USTAG commented (EX. 8-33) that the term "total fall distance" should be revised to make it clear that lanyard extension is included in deceleration distance. OSHA agrees with this comment. However, for clarity, OSHA has decided to use the term "deceleration distance" in the performance requirements and has deleted the term "total fall distance" from the final standard.

Paragraph (c)(1), like the proposal, requires that connectors be drop forged, pressed or formed steel, or equivalent materials. Two comments stated that OSHA should require components to meet specific tests rather than specify design processing and materials (EX. 8-21, 8-33). However, tests have not been submitted which would assure the integrity of the hardware components. Therefore, OSHA is relying on specifications which were taken, in part, from the OSHA Construction Standards (29 CFR 1926.104(e)) on personal fall arrest equipment. OSHA's experience is that these criteria conform to industry practice and that conforming components are reliable. OSHA has limited this requirement to connectors (critical load bearing hardware) and has also allowed these components to be made of equivalent materials. Thus, OSHA believes that the requirement now addresses the proper components and is not overly restrictive since equivalent materials are permitted.

A commenter (EX. 8-33) suggested that paragraph (c)(2) require that hardware meet the ASTM Salt Spray Test Standard to evaluate whether it is corrosion-resistant as required by the provision. OSHA believes, however, that components made of inherently corrosion-resistant materials, such as those cadmium plated, are widely acknowledged and do not need testing. Therefore, OSHA has retained the requirement as proposed, with the exception of changing the term "hardware" to "connectors" for the reasons discussed above (see discussion of connector definition).

Paragraphs (c) (3), (5), (6), and (10) contain, among other criteria, various limits expressed in pounds and kilonewtons. For example, the breaking strength of lifelines and lanyards in tension is required to be a minimum of 5,000 pounds (22.2 kN). These limits are based on the general requirement, taken from the ANSI A10.14-1975 Standard, that a personal fall arrest system have an arresting force not to exceed 10 times gravity. Assuming a worker design weight of 250 pounds (113 kg), the maximum permitted force would be 2,500 pounds (11.1 kN) ( $250 \times 10 = 2,500$ ). Applying a safety factor of at least two for the components of the personal fall arrest system, these components must then have a minimum strength of 5,000 pounds (22.2 kN), which is the basis for the strength requirements in these paragraphs. (The test methods contained in Section II of Appendix C may be used to demonstrate that the assembled personal fall arrest system also maintains a safety factor of at least two.)

In reviewing the strength and force requirements of paragraphs (c)(3), (c)(5), (c)(6), (c)(9), (c)(10), and (d)(1), the reader will note that four of the provisions require a strength of 5,000 pounds (22.2 kN), one provision (paragraph (c)(9)) requires a safety factor of at least two to one, and another provision (paragraph (d)(1)) requires the system limit arresting forces to 900 pounds (4 kN) for body belts and 1,800 pounds (8 kN) for body harnesses.

At a glance, it may appear that there may be some inconsistencies in these requirements. For example, applying a safety factor of two to one to the arresting force limit for harnesses yields 3,600 pounds (16 kN) ( $2 \times 1,800$ ), which is significantly less than the 5,000 pounds (22.2 kN) required for other components, such as lanyards. However, even though the arresting force would not exceed 1,800 pounds (8 kN), the higher strength requirements of 5,000 pounds (22.2 kN) for components of the system are necessary because other factors affect the strength required for these components.

OSHA observes that comments and testimony presented by USTAG supported lowering the arresting force limits from those contained in the proposal, while at the same time supporting the higher strength limits (as proposed) for components, such as lanyards and snap-hooks. OSHA agrees with USTAG's comments that, even though the arresting force would not exceed 1,800 pounds (8 kN), the higher strength requirements of 5,000 pounds (22.2 kN) for components of the system

are necessary because other factors affect the strength required for these components. For instance, if knots are tied in lanyards or lifelines the strength may be reduced by one-half. Also, if lanyards or lifelines strike the edge of materials or obstructions during fall arrest, the cutting action on these components can be sustained by the larger diameter, stronger ropes that would be required to achieve the higher strength requirement. Similarly, if snap-hooks and dee-rings strike objects during fall arrest, the higher strength will be needed to prevent failure of the components due to loading in other than simple tensile loading (such as shear loading). The rationale for the lower arresting forces in paragraph (d)(1) is discussed below.

One commenter (EX. 8-33), recommended that the tensile strength of lifelines and lanyards, proposed as 5,000 pounds (22.2 kN) breaking strength, be evaluated using Federal Standard 191 Test Method 6015 or 6016. OSHA does not believe that a specific test procedure for breaking strength needs to be specified since all test procedures used by manufacturers and associations for rating breaking strength adequately evaluated these components. Therefore, OSHA has adopted the proposed wording, unchanged, for the final standard in paragraph (c)(3).

Several comments were received on paragraph (c)(4) (EXS. 8-21, 8-24, 8-27, 8-33, 15-20) regarding the strength and method for measuring the strength of self-retracting lifeline/lanyard devices. The comments pointed out that in their experience many self-retracting lifeline/lanyard devices do not sustain the proposed force of 3,000 pounds without the brake slipping. This slipping is a part of the design of the devices to reduce fall arrest forces to a safe level. Thus, OSHA has revised paragraph (c)(4) in the final standard to require the components of self-retracting lifeline/lanyard devices to sustain a load of 3,000 pounds (13.3 kN) with the lifeline or lanyard in the fully extended position. The lower strength requirement of 3,000 pounds (13.3 kN) is based on permitting a very limited free fall distance while maintaining a safety factor of at least two.

USTAG (8-33) recommended that energy absorbers used as separate system components be capable of sustaining a minimum tensile load of 5,000 pounds (22.2 kN) when fully extended. OSHA agrees with this comment as it applies to rip-stitch lanyards, tearing and deforming lanyards, and self-retracting lifelines and lanyards which do not limit free fall

distance to two feet (0.61 m) or less, and has added this requirement for these deceleration devices as paragraph (c)(5) in the final standard.

Comments and testimony received on proposed paragraph (c)(5) (EXS. 8-33, 15-20, 36, 2/21-52, 75, 76, 91, 143) discussed whether or not 100 percent proof-testing (testing each part before use) of snap-hooks and dee-rings is necessary to assure that the proposed requirement for a tensile strength of 5,000 pounds (22.2 kN) is met. OSHA's intent is to require that snap-hooks and dee-rings not fail to a degree that they will not sustain a load of 5,000 pounds (22.2 kN). Thus, permanent deformation of the components is allowed provided the part can still support the load. Commenters were not concerned with this strength requirement, but rather that heat treating and other manufacturing processes be properly followed. USTAG (8-33, 2/21-39) and a manufacturer of dee-rings and snap-hooks (2/21-75, 76) recommended that 100 percent proof testing of these components at a reduced load, allowing no permanent deformation or loss of function, be added to the strength requirement to assure that the strength requirement is met, since it was their experience that the heat treating and other manufacturing processes used for these parts did not always result in the desired strength of the parts (which when proof tested showed some parts to be only half their intended strength). OSHA agrees with this recommendation and has retained the strength requirement in paragraph (c)(6) as proposed, and added a new requirement in paragraph (c)(7) which requires proof-testing of snap-hooks and dee-rings. Therefore, these components would need to be spotchecked at a strength of 5,000 pounds (22.2 kN) allowing permanent deformation, and 100 percent checked at a strength of 3,600 pounds (16 kN) allowing no permanent deformation or loss of function.

Many comments (EXS. 8-14, 8-21, 8-27, 8-33, 15-10, 15-20, 36) and much testimony (EXS. 2/19-253, 2/21-38, 47, 117, 129, 142) were received on snap-hook design. USTAG, as well as other individual commenters, recommended that only locking snap-hooks be allowed due to the possibility of non-locking snap-hooks becoming accidentally disengaged during use. A number of accidents involving accidental disengagement ("roll-out") were cited in support of this position (EX. 8-33). The Industrial Safety Equipment Association (ISEA) and several other commenters argued that locking snap-hooks would not always prevent "roll-out." In

addition, they pointed out that non-locking snap-hooks can be used safely as long as they are used properly (EX. 36). In particular, it was explained that a non-locking snap-hook must be matched with a dimensionally compatible attachment. Several commenters expressed the opinion that a locking snap-hook may also disengage if used with an incompatible connection. There is no evidence suggesting that locking snap-hooks have accidentally disengaged. In addition, comments and testimony received (EXS. 8-33, 36, 8-27, 2/19-259, 2/21-38, 47, 117, 129, 142) clearly supported a position that locking snap-hooks were superior to non-locking snap-hooks in minimizing "roll-out" accidents.

However, OSHA believes that the record shows that non-locking snap-hooks can be used safely, but only with dimensionally compatible attachments (2/19-254, 259). The use of dimensionally incompatible attachments with non-locking hooks is not acceptable because that practice increases the likelihood that the snap-hook will become disengaged. (A dimensionally compatible combination is one where the diameter of the deering to which a snap-hook is attached is greater than the inside length of the snap-hook measured from the bottom (hinged end) of the snap-hook keeper to the inside curve of the top of the snap-hook, so that no matter how the deering is positioned or moves (rolls) with the snap-hook attached, the deering cannot touch the outside of the keeper so as to depress it open.) By contrast, OSHA believes that locking snap-hooks can be designed to prevent "roll-out" even if connected to incompatible attachments. Therefore, OSHA has added a provision to the final standard in paragraph (c)(8) which requires that snap-hooks have compatible dimensions in relation to the member to which they are connected so as to prevent unintentional disengagement of the snap-hook by depression of the snap-hook keeper by the connected member, or they shall be a locking type snap-hook designed to prevent disengagement of the snap-hook by the contact of the snap-hook keeper by the connected member.

Several comments (EXS. 8-4, 8-27, 8-33, 15-20, 2/21-39) were received on proposed paragraph (c)(6) and (c)(7) and concerning horizontal lifelines, and anchorages. These comments were concerned about the difficulty in designing horizontal lifelines which could support 5,000 pounds (22.2 kN) per employee and the lack of a margin of safety in the proposed requirement for anchorage strength. Several of these

commenters recommended that anchorages and horizontal lifelines be selected or designed by a qualified person. USTAG recommended that the strength of anchorages be a minimum of twice the potential dynamic loading force if certified by a qualified person, 5,000 pounds (22.2 kN) strength if not certified. USTAG also recommended that horizontal lifelines be designed by qualified persons. OSHA agrees in principle with these comments and has revised its provisions dealing with horizontal lifelines and anchorages so that a qualified person is involved in the design and use of horizontal lifelines. Paragraph (c)(9) in the final standard requires horizontal lifelines to be designed, installed and used as a part of a complete personal fall arrest system which maintains a safety factor of at least two, under the supervision of a qualified person. Paragraph (c)(10) requires anchorages to be capable of supporting a minimum load of 5,000 pound (22.2 kN) per employee attached, or be designed, installed and used as part of a complete personal fall arrest system under the supervision of a qualified person and maintaining a safety factor of a least two.

USTAG (EX. 8-33) recommended that ropes and straps used in lanyards, lifelines, and strength components of body belts and body harnesses be made from synthetic fibers. This recommendation was made because the strength of natural fiber rope is not reliable or predictable as it ages during use. In addition, the strength deterioration of this type of rope is not obvious nor always detectable during inspection. OSHA's information (EX. 11-2) confirms this recommendation and the Agency has added a new requirement in paragraph (c)(11) of the final standard to address this subject.

A significant volume of testimony and comments was received on proposed paragraph (d) which contains the criteria for system performance.

OSHA proposed in paragraphs I(d)(1)(i) and I (e)(3) of Appendix D (now Appendix C) to allow body belts to be used for up to a six foot (1.8 m) free fall distance and up to a force limit of 10 times the worker's weight (10 gn) or 1,800 pounds (8 kN) whichever is less (50 FR 2890). This was consistent with ANSI A10.14-1975 (EX. 11-1), and a NBS report (EX. 11-2). OSHA noted, however, that the variances and the compliance directive (STD. 1-3.3) issued to allow intermittent stabilization systems for powered platforms required body harnesses to be used, rather than body belts. Also, the draft ISO standard would restrict the use of body belts in

fall arrest systems, and allow only body harnesses (EX. 11-3).

At the time of the proposal, OSHA also cited a study (EX. 11-4) which concluded that body belts should be prohibited because of their injury potential.

Recommended limitations on the use of body belts were also cited. They included two concepts: (1) Imposing a force limit, expressed in pounds, on the use of body belts and (2) allowing body belts to be used only for free falls of up to a specified distance, commonly two feet (0.6 m) (EXS. 11-5, 11-6).

After review of the comments and testimony relating to these issues as discussed further below, OSHA has decided that body belts may be used when the fall arrest system of which they are a part limits maximum arresting force on an employee to 900 pounds (4 kN) (paragraph (d)(1)(i)). Thus, the final rule has reduced the amount of arresting force permitted by half, from 1,800 to 900 pounds (8 kN-4 kN). OSHA believes that the final rule will protect employees against significant injury stemming from the use of body belts and that a total restriction on the use of body belts is unnecessary.

The reasons and evidence for these findings are as follows:

OSHA believes that the proper use of body belts, by trained personnel and subject to the restrictions in this appendix, is safe. Evidence concerning injury potential of using body belts, OSHA believes, relates to the improper use, or use under preventable unsafe conditions. For example, experiments of Dr. Maurice Amphoux were characterized as showing that the use of body belts is damaging, because the loads are concentrated on one strap (see EXS. 2/21-42). These studies found that prolonged suspension could result in injury. However, since OSHA has provided for prompt rescue (paragraph (e)(8)), and in light of other testimony showing the safe use of body belts in such conditions, OSHA believes that no inherent and inevitable damage flows merely from the use of body belts. Testimony from Dr. Nigel Ellis, also supported the proper use of body belts for fall arrest with limitations concerning suspension distance and rescue time (EXS. 2/21-123).

Systematic evidence on the injury potential of body belt use, based on actual use analysis was not available. Since in the past, fall protection has been provided for the most part by the use of body belts rather than harnesses, many participants testified generally on their knowledge of the performance of belts and of the inherent safety of using

belts. Leonard Nork, a representative of two unions whose members use powered platforms, testified that body belts are used just about exclusively in the State of New York on powered platforms (EXS. 3/20-46). Mr. Nork further stated that in over 30 years he did not know of any fatality caused by the use of a body belt (EXS. 3/20-48). Other participants testified of incidents where body belts allegedly caused injury, but first hand knowledge was lacking (EXS. 2/21-123). Mr. Nork also noted that there was worker resistance to the use of body harnesses because they "find them very, very cumbersome."

The Agency agrees with Mr. Nork that the degree of comfort provided by various systems is not relevant if "it can be demonstrated clearly that one system provides a greater measure of safety for workers" (see EXS. 3/20-48). However, the evidence on this record shows that belts can provide equivalent safety to harnesses when properly used, and the standard establishes the condition under which OSHA believes that such safety can be provided.

As stated above, OSHA has determined that body belt use must not exceed certain arrest force limitations. At the time of the proposal, OSHA believed that body belts could be safely used up to a force limit of 10 times the worker's weight or 1,800 pounds (8 kN) whichever is less. OSHA based this proposed limitation on the current ANSI standard (A10.14-1975, EX. 11-2), and an NBS Report (EX. 11-2).

Various participants supported different limitations: The Industrial Safety Equipment Association (ISEA) supported OSHA's proposed arresting force limitations. USTAG recommended that body belts be permitted only for work positioning and climbing protection. Even with such a limitation on use, USTAG recommended that maximum arrest force for body belts not exceed 900 pounds. USTAG stated that "empirical data from impact loading of humans and animals suggests that injury threshold may be in the neighborhood of 10 g's or even lower depending on [many variables]" (EX. 8-33). USTAG cited British standards which restrict the use of body belts to 5 g's for a 180 pound (82 kg) person (the equivalent of 900 pounds (4 kN) of force).

Based on the record, OSHA agrees with USTAG that a maximum arresting force of 1,800 pounds (8 kN) is acceptable when using a body harness but not acceptable when using a body belt. OSHA, therefore, is adopting the USTAG recommendation of a maximum force of 900 pounds (4 kN) as used in paragraphs (d)(1)(i) and (d)(1)(ii) of the

final standard. OSHA notes that USTAG's recommendation applied to the maximum permitted force for positioning systems, not to fall arrest equipment. OSHA believes, however, that there is no reason to distinguish these applications in terms of the permitted force limit.

OSHA also proposed to limit body belt use to a six foot (1.8 m) free fall distance, and has retained this provision in paragraph (e)(3) that requires the rigging of personal fall arrest systems to limit free falls to six feet (1.8 m) or less. OSHA believes that the comments and testimony in the record have not identified free fall distance alone as a causative element in injuries during fall arrest using body belts. Rather, the amount of time an employee is suspended, and the degree of force impacted on a fallen employee appear to be the primary critical causative factors. As stated above, OSHA has addressed both of these critical factors separately in the standard. With the general system limitation on free fall distance set at six feet (1.8 m), an arrest force limitation of 900 pounds (4 kN), and a requirement for prompt rescue, OSHA believes that employees will be protected from injury from the use of body belts.

In addressing the method of expressing arresting force limits, nearly all comments (EXS. 8-4, 8-27, 8-29, 8-32, 8-33) and hearing testimony (EXS. 2/19-259, 2/21-39, 2/21-117, 2/21-118, 2/21-127, 2/21-128) provided their recommendations in terms of pounds (kN) arresting force rather than acceleration of gravity. To avoid confusion, OSHA is also expressing the limits of arresting force in paragraph (d)(1)(i) in terms of pounds (kN) force.

The proposal would have required a personal fall arrest system to bring an employee to a complete stop, with a deceleration distance of 42 inches (1.07 m) or less (proposed (d)(1)(ii)). Comments (EXS. 8-24, 8-14) were received on this proposed requirement. One commenter (EX. 8-24) recommended that the system, "bring an employee to a complete stop within 72 inches plus the length of the lanyard from the original position of the rope grip before a fall occurs. This will allow for a shock absorber to open up to a distance of 60 inches, and for a travel of the rope grip of 12 inches as it closes its grip onto the rope." Another commenter stated, "the 42 inch deceleration distance may be applicable to rope grabs and deceleration devices, but is too restrictive when applied to an entire "personal fall arrest system." This commenter pointed out that stretch of the lifeline alone could exceed 42 inches. OSHA agrees in principle with

these comments and, as previously discussed, has revised the definition of "deceleration distance" so that the 42 inches (1.07 m) of deceleration distance relates only to the operation of the deceleration device itself (by excluding the free fall and lifeline elongation distances). Unobstructed travel of the device or rope grab before it activates would be considered free fall distance. In addition, a shock absorber which opens to an overall length of 60 inches (1.52 m) would not be prohibited, provided the distance during deceleration (while the shock absorber stretches, rips, tears, elongates, etc.), does not exceed 42 inches (1.07 m). OSHA has retained the proposed requirement and editorially revised it as paragraph (d)(1)(iii) of the final standard.

The proposal would have required a personal fall arrest system to contain a "strength factor" of not less than two to one, based on a design weight of 250 pounds (113 kg) per employee (proposed (d)(1)(iii)). As discussed previously under the definition of "strength factor," the term "strength factor" and its use in the proposed standard are unnecessarily confusing (EXS. 8-27, 8-33) and therefore, OSHA has eliminated this term. The intent of this requirement was to require personal fall arrest systems to have a safety factor of at least two in their design. The proposed requirement has been replaced by a new requirement, paragraph (d)(1)(iv), in the final standard, which requires that personal fall arrest systems have sufficient strength to withstand twice the potential impact energy of an employee free falling a distance of six feet (1.8 m), or the free fall distance permitted by the system. The strength test in section II includes the necessary test weights and drop distances to assure a strength factor of at least two.

Paragraph (d)(2) states that personal fall arrest systems which meet the tests contained in section II of this appendix would be considered as complying with the proposed provisions (d)(1)(i) through (d)(1)(iv). Two comments (EXS. 8-14, 8-33) were received on this proposed requirement. One commenter suggested that other tests may be substituted if they provide equal protection when it is not possible (such as physical geometry of the systems) to run the tests in section II. USTAG recommended that test procedures in voluntary consensus standards be utilized, or if not available, testing be performed "in accordance with written test procedures of an accredited testing laboratory."

USTAG also suggested that the test required be correlated to specific

requirements in section I and that the test methods be mandatory (EX. 2/21-38).

In addressing the suggestions of USTAG and others, OSHA notes that with the definitions added, and the test methods revised and clarified in the final standard (as discussed below), there is no confusion as to which test methods apply to different types of personal fall arrest systems. Also, as discussed earlier, there are presently no applicable finalized consensus standards which OSHA could reference for testing. Additionally, no submissions to this record concerning written test procedures developed by U.S. laboratories for the types of equipment covered by the OSHA standard were made, and OSHA has no independent knowledge of such test procedures.

OSHA also agrees with the commenter who stated that the reference to test methods in section II for the provisions in paragraphs (d)(1)(i) through (d)(1)(iv) of the final standard should not be restrictive. The standard does not require that the performance criteria in paragraphs (d)(1)(i) through (iv) be met using the test methods in section II; it merely recognizes systems which meet those tests as being in compliance with those paragraphs. Other test methods may be used provided that they demonstrate compliance with the standard. OSHA envisions such methods being developed by a wide range of sources, including consensus groups and testing laboratories. The standard would allow the use of appropriate voluntary standards and test methods for personal fall arrest systems once they are completed. Accordingly, OSHA is retaining paragraph (d)(2) as paragraph (d)(2)(i) in the final standard which states only that personal fall arrest systems which meet the tests contained in section II of this appendix shall be considered as complying with the provisions of paragraphs (d)(1)(i) through (d)(1)(iv). However, the final rule also states that such compliance is assumed only when the system is used by employees having a combined person and tool weight of less than 310 pounds (140 kg). OSHA has added this maximum weight limitation so that the acceptable limits inherent in the specified test methods for strength and force will not be exceeded.

Dr. Nigel Ellis in his comments (EX. 15-20) and testimony (EXS. 2/21-142, 143) expressed concern in relating test weights to human weights. OSHA agrees that the limitations of the test procedures should be clearly stated to eliminate any confusion as to their

applicability to heavy workers and has revised the proposal accordingly by limiting the applicability of the test criteria and protocols to employees having a combined person and tool weight of 310 pounds (140 kg) or less. In addition, OSHA has added paragraph (d)(2)(ii) to the final standard which states that systems used for employees having combined person and tool weights of 310 pounds (140 kg) or greater may be considered as meeting paragraphs (d)(1)(i) through (d)(1)(iv) provided that the criteria and protocols are modified appropriately to provide proper protection for these heavier weights. The test methods in section II of this appendix can be used for evaluating systems for use with heavier weights by increasing the test weights, reducing the permitted arresting force limits, or other appropriate modifications to account for the heavier worker weights, provided the requirements of paragraphs (d)(1)(i) through (d)(1)(iv) are met.

Proposed paragraph (e) contains requirements for the care and use of personal fall arrest systems.

One comment (EX. 8-33) was received on proposed paragraphs (e)(1), (e)(2), and (e)(6). However, all of the comments and testimony received (EXS. 8-14, 8-21, 8-27, 8-33, 15-10, 15-20, 36, 2/19-253, 259, 2/21-38, 47, 117, 129, 142) relative to locking and non-locking snap hooks discussed previously is indirectly applicable to these proposed requirements which would prohibit snap-hooks being connected to loops in webbing lanyards and to each other. USTAG suggested the following substitute provision,

snap-hooks of the non-locking type shall not be engaged to webbing, rope or wire rope; to each other; to a dee-ring to which another snap-hook or other connector is attached; to a horizontal lifeline; or to any object which is incompatibly shaped or dimensioned in relation to the snap-hook such that unintentional disengagement could occur.

OSHA agrees in principle with this suggestion, however, other comments and testimony expressed the viewpoint that compatibility of the dimensions of attachments can also be important when locking snap-hooks are used. Therefore, OSHA is revising proposed paragraphs (e)(1), (e)(2) and (e)(6) to become paragraph (e)(1) in the final standard which requires that unless of a locking-type which would prevent unintentional disengagement, snap-hooks shall not be used for these connections.

Several comments (EXS. 8-2, 8-24) were received which suggested that rope grabs used on horizontal lifelines on scaffolds which might become vertical,

be of a type that would lock in either direction on the lifeline. OSHA agrees with this suggestion and has added a provision in paragraph (e)(2) of the final standard which requires that devices used to connect to a horizontal lifeline which may become a vertical lifeline (such as a horizontal lifeline on a scaffold becoming vertical if the scaffold support at one end fails) be capable of locking in either direction on the lifeline.

Two comments (EXS. 8-21, 8-33) were received on proposed paragraph (e)(3). The intent of the requirement is that the personal fall arrest system be rigged so that an employee will not experience more than six feet (1.8 m) of free fall and be stopped by the system before hitting the ground or other surfaces which may be under the employee. It was suggested that the provision prohibit contact with an "obstruction." OSHA believes, however, that since many objects, such as a wall or a scaffold itself, might be considered "obstructions," adding the recommended language may make use of the personal fall arrest system impracticable because some contact with these objects may be unavoidable. USTAG suggested that this proposed requirement be revised to limit free fall distance to two feet (0.61 m) or less if a body belt or chest-waist harness is used. As discussed above, OSHA does not agree that this further limitation of free fall is necessary because the record does not show that free fall distance by itself will cause injury. Therefore, OSHA is adopting paragraph (e)(3) as proposed in the final standard.

USTAG commented (EX. 8-33) on proposed paragraph (e)(4) suggesting that the provision be revised to read, "Body support components in personal fall arrest systems shall be worn with the connecting subsystem attached to the fall arrest attachment located dorsally, near shoulder level in the case of harnesses, and in the center of the wearer's back in the case of body belts." OSHA agrees with the intent of this suggestion and has revised the provision to require that personal fall arrest systems be worn with the attachment point of the body belt located in the center of the wearer's back, and the attachment point of the body harness located in the center of the wearer's back near shoulder level, or above the wearer's head. This requirement is paragraph (e)(4) of the final standard.

USTAG supported (EX. 8-33) proposed paragraphs (e)(5) and (e)(7) as proposed. No other specific suggestions for revision were received. OSHA is adopting proposed paragraphs (e)(5) and (e)(7), without change because they state fundamental principles of

employee safety desired for personal fall arrest systems. They appear as paragraphs (e)(5) and (e)(6), respectively, in the final standard.

As discussed under proposed paragraph (e)(1), proposed paragraph (e)(6) has been incorporated into paragraph (e)(1) of the final standard.

Two comments (EXS. 8-21, 8-33) were received on proposed paragraph (e)(8) relating to "impact loading." One commenter suggested that vertical lifelines subjected to impact loading of two feet (0.61 m) or less should not be required to be removed from service and inspected by a competent person before reuse. In addition, it was suggested that personal fall arrest systems subjected to impact loading be returned to the manufacturer for inspection, since the commenter felt that the competent person may not be able to assess the extent of damage and suitability for reuse. USTAG supported the provision as proposed, however, and suggested adding an additional sentence to read, "In all cases, the manufacturer's instructions shall not be relaxed."

OSHA disagrees that impact loading of vertical lifelines by impacts caused by free falls of two feet (0.61 m) or less should be exempted since the arresting forces may not be directly related to free fall distance. Depending on the system, an arrest of a two foot (0.61 m) free fall of an employee could result in significant impact loading. OSHA also disagrees that systems need to be returned to the manufacturer for proper evaluation, since, by definition, a competent person is "capable of identifying hazardous or dangerous conditions in any personal fall arrest system or any component thereof, as well as in their application and use with related equipment." OSHA also believes that the USTAG suggestion not to relax manufacturer's instructions is part of the competent person's responsibilities. Accordingly, OSHA is adopting proposed paragraph (e)(8), unchanged, as paragraph (e)(7) of the final standard.

Several comments (EXS. 8-33, 15-20) and testimony (EXS. 2/21-125, 2/21-42) expressed concern about the need for prompt rescue following fall arrest, especially when body belts are used, since prolonged suspension may be harmful to employees. OSHA agrees with these comments and has added paragraph (e)(8) to the final standard which will require assurance from the employer that he/she can provide for prompt rescue of employees in the event of a fall. If an employee is able to self-rescue after a fall, the employer would meet this requirement. The intent of this provision is that the employer evaluate

the potential for fall arrest and that rescue support be provided in a timely manner to avoid long periods of post fall suspension. When it is not possible to evaluate self-rescue capability in advance, prudent employers should assume that employees will need rescue assistance and accordingly be prepared to offer it.

USTAG commented (EX. 8-33) on proposed paragraph (e)(9) of Appendix C supporting the proposed requirement for employee training and offering suggested clarifications to the provision. OSHA agrees with these recommendations, however, it has revised paragraph (e)(9) of Appendix C of the Final Rule to reference the training provisions of paragraph 1910.66(i)(1) and included USTAG's recommendations in Appendix C of the standard. The final rule requires that before an employee uses a specific system, that he/she be trained in the use of that system. If a component is changed, he/she must be instructed on the change.

Proposed paragraph (f) contains a requirement for the inspection of personal fall arrest systems prior to each use. Comments received (EXS. 8-13, 8-33) were supportive of this provision. USTAG suggested that inspection for function, as well as strength, be a criterion for inspections. OSHA agrees with this recommendation and has revised paragraph (f) of the final standard accordingly.

Section II of Appendix C provides test methods for manufacturer and employer use in evaluating whether personal fall arrest systems meet the criteria set out in paragraph (d)(1). Tests have been included for evaluating the strength, the arrest force, and the proper operation of the systems. These test methods are non-mandatory, and other tests may be used to evaluate the system.

USTAG recommended that the tests included in the proposed standard be mandatory. OSHA does not believe that specific tests need to be mandatory, since OSHA believes that as long as the requirements (i.e., for strength, force, maximum fall distance, etc.) in section I of the final standard are properly tested and met, the systems will provide proper protection. The test methods are included as one means of determining the system's ability to meet the requirements. In addition, most employers are not equipped to perform these tests or other appropriate tests. In most cases, sample testing will be performed by equipment manufacturers. OSHA anticipates that most employers will rely on manufacturers of their fall protection systems to provide the

necessary information to assure compliance with the standard.

A number of other comments (EXS. 8-4, 8-24, 8-14, 8-21, 8-33, 15-20, 15-10) and testimony (EXS. 2/19-254, 2/21-38, 44, 118, 130) were received on this section. One commenter expressed concern that the frequency response of the test equipment was not stated in the test procedures and recommended a frequency response of 1,000 Hz. Another commenter recommended that the average forces be used with a frequency response of 1,000 Hz, or alternatively that the peak force be used with a frequency response of 100 Hz. Mr. H. Crawford of the National Engineering Laboratory, East Kilbride, Glasgow, in his February 13, 1986, letter, cited difficulties with using a frequency response of 1,000 Hz because of resonant frequencies in the test rig (EX. 107). OSHA has reviewed the information on frequency response and has decided to add a frequency response requirement of 120 Hz for load measuring instrumentation to the test procedures. OSHA believes that this frequency response will eliminate difficulties with the test rig and equipment, as well as insure that forces of durations which may be harmful to employees are measured.

USTAG recommended that testing, " \* \* \* be in accordance with test procedures set forth in applicable approved consensus standards written and maintained in a view of this standard and its amendments." As discussed above, at present there are no approved consensus standards for personal fall arrest equipment which OSHA could use or adopt. USTAG also commented that the proposed terms "force factor" and "strength factor" were confusing. As discussed in definitions, above, OSHA has eliminated these terms from the final standard. By so doing, these factors have been incorporated into the test methods of the final standard. In the force test, the force factor of 1.4 has been applied to the test force limits so that the force limits on the human body of 900 pounds (4 Kn) and 1,800 pounds (8 Kn) for body belts and body harnesses in the final standard, as recommended by USTAG, become 1,260 pounds (5.6 Kn) and 2,520 pounds (11.2 Kn) respectively, in the test procedures (which use a rigid test weight). The force factor is essentially a conversion factor which is used to convert the human force limits to equivalent force limits when rigid test weights are used. This factor is necessary to properly relate test forces to forces experienced by humans during fall arrest. In the strength

test, a strength factor of two, which is common industry practice, has been used to determine the test weight and free fall distances the test weight is to be dropped to achieve a strength safety factor of at least two for the various personal fall arrest systems.

Dr. Ellis, in his testimony, recommended replacing the proposed OSHA strength and force tests with a single test using a 300 pound (135 kg) test weight dropped 6 feet (1.8 m) for all personal fall arrest systems except retracting lanyard/lifeline systems designed to limit free fall to two feet (.61 m) or less, where the drop distance would be four feet (1.2 m). A test force limit of 1,800 pounds (8 Kn) was also recommended for body harnesses (body belts were not considered in this suggestion). OSHA explored the possibility of using this suggestion (or a similar approach) at the hearings during questioning of other hearing participants (EXS. 2/21-46, 131, 132, 140-142). Although the goal of a single test was supported, the feasibility and details of such a test were not supported. OSHA believes that the suggested test is not sufficient for demonstrating a strength safety factor of at least two and is overly rigorous in assuring acceptable arresting forces. OSHA does not believe there is sufficient information and test data to use a single test in the final standard. However, because the test limits are now all expressed in pounds force in the final standard (as discussed in paragraph (d) above), use of the 130 pound (59 kg) test weight is not adequate for lanyard system force testing. OSHA believes that a single test weight (220 pounds (100 Kg)) for force testing of all personal fall arrest systems will adequately test the system's capability to protect employees from injury due to fall arrest.

Two commenters (EXS. 8-14, 8-21) suggested that the phrase "worst case" used several places in the test methods be omitted or clarified. The tests are intended to evaluate systems in actual use conditions. Therefore, OSHA has eliminated this phrase from the final test procedures.

In summary, OSHA has been responsive to the comments received on the proposed test methods for personal fall arrest systems by: (a) Clarifying and simplifying the procedures where possible, (b) eliminating the term "force factor" and "strength factor" by including the effects of these factors in the test procedures, thus clarifying the final standard and test procedures, (c) providing force test pass/fail criteria for body belts and body harnesses, (d) reducing the number of test weights

required for testing to two (220 pounds (100 Kg) and 300 pounds (135 Kg)) and (e) adding a provision to address the frequency response time of the load measuring instrumentation (120 Hz) which will further refine the test procedures. OSHA believes that Section II of Appendix C of the final standard now provides clear and definitive test procedures which may be used by or for most employers to evaluate whether personal fall arrest systems comply with the requirements contained in Section I of the final standard.

Section III provides non-mandatory guidelines for personal fall arrest systems which are meant to aid employers in complying with the mandatory provisions of Section I of this Appendix.

A number of comments (EXS. 8-14, 8-21, 8-27, 8-33) were received on the non-mandatory guidelines suggesting clarifications and additional information. USTAG recommended an extensive rewrite of the non-mandatory guidelines to improve their clarity. In addition, USTAG suggested that the discussion of horizontal lifelines be omitted from discussion because the subject is more properly dealt with, in a formal way, by qualified persons. OSHA agrees with the suggestion that horizontal lifelines should be designed and installed under the supervision of a qualified person and has added this to the requirements in Section I, as discussed above in proposed paragraphs (c)(6) and (c)(7). However, OSHA believes that information concerning horizontal lifelines is desirable for inclusion in the non-mandatory guidelines so that employers will realize that there are many factors to consider when a horizontal lifeline is used and that involvement of a qualified person is necessary before one is used. OSHA accepts the comments provided to improve and clarify the non-mandatory guidelines and has revised Section III of the final standard to reflect these comments.

#### Appendix D

OSHA is republishing certain paragraphs of the unrevised powered platforms standard as Appendix D. These paragraphs are (a), (b), (c) and (d) which address, respectively: definitions; general requirements; Type F and Type T powered platforms; and building and equipment design, construction and installation in the unrevised standard (§ 1910.66 (1987)).

The purpose of Appendix D is to continue to provide coverage of building and equipment installations for powered platforms which exist or are completed up to six months (180 days) after these

amendments are effective, and which were installed after the effective date of the unamended standard (August 27, 1971, 36 FR 10466). The new, amended requirements governing how buildings and equipment are to be designed, constructed and installed for safe powered platform operation apply only to installations completed after six months (180 days) of the effective date of this Final Rule, or July 23, 1990. To preclude a gap in coverage, Appendix D requires that older installations continue to comply with the existing requirements covering this area. OSHA chose the 180 day lag time to give engineers and builders sufficient time to incorporate the new requirements in their designs. No participant questioned the adequacy of this period to incorporate these changes in installations underway. OSHA further noted that the public has had notice of the substance of most unchanged provisions since January 1985, when the NPRM was published. If, however, a new powered platform installation is completed before the 180 day period ends the designing engineer may choose to use the amended standard's requirements for building and equipment safety as his guide. OSHA will allow this option, and will not require the building owner to notify OSHA in advance if he designs and installs powered platforms conforming to the amended standard after the revised standard is effective, but before the grace period has expired.

OSHA believes that continuing coverage of existing building and equipment under relevant provisions of the unrevised standard, now Appendix D, is necessary for employee protection and that these requirements provide adequate design factors for assuring continued structural integrity. OSHA proposed continuing the requirement that existing installations be judged by the unrevised standards, and no objections were received.

As noted later, employees on all powered platforms, regardless of when installed, benefit from the new requirements in the amended standard covering training, inspection, maintenance and personal fall protection.

OSHA notes that paragraph (a), "Definitions" in this Appendix, applies only to this Appendix. The definitions in the amended standard likewise apply to provisions of the amended standard, not to this Appendix. Variance decisions and field compliance directives relating to provisions of the unamended standard included in Appendix D will remain in effect until they are withdrawn or superseded by OSHA.

The format and regulatory text of Appendix D is virtually identical to the unamended standard. The appendix also updates certain references and excludes certain provisions of the unamended standard which are unrelated to building and equipment requirements.

For example, personal fall protection requirements in paragraphs (b)(5)(ii) and (b)(3) in the unamended standard have not been included in Appendix D since these requirements have been superseded by requirements in paragraph (j) and Appendix C of the amended standard. Further, as noted above, all employers whose employees work on powered platforms must also comply with paragraphs (g), (h), (i), (j), and Appendix C of the amended standard regardless of the installation date of the powered platforms. These provisions cover inspections and tests, (g); maintenance, (h); operations (training and use), (i); personal fall protection, (j); and Appendix (c).

#### V. Summary of the Regulatory Impact Analysis and Regulatory Flexibility Assessment

##### Introduction

In accordance with Executive Order 12291 (46 FR 13193, February 17, 1981), OSHA assessed the potential impact of this revised standard. Based on the Executive Order criteria, OSHA has determined that this revised standard would not be a "major" action necessitating further economic impact evaluation. Accordingly, OSHA prepared a Regulatory Impact Assessment (RIA) which is available from the OSHA Docket Office.

OSHA has determined that the revised standard will have the net effect of reducing the costs of compliance because it will permit the use of alternative methods of powered platform stabilization. Employers will be allowed to choose the most cost-effective methods of providing the necessary level of employee safety.

The data for this assessment are based upon a December 15, 1983, study by Arthur Young and Co., entitled, "Analysis of Technological and Economic Factors of Proposed Revisions to OSHA Regulations on Powered Platforms" and upon the public comments submitted: in response to the ANPR; in response to the NPR; during the public hearings; and during the post-hearing comment period.

##### Powered Platform Terminology and Technology

Powered platforms and suspension scaffolds are the basic types of powered

suspended work surfaces used to perform such outside building maintenance tasks as window washing, building and window caulking, inspecting building exteriors, etc. A powered platform covered under 29 CFR 1910.66 (Subpart F) is a powered suspended work surface that is permanently dedicated to a specific building and is the property of the building owner. A suspension scaffold covered under 29 CFR 1910.28 (Subpart D) is a powered suspended work surface that is brought to the building and is the property of the window washer and/or the outside building maintenance contractor. The selection of either a powered platform or a suspension scaffold for exterior building maintenance is made by the building developer when the building is initially designed. Although there are approximately 10 times more suspension scaffolds than powered platforms used for window washing and exterior building maintenance, approximately 90 percent of the new high-rise office buildings (60 stories or more) utilize powered platforms because it is often technologically infeasible to use suspension scaffolds on very tall buildings. In addition, powered platforms are safer at very high elevations than are suspension scaffolds because powered platforms are less susceptible to being destabilized by wind than are suspension scaffolds.

OSHA does not require that a powered platform be used on any building. OSHA does require, however, that if a powered platform is used, then the Subpart F requirements must be met.

The existing Subpart F requires all powered platforms to use a continuous track stabilization system that consists of indented mullions or T-rails embedded in the building wall and guide rollers or shoes attached to the platform that lock the platform to the building by remaining in continuous contact with the indented mullions or T-rails. The continuous track stabilization system is the least expensive platform stabilization system to install on buildings of straight vertical steel (aluminum) and glass curtain walls. Architectural styles that feature offsets in walls, however, make continuous track stabilization systems technically infeasible on many of those buildings.

In 1972, the button system stabilization design was developed for powered platforms. In this system, a vertical line of buttons are set into a building wall and the platform contains two vertical bar guides at each end of the platform. As the platform transverses the building, the bar guides

engage the buttons and lock the platform to the building.

In addition, an intermittent tie-in stabilization system was developed for powered platforms. In this system, platform stabilization is provided by lanyards that secure the suspension ropes to anchors set into the building wall. The building anchors are set at fixed intervals (usually from 30 to 50 feet) and the adjustable lanyards are designed to produce enough tension below the tie-in point to secure the platform against the building.

These intermittent tie-in stabilization systems were the subject of several applications for variances from Subpart F. The variance procedures include technical review and public comment concerning the safety of the particular installation requesting the variance. Since the first variance application in 1977, OSHA has granted five variances and there were 23 pending variance applications when OSHA issued a Compliance Directive (OSHA Instruction STD 1-3.3) on November 1, 1982, instructing compliance officers to consider all buildings with straight building faces using intermittent tie-in stabilization systems to be in compliance with Subpart F.

##### Number of Buildings and Powered Platforms

Although the revised standard affects every building that has a powered platform, not every such building is affected by every provision. In particular, although all buildings are affected by the provisions governing powered platform maintenance, only buildings to be constructed are affected by the new provisions governing powered platform design and installation. OSHA estimates that there are 6,865 existing buildings with 9,600 powered platforms and that 265 new buildings with 370 powered platforms are constructed annually. Of these new buildings, OSHA estimates that under the revised standard, 140 will use the continuous track stabilization system, 115 will use the intermittent tie-in stabilization system, and 10 will use the button stabilization system.

##### Population at Risk

The population-at-risk are the employees who use powered platforms to service high-rise office buildings. These employees are employed in the two industry sectors of: (1) Window cleaning contractors (a subset of SIC 7349 "Building Cleaning and Maintenance Services, Not Elsewhere Classified"); and (2) caulking building exteriors, sandblasting of building

exteriors, and steam cleaning of building exteriors (subsets of SIC 1799, "Special Trade Contractors, Not Elsewhere Classified" and of other firms in SIC 7349).

OSHA estimates that 8,150 employees of whom 6,900 are window washers and 1,250 are exterior building maintenance workers may work on a powered platform and be at risk from the potential hazard of falling from an elevation.

#### Benefits

There is no available estimate of the total number of fatalities and injuries associated with falls from powered platforms because the employees who use powered platforms are only a subset of the employees in SIC 7349 and SIC 1799.

In addition, the injuries associated with falls from powered suspended work platforms also include falls from suspension scaffolds. Using the OSHA inspection data from July 1972 through June 1988, there have been 11 reported incidents involving eight fatalities and nine hospitalized injuries associated with falls from powered platforms. In 10 of these 11 reported incidents (six of the fatalities and all nine of the hospitalized injuries), the employee did not wear personal fall protection. Compliance with the revised Subpart F, which requires both fall protection and training in the use of fall protection, would have prevented the six fatalities and nine hospitalized injuries associated with these 10 incidents.

In addition, the revised standard will make it easier for building developers to install powered platforms on certain types of high-rise office buildings and these powered platforms would substitute for suspension scaffolds or single-man controlled descent devices. As all of the public comment and testimony reported that powered platforms are safer work surfaces than are suspension scaffolds or single-man controlled descent devices, any substitution of powered platforms for suspension scaffolds or single-man controlled descent devices will increase employee safety.

Finally, intermittent tie-in and button stabilization systems, if used correctly, are as safe as continuous track stabilization systems. The revised Subpart F would ensure that those employees working on powered platforms with intermittent tie-ins and button stabilization systems will receive the same protection as received by those employees working on powered platforms with continuous track stabilization systems.

#### Technological Feasibility

The revised standard is technologically feasible because it allows the use of platform stabilization methods that are already being used on existing buildings. The new design and installation requirements apply only to new powered platforms and all of the technical information and equipment necessary to comply with the revised standard is developed and in use.

#### Cost of Compliance

OSHA used the baseline of existing Subpart F requirements to estimate the cost of compliance savings expected to result from the revised design and installation provisions for future powered platforms. OSHA, however, used the baseline of current industry practices to estimate the cost of compliance with platform maintenance, employee powered platform training, improving the personal fall protection system, and employee training on personal fall protection systems provisions.

As seen in Table A, OSHA estimated that, on an annual basis, compliance with the revised Subpart F will generate net cost savings of \$1,670 million. Building owners will incur savings of \$2.889 million and window washers and exterior building maintenance contractors will incur additional costs of \$1.219 million. Of this \$1.219 million additional cost, \$462,000 will be spent to comply with Subpart F requirements and \$757,000 will be spent to comply with the personal fall protection system requirements in the mandatory Appendix C.

#### Regulatory Flexibility and International Trade

In accordance with the Regulatory Flexibility Act of 1980 (Pub. L. 96-353, 94 Stat. 1164 (5 U.S.C. 601 et seq.)), the Assistant Secretary assessed the potential economic impact of the revised standard on small entities and concluded that it will have no significant impact on small entities. OSHA similarly concluded that the revised standard will have no impact on international trade.

#### Environmental Impact Assessment

The Final Rule and its alternatives have been reviewed in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, et seq.), the regulations of the Council on Environmental Quality (CEQ) (40 CFR Part 1500), and the Department of Labor's (DOL's) NEPA Procedures (29 CFR Part 11). As a result of this review,

the Assistant Secretary for OSHA has determined that the Final Rule will have no significant environmental impact. The procedures and applications of the proposed provisions do not impact on air, water or soil quality, plant or animal life, the use of land, or other aspects of the environment and therefore will have no significant effect on the environment.

TABLE A—COST OF COMPLIANCE WITH THE REVISED SUBPART F BY INDUSTRY SECTOR AND PROVISION

[In millions of 1987 dollars]

Industry (provision)	Annual cost of compliance
Building Owners	
Alternative Stabilization Systems.....	(3.111)
Maintenance.....	0.216
Tags and Labels.....	0.006
Subtotal Savings.....	(2.889)
Contractors	
Subpart F	
Platform Safety Training.....	0.422
Emergency Action Plan.....	0.004
Anemometer.....	0.036
Subtotal Subpart F Costs.....	0.462
Appendix C	
New Fall Protection Systems.....	0.013
Improve Fall Protection Systems.....	0.400
Fall Protection System Training.....	0.344
Subtotal Appendix C Costs.....	0.757
Contractor Subtotal Costs.....	1.219
Total Net Savings.....	(1.670)

Note: Numbers in parenthesis are cost savings. Source: U.S. Department of Labor, OSHA, Office of Regulatory Analysis, 1988.

#### VI. OMB Approval Under the Paperwork Reduction Act

This section contains a collection of information in paragraphs 1910.66(e)(9), 1910.66(f)(5)(i)(C), 1910.66(f)(5)(ii)(N), 1910.66(f)(7)(vi), 1910.66(f)(7)(vii), 1910.66(f)(7)(viii) and 1910.66(i)(1)(iv) which pertain to the development and implementation of a written emergency action plan, platform load rating, emergency operating device, use, wire rope information and work procedures for training. The Office of Management and Budget (OMB) has reviewed this collection and approved it through May, 1991. The approval number is 1218-0121.

Public reporting burden for this collection of information is estimated to average 8.73 hours (or minutes) per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of

information, including suggestions for reducing this burden, to the Office of Information Management, Department of Labor, Room N1301, 200 Constitution Avenue, NW., Washington, DC 20210; and to the Office of Management and Budget, Paperwork Reduction Project (1218-0121), Washington, DC 20503.

#### VII. Federalism

This standard has been reviewed in accordance with Executive Order 12612 52 FR 41685 (October 30, 1987) regarding Federalism. This Order requires that agencies, to the extent possible, refrain from limiting State policy options, consult with States prior to taking any actions that would restrict State policy options, and take such actions only when there is clear constitutional authority and the presence of a problem of national scope. The Order provides for preemption of State law only if there is a clear Congressional intent for the Agency to do so. Any such preemption is to be limited to the extent possible.

Section 18 of the Occupational Safety and Health Act (OSH Act), expresses Congress' clear intent to preempt State laws relating to issues with respect to which Federal OSHA has promulgated occupational safety or health standards. Under the OSH Act a State can avoid preemption only if it submits, and obtains Federal approval of, a plan for the development of such standards and their enforcement. Occupational safety and health standards developed by such Plan-States must, among other things, be at least as effective in providing safe and healthful employment and places of employment as the Federal standards.

The Federal standard for powered platforms is drafted so that employees using this equipment in every State would be protected by general, performance-oriented standards. To the extent that there are State or regional peculiarities caused by the climate, building codes, employee diversity or other factors, States with occupational safety and health plans approved under Section 18 of the OSH Act would be able to develop their own State standards to deal with any special problems. Moreover, the performance nature of this standard, of and by itself, allows for flexibility by States and platform operators to provide as much safety as possible using varying methods consonant with conditions in each State.

In short, there is a clear national problem related to occupational safety and health in the powered platform industry. While the individual States, if all acted, might be able collectively to deal with the safety problems involved, most have not elected to do so in the

seventeen years since the enactment of the OSH Act. Those States which have elected to participate under Section 18 of the OSH Act would not be preempted by this regulation and would be able to deal with special, local conditions within the framework provided by this performance-oriented standard while ensuring that their standards are at least as effective as the Federal standard.

#### VIII. State Plan Applicability

The 25 states with their own OSHA-approved occupational safety and health plans must adopt a comparable standard within six months of this publication date. These states are: Alaska, Arizona, California, Connecticut (for state and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York (for state and local government employees only), North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington and Wyoming. Until such time as a state standard is promulgated, Federal OSHA will provide interim enforcement assistance, as appropriate, in these states.

#### List of Subjects in 29 CFR Part 1910

Building maintenance; Inspections; Occupational Safety and Health; Personal fall protection systems; Powered platforms; Safety; Stabilization; Suspended equipment; Training.

#### Authority

This document was prepared under the direction of Alan C. McMillan, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210.

Accordingly, pursuant to sections 4(b), 6(b), 8(c), 8(d) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 9-83 (48 FR 35736), and 29 CFR Part 1911, 29 CFR Part 1910 is amended as set forth below.

Signed at Washington, DC this 14th day of July 1989.

Alan C. McMillan,

Acting Assistant Secretary of Labor.

Part 1910 of Title 29 of the Code of Federal Regulations is amended as follows:

#### PART 1910—[AMENDED]

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

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655,

657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059) or 9-83 (48 FR 35736), as applicable.

Sections 1910.68, .67, .68 and .70 also issued under 29 CFR Part 1911.

2. By revising § 1910.66 of 29 CFR Part 1910 to read as follows:

#### § 1910.66 Powered platforms for building maintenance.

(a) *Scope.* This section covers powered platform installations permanently dedicated to interior or exterior building maintenance of a specific structure or group of structures. This section does not apply to suspended scaffolds (swinging scaffolds) used to service buildings on a temporary basis and covered under Subpart D of this Part, nor to suspended scaffolds used for construction work and covered under Subpart L of 29 CFR Part 1926. Building maintenance includes, but is not limited to, such tasks as window cleaning, caulking, metal polishing and reglazing.

(b) *Application*—(1) *New installations.* This section applies to all permanent installations completed after July 23, 1990. Major modifications to existing installations completed after that date are also considered new installations under this section.

(2) *Existing installations.* (i) Permanent installations in existence and/or completed before July 23, 1990 shall comply with paragraphs (g), (h), (i), (j) and Appendix C of this section.

(ii) In addition, permanent installations completed after August 27, 1971, and in existence and/or completed before July 23, 1990, shall comply with Appendix D of this section.

(c) *Assurance.* (1) Building owners of new installations shall inform the employer before each use in writing that the installation meets the requirements of paragraphs (e)(1) and (f)(1) of this section and the additional design criteria contained in other provisions of paragraphs (e) and (f) of this section relating to: required load sustaining capabilities of platforms, building components, hoisting and supporting equipment; stability factors for carriages, platforms and supporting equipment; maximum horizontal force for movement of carriages and davits; design of carriages, hoisting machines, wire rope and stabilization systems; and design criteria for electrical wiring and equipment.

(2) Building owners shall base the information required in paragraph (c)(1) of this section on the results of a field test of the installation before being placed into service and following any

major alteration to an existing installation, as required in paragraph (g)(1) of this section. The assurance shall also be based on all other relevant available information, including, but not limited to, test data, equipment specifications and verification by a registered professional engineer.

(3) Building owners of all installations, new and existing, shall inform the employer in writing that the installation has been inspected, tested and maintained in compliance with the requirements of paragraphs (g) and (h) of this section and that all protection anchorages meet the requirements of paragraph (I)(c)(10) of Appendix C.

(4) The employer shall not permit employees to use the installation prior to receiving assurance from the building owner that the installation meets the requirements contained in paragraphs (c)(1) and (c)(3) of this section.

(d) *Definitions.*

"Anemometer" means an instrument for measuring wind velocity.

"Angulated roping" means a suspension method where the upper point of suspension is inboard from the attachments on the suspended unit, thus causing the suspended unit to bear against the face of the building.

"Building face roller" means a rotating cylindrical member designed to ride on the face of the building wall to prevent the platform from abrading the face of the building and to assist in stabilizing the platform.

"Building maintenance" means operations such as window cleaning, caulking, metal polishing, reglazing, and general maintenance on building surfaces.

"Cable" means a conductor, or group of conductors, enclosed in a weatherproof sheath, that may be used to supply electrical power and/or control current for equipment or to provide voice communication circuits.

"Carriage" means a wheeled vehicle used for the horizontal movement and support of other equipment.

"Certification" means a written, signed and dated statement confirming the performance of a requirement of this section.

"Combination cable" means a cable having both steel structural members capable of supporting the platform, and copper or other electrical conductors insulated from each other and the structural members by nonconductive barriers.

"Competent person" means a person who, because of training and experience, is capable of identifying hazardous or dangerous conditions in powered platform installations and of

training employees to identify such conditions.

"Continuous pressure" means the need for constant manual actuation for a control to function.

"Control" means a mechanism used to regulate or guide the operation of the equipment.

"Davit" means a device, used singly or in pairs, for suspending a powered platform from work, storage and rigging locations on the building being serviced. Unlike outriggers, a davit reacts its operating load into a single roof socket or carriage attachment.

"Equivalent" means alternative designs, materials or methods which the employer can demonstrate will provide an equal or greater degree of safety for employees than the methods, materials or designs specified in the standard.

"Ground rigging" means a method of suspending a working platform starting from a safe surface to a point of suspension above the safe surface.

"Ground rigged davit" means a davit which cannot be used to raise a suspended working platform above the building face being serviced.

"Guide button" means a building face anchor designed to engage a guide track mounted on a platform.

"Guide roller" means a rotating cylindrical member, operating separately or as part of a guide assembly, designed to provide continuous engagement between the platform and the building guides or guideways.

"Guide shoe" means a device attached to the platform designed to provide a sliding contact between the platform and the building guides.

"Hoisting machine" means a device intended to raise and lower a suspended or supported unit.

"Hoist rated load" means the hoist manufacturer's maximum allowable operating load.

"Installation" means all the equipment and all affected parts of a building which are associated with the performance of building maintenance using powered platforms.

"Interlock" means a device designed to ensure that operations or motions occur in proper sequence.

"Intermittent stabilization" means a method of platform stabilization in which the angulated suspension wire rope(s) are secured to regularly spaced building anchors.

"Lanyard" means a flexible line of rope, wire rope or strap which is used to secure the body belt or body harness to a deceleration device, lifeline or anchorage.

"Lifeline" means a component consisting of a flexible line for

connection to an anchorage at one end to hang vertically (vertical lifeline), or for connection to anchorages at both ends to stretch horizontally (horizontal lifeline), and which serves as a means for connecting other components of a personal fall arrest system to the anchorage.

"Live load" means the total static weight of workers, tools, parts, and supplies that the equipment is designed to support.

"Obstruction detector" means a control that will stop the suspended or supported unit in the direction of travel if an obstruction is encountered, and will allow the unit to move only in a direction away from the obstruction.

"Operating control" means a mechanism regulating or guiding the operation of equipment that ensures a specific operating mode.

"Operating device" means a device actuated manually to activate a control.

"Outrigger" means a device, used singly or in pairs, for suspending a working platform from work, storage, and rigging locations on the building being serviced. Unlike davits, an outrigger reacts its operating moment load as at least two opposing vertical components acting into two or more distinct roof points and/or attachments.

"Platform rated load" means the combined weight of workers, tools, equipment and other material which is permitted to be carried by the working platform at the installation, as stated on the load rating plate.

"Poured socket" means the method of providing wire rope terminations in which the ends of the rope are held in a tapered socket by means of poured spelter or resins.

"Primary brake" means a brake designed to be applied automatically whenever power to the prime mover is interrupted or discontinued.

"Prime mover" means the source of mechanical power for a machine.

"Rated load" means the manufacturer's recommended maximum load.

"Rated strength" means the strength of wire rope, as designated by its manufacturer or vendor, based on standard testing procedures or acceptable engineering design practices.

"Rated working load" means the combined static weight of men, materials, and suspended or supported equipment.

"Registered professional engineer" means a person who has been duly and currently registered and licensed by an authority within the United States or its territories to practice the profession of engineering.

"Roof powered platform" means a working platform where the hoist(s) used to raise or lower the platform is located on the roof.

"Roof rigged davit" means a davit used to raise the suspended working platform above the building face being serviced. This type of davit can also be used to raise a suspended working platform which has been ground-rigged.

"Rope" means the equipment used to suspend a component of an equipment installation, i.e., wire rope.

"Safe surface" means a horizontal surface intended to be occupied by personnel, which is so protected by a fall protection system that it can be reasonably assured that said occupants will be protected against falls.

"Secondary brake" means a brake designed to arrest the descent of the suspended or supported equipment in the event of an overspeed condition.

"Self powered platform" means a working platform where the hoist(s) used to raise or lower the platform is mounted on the platform.

"Speed reducer" means a positive type speed reducing machine.

"Stability factor" means the ratio of the stabilizing moment to the overturning moment.

"Stabilizer tie" means a flexible line connecting the building anchor and the suspension wire rope supporting the platform.

"Supported equipment" means building maintenance equipment that is held or moved to its working position by means of attachment directly to the building or extensions of the building being maintained.

"Suspended equipment" means building maintenance equipment that is suspended and raised or lowered to its working position by means of ropes or combination cables attached to some anchorage above the equipment.

"Suspended scaffold (swinging scaffold)" means a scaffold supported on wire or other ropes, used for work on, or for providing access to, vertical sides of structures on a temporary basis. Such scaffold is not designed for use on a specific structure or group of structures.

"Tail line" means the nonsupporting end of the wire rope used to suspend the platform.

"Tie-in guides" means the portion of a building that provides continuous positive engagement between the building and a suspended or supported unit during its vertical travel on the face of the building.

"Traction hoist" means a type of hoisting machine that does not accumulate the suspension wire rope on the hoisting drum or sheave, and is designed to raise and lower a suspended

load by the application of friction forces between the suspension wire rope and the drum or sheave.

"Transportable outriggers" means outriggers designed to be moved from one work location to another.

"Trolley carriage" means a carriage suspended from an overhead track structure.

"Verified" means accepted by design, evaluation, or inspection by a registered professional engineer.

"Weatherproof" means so constructed that exposure to adverse weather conditions will not affect or interfere with the proper use or functions of the equipment or component.

"Winding drum hoist" means a type of hoisting machine that accumulates the suspension wire rope on the hoisting drum.

"Working platform" means suspended or supported equipment intended to provide access to the face of a building and manned by persons engaged in building maintenance.

"Wrap" means one complete turn of the suspension wire rope around the surface of a hoist drum.

(e) *Powered platform installations—Affected parts of buildings.* (1) *General requirements.* The following requirements apply to affected parts of buildings which utilize working platforms for building maintenance.

(i) Structural supports, tie-downs, tie-in guides, anchoring devices and any affected parts of the building included in the installation shall be designed by or under the direction of a registered professional engineer experienced in such design;

(ii) Exterior installations shall be capable of withstanding prevailing climatic conditions;

(iii) The building installation shall provide safe access to, and egress from, the equipment and sufficient space to conduct necessary maintenance of the equipment;

(iv) The affected parts of the building shall have the capability of sustaining all the loads imposed by the equipment; and,

(v) The affected parts of the building shall be designed so as to allow the equipment to be used without exposing employees to a hazardous condition.

(2) *Tie-in guides.* (i) The exterior of each building shall be provided with tie-in guides unless the conditions in paragraph (e)(2)(ii) or (e)(2)(iii) of this section are met.

Note: See Figure 1 in Appendix B of this section for a description of a typical continuous stabilization system utilizing tie-in guides.

(ii) If angulated roping is employed, tie-in guides required in paragraph (e)(2)(i) of this section may be eliminated for not more than 75 feet (22.9 m) of the uppermost elevation of the building, if infeasible due to exterior building design, provided an angulation force of at least 10 pounds (44.4 n) is maintained under all conditions of loading.

(iii) Tie-in guides required in paragraph (e)(2)(i) of this section may be eliminated if one of the guide systems in paragraph (e)(2)(iii)(A), (e)(2)(iii)(B) or (e)(2)(iii)(C) of this section is provided, or an equivalent.

(A) Intermittent stabilization system. The system shall keep the equipment in continuous contact with the building facade, and shall prevent sudden horizontal movement of the platform. The system may be used together with continuous positive building guide systems using tie-in guides on the same building, provided the requirements for each system are met.

(1) The maximum vertical interval between building anchors shall be three floors or 50 feet (15.3 m), whichever is less.

(2) Building anchors shall be located vertically so that attachment of the stabilizer ties will not cause the platform suspension ropes to angulate the platform horizontally across the face of the building. The anchors shall be positioned horizontally on the building face so as to be symmetrical about the platform suspension ropes.

(3) Building anchors shall be easily visible to employees and shall allow a stabilizer tie attachment for each of the platform suspension ropes at each vertical interval. If more than two suspension ropes are used on a platform, only the two building-side suspension ropes at the platform ends shall require a stabilizer attachment.

(4) Building anchors which extend beyond the face of the building shall be free of sharp edges or points. Where cables, suspension wire ropes and lifelines may be in contact with the building face, external building anchors shall not interfere with their handling or operation.

(5) The intermittent stabilization system building anchors and components shall be capable of sustaining without failure at least four times the maximum anticipated load applied or transmitted to the components and anchors. The minimum design wind load for each anchor shall be 300 (1334 n) pounds, if two anchors share the wind load.

(6) The building anchors and stabilizer ties shall be capable of sustaining

anticipated horizontal and vertical loads from winds specified for roof storage design which may act on the platform and wire ropes if the platform is stranded on a building face. If the building anchors have different spacing than the suspension wire rope or if the building requires different suspension spacings on one platform, one building anchor and stabilizer tie shall be capable of sustaining the wind loads.

Note: See Figure 2 in Appendix B of this section for a description of a typical intermittent stabilization system.

(B) Button guide stabilization system.

(1) Guide buttons shall be coordinated with platform mounted equipment of paragraph (f)(5)(vi) of this section.

(2) Guide buttons shall be located horizontally on the building face so as to allow engagement of each of the guide tracks mounted on the platform.

(3) Guide buttons shall be located in vertical rows on the building face for proper engagement of the guide tracks mounted on the platform.

(4) Two guide buttons shall engage each guide track at all times except for the initial engagement.

(5) Guide buttons which extend beyond the face of the building shall be free of sharp edges or points. Where cables, ropes and lifelines may be in contact with the building face, guide buttons shall not interfere with their handling or operation.

(6) Guide buttons, connections and seals shall be capable of sustaining without damage at least the weight of the platform, or provision shall be made in the guide tracks or guide track connectors to prevent the platform and its attachments from transmitting the weight of the platform to the guide buttons, connections and seals. In either case, the minimum design load shall be 300 pounds (1334 n) per building anchor.

Note: See paragraph (f)(5)(vi) of this section for relevant equipment provisions.

Note: See Figure 3 in Appendix B of this section for a description of a typical button guide stabilization system.

(C) System utilizing angulated roping and building face rollers. The system shall keep the equipment in continuous contact with the building facade, and shall prevent sudden horizontal movement of the platform. This system is acceptable only where the suspended portion of the equipment in use does not exceed 130 feet (39.6 m) above a safe surface or ground level, and where the platform maintains no less than 10 pounds (44.4 n) angulation force on the building facade.

(iv) Tie-in guides for building interiors (atriums) may be eliminated when a registered professional engineer

determines that an alternative stabilization system, including systems in paragraphs (e)(2)(iii) (A), (B) and (C), or a platform tie-off at each work station will provide equivalent safety.

(3) *Roof guarding.* (i) Employees working on roofs while performing building maintenance shall be protected by a perimeter guarding system which meets the requirements of paragraph (c)(1) of § 1910.23 of this Part.

(ii) The perimeter guard shall not be more than six inches (152 mm) inboard of the inside face of a barrier, i.e. the parapet wall, or roof edge curb of the building being serviced; however, the perimeter guard location shall not exceed an 18 inch (457 mm) setback from the exterior building face.

(4) *Equipment stops.* Operational areas for trackless type equipment shall be provided with structural stops, such as curbs, to prevent equipment from traveling outside its intended travel areas and to prevent a crushing or shearing hazard.

(5) *Maintenance access.* Means shall be provided to traverse all carriages and their suspended equipment to a safe area for maintenance and storage.

(6) *Elevated track.* (i) An elevated track system which is located four feet (1.2 m) or more above a safe surface, and traversed by carriage supported equipment, shall be provided with a walkway and guardrail system; or

(ii) The working platform shall be capable of being lowered, as part of its normal operation, to the lower safe surface for access and egress of the personnel and shall be provided with a safe means of access and egress to the lower safe surface.

(7) *Tie-down anchors.* Imbedded tie-down anchors, fasteners, and affected structures shall be resistant to corrosion.

(8) *Cable stabilization.* (i) Hanging lifelines and all cables not in tension shall be stabilized at each 200 foot (61 m) interval of vertical travel of the working platform beyond an initial 200 foot (61 m) distance.

(ii) Hanging cables, other than suspended wire ropes, which are in constant tension shall be stabilized when the vertical travel exceeds an initial 600 foot (183 m) distance, and at further intervals of 600 feet (183 m) or less.

(9) *Emergency planning.* A written emergency action plan shall be developed and implemented for each kind of working platform operation. This plan shall explain the emergency procedures which are to be followed in the event of a power failure, equipment failure or other emergencies which may be encountered. The plan shall also explain that employees inform

themselves about the building emergency escape routes, procedures and alarm systems before operating a platform. Upon initial assignment and whenever the plan is changed the employer shall review with each employee those parts of the plan which the employee must know to protect himself or herself in the event of an emergency.

(10) *Building maintenance.* Repairs or major maintenance of those building portions that provide primary support for the suspended equipment shall not affect the capability of the building to meet the requirements of this standard.

(11) *Electrical requirements.* The following electrical requirements apply to buildings which utilize working platforms for building maintenance.

(i) General building electrical installations shall comply with §§ 1910.302 through 1910.308 of this Part, unless otherwise specified in this section;

(ii) Building electrical wiring shall be of such capacity that when full load is applied to the equipment power circuit not more than a five percent drop from building service-vault voltage shall occur at any power circuit outlet used by equipment regulated by this section;

(iii) The equipment power circuit shall be an independent electrical circuit that shall remain separate from all other equipment within or on the building, other than power circuits used for hand tools that will be used in conjunction with the equipment. If the building is provided with an emergency power system, the equipment power circuit may also be connected to this system;

(iv) The power circuit shall be provided with a disconnect switch that can be locked in the "OFF" and "ON" positions. The switch shall be conveniently located with respect to the primary operating area of the equipment to allow the operators of the equipment access to the switch;

(v) The disconnect switch for the power circuit shall be locked in the "ON" position when the equipment is in use; and

(vi) An effective two-way voice communication system shall be provided between the equipment operators and persons stationed within the building being serviced. The communications facility shall be operable and shall be manned at all times by persons stationed within the building whenever the platform is being used.

(f) *Powered platform installations—Equipment—(1) General requirements.* The following requirements apply to equipment which are part of a powered

platform installation, such as platforms, stabilizing components, carriages, outriggers, davits, hoisting machines, wire ropes and electrical components.

(i) Equipment installations shall be designed by or under the direction of a registered professional engineer experienced in such design;

(ii) The design shall provide for a minimum live load of 250 pounds (113.6 kg) for each occupant of a suspended or supported platform;

(iii) Equipment that is exposed to wind when not in service shall be designed to withstand forces generated by winds of at least 100 miles per hour (44.7 m/s) at 30 feet (9.2 m) above grade; and

(iv) Equipment that is exposed to wind when in service shall be designed to withstand forces generated by winds of at least 50 miles per hour (22.4 m/s) for all elevations.

(2) *Construction requirements.* Bolted connections shall be self-locking or shall otherwise be secured to prevent loss of the connections by vibration.

(3) *Suspension methods.* Elevated building maintenance equipment shall be suspended by a carriage, outriggers, davits or an equivalent method.

(i) *Carriages.* Carriages used for suspension of elevated building maintenance equipment shall comply with the following:

(A) The horizontal movement of a carriage shall be controlled so as to ensure its safe movement and allow accurate positioning of the platform for vertical travel or storage;

(B) Powered carriages shall not exceed a traversing speed of 50 feet per minute (0.3 m/s);

(C) The initiation of a traversing movement for a manually propelled carriage on a smooth level surface shall not require a person to exert a horizontal force greater than 40 pounds (44.8 n);

(D) Structural stops and curbs shall be provided to prevent the traversing of the carriage beyond its designed limits of travel;

(E) Traversing controls for a powered carriage shall be of a continuous pressure weatherproof type. Multiple controls when provided shall be arranged to permit operation from only one control station at a time. An emergency stop device shall be provided on each end of a powered carriage for interrupting power to the carriage drive motors;

(F) The operating controls(s) shall be so connected that in the case of suspended equipment, traversing of a carriage is not possible until the suspended portion of the equipment is located at its uppermost designed

position for traversing; and is free of contact with the face of the building or building guides. In addition, all protective devices and interlocks are to be in the proper position to allow traversing of the carriage;

(G) Stability for underfoot supported carriages shall be obtained by gravity, by an attachment to a structural support, or by a combination of gravity and a structural support. The use of flowing counterweights to achieve stability is prohibited.

(1) The stability factor against overturning shall not be less than two for horizontal traversing of the carriage, including the effects of impact and wind.

(2) The carriages and their anchorages shall be capable of resisting accidental over-tensioning of the wire ropes suspending the working platform, and this calculated value shall include the effect of one and one-half times the stall capacity of the hoist motor. All parts of the installation shall be capable of withstanding without damage to any part of the installation the forces resulting from the stall load of the hoist and one half the wind load.

(3) Roof carriages which rely on having tie-down devices secured to the building to develop the required stability against overturning shall be provided with an interlock which will prevent vertical platform movement unless the tie-down is engaged;

(H) An automatically applied braking or locking system, or equivalent, shall be provided that will prevent unintentional traversing of power traversed or power assisted carriages;

(I) A manual or automatic braking or locking system or equivalent, shall be provided that will prevent unintentional traversing of manually propelled carriages;

(J) A means to lock out the power supply for the carriage shall be provided;

(K) Safe access to and egress from the carriage shall be provided from a safe surface. If the carriage traverses an elevated area, any operating area on the carriage shall be protected by a guardrail system in compliance with the provisions of paragraph (f)(5)(i)(F) of this section. Any access gate shall be self-closing and self-latching, or provided with an interlock;

(L) Each carriage work station position shall be identified by location markings and/or position indicators; and

(M) The motors shall stall if the load on the hoist motors is at any time in excess of three times that necessary for lifting the working platform with its rated load.

(ii) *Transportable outriggers.* (A) Transportable outriggers may be used as a method of suspension for ground rigged working platforms where the point of suspension does not exceed 300 feet (91.5 m) above a safe surface. Tie-in guide system(s) shall be provided which meet the requirements of paragraph (e)(2) of this section.

(B) Transportable outriggers shall be used only with self-powered, ground rigged working platforms.

(C) Each transportable outrigger shall be secured with a tie-down to a verified anchorage on the building during the entire period of its use. The anchorage shall be designed to have a stability factor of not less than four against overturning or upsetting of the outrigger.

(D) Access to and egress from the working platform shall be from and to a safe surface below the point of suspension.

(E) Each transportable outrigger shall be designed for lateral stability to prevent roll-over in the event an accidental lateral load is applied to the outrigger. The accidental lateral load to be considered in this design shall be not less than 70 percent of the rated load of the hoist.

(F) Each transportable outrigger shall be designed to support an ultimate load of not less than four times the rated load of the hoist.

(G) Each transportable outrigger shall be so located that the suspension wire ropes for two point suspended working platforms are hung parallel.

(H) A transportable outrigger shall be tied-back to a verified anchorage on the building with a rope equivalent in strength to the suspension rope.

(I) The tie-back rope shall be installed parallel to the centerline of the outrigger.

(ii) *Davits.* (A) Every davit installation, fixed or transportable, rotatable or non-rotatable shall be designed and installed to insure that it has a stability factor against overturning of not less than four.

(B) The following requirements apply to roof rigged davit systems:

(1) Access to and egress from the working platform shall be from a safe surface. Access or egress shall not require persons to climb over a building's parapet or guard railing; and

(2) The working platform shall be provided with wheels, casters or a carriage for traversing horizontally.

(C) The following requirements apply to ground rigged davit systems:

(1) The point of suspension shall not exceed 300 feet (91.5 m) above a safe surface. Guide system(s) shall be provided which meet the requirements of paragraph (e)(2) of this section;

(2) Access and egress to and from the working platform shall only be from a safe surface below the point of suspension.

(D) A rotating davit shall not require a horizontal force in excess of 40 pounds (177.9 n) per person to initiate a rotating movement.

(E) The following requirements shall apply to transportable davits:

(1) A davit or part of a davit weighing more than 80 pounds (36 kg) shall be provided with a means for its transport, which shall keep the center of gravity of the davit at or below 36 inches (914 mm) above the safe surface during transport;

(2) A davit shall be provided with a pivoting socket or with a base that will allow the insertion or removal of a davit at a position of not more than 35 degrees above the horizontal, with the complete davit inboard of the building face being serviced; and

(3) Means shall be provided to lock the davit to its socket or base before it is used to suspend the platform.

(4) *Hoisting machines.* (i) Raising and lowering of suspended or supported equipment shall be performed only by a hoisting machine.

(ii) Each hoisting machine shall be capable of arresting any overspeed descent of the load.

(iii) Each hoisting machine shall be powered only by air, electric or hydraulic sources.

(iv) Flammable liquids shall not be carried on the working platform.

(v) Each hoisting machine shall be capable of raising or lowering 125 percent of the rated load of the hoist.

(vi) Moving parts of a hoisting machine shall be enclosed or guarded in compliance with paragraphs (a)(1) and (2) of § 1910.212 of this part.

(vii) Winding drums, traction drums and sheaves and directional sheaves used in conjunction with hoisting machines shall be compatible with, and sized for, the wire rope used.

(viii) Each winding drum shall be provided with a positive means of attaching the wire rope to the drum. The attachment shall be capable of developing at least four times the rated load of the hoist.

(ix) Each hoisting machine shall be provided with a primary brake and at least one independent secondary brake, each capable of stopping and holding not less than 125 percent of the lifting capacity of the hoist.

(A) The primary brake shall be directly connected to the drive train of the hoisting machine, and shall not be connected through belts, chains, clutches, or set screw type devices. The brake shall automatically set when power to the prime mover is interrupted.

(B)(1) The secondary brake shall be an automatic emergency type of brake that, if actuated during each stopping cycle, shall not engage before the hoist is stopped by the primary brake.

(2) When a secondary brake is actuated, it shall stop and hold the platform within a vertical distance of 24 inches (609.6 mm).

(x) Any component of a hoisting machine which requires lubrication for its protection and proper functioning shall be provided with a means for that lubrication to be applied.

(5) *Suspended equipment*—(i) *General requirements.* (A) Each suspended unit component, except suspension ropes and guardrail systems, shall be capable of supporting, without failure, at least four times the maximum intended live load applied or transmitted to that component.

(B) Each suspended unit component shall be constructed of materials that will withstand anticipated weather conditions.

(C) Each suspended unit shall be provided with a load rating plate, conspicuously located, stating the unit weight and rated load of the suspended unit.

(D) When the suspension points on a suspended unit are not at the unit ends, the unit shall be capable of remaining continuously stable under all conditions of use and position of the live load, and shall maintain at least a 1.5 to 1 stability factor against unit upset.

(E) Guide rollers, guide shoes or building face rollers shall be provided, and shall compensate for variations in building dimensions and for minor horizontal out-of-level variations of each suspended unit.

(F) Each working platform of a suspended unit shall be secured to the building facade by one or more of the following methods, or by an equivalent method:

(1) Continuous engagement to building anchors as provided in paragraph (e)(2)(i) of this section;

(2) Intermittent engagement to building anchors as provided in paragraph (e)(2)(iii)(A) of this section;

(3) Button guide engagement as provided in paragraph (e)(2)(iii)(B) of this section; or

(4) Angulated roping and building face rollers as provided in paragraph (e)(2)(iii)(C) of this section.

(G) Each working platform of a suspended unit shall be provided with a guardrail system on all sides which shall meet the following requirements:

(1) The system shall consist of a top guardrail, midrail, and a toeboard;

(2) The top guardrail shall not be less than 36 inches (914 mm) high and shall

be able to withstand at least a 100-pound (444 n) force in any downward or outward direction;

(3) The midrail shall be able to withstand at least a 75-pound (333 n) force in any downward or outward direction; and

(4) The areas between the guardrail and toeboard on the ends and outboard side, and the area between the midrail and toeboard on the inboard side, shall be closed with a material that is capable of withstanding a load of 100 pounds (45.4 KG.) applied horizontally over any area of one square foot (.09 m<sup>2</sup>). The material shall have all openings small enough to reject passage of life lines and potential falling objects which may be hazardous to persons below.

(5) Toeboards shall be capable of withstanding, without failure, a force of at least 50 pounds (222 n) applied in any downward or horizontal direction at any point along the toeboard.

(6) Toeboards shall be three and one-half inches (9 cm) minimum in length from their top edge to the level of the platform floor.

(7) Toeboards shall be securely fastened in place at the outermost edge of the platform and have no more than one-half inch (1.3 cm) clearance above the platform floor.

(8) Toeboards shall be solid or with an opening not over one inch (2.5 cm) in the greatest dimension.

(ii) *Two and four-point suspended working platforms.* (A) The working platform shall be not less than 24 inches (610 mm) wide and shall be provided with a minimum of a 12 inch (305 mm) wide passage at or past any obstruction on the platform.

(B) The flooring shall be of a slip-resistant type and shall contain no opening that would allow the passage of life lines, cables and other potential falling objects. If a larger opening is provided, it shall be protected by placing a material under the opening which shall prevent the passage of life lines, cables and potential falling objects.

(C) The working platform shall be provided with a means of suspension that will restrict the platform's inboard to outboard roll about its longitudinal axis to a maximum of 15 degrees from a horizontal plane when moving the live load from the inboard to the outboard side of the platform.

(D) Any cable suspended from above the platform shall be provided with a means for storage to prevent accumulation of the cable on the floor of the platform.

(E) All operating controls for the vertical travel of the platform shall be of

the continuous-pressure type, and shall be located on the platform.

(F) Each operating station of every working platform shall be provided with a means of interrupting the power supply to all hoist motors to stop any further powered ascent or descent of the platform.

(G) The maximum rated speed of the platform shall not exceed 50 feet per minute (0.3 ms) with single speed hoists, nor 75 feet per minute (0.4 ms) with multi-speed hoists.

(H) Provisions shall be made for securing all tools, water tanks, and other accessories to prevent their movement or accumulation on the floor of the platform.

(I) Portable fire extinguishers conforming to the provisions of § 1910.155 and § 1910.157 of this part shall be provided and securely attached on all working platforms.

(J) Access to and egress from a working platform, except for those that land directly on a safe surface, shall be provided by stairs, ladders, platforms and runways conforming to the provisions of Subpart D of this part. Access gates shall be self-closing and self-latching.

(K) Means of access to or egress from a working platform which is 48 inches (1.2 m) or more above a safe surface shall be provided with a guardrail system or ladder handrails that conform to the provisions of Subpart D of this part.

(L) The platform shall be provided with a secondary wire rope suspension system if the platform contains overhead structures which restrict the emergency egress of employees. A horizontal lifeline or a direct connection anchorage shall be provided, as part of a fall arrest system which meets the requirements of Appendix C, for each employee on such a platform.

(M) A vertical lifeline shall be provided as part of a fall arrest system which meets the requirements of Appendix C, for each employee on a working platform suspended by two or more wire ropes, if the failure of one wire rope or suspension attachment will cause the platform to upset. If a secondary wire rope suspension is used, vertical lifelines are not required for the fall arrest system, provided that each employee is attached to a horizontal lifeline anchored to the platform.

(N) An emergency electric operating device shall be provided on roof powered platforms near the hoisting machine for use in the event of failure of the normal operating device located on the working platform, or failure of the cable connected to the platform. The emergency electric operating device

shall be mounted in a secured compartment, and the compartment shall be labeled with instructions for use. A means for opening the compartment shall be mounted in a break-glass receptacle located near the emergency electric operating device or in an equivalent secure and accessible location.

(iii) *Single point suspended working platforms.* (A) The requirements of paragraphs (f)(5)(ii)(A) through (K) of this section shall also apply to a single point working platform.

(B) Each single point suspended working platform shall be provided with a secondary wire rope suspension system, which will prevent the working platform from falling should there be a failure of the primary means of support, or if the platform contains overhead structures which restrict the egress of the employees. A horizontal life line or a direct connection anchorage shall be provided, as part of a fall arrest system which meets the requirements of Appendix C, for each employee on the platform.

(iv) *Ground-rigged working platforms.* (A) Groundrigged working platforms shall comply with all the requirements of paragraphs (f)(5)(ii) (A) through (M) of this section.

(B) After each day's use, the power supply within the building shall be disconnected from a ground-rigged working platform, and the platform shall be either disengaged from its suspension points or secured and stored at grade.

(v) *Intermittently stabilized platforms.* (A) The platform shall comply with paragraphs (F)(5)(ii)(A) through (M) of this section.

(B) Each stabilizer tie shall be equipped with a "quick connect-quick disconnect" device which cannot be accidentally disengaged, for attachment to the building anchor, and shall be resistant to adverse environmental conditions.

(C) The platform shall be provided with a stopping device that will interrupt the hoist power supply in the event the platform contacts a stabilizer tie during its ascent.

(D) Building face rollers shall not be placed at the anchor setting if exterior anchors are used on the building face.

(E) Stabilizer ties used on intermittently stabilized platforms shall allow for the specific attachment length needed to effect the predetermined angulation of the suspended wire rope. The specific attachment length shall be maintained at all building anchor locations.

(F) The platform shall be in continuous contact with the face of the building during ascent and descent.

(G) The attachment and removal of stabilizer ties shall not require the horizontal movement of the platform.

(H) The platform-mounted equipment and its suspension wire ropes shall not be physically damaged by the loads from the stabilizer tie or its building anchor. The platform, platform mounted equipment and wire ropes shall be able to withstand a load that is at least twice the ultimate strength of the stabilizer tie.

**Note:** See Figure II in Appendix B of this section for a description of a typical intermittent stabilization system.

(vi) *Button-guide stabilized platforms.* (A) The platform shall comply with paragraphs (f)(5)(ii)(A) through (M) of this section.

(B) Each guide track on the platform shall engage a minimum of two guide buttons during any vertical travel of the platform following the initial button engagement.

(C) Each guide track on a platform that is part of a roof rigged system shall be provided with a storage position on the platform.

(D) Each guide track on the platform shall be sufficiently maneuverable by platform occupants to permit easy engagement of the guide buttons, and easy movement into and out of its storage position on the platform.

(E) Two guide tracks shall be mounted on the platform and shall provide continuous contact with the building face.

(F) The load carrying components of the button guide stabilization system which transmit the load into the platform shall be capable of supporting the weight of the platform, or provision shall be made in the guide track connectors or platform attachments to prevent the weight of the platform from being transmitted to the platform attachments.

**Note:** See Figure III in Appendix B of this section for a description of a typical button guide stabilization system.

(6) *Supported equipment.* (i) Supported equipment shall maintain a vertical position in respect to the face of the building by means other than friction.

(ii) Cog wheels or equivalent means shall be incorporated to provide climbing traction between the supported equipment and the building guides. Additional guide wheels or shoes shall be incorporated as may be necessary to ensure that the drive wheels are continuously held in positive engagement with the building guides.

(iii) Launch guide mullions indexed to the building guides and retained in alignment with the building guides shall

be used to align drive wheels entering the building guides.

(iv) Manned platforms used on supported equipment shall comply with the requirements of paragraphs (f)(5)(ii)(A), (f)(5)(ii)(B), and (f)(5)(ii)(D) through (K) of this section covering suspended equipment.

(7) *Suspension wire ropes and rope connections.* (i) Each specific installation shall use suspension wire ropes or combination cable and connections meeting the specification recommended by the manufacturer of the hoisting machine used. Connections shall be capable of developing at least 80 percent of the rated breaking strength of the wire rope.

(ii) Each suspension rope shall have a "Design Factor" of at least 10. The "Design Factor" is the ratio of the rated strength of the suspension wire rope to the rated working load, and shall be calculated using the following formula:

$$F = \frac{S(N)}{W}$$

Where:

F=Design factor

S=Manufacturer's rated strength of one suspension rope

N=Number of suspension ropes under load

W=Rated working load on all ropes at any point of travel

(iii) Suspension wire rope grade shall be at least improved plow steel or equivalent.

(iv) Suspension wire ropes shall be sized to conform with the required design factor, but shall not be less than 5/16 inch (7.94 mm) in diameter.

(v) No more than one reverse bend in six wire rope lays shall be permitted.

(vi) A corrosion-resistant tag shall be securely attached to one of the wire rope fastenings when a suspension wire rope is to be used at a specific location and will remain in that location. This tag shall bear the following wire rope data:

(A) The diameter (inches and/or mm);

(B) Construction classification;

(C) Whether non-preformed or preformed;

(D) The grade of material;

(E) The manufacturer's rated strength;

(F) The manufacturer's name;

(G) The month and year the ropes

were installed; and

(H) The name of the person or company which installed the ropes.

(vii) A new tag shall be installed at each rope renewal.

(viii) The original tag shall be stamped with the date of the resocketing, or the original tag shall be retained and a

supplemental tag shall be provided when ropes are resocketed. The supplemental tag shall show the date of resocketing and the name of the person or company that resocketed the rope.

(ix) Winding drum type hoists shall contain at least three wraps of the suspension wire rope on the drum when the suspended unit has reached the lowest possible point of its vertical travel.

(x) Traction drum and sheave type hoists shall be provided with a wire rope of sufficient length to reach the lowest possible point of vertical travel of the suspended unit, and an additional length of the wire rope of at least four feet (1.2 m).

(xi) The lengthening or repairing of suspension wire ropes is prohibited.

(xii) Babbitted fastenings for suspension wire rope are prohibited.

(8) *Control circuits, power circuits and their components.* (i) Electrical wiring and equipment shall comply with Subpart S of this Part, except as otherwise required by this section.

(ii) Electrical runway conductor systems shall be of a type designed for use in exterior locations, and shall be located so that they do not come into contact with accumulated snow or water.

(iii) Cables shall be protected against damage resulting from overtensioning or from other causes.

(iv) Devices shall be included in the control system for the equipment which will provide protection against electrical overloads, three phase reversal and phase failure. The control system shall have a separate method, independent of the direction control circuit, for breaking the power circuit in case of an emergency or malfunction.

(v) Suspended or supported equipment shall have a control system which will require the operator of the equipment to follow predetermined procedures.

(vi) The following requirements shall apply to electrical protection devices:

(A) On installations where the carriage does not have a stability factor of at least four against overturning, electrical contact(s) shall be provided and so connected that the operating devices for the suspended or supported equipment shall be operative only when the carriage is located and mechanically retained at an established operating point.

(B) Overload protection shall be provided in the hoisting or suspension system to protect against the equipment operating in the "up" direction with a load in excess of 125 percent of the rated load of the platform; and

(C) An automatic detector shall be provided for each suspension point that

will interrupt power to all hoisting motors for travel in the "down" direction, and apply the primary brakes if any suspension wire rope becomes slack. A continuous-pressure rigging-bypass switch designed for use during rigging is permitted. This switch shall only be used during rigging.

(vii) Upper and lower directional switches designed to prevent the travel of suspended units beyond safe upward and downward levels shall be provided.

(viii) Emergency stop switches shall be provided on remote controlled, roof-powered manned platforms adjacent to each control station on the platform.

(ix) Cables which are in constant tension shall have overload devices which will prevent the tension in the cable from interfering with the load limiting device required in paragraph (f)(8)(vi)(B) of this section, or with the platform roll limiting device required in paragraph (f)(5)(ii)(C) of this section. The setting of these devices shall be coordinated with other overload settings at the time of design of the system, and shall be clearly indicated on or near the device. The device shall interrupt the equipment travel in the "down" direction.

(g) *Inspection and tests—(1) Installations and alterations.* All completed building maintenance equipment installations shall be inspected and tested in the field before being placed in initial service to determine that all parts of the installation conform to applicable requirements of this standard, and that all safety and operating equipment is functioning as required. A similar inspection and test shall be made following any major alteration to an existing installation. No hoist in an installation shall be subjected to a load in excess of 125 percent of its rated load.

(2) *Periodic inspections and tests.* (i) Related building supporting structures shall undergo periodic inspection by a competent person at intervals not exceeding 12 months.

(ii) All parts of the equipment including control systems shall be inspected, and, where necessary, tested by a competent person at intervals specified by the manufacturer/supplier, but not to exceed 12 months, to determine that they are in safe operating condition. Parts subject to wear, such as wire ropes, bearings, gears, and governors shall be inspected and/or tested to determine that they have not worn to such an extent as to affect the safe operation of the installation.

(iii) The building owner shall keep a certification record of each inspection and test required under paragraphs

(g)(2)(i) and (ii) of this section. The certification record shall include the date of the inspection, the signature of the person who performed the inspection, and the number, or other identifier, of the building support structure and equipment which was inspected. This certification record shall be kept readily available for review by the Assistant Secretary of Labor or the Assistant Secretary's representative and by the employer.

(iv) Working platforms and their components shall be inspected by the employer for visible defects before every use and after each occurrence which could affect the platform's structural integrity.

(3) *Maintenance inspections and tests.*

(i) A maintenance inspection and, where necessary, a test shall be made of each platform installation every 30 days, or where the work cycle is less than 30 days such inspection and/or test shall be made prior to each work cycle. This inspection and test shall follow procedures recommended by the manufacturer, and shall be made by a competent person.

(ii) The building owner shall keep a certification record of each inspection and test performed under paragraph (g)(3)(i) of this section. The certification record shall include the date of the inspection and test, the signature of the person who performed the inspection and/or test, and an identifier for the platform installation which was inspected. The certification record shall be kept readily available for review by the Assistant Secretary of Labor or the Assistant Secretary's representative and by the employer.

(4) *Special inspection of governors and secondary brakes.* (i) Governors and secondary brakes shall be inspected and tested at intervals specified by the manufacturer/supplier but not to exceed every 12 months.

(ii) The results of the inspection and test shall confirm that the initiating device for the secondary braking system operates at the proper overspeed.

(iii) The results of the inspection and test shall confirm that the secondary brake is functioning properly.

(iv) If any hoisting machine or initiating device for the secondary brake system is removed from the equipment for testing, all reinstalled and directly related components shall be reinspected prior to returning the equipment installation to service.

(v) Inspection of governors and secondary brakes shall be performed by a competent person.

(vi) The secondary brake governor and actuation device shall be tested before each day's use. Where testing is

not feasible, a visual inspection of the brake shall be made instead to ensure that it is free to operate.

(5) *Suspension wire rope maintenance, inspection and replacement.* (i) Suspension wire rope shall be maintained and used in accordance with procedures recommended by the wire rope manufacturer.

(ii) Suspension wire rope shall be inspected by a competent person for visible defects and gross damage to the rope before every use and after each occurrence which might affect the wire rope's integrity.

(iii) A thorough inspection of suspension wire ropes in service shall be made once a month. Suspension wire ropes that have been inactive for 30 days or longer shall have a thorough inspection before they are placed into service. These thorough inspections of suspension wire ropes shall be performed by a competent person.

(iv) The need for replacement of a suspension wire rope shall be determined by inspection and shall be based on the condition of the wire rope. Any of the following conditions or combination of conditions will be cause for removal of the wire rope:

(A) Broken wires exceeding three wires in one strand or six wires in one rope lay;

(B) Distortion of rope structure such as would result from crushing or kinking;

(C) Evidence of heat damage;

(D) Evidence of rope deterioration from corrosion;

(E) A broken wire within 18 inches (460.8 mm) of the end attachments;

(F) Noticeable rusting and pitting;

(G) Evidence of core failure (a lengthening of rope lay, protrusion of the rope core and a reduction in rope diameter suggests core failure); or

(H) More than one valley break (broken wire).

(I) Outer wire wear exceeds one-third of the original outer wire diameter.

(J) Any other condition which the competent person determines has significantly affected the integrity of the rope.

(v) The building owner shall keep a certification record of each monthly inspection of a suspension wire rope as required in paragraph (g)(5)(iii) of this section. The record shall include the date of the inspection, the signature of the person who performed the inspection, and a number, or other identifier, of the wire rope which was inspected. This record of inspection shall be made available for review by the Assistant Secretary of Labor or the

Assistant Secretary's representative and by the employer.

(6) *Hoist inspection.* Before lowering personnel below the top elevation of the building, the hoist shall be tested each day in the lifting direction with the intended load to make certain it has sufficient capacity to raise the personnel back to the boarding level.

(h) *Maintenance—(1) General maintenance.* All parts of the equipment affecting safe operation shall be maintained in proper working order so that they may perform the functions for which they were intended. The equipment shall be taken out of service when it is not in proper working order.

(2) *Cleaning.* (i) Control or power contactors and relays shall be kept clean.

(ii) All other parts shall be kept clean if their proper functioning would be affected by the presence of dirt or other contaminants.

(3) *Periodic resocketing of wire rope fastenings.* (i) Hoisting ropes utilizing poured socket fastenings shall be resocketed at the non-drum ends at intervals not exceeding 24 months. In resocketing the ropes, a sufficient length shall be cut from the end of the rope to remove damaged or fatigued portions.

(ii) Resocketed ropes shall conform to the requirements of paragraph (f)(7) of this section.

(iii) Limit switches affected by the resocketed ropes shall be reset, if necessary.

(4) *Periodic reshackling of suspension wire ropes.* The hoisting ropes shall be reshackled at the nondrum ends at intervals not exceeding 24 months. When reshackling the ropes, a sufficient length shall be cut from the end of the rope to remove damaged or fatigued portions.

(5) *Roof systems.* Roof track systems, tie-downs, or similar equipment shall be maintained in proper working order so that they perform the function for which they were intended.

(6) *Building face guiding members.* T-rails, indented mullions, or equivalent guides located in the face of a building shall be maintained in proper working order so that they perform the functions for which they were intended. Brackets for cable stabilizers shall similarly be maintained in proper working order.

(7) *Inoperative safety devices.* No person shall render a required safety device or electrical protective device inoperative, except as necessary for tests, inspections, and maintenance. Immediately upon completion of such tests, inspections and maintenance, the device shall be restored to its normal operating condition.

(i) *Operations—(1) Training.* (i) Working platforms shall be operated only by persons who are proficient in the operation, safe use and inspection of the particular working platform to be operated.

(ii) All employees who operate working platforms shall be trained in the following:

(A) Recognition of, and preventive measures for, the safety hazards associated with their individual work tasks.

(B) General recognition and prevention of safety hazards associated with the use of working platforms, including the provisions in the section relating to the particular working platform to be operated.

(C) Emergency action plan procedures required in paragraph (e)(9) of this section.

(D) Work procedures required in paragraph (i)(1)(iv) of this section.

(E) Personal fall arrest system inspection, care, use and system performance.

(iii) Training of employees in the operation and inspection of working platforms shall be done by a competent person.

(iv) Written work procedures for the operation, safe use and inspection of working platforms shall be provided for employee training. Pictorial methods of instruction, may be used, in lieu of written work procedures, if employee communication is improved using this method. The operating manuals supplied by manufacturers for platform system components can serve as the basis for these procedures.

(v) The employer shall certify that employees have been trained in operating and inspecting a working platform by preparing a certification record which includes the identity of the person trained, the signature of the employer or the person who conducted the training and the date that training was completed. The certification record shall be prepared at the completion of the training required in paragraph (i)(1)(ii) of this section, and shall be maintained in a file for the duration of the employee's employment. The certification record shall be kept readily available for review by the Assistant Secretary of Labor or the Assistant Secretary's representative.

(2) *Use.* (i) Working platforms shall not be loaded in excess of the rated load, as stated on the platform load rating plate.

(ii) Employees shall be prohibited from working on snow, ice, or other slippery material covering platforms, except for the removal of such materials.

(iii) Adequate precautions shall be taken to protect the platform, wire ropes and life lines from damage due to acids or other corrosive substances, in accordance with the recommendations of the corrosive substance producer, supplier, platform manufacturer or other equivalent information sources. Platform members which have been exposed to acids or other corrosive substances shall be washed down with a neutralizing solution, at a frequency recommended by the corrosive substance producer or supplier.

(iv) Platform members, wire ropes and life lines shall be protected when using a heat producing process. Wire ropes and life lines which have been contacted by the heat producing process shall be considered to be permanently damaged and shall not be used.

(v) The platform shall not be operated in winds in excess of 25 miles per hour (40.2 km/hr) except to move it from an operating to a storage position. Wind speed shall be determined based on the best available information, which includes on-site anemometer readings and local weather forecasts which predict wind velocities for the area.

(vi) On exterior installations, an anemometer shall be mounted on the platform to provide information of on-site wind velocities prior to and during the use of the platform. The anemometer may be a portable (hand held) unit which is temporarily mounted during platform use.

(vii) Tools, materials and debris not related to the work in progress shall not be allowed to accumulate on platforms. Stabilizer ties shall be located so as to allow unencumbered passage along the full length of the platform and shall be of such length so as not to become entangled in rollers, hoists or other machinery.

(j) *Personal fall protection.* Employees on working platforms shall be protected by a personal fall arrest system meeting the requirements of Appendix C, Section I, of this standard, and as otherwise provided by this standard.

(k) *Effective date.* This section is effective January 24, 1990.

(The information collection requirements contained in this section are approved by the Office of Management and Budget (OMB) and listed under OMB control number 1218-0121.)

#### Appendix A to Section 1910.66, Guidelines (Advisory)

1. *Use of the Appendix.* Appendix A provides examples of equipment and methods to assist the employer in meeting the requirements of the indicated provision of the standard. Employers may use other equipment or procedures which conform to the requirements of the standard. This appendix neither adds to nor detracts from

the mandatory requirements set forth in § 1910.66.

2. *Assurance.* Paragraph (c) of the standard requires the building owner to inform the employer in writing that the powered platform installation complies with certain requirements of the standard, since the employer may not have the necessary information to make these determinations. The employer, however, remains responsible for meeting these requirements which have not been set off in paragraph (c)(1).

3. *Design Requirements.* The design requirements for each installation should be based on the limitations (stresses, deflections, etc.), established by nationally recognized standards as promulgated by the following organizations, or to equivalent standards:

- AA—The Aluminum Association, 818 Connecticut Avenue, NW., Washington, DC, 20006
- Aluminum Construction Manual Specifications For Aluminum Structures Aluminum Standards and Data
- AGMA—American Gear Manufacturers Association, 101 North Fort Meyer Dr., Suite 1000, Arlington, VA 22209
- AISC—American Institute of Steel Construction, 400 North Michigan Avenue, Chicago, IL 60611
- ANSI—American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018
- ASCE—American Society of Civil Engineers, 345 East 47th Street, New York, NY 10017
- ASME—American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017
- ASTM—American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103
- AWS—American Welding Society, Inc., Box 351040, 550 NW. LeJeune Road, Miami, FL 33126
- JIC—Joint Industrial Council, 2139 Wisconsin Avenue NW., Washington, DC 20007
- NEMA—National Electric Manufacturers Association, 2101 L Street, NW., Washington, DC 20037

4. *Tie-in-guides.* Indented mullions, T-rails or other equivalent guides are acceptable as tie-in guides in a building face for a continuous stabilization system. Internal guides are embedded in other building members with only the opening exposed (see Figure 1 of Appendix B). External guides, however, are installed external to the other building members and so are fully exposed. The minimum opening for tie-in guides is three-quarters of an inch (19 mm), and the minimum inside dimensions are one-inch (25 mm)-deep and two inches (50 mm) wide.

Employers should be aware of the hazards associated with tie-in guides in a continuous stabilization system which was not designed properly. For example, joints in these track systems may become extended or discontinuous due to installation or building settlement. If this alignment problem is not corrected, the system could jam when a guide roller or guide shoe strikes a joint and this would cause a hazardous situation for employees. In another instance, faulty design will result in guide rollers being mounted in a

line so they will jam in the track at the slightest misalignment.

5. *Building anchors (intermittent stabilization system).* In the selection of the vertical distance between building anchors, certain factors should be given consideration. These factors include building height and architectural design, platform length and weight, wire rope angulation, and the wind velocities in the building area. Another factor to consider is the material of the building face, since this material may be adversely affected by the building rollers.

External or indented type building anchors are acceptable. Receptacles in the building facade used for the indented type should be kept clear of extraneous materials which will hinder their use. During the inspection of the platform installation, evidence of a failure or abuse of the anchors should be brought to the attention of the employer.

6. *Stabilizer tie length.* A stabilizer tie should be long enough to provide for the planned angulation of the suspension cables. However, the length of the tie should not be excessive and become a problem by possibly becoming entangled in the building face rollers or parts of the platform machinery.

The attachment length may vary due to material elongation and this should be considered when selecting the material to be used. Consideration should also be given to the use of ties which are easily installed by employees, since this will encourage their use.

7. *Intermittent stabilization system.* Intermittent stabilization systems may use different equipment, tie-in devices and methods to restrict the horizontal movement of a powered platform with respect to the face of the building. One acceptable method employs corrosion-resistant building anchors secured in the face of the building in vertical rows every third floor or 50 feet (15.3 m), whichever is less. The anchors are spaced horizontally to allow a stabilization attachment (stabilizer tie) for each of the two platform suspension wire ropes. The stabilizer tie consists of two parts. One part is a quick connect-quick disconnect device which utilizes a corrosion-resistant yoke and retainer spring that is designed to fit over the building anchors. The second part of the stabilizer tie is a lanyard which is used to maintain a fixed distance between the suspension wire rope and the face of the building.

In this method, as the suspended powered platform descends past the elevation of each anchor, the descent is halted and each of the platform occupants secures a stabilizer tie between a suspension wire rope and a building anchor. The procedure is repeated as

each elevation of a building anchor is reached during the descent of the powered platform.

As the platform ascends, the procedure is reversed; that is, the stabilizer ties are removed as each elevation of a building anchor is reached. The removal of each stabilizer tie is assured since the platform is provided with stopping devices which will interrupt power to its hoist(s) in the event either stopping device contacts a stabilizer during the ascent of the platform.

Figure 2 of Appendix B illustrates another type of acceptable intermittent stabilization system which utilizes retaining pins as the quick connect-quick disconnect device in the stabilizer tie.

8. *Wire Rope Inspection.* The inspection of the suspension wire rope is important since the rope gradually loses strength during its useful life. The purpose of the inspection is to determine whether the wire rope has sufficient integrity to support a platform with the required design factor.

If there is any doubt concerning the condition of a wire rope or its ability to perform the required work, the rope should be replaced. The cost of wire rope replacement is quite small if compared to the cost in terms of human injuries, equipment down time and replacement.

No listing of critical inspection factors, which serve as a basis for wire rope replacement in the standard, can be a substitute for an experienced inspector of wire rope. The listing serves as a user's guide to the accepted standards by which ropes must be judged.

Rope life can be prolonged if preventive maintenance is performed regularly. Cutting off an appropriate length of rope at the end termination before the core degrades and valley breaks appear minimizes degradation at these sections.

9. *General Maintenance.* In meeting the general maintenance requirement in paragraph (h)(1) of the standard, the employer should undertake the prompt replacement of broken, worn and damaged parts, switch contacts, brushes, and short flexible conductors of electrical devices. The components of the electrical service system and traveling cables should be replaced when damaged or significantly abraded. In addition, gears, shafts, bearings, brakes and hoisting drums should be kept in proper alignment.

10. *Training.* In meeting the training requirement of paragraph (i)(1) of the standard, employers should use both on the job training and formal classroom training. The written work procedures used for this training should be obtained from the

manufacturer, if possible, or prepared as necessary for the employee's information and use.

Employees who will operate powered platforms with intermittent stabilization systems should receive instruction in the specific ascent and descent procedures involving the assembly and disassembly of the stabilizer ties.

An acceptable training program should also include employee instruction in basic inspection procedures for the purpose of determining the need for repair and replacement of platform equipment. In addition, the program should cover the inspection, care and use of the personal fall protection equipment required in paragraph (j)(1) of the standard.

In addition, the training program should also include emergency action plan elements. OSHA brochure #3088 (Rev.) 1985, "How to Prepare for Workplace Emergencies," details the basic steps needed to prepare to handle emergencies in the workplace.

Following the completion of a training program, the employee should be required to demonstrate competency in operating the equipment safely. Supplemental training of the employee should be provided by the employer, as necessary, if the equipment used or other working conditions should change.

An employee who is required to work with chemical products on a platform should receive training in proper cleaning procedures, and in the hazards, care and handling of these products. In addition, the employee should be supplied with the appropriate personal protective equipment, such as gloves and eye and face protection.

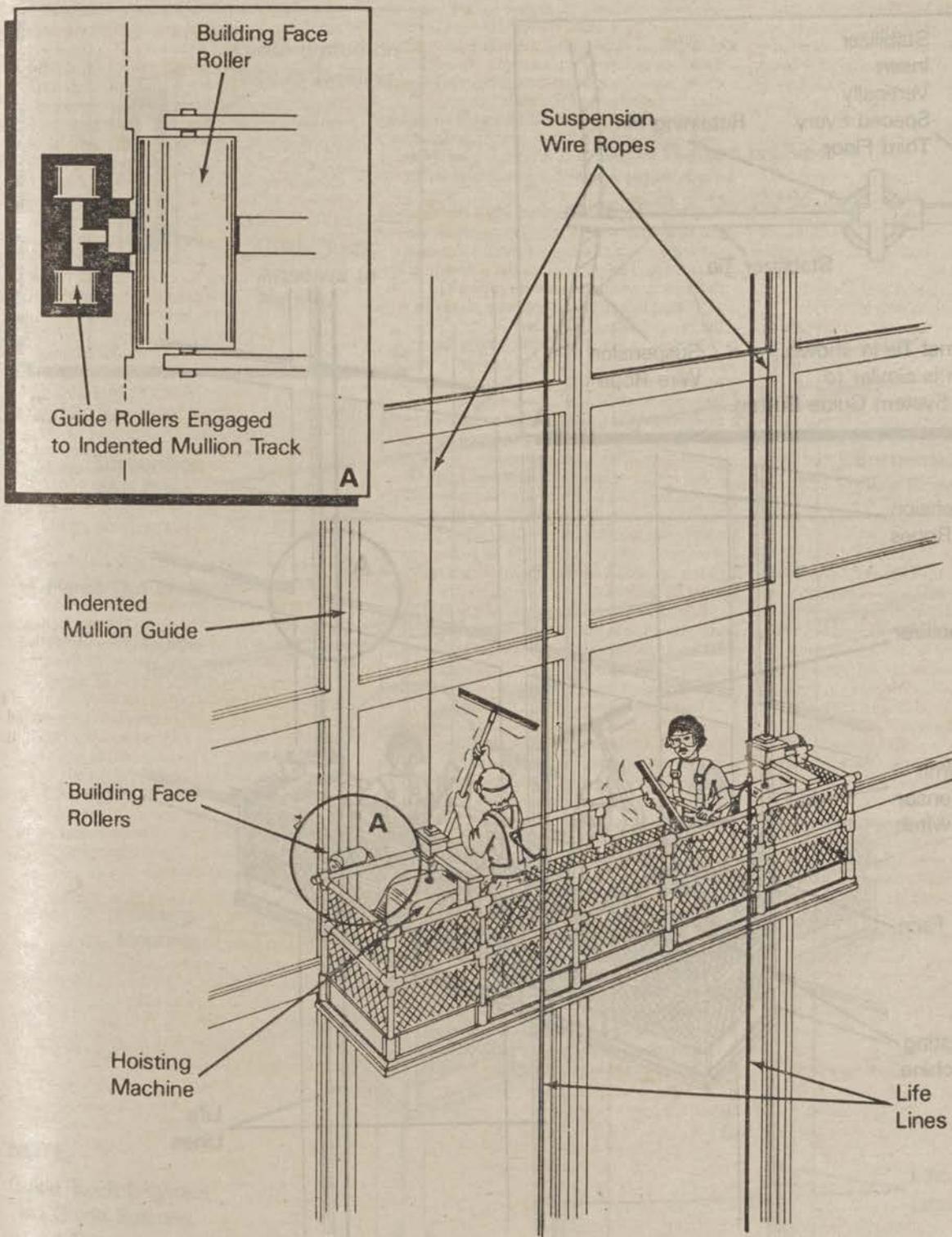
11. *Suspension and Securing of Powered Platforms (Equivalency).* One acceptable method of demonstrating the equivalency of a method of suspending or securing a powered platform, as required in paragraphs (e)(2)(iii), (f)(3) and (f)(5)(i)(F), is to provide an engineering analysis by a registered professional engineer. The analysis should demonstrate that the proposed method will provide an equal or greater degree of safety for employees than any one of the methods specified in the standard.

#### Appendix B to Section 1910.66, Exhibits (Advisory)

The three drawings in Appendix B illustrate typical platform stabilization systems which are addressed in the standard. The drawings are to be used for reference purposes only, and do not illustrate all the mandatory requirements for each system.

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Figure 1. Typical Self-Powered Platform--Continuous External or Indented Mullion Guide System



**Figure 2. Typical Self-Powered Platform--  
Intermittent Tie-In System**

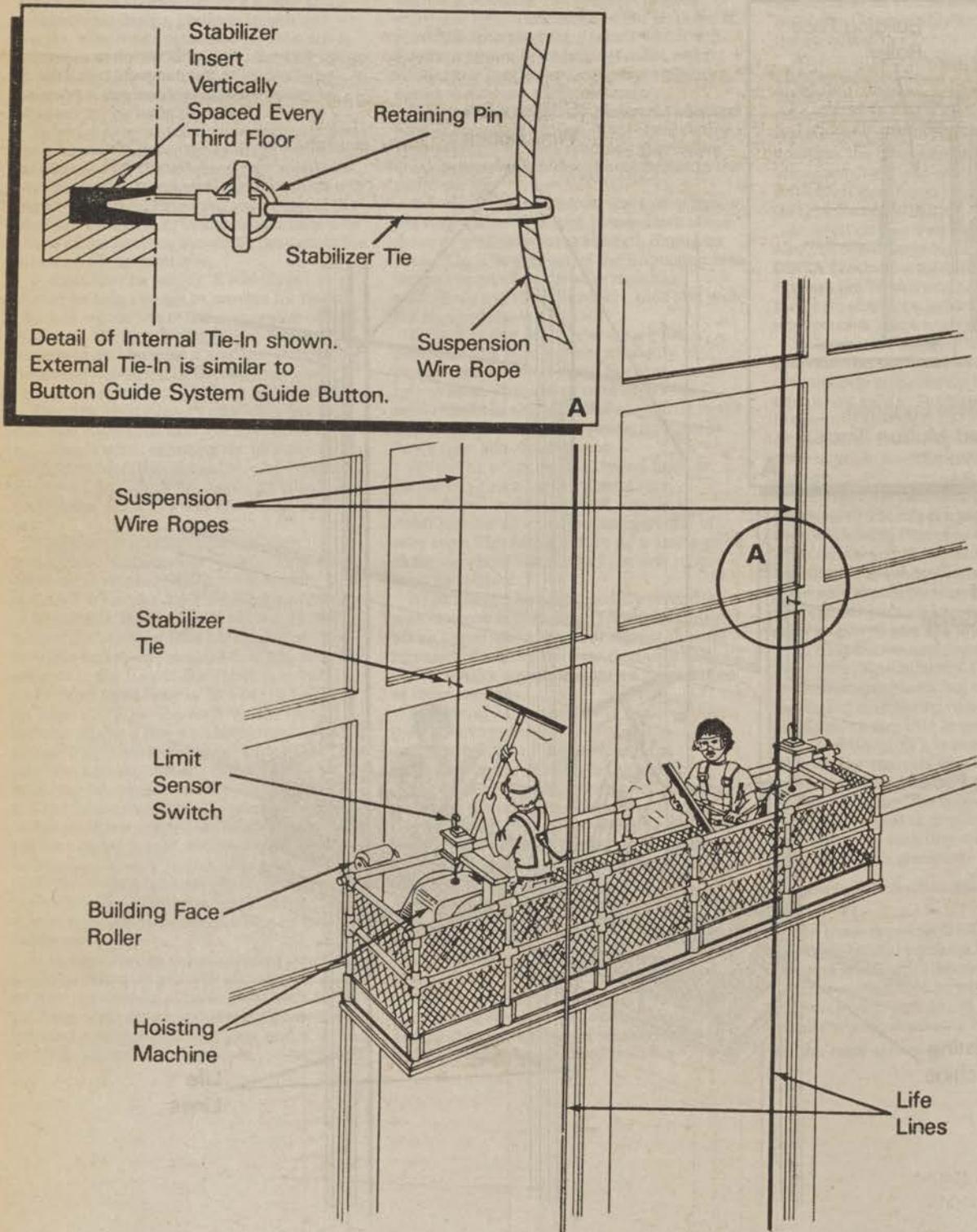
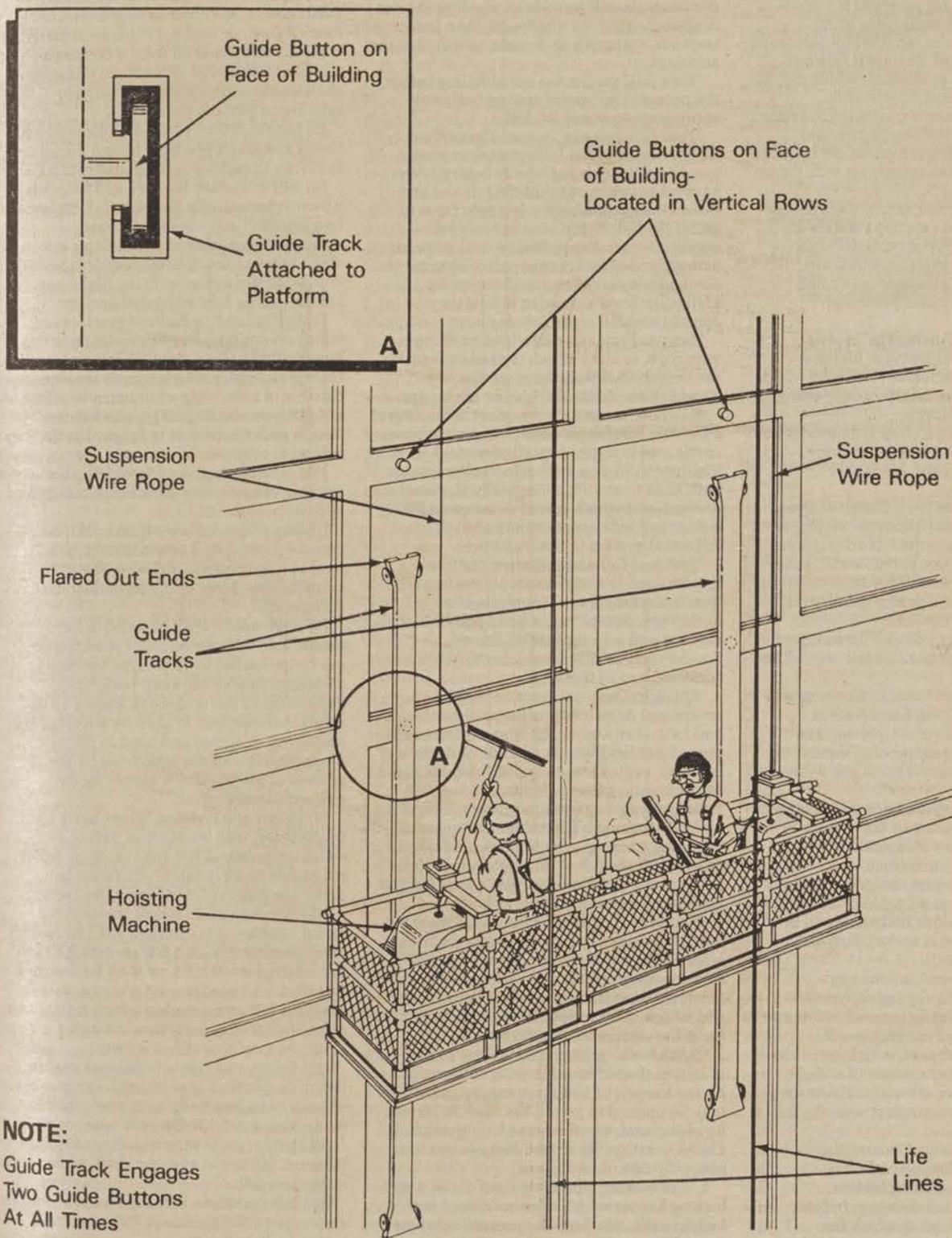


Figure 3. Typical Self-Powered Platform--  
Button Guide System



**Appendix C to Section 1910.66, Personal Fall Arrest System (Section I—Mandatory; Sections II and III—Non-Mandatory)**

*Use of the Appendix*

Section I of Appendix C sets out the mandatory criteria for personal fall arrest systems used by all employees using powered platforms, as required by paragraph (j)(1) of this standard. Section II sets out nonmandatory test procedures which may be used to determine compliance with applicable requirements contained in section I of this Appendix. Section III provides nonmandatory guidelines which are intended to assist employers in complying with these provisions.

1. *Personal fall arrest systems—(a) Scope and application.* This section establishes the application of and performance criteria for personal fall arrest systems which are required for use by all employees using powered platforms under paragraph 1910.66(j).

(b) *Definitions.* "Anchorage" means a secure point of attachment for lifelines, lanyards or deceleration devices, and which is independent of the means of supporting or suspending the employee.

"Body belt" means a strap with means both for securing it about the waist and for attaching it to a lanyard, lifeline, or deceleration device.

"Body harness" means a design of straps which may be secured about the employee in a manner to distribute the fall arrest forces over at least the thighs, pelvis, waist, chest and shoulders with means for attaching it to other components of a personal fall arrest system.

"Buckle" means any device for holding the body belt or body harness closed around the employee's body.

"Competent person" means a person who is capable of identifying hazardous or dangerous conditions in the personal fall arrest system or any component thereof, as well as in their application and use with related equipment.

"Connector" means a device which is used to couple (connect) parts of the system together. It may be an independent component of the system (such as a carabiner), or an integral component of part of the system (such as a buckle or dee-ring sewn into a body belt or body harness, or a snap-hook spliced or sewn to a lanyard or self-retracting lanyard).

"Deceleration device" means any mechanism, such as a rope grab, ripstitch lanyard, specially woven lanyard, tearing or deforming lanyard, or automatic self retracting-lifeline/lanyard, which serves to dissipate a substantial amount of energy during a fall arrest, or otherwise limits the energy imposed on an employee during fall arrest.

"Deceleration distance" means the additional vertical distance a falling employee travels, excluding lifeline elongation and free fall distance, before stopping, from the point at which the deceleration device begins to operate. It is measured as the distance between the location of an employee's body belt or body harness attachment point at the moment of

activation (at the onset of fall arrest forces) of the deceleration device during a fall, and the location of that attachment point after the employee comes to a full stop.

"Equivalent" means alternative designs, materials or methods which the employer can demonstrate will provide an equal or greater degree of safety for employees than the methods, materials or designs specified in the standard.

"Free fall" means the act of falling before the personal fall arrest system begins to apply force to arrest the fall.

"Free fall distance" means the vertical displacement of the fall arrest attachment point on the employee's body belt or body harness between onset of the fall and just before the system begins to apply force to arrest the fall. This distance excludes deceleration distance, lifeline and lanyard elongation but includes any deceleration device slide distance or self-retracting lifeline/lanyard extension before they operate and fall arrest forces occur.

"Lanyard" means a flexible line of rope, wire rope, or strap which is used to secure the body belt or body harness to a deceleration device, lifeline, or anchorage.

"Lifeline" means a component consisting of a flexible line for connection to an anchorage at one end to hang vertically (vertical lifeline), or for connection to anchorages at both ends to stretch horizontally (horizontal lifeline), and which serves as a means for connecting other components of a personal fall arrest system to the anchorage.

"Personal fall arrest system" means a system used to arrest an employee in a fall from a working level. It consists of an anchorage, connectors, a body belt or body harness and may include a lanyard, deceleration device, lifeline, or suitable combinations of these.

"Qualified person" means one with a recognized degree or professional certificate and extensive knowledge and experience in the subject field who is capable of design, analysis, evaluation and specifications in the subject work, project, or product.

"Rope grab" means a deceleration device which travels on a lifeline and automatically frictionally engages the lifeline and locks so as to arrest the fall of an employee. A rope grab usually employs the principle of inertial locking, cam/lever locking, or both.

"Self-retracting lifeline/lanyard" means a deceleration device which contains a drum-wound line which may be slowly extracted from, or retracted onto, the drum under slight tension during normal employee movement, and which, after onset of a fall, automatically locks the drum and arrests the fall.

"Snap-hook" means a connector comprised of a hookshaped member with a normally closed keeper, or similar arrangement, which may be opened to permit the hook to receive an object and, when released, automatically closes to retain the object. Snap-hooks are generally one of two types:

1. The locking type with a self-closing, self-locking keeper which remains closed and locked until unlocked and pressed open for connection or disconnection, or
2. The non-locking type with a self-closing keeper which remains closed until pressed open for connection or disconnection.

"Tie-off" means the act of an employee, wearing personal fall protection equipment, connecting directly or indirectly to an anchorage. It also means the condition of an employee being connected to an anchorage.

(c) *Design for system components.* (1) Connectors shall be drop forged, pressed or formed steel, or made of equivalent materials.

(2) Connectors shall have a corrosion-resistant finish, and all surfaces and edges shall be smooth to prevent damage to interfacing parts of the system.

(3) Lanyards and vertical lifelines which tie-off one employee shall have a minimum breaking strength of 5,000 pounds (22.2 kN).

(4) Self-retracting lifelines and lanyards which automatically limit free fall distance to two feet (0.61 m) or less shall have components capable of sustaining a minimum static tensile load of 3,000 pounds (13.3 kN) applied to the device with the lifeline or lanyard in the fully extended position.

(5) Self-retracting lifelines and lanyards which do not limit free fall distance to two feet (0.61 m) or less, ripstitch lanyards, and tearing and deforming lanyards shall be capable of sustaining a minimum tensile load of 5,000 pounds (22.2 kN) applied to the device with the lifeline or lanyard in the fully extended position.

(6) Dee-rings and snap-hooks shall be capable of sustaining a minimum tensile load of 5,000 pounds (22.2 kN).

(7) Dee-rings and snap-hooks shall be 100 percent proof-tested to a minimum tensile load of 3,600 pounds (16 kN) without cracking, breaking, or taking permanent deformation.

(8) Snap-hooks shall be sized to be compatible with the member to which they are connected so as to prevent unintentional disengagement of the snap-hook by depression of the snap-hook keeper by the connected member, or shall be a locking type snap-hook designed and used to prevent disengagement of the snap-hook by the contact of the snaphook keeper by the connected member.

(9) Horizontal lifelines, where used, shall be designed, and installed as part of a complete personal fall arrest system, which maintains a safety factor of at least two, under the supervision of a qualified person.

(10) Anchorages to which personal fall arrest equipment is attached shall be capable of supporting at least 5,000 pounds (22.2 kN) per employee attached, or shall be designed, installed, and used as part of a complete personal fall arrest system which maintains a safety factor of at least two, under the supervision of a qualified person.

(11) Ropes and straps (webbing) used in lanyards, lifelines, and strength components of body belts and body harnesses, shall be made from synthetic fibers or wire rope.

(d) *System performance criteria.* (1) Personal fall arrest systems shall, when stopping a fall:

(i) Limit maximum arresting force on an employee to 900 pounds (4 kN) when used with a body belt;

(ii) Limit maximum arresting force on an employee to 1,800 pounds (8 kN) when used with a body harness;

(iii) Bring an employee to a complete stop and limit maximum deceleration distance an employee travels to 3.5 feet (1.07 m); and

(iv) Shall have sufficient strength to withstand twice the potential impact energy of an employee free falling a distance of six feet (1.8 m), or the free fall distance permitted by the system, whichever is less.

(2)(i) When used by employees having a combined person and tool weight of less than 310 pounds (140 kg), personal fall arrest systems which meet the criteria and protocols contained in paragraphs (b), (c) and (d) in Section II of this Appendix shall be considered as complying with the provisions of paragraphs (d)(1)(i) through (d)(1)(iv) above.

(ii) When used by employees having a combined tool and body weight of 310 pounds (140 kg) or more, personal fall arrest systems which meet the criteria and protocols contained in paragraphs (b), (c) and (d) in Section II may be considered as complying with the provisions of paragraphs (d)(1)(i) through (d)(1)(iv) provided that the criteria and protocols are modified appropriately to provide proper protection for such heavier weights.

(e) *Care and use.* (1) Snap-hooks, unless of a locking type designed and used to prevent disengagement from the following connections, shall not be engaged:

- (i) Directly to webbing, rope or wire rope;
- (ii) To each other;
- (iii) To a dee-ring to which another snap-hook or other connector is attached;
- (iv) To a horizontal lifeline; or
- (v) To any object which is incompatibly shaped or dimensioned in relation to the snap-hook such that the connected object could depress the snap-hook keeper a sufficient amount to release itself.

(2) Devices used to connect to a horizontal lifeline which may become a vertical lifeline shall be capable of locking in either direction on the lifeline.

(3) Personal fall arrest systems shall be rigged such that an employee can neither free fall more than six feet (1.8 m), nor contact any lower level.

(4) The attachment point of the body belt shall be located in the center of the wearer's back. The attachment point of the body harness shall be located in the center of the wearer's back near shoulder level, or above the wearer's head.

(5) When vertical lifelines are used, each employee shall be provided with a separate lifeline.

(6) Personal fall arrest systems or components shall be used only for employee fall protection.

(7) Personal fall arrest systems or components subjected to impact loading shall be immediately removed from service and shall not be used again for employee protection unless inspected and determined by a competent person to be undamaged and suitable for reuse.

(8) The employer shall provide for prompt rescue of employees in the event of a fall or shall assure the self-rescue capability of employees.

(9) Before using a personal fall arrest system, and after any component or system is changed, employees shall be trained in

accordance with the requirements of paragraph 1910.66(i)(1), in the safe use of the system.

(f) *Inspections.* Personal fall arrest systems shall be inspected prior to each use for mildew, wear, damage and other deterioration, and defective components shall be removed from service if their strength or function may be adversely affected.

II. *Test methods for personal fall arrest systems (non-mandatory)*—(a) *General.* Paragraphs (b), (c), (d) and (e), of this Section II set forth test procedures which may be used to determine compliance with the requirements in paragraph (d)(1)(i) through (d)(1)(iv) of Section I of this Appendix.

(b) *General conditions for all tests in Section II.* (1) Lifelines, lanyards and deceleration devices should be attached to an anchorage and connected to the body-belt or body harness in the same manner as they would be when used to protect employees.

(2) The anchorage should be rigid, and should not have a deflection greater than .04 inches (1 mm) when a force of 2,250 pounds (10 kN) is applied.

(3) The frequency response of the load measuring instrumentation should be 120 Hz.

(4) The test weight used in the strength and force tests should be a rigid, metal, cylindrical or torso-shaped object with a girth of 38 inches plus or minus four inches (96 cm plus or minus 10 cm).

(5) The lanyard or lifeline used to create the free fall distance should be supplied with the system, or in its absence, the least elastic lanyard or lifeline available to be used with the system.

(6) The test weight for each test should be hoisted to the required level and should be quickly released without having any appreciable motion imparted to it.

(7) The system's performance should be evaluated taking into account the range of environmental conditions for which it is designed to be used.

(8) Following the test, the system need not be capable of further operation.

(c) *Strength test.* (1) During the testing of all systems, a test weight of 300 pounds plus or minus five pounds (135 kg plus or minus 2.5 kg) should be used. (See paragraph (b)(4), above.)

(2) The test consists of dropping the test weight once. A new unused system should be used for each test.

(3) For lanyard systems, the lanyard length should be six feet plus or minus two inches (1.83 m plus or minus 5 cm) as measured from the fixed anchorage to the attachment on the body belt or body harness.

(4) For rope-grab-type deceleration systems, the length of the lifeline above the centerline of the grabbing mechanism to the lifeline's anchorage point should not exceed two feet (0.61 m).

(5) For lanyard systems, for systems with deceleration devices which do not automatically limit free fall distance to two feet (0.61 m) or less, and for systems with deceleration devices which have a connection distance in excess of one foot (0.3 m) (measured between the centerline of the lifeline and the attachment point to the body belt or harness), the test weight should be rigged to free fall a distance of 7.5 feet (2.3 m)

from a point that is 1.5 feet (46 cm) above the anchorage point, to its hanging location (six feet below the anchorage). The test weight should fall without interference, obstruction, or hitting the floor or ground during the test. In some cases a non-elastic wire lanyard of sufficient length may need to be added to the system (for test purposes) to create the necessary free fall distance.

(6) For deceleration device systems with integral lifelines or lanyards which automatically limit free fall distance to two feet (0.61 m) or less, the test weight should be rigged to free fall a distance of four feet (1.22 m).

(7) Any weight which detaches from the belt or harness should constitute failure for the strength test.

(d) *Force test*—(1) *General.* The test consists of dropping the respective test weight specified in (d)(2)(i) or (d)(3)(i) once. A new, unused system should be used for each test.

(2) *For lanyard systems.* (i) A test weight of 220 pounds plus or minus three pounds (100 kg plus or minus 1.6 kg) should be used. (See paragraph (b)(4), above.)

(ii) Lanyard length should be six feet plus or minus two inches (1.83 m plus or minus 5 cm) as measured from the fixed anchorage to the attachment on the body belt or body harness.

(iii) The test weight should fall free from the anchorage level to its hanging location (a total of six feet (1.83 m) free fall distance) without interference, obstruction, or hitting the floor or ground during the test.

(3) *For all other systems.* (i) A test weight of 220 pounds plus or minus three pounds (100 kg plus or minus 1.6 kg) should be used. (See paragraph (b)(4), above.)

(ii) The free fall distance to be used in the test should be the maximum fall distance physically permitted by the system during normal use conditions, up to a maximum free fall distance for the test weight of six feet (1.83 m), except as follows:

(A) For deceleration systems which have a connection link or lanyard, the test weight should free fall a distance equal to the connection distance (measured between the centerline of the lifeline and the attachment point to the body belt or harness).

(B) For deceleration device systems with integral lifelines or lanyards which automatically limit free fall distance to two feet (0.61 m) or less, the test weight should free fall a distance equal to that permitted by the system in normal use. (For example, to test a system with a self-retracting lifeline or lanyard, the test weight should be supported and the system allowed to retract the lifeline or lanyard as it would in normal use. The test weight would then be released and the force and deceleration distance measured).

(4) A system fails the force test if the recorded maximum arresting force exceeds 1,260 pounds (15.6 kN) when using a body belt, and/or exceeds 2,520 pounds (11.2 kN) when using a body harness.

(5) The maximum elongation and deceleration distance should be recorded during the force test.

(e) *Deceleration device tests*—(1) *General.* The device should be evaluated or tested

under the environmental conditions, (such as rain, ice, grease, dirt, type of lifeline, etc.), for which the device is designed.

(2) *Rope-grab-type deceleration devices.* (i) Devices should be moved on a lifeline 1,000 times over the same length of line a distance of not less than one foot (30.5 cm), and the mechanism should lock each time.

(ii) Unless the device is permanently marked to indicate the type(s) of lifeline which must be used, several types (different diameters and different materials), of lifelines should be used to test the device.

(3) *Other self-activating-type deceleration devices.* The locking mechanisms of other self-activating-type deceleration devices designed for more than one arrest should lock each of 1,000 times as they would in normal service.

III. *Additional non-mandatory guidelines for personal fall arrest systems.* The following information constitutes additional guidelines for use in complying with requirements for a personal fall arrest system.

(a) *Selection and use considerations.* The kind of personal fall arrest system selected should match the particular work situation, and any possible free fall distance should be kept to a minimum. Consideration should be given to the particular work environment. For example, the presence of acids, dirt, moisture, oil, grease, etc., and their effect on the system, should be evaluated. Hot or cold environments may also have an adverse effect on the system. Wire rope should not be used where an electrical hazard is anticipated. As required by the standard, the employer must plan to have means available to promptly rescue an employee should a fall occur, since the suspended employee may not be able to reach a work level independently.

Where lanyards, connectors, and lifelines are subject to damage by work operations such as welding, chemical cleaning, and sandblasting, the component should be protected, or other securing systems should be used. The employer should fully evaluate the work conditions and environment (including seasonal weather changes) before selecting the appropriate personal fall protection system. Once in use, the system's effectiveness should be monitored. In some cases, a program for cleaning and maintenance of the system may be necessary.

(b) *Testing considerations.* Before purchasing or putting into use a personal fall arrest system, an employer should obtain from the supplier information about the system based on its performance during testing so that the employer can know if the system meets this standard. Testing should be done using recognized test methods. Section II of this Appendix C contains test methods recognized for evaluating the performance of fall arrest systems. Not all systems may need to be individually tested; the performance of some systems may be based on data and calculations derived from testing of similar systems, provided that enough information is available to demonstrate similarity of function and design.

(c) *Component compatibility considerations.* Ideally, a personal fall arrest system is designed, tested, and supplied as a

complete system. However, it is common practice for lanyards, connectors, lifelines, deceleration devices, body belts and body harnesses to be interchanged since some components wear out before others. The employer and employee should realize that not all components are interchangeable. For instance, a lanyard should not be connected between a body belt (or harness) and a deceleration device of the self-retracting type since this can result in additional free fall for which the system was not designed. Any substitution or change to a personal fall arrest system should be fully evaluated or tested by a competent person to determine that it meets the standard, before the modified system is put in use.

(d) *Employee training considerations.* Thorough employee training in the selection and use of personal fall arrest systems is imperative. As stated in the standard, before the equipment is used, employees must be trained in the safe use of the system. This should include the following: Application limits; proper anchoring and tie-off techniques; estimation of free fall distance, including determination of deceleration distance, and total fall distance to prevent striking a lower level; methods of use; and inspection and storage of the system. Careless or improper use of the equipment can result in serious injury or death. Employers and employees should become familiar with the material in this Appendix, as well as manufacturer's recommendations, before a system is used. Of uppermost importance is the reduction in strength caused by certain tie-offs (such as using knots, tying around sharp edges, etc.) and maximum permitted free fall distance. Also, to be stressed are the importance of inspections prior to use, the limitations of the equipment, and unique conditions at the worksite which may be important in determining the type of system to use.

(e) *Instruction considerations.* Employers should obtain comprehensive instructions from the supplier as to the system's proper use and application, including, where applicable:

- (1) The force measured during the sample force test;
- (2) The maximum elongation measured for lanyards during the force test;
- (3) The deceleration distance measured for deceleration devices during the force test;
- (4) Caution statements on critical use limitations;
- (5) Application limits;
- (6) Proper hook-up, anchoring and tie-off techniques, including the proper dee-ring or other attachment point to use on the body belt and harness for fall arrest;
- (7) Proper climbing techniques;
- (8) Methods of inspection, use, cleaning, and storage; and
- (9) Specific lifelines which may be used. This information should be provided to employees during training.

(f) *Inspection considerations.* As stated in the standard (Section I, Paragraph (f)), personal fall arrest systems must be regularly inspected. Any component with any significant defect, such as cuts, tears, abrasions, mold, or undue stretching; alterations or additions which might affect its

efficiency; damage due to deterioration; contact with fire, acids, or other corrosives; distorted hooks or faulty hook springs; tongues unfitted to the shoulder of buckles; loose or damaged mountings; non-functioning parts; or wearing or internal deterioration in the ropes must be withdrawn from service immediately, and should be tagged or marked as unusable, or destroyed.

(g) *Rescue considerations.* As required by the standard (Section I, Paragraph (e)(8)), when personal fall arrest systems are used, the employer must assure that employees can be promptly rescued or can rescue themselves should a fall occur. The availability of rescue personnel, ladders or other rescue equipment should be evaluated. In some situations, equipment which allows employees to rescue themselves after the fall has been arrested may be desirable, such as devices which have descent capability.

(h) *Tie-off considerations.* (1) One of the most important aspects of personal fall protection systems is fully planning the system before it is put into use. Probably the most overlooked component is planning for suitable anchorage points. Such planning should ideally be done before the structure or building is constructed so that anchorage points can be incorporated during construction for use later for window cleaning or other building maintenance. If properly planned, these anchorage points may be used during construction, as well as afterwards.

(2) Employers and employees should at all times be aware that the strength of a personal fall arrest system is based on its being attached to an anchoring system which does not significantly reduce the strength of the system (such as a properly dimensioned eye-bolt/snap-hook anchorage). Therefore, if a means of attachment is used that will reduce the strength of the system, that component should be replaced by a stronger one, but one that will also maintain the appropriate maximum arrest force characteristics.

(3) Tie-off using a knot in a rope lanyard or lifeline (at any location) can reduce the lifeline or lanyard strength by 50 percent or more. Therefore, a stronger lanyard or lifeline should be used to compensate for the weakening effect of the knot, or the lanyard length should be reduced (or the tie-off location raised) to minimize free fall distance, or the lanyard or lifeline should be replaced by one which has an appropriately incorporated connector to eliminate the need for a knot.

(4) Tie-off of a rope lanyard or lifeline around an "H" or "I" beam or similar support can reduce its strength as much as 70 percent due to the cutting action of the beam edges. Therefore, use should be made of a webbing lanyard or wire core lifeline around the beam; or the lanyard or lifeline should be protected from the edge; or free fall distance should be greatly minimized.

(5) Tie-off where the line passes over or around rough or sharp surfaces reduces strength drastically. Such a tie-off should be avoided or an alternative tie-off rigging should be used. Such alternatives may include use of a snap-hook/dee ring

connection, wire rope tie-off, an effective padding of the surfaces, or an abrasion-resistance strap around or over the problem surface.

(6) Horizontal lifelines may, depending on their geometry and angle of sag, be subjected to greater loads than the impact load imposed by an attached component. When the angle of horizontal lifeline sag is less than 30 degrees, the impact force imparted to the lifeline by an attached lanyard is greatly amplified. For example, with a sag angle of 15 degrees, the force amplification is about 2:1 and at 5 degrees sag, it is about 6:1.

Depending on the angle of sag, and the line's elasticity, the strength of the horizontal lifeline and the anchorages to which it is attached should be increased a number of times over that of the lanyard. Extreme care should be taken in considering a horizontal lifeline for multiple tie-offs. The reason for this is that in multiple tie-offs to a horizontal lifeline, if one employee falls, the movement of the falling employee and the horizontal lifeline during arrest of the fall may cause other employees to also fall. Horizontal lifeline and anchorage strength should be increased for each additional employee to be tied-off. For these and other reasons, the design of systems using horizontal lifelines must only be done by qualified persons. Testing of installed lifelines and anchors prior to use is recommended.

(7) The strength of an eye-bolt is rated along the axis of the bolt and its strength is greatly reduced if the force is applied at an angle to this axis (in the direction of shear). Also, care should be exercised in selecting the proper diameter of the eye to avoid accidental disengagement of snap-hooks not designed to be compatible for the connection.

(8) Due to the significant reduction in the strength of the lifeline/lanyard (in some cases, as much as a 70 percent reduction), the sliding hitch knot should not be used for lifeline/lanyard connections except in emergency situations where no other available system is practical. The "one-and-one" sliding hitch knot should never be used because it is unreliable in stopping a fall. The "two-and-two," or "three-and-three" knot (preferable), may be used in emergency situations; however, care should be taken to limit free fall distance to a minimum because of reduced lifeline/lanyard strength.

(i) *Vertical lifeline considerations.* As required by the standard, each employee must have a separate lifeline when the lifeline is vertical. The reason for this is that in multiple tie-offs to a single lifeline, if one employee falls, the movement of the lifeline during the arrest of the fall may pull other employees' lanyards, causing them to fall as well.

(j) *Snap-hook considerations.* Although not required by this standard for all connections, locking snap-hooks designed for connection to suitable objects (of sufficient strength) are highly recommended in lieu of the non-locking type. Locking snap-hooks incorporate a positive locking mechanism in addition to the spring loaded keeper, which will not allow the keeper to open under moderate pressure without someone first releasing the mechanism. Such a feature, properly designed, effectively prevents roll-out from occurring.

As required by the standard (Section I, paragraph (e)(1)) the following connections must be avoided (unless properly designed locking snap-hooks are used) because they are conditions which can result in roll-out when a nonlocking snap-hook is used:

- Direct connection of a snap-hook to a horizontal lifeline.
- Two (or more) snap-hooks connected to one dee-ring.
- Two snap-hooks connected to each other.
- A snap-hook connected back on its integral lanyard.
- A snap-hook connected to a webbing loop or webbing lanyard.
- Improper dimensions of the dee-ring, rebar, or other connection point in relation to the snap-hook dimensions which would allow the snap-hook keeper to be depressed by a turning motion of the snap-hook.

(k) *Free fall considerations.* The employer and employee should at all times be aware that a system's maximum arresting force is evaluated under normal use conditions established by the manufacturer, and in no case using a free fall distance in excess of six feet (1.8 m). A few extra feet of free fall can significantly increase the arresting force on the employee, possibly to the point of causing injury. Because of this, the free fall distance should be kept at a minimum, and, as required by the standard, in no case greater than six feet (1.8 m). To help assure this, the tie-off attachment point to the lifeline or anchor should be located at or above the connection point of the fall arrest equipment to belt or harness. (Since otherwise additional free fall distance is added to the length of the connecting means (i.e. lanyard)). Attaching to the working surface will often result in a free fall greater than six feet (1.8 m). For instance, if a six foot (1.8 m) lanyard is used, the total free fall distance will be the distance from the working level to the body belt (or harness) attachment point plus the six feet (1.8 m) of lanyard length. Another important consideration is that the arresting force which the fall system must withstand also goes up with greater distances of free fall, possibly exceeding the strength of the system.

(l) *Elongation and deceleration distance considerations.* Other factors involved in a proper tie-off are elongation and deceleration distance. During the arresting of a fall, a lanyard will experience a length of stretching or elongation, whereas activation of a deceleration device will result in a certain stopping distance. These distances should be available with the lanyard or device's instructions and must be added to the free fall distance to arrive at the total fall distance before an employee is fully stopped. The additional stopping distance may be very significant if the lanyard or deceleration device is attached near or at the end of a long lifeline, which may itself add considerable distance due to its own elongation. As required by the standard, sufficient distance to allow for all of these factors must also be maintained between the employee and obstructions below, to prevent an injury due to impact before the system fully arrests the fall. In addition, a minimum of 12 feet (3.7 m) of lifeline should be allowed below the

securing point of a rope grab type deceleration device, and the end terminated to prevent the device from sliding off the lifeline. Alternatively, the lifeline should extend to the ground or the next working level below. These measures are suggested to prevent the worker from inadvertently moving past the end of the lifeline and having the rope grab become disengaged from the lifeline.

(m) *Obstruction considerations.* The location of the tie-off should also consider the hazard of obstructions in the potential fall path of the employee. Tie-offs which minimize the possibilities of exaggerated swinging should be considered. In addition, when a body belt is used, the employee's body will go through a horizontal position to a jack-knifed position during the arrest of all falls. Thus, obstructions which might interfere with this motion should be avoided or a severe injury could occur.

(n) *Other considerations.* Because of the design of some personal fall arrest systems, additional considerations may be required for proper tie-off. For example, heavy deceleration devices of the self-retracting type should be secured overhead in order to avoid the weight of the device having to be supported by the employee. Also, if self-retracting equipment is connected to a horizontal lifeline, the sag in the lifeline should be minimized to prevent the device from sliding down the lifeline to a position which creates a swing hazard during fall arrest. In all cases, manufacturer's instructions should be followed.

#### Appendix D to Section 1910.66, Existing Installations (Mandatory)

##### Use of the Appendix

Appendix D sets out the mandatory building and equipment requirements for applicable permanent installations completed after August 27, 1971, and no later than July 23, 1990 which are exempt from the paragraphs (a), (b)(1), (b)(2), (c), (d), (e), and (f) of this standard. The requirements in Appendix D are essentially the same as unrevised building and equipment provisions which previously were designated as 29 CFR 1910.66 (a), (b), (c) and (d) and which were effective on August 27, 1971.

Note: All existing installations subject to this Appendix shall also comply with paragraphs (g), (h), (i), (j) and Appendix C of the standard 29 CFR 1910.66.

(a) *Definitions applicable to this appendix—(1) Angulated roping.* A system of platform suspension in which the upper wire rope sheaves or suspension points are closer to the plane of the building face than the corresponding attachment points on the platform, thus causing the platform to press against the face of the building during its vertical travel.

(2) *ANSI.* American National Standards Institute.

(3) *Babbitted fastenings.* The method of providing wire rope attachments in which the ends of the wire strands are bent back and are held in a tapered socket by means of poured molten babbitt metal.

(4) *Brake—disc type.* A brake in which the holding effect is obtained by frictional resistance between one or more faces of discs keyed to the rotating member to be held and fixed discs keyed to the stationary or housing member (pressure between the discs being applied axially).

(5) *Brake—self-energizing band type.* An essentially undirectional brake in which the holding effect is obtained by the snubbing action of a flexible band wrapped about a cylindrical wheel or drum affixed to the rotating member to be held, the connections and linkages being so arranged that the motion of the brake wheel or drum will act to increase the tension or holding force of the band.

(6) *Brake—shoe type.* A brake in which the holding effect is obtained by applying the direct pressure of two or more segmental friction elements held to a stationary member against a cylindrical wheel or drum affixed to the rotating member to be held.

(7) *Building face rollers.* A specialized form of guide roller designed to contact a portion of the outer face or wall structure of the building, and to assist in stabilizing the operators' platform during vertical travel.

(8) *Continuous pressure.* Operation by means of buttons or switches, any one of which may be used to control the movement of the working platform or roof car, only as long as the button or switch is manually maintained in the actuating position.

(9) *Control.* A system governing starting, stopping, direction, acceleration, speed, and retardation of moving members.

(10) *Controller.* A device or group of devices, usually contained in a single enclosure, which serves to control in some predetermined manner the apparatus to which it is connected.

(11) *Electrical ground.* A conducting connection between an electrical circuit or equipment and the earth, or some conducting body which serves in place of the earth.

(12) *Guide roller.* A rotating, bearing-mounted, generally cylindrical member, operating separately or as part of a guide shoe assembly, attached to the platform, and providing rolling contact with building guideways, or other building contact members.

(13) *Guide shoe.* An assembly of rollers, slide members, or the equivalent, attached as a unit to the operators' platform, and designed to engage with the building members provided for the vertical guidance of the operators' platform.

(14) *Interlock.* A device actuated by the operation of some other device with which it is directly associated, to govern succeeding operations of the same or allied devices.

(15) *Operating device.* A pushbutton, lever, or other manual device used to actuate a control.

(16) *Powered platform.* Equipment to provide access to the exterior of a building for maintenance, consisting of a suspended power-operated working platform, a roof car, or other suspension means, and the requisite operating and control devices.

(17) *Rated load.* The combined weight of employees, tools, equipment, and other material which the working platform is designed and installed to lift.

(18) *Relay, direction.* An electrically energized contactor responsive to an initiating control circuit, which in turn causes a moving member to travel in a particular direction.

(19) *Relay, potential for vertical travel.* An electrically energized contactor responsive to initiating control circuit, which in turn controls the operation of a moving member in both directions. This relay usually operates in conjunction with direction relays, as covered under the definition, "relay, direction."

(20) *Roof car.* A structure for the suspension of a working platform, providing for its horizontal movement to working positions.

(21) *Roof-powered platform.* A powered platform having the raising and lowering mechanism located on a roof car.

(22) *Self-powered platform.* A powered platform having the raising and lowering mechanism located on the working platform.

(23) *Traveling cable.* A cable made up of electrical or communication conductors or both, and providing electrical connection between the working platform and the roof car or other fixed point.

(24) *Weatherproof.* Equipment so constructed or protected that exposure to the weather will not interfere with its proper operation.

(25) *Working platform.* The suspended structure arranged for vertical travel which provides access to the exterior of the building or structure.

(26) *Yield point.* The stress at which the material exhibits a permanent set of 0.2 percent.

(27) *Zinc fastenings.* The method of providing wire rope attachments in which the splayed or fanned wire ends are held in a tapered socket by means of poured molten zinc.

(b) *General requirements.* (1) Design requirements. All powered platform installations for exterior building maintenance completed as of August 27, 1971, but no later than [insert date, 180 days after the effective date], shall meet all of the design, construction and installation requirements of Part II and III of the "American National Standard Safety Requirements for Powered Platforms for Exterior Building Maintenance ANSI A120.1-1970" and of this appendix. References shall be made to appropriate parts of ANSI A120.1-1970 for detail specifications for equipment and special installations.

(2) *Limitation.* The requirements of this appendix apply only to electric powered platforms. It is not the intent of this appendix to prohibit the use of other types of power. Installation of powered platforms using other types of power is permitted, provided such platforms have adequate protective devices for the type of power used, and otherwise provide for reasonable safety of life and limb to users of equipment and to others who may be exposed.

(3) *Types of powered platforms.* (i) For the purpose of applying this appendix, powered platforms are divided into two basic types, Type F and Type T.

(ii) Powered platforms designated as Type F shall meet all the requirements in Part II of ANSI A 120.1-1970, American National

Standard Safety Requirements for Powered Platforms for Exterior Building Maintenance. A basic requirement of Type F equipment is that the work platform is suspended by at least four wire ropes and designed so that failure of any one wire rope will not substantially alter the normal position of the working platform. Another basic requirement of Type F equipment is that only one layer of hoisting rope is permitted on winding drums. Type F powered platforms may be either roof-powered or self-powered.

(iii) Powered platforms designated as Type T shall meet all the requirements in Part III of ANSI A120.1-1970 American National Standard Safety Requirements for Powered Platforms for Exterior Building Maintenance, except for section 28, Safety Belts and Life Lines. A basic requirement of Type T equipment is that the working platform is suspended by at least two wire ropes. Failure of one wire rope would not permit the working platform to fall to the ground, but would upset its normal position. Type T powered platforms may be either roof-powered or self-powered.

(iv) The requirements of this section apply to powered platforms with winding drum type hoisting machines. It is not the intent of this section to prohibit powered platforms using other types of hoisting machines such as, but not limited to, traction drum hoisting machines, air powered machines, hydraulic powered machines, and internal combustion machines. Installation of powered platforms with other types of hoisting machines is permitted, provided adequate protective devices are used, and provided reasonable safety of life and limb to users of the equipment and to others who may be exposed is assured.

(v) Both Type F and Type T powered platforms shall comply with the requirements of Appendix C of this standard.

(c) *Type F powered platforms—(1) Roof car, general.* (i) A roof car shall be provided whenever it is necessary to move the working platform horizontally to working or storage positions.

(ii) The maximum rated speed at which a power traversed roof car may be moved in a horizontal direction shall be 50 feet per minute.

(2) *Movement and positioning of roof car.*

(i) Provision shall be made to protect against having the roof car leave the roof or enter roof areas not designed for travel.

(ii) The horizontal motion of the roof cars shall be positively controlled so as to insure proper movement and positioning of the roof car.

(iii) Roof car positioning devices shall be provided to insure that the working platform is placed and retained in proper position for vertical travel and during storage.

(iv) Mechanical stops shall be provided to prevent the traversing of the roof car beyond its normal limits of travel. Such stops shall be capable of withstanding a force equal to 100 percent of the inertial effect of the roof car in motion with traversing power applied.

(v)(a) The operating device of a power-operated roof car for traversing shall be located on the roof car, the working platform, or both, and shall be of the continuous

pressure weather-proof electric type. If more than one operating device is provided, they shall be so arranged that traversing is possible only from one operating device at a time.

(b) The operating device shall be so connected that it is not operable until:

(1) The working platform is located at its uppermost position of travel and is not in contact with the building face or fixed vertical guides in the face of the building; and

(2) All protective devices and interlocks are in a position for traversing.

(3) *Roof car stability.* Roof car stability shall be determined by either paragraph (c)(3)(i) or (ii) of this Appendix, whichever is greater.

(i) The roof car shall be continuously stable, considering overturning moment as determined by 125 percent rated load, plus maximum dead load and the prescribed wind loading.

(ii) The roof car and its anchorages shall be capable of resisting accidental over-tensioning of the wire ropes suspending the working platform and this calculated value shall include the effect of one and one-half times the value. For this calculation, the simultaneous effect of one-half wind load shall be included, and the design stresses shall not exceed those referred to in paragraph (b)(1) of this Appendix.

(iii) If the load on the motors is at any time in excess of three times that required for lifting the working platform with its rated load the motor shall stall.

(4) *Access to the roof car.* Safe access to the roof car and from the roof car to the working platform shall be provided. If the access to the roof car at any point of its travel is not over the roof area or where otherwise necessary for safety, self-closing, self-locking gates shall be provided.

Applicable provisions of the American National Standard Safety Requirements for Floor and Wall Openings, Railings and Toeboard, A12.1-1967, shall apply.

(5) *Means for maintenance, repair, and storage.* Means shall be provided to run the roof car away from the roof perimeter, where necessary, and to provide a safe area for maintenance, repairs, and storage. Provisions shall be made to secure the machine in the stored position. For stored machines subject to wind forces, see special design and anchorage requirements for "wind forces" in Part II, section 10.5.1.1 of ANSI A120.1-1970 American National Standard Safety Requirements for Powered Platforms for Exterior Building Maintenance.

(6) *General requirements for working platforms.* The working platform shall be of girder or truss construction and shall be adequate to support its rated load under any position of loading, and comply with the provisions set forth in section 10 of ANSI A120.1-1970, American National Standard Safety Requirements for Powered Platforms for Exterior Building Maintenance.

(7) *Load rating plate.* Each working platform shall bear a manufacturer's load rating plate, conspicuously posted; stating the maximum permissible rated load. Load rating plates shall be made of noncorrosive material and shall have letters and figures stamped, etched, or cast on the surface. The minimum

height of the letters and figures shall be one-fourth inch.

(8) *Minimum size.* The working platform shall have a minimum net width of 24 inches.

(9) *Guardrails.* Working platforms shall be furnished with permanent guard rails not less than 36 inches high, and not more than 42 inches high at the front (building side). At the rear, and on the sides, the rail shall not be less than 42 inches high. An intermediate guardrail shall be provided around the entire platform between the top guardrail and the toeboard.

(10) *Toeboards.* A four-inch toeboard shall be provided along all sides of the working platform.

(11) *Open spaces between guardrails and toeboards.* The spaces between the intermediate guardrail and platform toeboard on the building side of the working platform, and between the top guardrail and the toeboard on other sides of the platform, shall be filled with metallic mesh or similar material that will reject a ball one inch in diameter. The installed mesh shall be capable of withstanding a load of 100 pounds applied horizontally over any area of 144 square inches. If the space between the platform and the building face does not exceed eight inches, and the platform is restrained by guides, the mesh may be omitted on the front side.

(12) *Flooring.* The platform flooring shall be of the nonskid type, and if of open construction, shall reject a  $\frac{1}{8}$ -inch diameter ball, or be provided with a screen below the floor to reject a  $\frac{1}{8}$ -inch diameter ball.

(13) *Access gates.* Where access gates are provided, they shall be self-closing and self-locking.

(14) *Operating device for vertical movement of the working platform.* (i) The normal operating device for the working platform shall be located on the working platform and shall be of the continuous pressure weatherproof electric type.

(ii) The operating device shall be operable only when all electrical protective devices and interlocks on the working platform are in position for normal service and, the roof car, if provided, is at an established operating point.

(15) *Emergency electric operative device.*

(i) In addition, on roof-powered platforms, an emergency electric operating device shall be provided near the hoisting machine for use in the event of failure of the normal operating device for the working platform, or failure of the traveling cable system. The emergency operating device shall be mounted in a locked compartment and shall have a legend mounted thereon reading: "For Emergency Operation Only. Establish Communication With Personnel on Working Platform Before Use."

(ii) A key for unlocking the compartment housing the emergency operating device shall be mounted in a break-glass receptacle located near the emergency operating device.

(16) *Manual cranking for emergency operation.* Emergency operation of the main drive machine may be provided to allow manual cranking. This provision for manual operation shall be designed so that not more than two persons will be required to perform this operation. The access to this provision

shall include a means to automatically make the machine inoperative electrically while under the emergency manual operation. The design shall be such that the emergency brake is operative at or below governor tripping speed during manual operation.

(17) *Arrangement and guarding of hoisting equipment.*

(i) Hoisting equipment shall consist of a power-driven drum or drum contained in the roof car (roof-powered platforms) or contained on the working platform (self-powered platform).

(ii) The hoisting equipment shall be power-operated in both up and down directions.

(iii) Guard or other protective devices shall be installed wherever rotating shafts or other mechanisms or gears may expose personnel to a hazard.

(iv) Friction devices or clutches shall not be used for connecting the main driving mechanism to the drum or drums. Belt or chain-driven machines are prohibited.

(18) *Hoisting motors.* (i) Hoisting motors shall be electric and of weather-proof construction.

(ii) Hoisting motors shall be in conformance with applicable provisions of paragraph (c)(22) of this appendix, Electric Wiring and Equipment.

(iii) Hoisting motors shall be directly connected to the hoisting machinery. Motor couplings, if used, shall be of steel construction.

(19) *Brakes.* The hoisting machine(s) shall have two independent braking means, each designed to stop and hold the working platform with 125 percent of rated load.

(20) *Hoisting ropes and rope connections.*

(i) Working platforms shall be suspended by wire ropes of either 6×19 or 6×37 classification, preformed or nonpreformed.

(ii) [Reserved]

(iii) The minimum factor of safety shall be 10, and shall be calculated by the following formula:

$$F = S \times N / W$$

Where

S = Manufacturer's rated breaking strength of one rope.

N = Number of ropes under load.

W = Maximum static load on all ropes with the platform and its rated load at any point of its travel.

(iv) Hoisting ropes shall be sized to conform with the required factor of safety, but in no case shall the size be less than  $\frac{1}{16}$  inch diameter.

(v) Winding drums shall have at least three turns of rope remaining when the platform has landed at the lowest possible point of its travel.

(vi) The lengthening or repairing of wire rope by the joining of two or more lengths is prohibited.

(vii) The nondrum ends of the hoisting ropes shall be provided with individual shackle rods which will permit individual adjustment of rope lengths, if required.

(viii) More than two reverse bends in each rope is prohibited.

(21) *Rope tag data.* (i) A metal data tag shall be securely attached to one of the wire rope fastenings. This data tag shall bear the following wire rope data:

- (a) The diameter in inches.
- (b) Construction classification.
- (c) Whether nonperformed or performed.
- (d) The grade of material used.
- (e) The manufacturer's rated breaking strength.
- (f) Name of the manufacturer of the rope.
- (g) The month and year the ropes were installed.

(22) *Electrical wiring and equipment.* (i) All electrical equipment and wiring shall conform to the requirements of the National Electrical Code, NFPA 70-1971; ANSI C1-1971 (Rev. of C1-1968), except as modified by ANSI A120.1-1970 "American National Standard Safety Requirements for Powered Platforms for Exterior Building Maintenance." For detail design specifications for electrical equipment, see Part 2, ANSI A120.1-1970.

(ii) All motors and operation and control equipment shall be supplied from a single power source.

(iii) The power supply for the powered platform shall be an independent circuit supplied through a fused disconnect switch.

(iv) Electrical conductor parts of the power supply system shall be protected against accidental contact.

(v) Electrical grounding shall be provided. (a) Provisions for electrical grounding shall be included with the power-supply system.

(b) Controller cabinets, motor frames, hoisting machines, the working platform, roof car and roof car track system, and noncurrent carrying parts of electrical equipment, where provided, shall be grounded.

(c) The controller, where used, shall be so designed and installed that a single ground or short circuit will not prevent both the normal and final stopping device from stopping the working platform.

(d) Means shall be provided on the roof car and working platform for grounding portable electric tools.

(e) The working platform shall be grounded through a grounding connection in a traveling cable. Electrically powered tools utilized on the working platform shall be grounded.

(vi) Electrical receptacles located on the roof or other exterior location shall be of a weatherproof type and shall be located so as not to be subject to contact with water or accumulated snow. The receptacles shall be grounded and the electric cable shall include a grounding conductor. The receptacle and plug shall be a type designed to avoid hazard to persons inserting or withdrawing the plug. Provision shall be made to prevent application of cable strain directly to the plug and receptacle.

(vii) Electric runway conductor systems shall be of the type designed for use in exterior locations and shall be located so as not to be subject to contact with water or accumulated snow. The conductors, collectors, and disconnecting means shall conform to the same requirements as those for cranes and hoists in Article 610 of the National Electrical Code, NFPA 70-1971; ANSI C1-1971 (Rev. of C1-1968). A grounded conductor shall parallel the power conductors and be so connected that it cannot be opened by the disconnecting means. The system shall be designed to avoid hazard to persons in the area.

(viii) Electrical protective devices and interlocks of the weatherproof type shall be provided.

(ix) Where the installation includes a roof car, electric contact(s) shall be provided and so connected that the operating devices for the working platform shall be operative only when the roof car is located and mechanically retained at an established operating point.

(x) Where the powered platform includes a powered-operated roof car, the operating device for the roof car shall be inoperative when the roof car is mechanically retained at an established operating point.

(xi) An electric contact shall be provided and so connected that it will cause the down direction relay for vertical travel to open if the tension in the traveling cable exceeds safe limits.

(xii) An automatic overload device shall be provided to cut off the electrical power to the circuit in all hoisting motors for travel in the up direction, should the load applied to the hoisting ropes at either end of the working platform exceed 125 percent of its normal tension with rated load, as shown on the manufacturer's data plate on the working platform.

(xiii) An automatic device shall be provided for each hoisting rope which will cut off the electrical power to the hoisting motor or motors in the down direction and apply the brakes if any hoisting rope becomes slack.

(xiv) Upper and lower directional limit devices shall be provided to prevent the travel of the working platform beyond the normal upper and lower limits of travel.

(xv) Operation of a directional limit device shall prevent further motion in the appropriate direction, if the normal limit of travel has been reached.

(xvi) Directional limit devices, if driven from the hoisting machine by chains, tapes, or cables, shall incorporate a device to disconnect the electric power from the hoisting machine and apply both the primary and secondary brakes in the event of failure of the driving means.

(xvii) Final terminal stopping devices of the working platform:

(a) Final terminal stopping devices for the working platform shall be provided as a secondary means of preventing the working platform from over-traveling at the terminals.

(b) The device shall be set to function as close to each terminal landing as practical, but in such a way that under normal operating conditions it will not function when the working platform is stopped by the normal terminal stopping device.

(c) Operation of the final terminal stopping device shall open the potential relay for vertical travel, thereby disconnecting the electric power from the hoisting machine, and applying both the primary and secondary brakes.

(d) The final terminal stopping device for the upper limit of travel shall be mounted so that it is operated directly by the motion of the working platform itself.

(xviii) Emergency stop switches shall be provided in or adjacent to each operating device.

(xix) Emergency stop switches shall:

(a) Have red operating buttons or handles.

(b) Be conspicuously and permanently marked "Stop."

(c) Be the manually opened and manually closed type.

(d) Be positively opened with the opening not solely dependent on springs.

(xx) The manual operation of an emergency stop switch associated with an operating device for the working platform shall open the potential relay for vertical travel, thereby disconnecting the electric power from the hoisting machine and applying both the primary and secondary brakes.

(xxi) The manual operation of the emergency stop switch associated with the operating device for a power-driven roof car shall cause the electrical power to the traverse machine to be interrupted, and the traverse machine brake to apply.

(23) *Requirements for emergency communications.* (i) Communication equipment shall be provided for each powered platform for use in an emergency.

(ii) Two-way communication shall be established between personnel on the roof and personnel on the stalled working platform before any emergency operation of the working platform is undertaken by personnel on the roof.

(iii) The equipment shall permit two-way voice communication between the working platform and

(a) Designated personnel continuously available while the powered platform is in use; and

(b) Designated personnel on roof-powered platforms, undertaking emergency operation of the working platform by means of the emergency operating device located near the hoisting machine.

(iv) The emergency communication equipment shall be one of the following types:

(a) Telephone connected to the central telephone exchange system; or

(b) Telephones on a limited system or an approved two-way radio system, provided designated personnel are available to receive a message during the time the powered platform is in use.

(d) *Type T powered platforms—(1) Roof car.* The requirements of paragraphs (c)(1) through (c)(5) of this Appendix shall apply to Type T powered platforms.

(2) *Working platform.* The requirements of paragraphs (c)(6) through (c)(16) of this Appendix apply to Type T powered platforms.

(i) The working platform shall be suspended by at least two wire ropes.

(ii) The maximum rated speed at which the working platform of self-powered platforms may be moved in a vertical direction shall not exceed 35 feet per minute.

(3) *Hoisting equipment.* The requirements of paragraphs (c) (17) and (18) of this Appendix shall apply to Type T powered platforms.

(4) *Brakes.* Brakes requirements of paragraph (c)(19) of this Appendix shall apply.

(5) *Hoisting ropes and rope connections.* (i) Paragraphs (c)(20) (i) through (vi) and (viii) of

this Appendix shall apply to Type T powered platforms.

(ii) Adjustable shackle rods in subparagraph (c)(20)(vii) of this Appendix shall apply to Type T powered platforms, if the working platform is suspended by more than two wire ropes.

(6) *Electrical wiring and equipment.* (i) The requirements of paragraphs (c)(22) (i) through (vi) of this Appendix shall apply to Type T powered platforms. "Circuit protection limitation," "powered platform electrical service system," all operating services and control equipment shall comply with the specifications contained in Part 2, section 26, ANSI A120.1-1970.

(ii) For electrical protective devices the requirements of paragraphs (c)(22) (i) through (viii) of this Appendix shall apply to Type T powered platforms. Requirements for the "circuit potential limitation" shall be in accordance with specifications contained in Part 2, section 26, of ANSI A120.1-1970.

(7) *Emergency communications.* All the requirements of paragraph (c)(23) of this Appendix shall apply to Type T powered platforms.

[FR Doc. 89-17053 Filed 7-27-89; 8:45 am]

BILLING CODE 4510-26-M



# **Federal Register**

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Friday  
July 28, 1989

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## **Part III**

### **Department of Defense General Services Administration National Aeronautics and Space Administration**

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**48 CFR Part 31  
Federal Acquisition Regulation (FAR);  
Noncommercial Cost Principles;  
Proposed Rule**

## DEPARTMENT OF DEFENSE

GENERAL SERVICES  
ADMINISTRATIONNATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION

## 48 CFR Parts 31

Federal Acquisition Regulation (FAR);  
Noncommercial Cost Principles

**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 revising FAR Subparts 31.3, 31.6, and 31.7 to set forth a new rule on the allowability of costs incurred under Federal contracts with educational institutions, state and local governments, Federally recognized Indian tribal governments, and nonprofit organizations.

**DATE:** Comments should be submitted to the FAR Secretariat at the address shown below on or before September 26, 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 and F Streets, NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 89-61 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. Please cite FAR Case 89-61.

**SUPPLEMENTARY INFORMATION:****A. Background**

Pub. L. 99-145, the FY 1986 DoD Authorization Act, was enacted November 4, 1985. Title IX of the Act, the Defense Procurement Improvement Act, 1985, amended Chapter 137 of Title 10 U.S.C. by adding a new section 2324, "Allowable costs under defense contracts." Paragraph (e) of section 2324 made ten different costs unallowable and required the Secretary of Defense to prescribe regulations implementing this section. Since the enactment of Pub. L. 99-145, additional statutory cost prohibitions have been included under paragraph (e) of section 2324 by Pub. L. 100-180 (golden parachute payments), Pub. L. 100-370 (commercial insurance), Pub. L. 100-456 (severance pay to

foreign nationals), and Pub. L. 100-700 (criminal, civil, or administrative proceedings). These statutory provisions apply to contracts with both commercial and noncommercial entities.

These statutes were implemented with respect to contracts with commercial organizations in Federal Acquisition Circular (FAC) 84-15, effective April 7, 1986, for Pub. L. 99-145; FAC 84-35, effective April 4, 1988, for Pub. L. 100-180; the 1984 edition of the Federal Acquisition Regulation for Pub. L. 100-370; and FAC 84-44, effective March 29, 1989, for Pub. L. 100-456 and 100-700. While the law applied to defense contracts only, the DAR Council and the Civilian Agency Acquisition Council agreed that for Governmentwide regulatory uniformity, the revised cost principles should be incorporated into the FAR and applied to all contracts with commercial organizations.

The cost principles for Federal contracts with noncommercial organizations are specified in Subpart 31.3, Contracts with Educational Institutions, in Subpart 31.6, Contracts with State, Local, and Federally Recognized Indian Tribal Governments, and in Subpart 31.7, Contracts with Nonprofit Organizations. Each of these three subparts incorporates by reference and invokes, respectively, the Office of Management and Budget (OMB) Circulars A-21, Cost Principles for Educational Institutions, A-87, Cost Principles for State and Local Governments, and A-122, Cost Principles for Nonprofit Organizations.

In order to ensure that the requirements of Public Laws 99-145, 100-180, 100-370, 100-456, and 100-700 are observed pending revision of the OMB Circulars above, the proposed rule would amend Subparts 31.3, 31.6, and 31.7 to provide regulatory coverage implementing these statutes. The proposed FAR coverage would apply only to contracts with noncommercial entities and would not affect grants and cooperative agreements which are also subject to the OMB Circulars. It is envisioned that upon final approval of Circular revisions, that the regulatory coverage contained in this rule will be rescinded.

**B. Regulatory Flexibility Act**

This 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. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. Comments from small entities and other affected organizations

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 section 89-610 (FAR Case 89-61) in correspondence.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because compliance with the rule will not impose reporting, recordkeeping, or information collection requirements on noncommercial entities.

**List of Subjects in 48 CFR Part 31**

Government procurement.

Dated: July 24, 1989.

**Harry S. Rosinski,**

*Acting Director, Office of Federal Acquisition and Regulatory Policy.*

Therefore, 48 CFR Part 31 is amended as set forth below:

**PART 31—CONTRACT COST  
PRINCIPLES AND PROCEDURES**

1. The authority citation for 48 CFR Part 31 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).

2. Section 31.303 is revised to read as follows:

**31.303 Requirements.**

(a) Contracts that refer to this subpart for determining allowable costs under contracts with educational institutions shall be deemed to refer to, and shall have the allowability of costs determined by the contracting officer in accordance with paragraph (c) of this section, and the revision of OMB Circular A-21 in effect on the date of contract award.

(b) Agencies are not expected to place additional restrictions on individual items of cost.

(c) Certain aspects of OMB Circular A-21 are inconsistent with 10 U.S.C. 2324. Therefore, for purposes of determining allowability of costs incurred under Federal contracts which refer to this subpart, the following unallowability provisions in Subpart 31.2 are applicable, in addition to those cited in OMB Circular A-21: 31.205-1(f), 31.205-6(g)(2)(i), 31.205-6(1), 31.205-8, 31.205-14, 31.205-15(a), 31.205-19(a)(4), 31.205-22, 31.205-46(d), 31.205-47, and 31.205-51.

3. Section 31.603 is revised to read as follows:

**31.603 Requirements.**

(a) Contracts that refer to this subpart for determining allowable costs under contracts with State, local, and Indian tribal governments shall be deemed to

refer to, and shall have the allowability of costs determined by the contracting officer in accordance with paragraph (c) of this section, and the revision of OMC Circular A-87 which is in effect on the date of contract award.

(b) Agencies are not expected to place additional restrictions on individual items of cost.

(c) Certain aspects of OMB Circular A-87 are inconsistent with 10 U.S.C. 2324. Therefore, for purposes of determining allowability of costs incurred under Federal contracts which refer to this subpart, the following unallowability provisions in Subpart 31.2 are applicable, in addition to those cited in OMB Circular A-87: 31.205-1(f),

31.205-6(g)(2)(i), 31.205-6(1), 31.205-8, 31.205-14, 31.205-15(a), 31.205-19(a)(4), 31.205-22, 31.205-46(d), 31.205-47, and 31.205-51.

4. Section 31.703 is revised to read as follows:

**31.703 Requirements.**

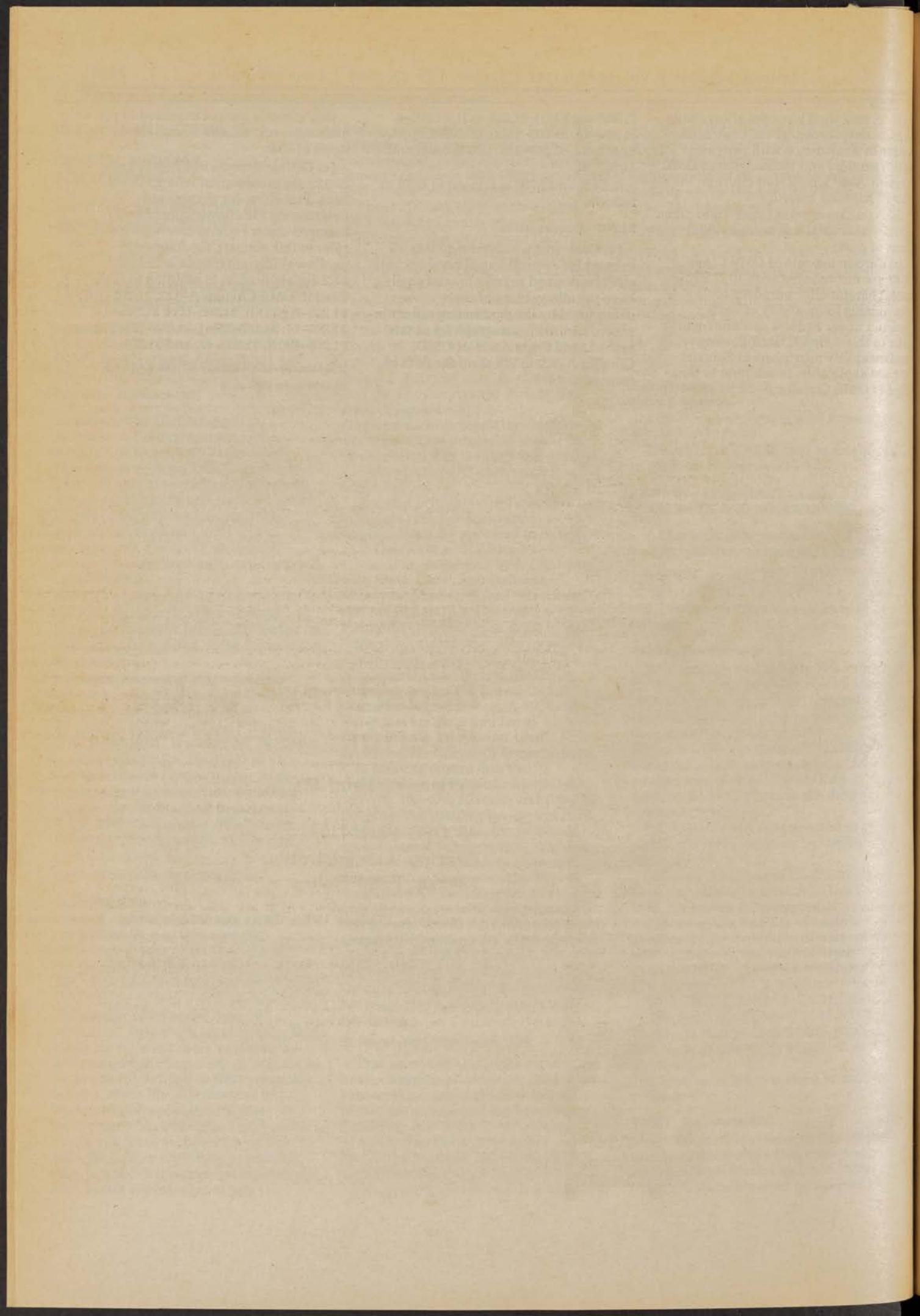
(a) Contracts which refer to this subpart for determining allowable costs shall be deemed to refer to, and shall have the allowability of costs determined by the contracting officer in accordance with paragraph (c) of this section, and the revision of OMC Circular A-122 in effect on the date of contract award.

(b) Agencies are not expected to place additional restrictions on individual items of cost.

(c) Certain aspects of OMB Circular A-122 are inconsistent with 10 U.S.C. 2324. Therefore, for purposes of determining the allowability of costs incurred under Federal contracts which refer to this subpart, the following unallowability provisions in Subpart 31.2 are applicable, in addition to those cited in OMB Circular A-122: 31.205-1(f), 31.205-6(g)(2)(i), 31.205-6(1), 31.205-8, 31.205-14, 31.205-15(a), 31.205-19(a)(4), 31.205-46(d), 31.205-47, and 31.205-51.

[FR Doc. 89-17703 Filed 7-27-89; 8:45 am]

BILLING CODE 6820-JC-M



# Federal Register

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Friday  
July 28, 1989

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## Part IV

### Department of the Interior

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Bureau of Land Management

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43 CFR Part 4100  
Grazing Administration Exclusive of  
Alaska; Final Rule

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

RIN 1004-AB61

[AA-220-08-4320-02; Circular No. 2620]

## 43 CFR Part 4100

## Grazing Administration Exclusive of Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

**SUMMARY:** This final rulemaking amends a section of regulations for the management of domestic livestock grazing on the public lands administered by the Bureau of Land Management. The revising regulation was issued by the Department of the Interior as a proposed rulemaking and published in the *Federal Register* on December 8, 1988 (53 FR 49565) with a public comment period of 60 days ending on February 8, 1989. Nine comments were received and considered during the development of the final rulemaking. This final rulemaking revises § 4110.4-2(a) to allow the authorized officer to determine on a case-by-case basis whether to cancel or suspend a grazing preference in whole or in part, or, where resource conditions warrant, to permit livestock grazing preferences to continue unchanged despite a reduction in the acreage available for livestock grazing.

**EFFECTIVE DATE:** August 28, 1989.

**ADDRESS:** Inquiries or suggestions should be sent to: Director (140), Bureau of Land Management, Room 5555-MIB, 1800 C Street NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Billy R. Templeton, (202) 653-9193.

**SUPPLEMENTARY INFORMATION:** This final rulemaking provides the authorized officer the flexibility to make determinations on a case-by-case basis to maintain, cancel or suspend a grazing preference where there is a reduction in the acreage available for livestock grazing.

The existing regulations at § 4110.4-2(a) require that where there is a decrease in public land acreage available for livestock grazing use within an allotment, grazing permits or leases and grazing preferences must be canceled in whole or in part. However, in certain circumstances, the public land acreage lost to livestock grazing may be very small and the remaining acreage in the allotment may produce sufficient forage for livestock to support the grazing preference. In other situations,

the land may be committed to a mining operation and later again be available for livestock grazing when the mining operation is completed and the land rehabilitated.

For these reasons, and in recognition of range administrative purposes, the existing regulations are revised to deal more logically with the livestock grazing permittees and lessees. Rather than be required to modify or cancel a grazing lease/permit or preference, the authorized officer shall have the authority to make a determination that takes into account the level of available forage for livestock and the magnitude of the change in public land acreage.

The proposed rulemaking was published in the *Federal Register* on December 8, 1988 (53 FR 49565) with a 60 day public comment period ending on February 8, 1989. During the 60 day comment period, 9 comments were received: 5 from associations; 2 from state governments; and 2 from a Federal agency.

Most of the public comments supported the proposed regulations, citing flexibility in decision making to reflect site specific conditions as a positive revision of the rules. Commenters opposing the proposed regulations expressed a spectrum of views concerning the agency's intent ranging from the proposed rules being another effort to eliminate livestock grazing on public lands to the proposed rulemaking having an objective of keeping grazing preferences at maximum levels.

By this final rulemaking the field level manager is given the latitude and flexibility to make sound land use decisions based on existing resource conditions and not be restricted by regulations which mandate cancellation of a grazing permit or lease, in whole or in part, when an allotment has any loss of acreage.

One comment expressed a concern that most of the decisions, pursuant to these regulations, will be to reduce existing livestock use levels. The Bureau of Land Management does not anticipate that the final rule will result in an increase in decisions that reduce livestock use levels. The current regulation provides that the authorized officer must cancel or suspend a grazing preference when acreage is reduced, regardless of forage sufficiency. The revision would allow cancellation of the grazing preference on those allotments where there is a significant decrease in the public land available. The preference may be suspended where forage availability is temporarily reduced or remain unchanged where there is sufficient forage available, as

determined by the authorized officer. Therefore, the final rule is unchanged.

One comment points out that the proposed rulemaking does not discuss the possibility of range improvements as a means to maintain grazing preference. Range improvements are addressed in a separate subsection (4120.3) which presently is not being revised. The final rule is unchanged.

Another comment suggests that the entire grazing preference system needs revision. This suggestion is beyond the scope of this rulemaking. Therefore, the final rule is unchanged.

One comment suggests that in order to cancel, suspend or modify a grazing preference the Bureau of Land Management would be required to conduct new range analysis and/or studies. This is not the intent of the rulemaking. The authorized officer generally has existing data from standard range analysis and/or study methods on file at the District or Resource Area Office to determine if an adjustment of the grazing preference is needed. Thus, only in a small number of cases would a new range analysis and/or study have to be initiated. Therefore, the final rule remains unchanged.

One comment recommends the first sentence in § 4110.4-2(a)(2) be changed to read as follows: "Grazing preference may be cancelled, suspended or modified in whole or in part through standard range analysis, study methods and/or available data acceptable to the Authorized Officer to protect the remaining public lands." It is the Bureau of Land Management's policy that any data used for decision making purposes must be gathered using standard methodologies consistent with standards established by the agency. Data from sources other than those which are standards of the agency are not acceptable. Therefore, the final rule remains unchanged.

One comment recommends changing the term "equitably" to "proportionately". The commenter proposed that the final rule at 4110.4-(a)(2) read: "\* \* \* Cancellations or suspensions will be apportioned as agreed upon among authorized users or, in the event of failure to reach agreement, will be proportionately apportioned by the authorized officer among authorized users in direct proportion to their respective grazing preference." This suggestion is beyond the scope of this rulemaking and would, if accepted, result in a substantive change that the public has not been able to comment on. Therefore, this part of the subsection has not been rewritten.

The principal author of this final rulemaking is Bruce E. Dawson, Division of Rangeland Resources, Bureau of Land Management, assisted by Deborah Lanzone of the Division of Legislation and Regulatory Management.

It is hereby determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have significant impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Additionally, the final rule will not cause a taking of private property under Executive Order 12630.

This rule does not contain information collection requirements that require

approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

#### List of Subjects in 43 CFR Part 4100

Administrative practice and procedure, Grazing lands, Livestock, Penalties, Range management, Reporting and recordkeeping requirements.

Under the authorities set forth below, § 4110.4-2, Group 4100, Subchapter D, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

#### PART 4100—GRAZING ADMINISTRATION—EXCLUSIVE OF ALASKA

##### Subpart 4110—Grazing Management

1. The authority citation for Part 4100 continues to read as follows:

Authority: 43 U.S.C. 315, 315a-315r, 1701 et seq., 1182d, and 98 Stat. 1837.

2. Section 4110.4-2(a) is revised to read:

#### § 4110.4-2 Decrease in land acreage.

(a) Where there is a decrease in public land acreage available for livestock grazing within an allotment:

(i) Grazing permits or leases may be canceled, suspended, or modified as appropriate to reflect the changed area of use.

(ii) Grazing preference may be canceled or suspended in whole or in part. Cancellations or suspensions determined by the authorized officer to be necessary to protect the public lands will be equitably apportioned by the authorized officer based upon the level of available forage and the magnitude of the change in public land acreage available, or as agreed to among the authorized users and the authorized officer.

\* \* \* \* \*

James M. Hughes,  
Deputy Assistant Secretary of the Interior,  
June 1, 1989.

[FR Doc. 89-17625 Filed 7-27-89; 8:45 am]

BILLING CODE 4310-84-M

1967, Vol. 52, No. 1, 1-10  
Journal of Applied Psychology  
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# **Federal Register**

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**Friday**  
**July 28, 1989**

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## **Part V**

### **The President**

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**Proclamation 6000—Lyme Disease  
Awareness Week, 1989**

**Proclamation 6001—National Week of  
Recognition and Remembrance for Those  
Who Served in the Korean War, 1989**

July 26, 1952

Part V

# The President

Proclamation 5000--Cyrus D. Young  
Awareness Week, 1952

Proclamation 5001--National Week of  
Recognition and Remembrance for Those  
Who Served in the Korean War, 1952

Proclamation 5002--National Week of  
Recognition and Remembrance for Those  
Who Served in the Korean War, 1952

## Presidential Documents

Title 3—

Proclamation 6000 of July 26, 1989

The President

Lyme Disease Awareness Week, 1989

By the President of the United States of America

### A Proclamation

Lyme disease, also known as Lyme borreliosis, was first recognized in Lyme, Connecticut, in 1975. Seven years later, its cause, a spirochete or spiral-shaped bacterium called *Borrelia burgdorferi*, was discovered by a researcher at the National Institute of Allergy and Infectious Diseases. Although the northeastern United States has the highest number of cases, Lyme disease has spread to more than 40 States. In 1988, there were more than 5,000 reported cases of Lyme disease, and it has been estimated that many more people have been infected with the disease.

Lyme disease is transmitted to humans through the bite of the deer tick, which inhabits primarily grasslands and wooded areas. Deer ticks are carried by several different animals including deer, cats, dogs, raccoons, and field mice.

A common early symptom of Lyme disease is the appearance of a localized ring-shaped rash with a clearing in the center. Other signs may include flu-like symptoms such as fatigue, mild headache, body aches, and a slight fever. The chances of successful treatment with antibiotics are greatest in the early stages of the disease. Unfortunately, in many instances, early symptoms may go unnoticed or may never appear. In addition, because it can resemble other illnesses, Lyme disease is sometimes misdiagnosed. If not treated early, serious complications may develop that can affect the heart, nervous system, or joints. Lyme disease in pregnant women can result in miscarriages, stillbirths, and birth defects.

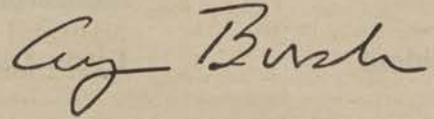
To avoid deer ticks and reduce the chance of contracting Lyme disease, people who are going into wooded areas or tall grass should wear long-sleeved shirts and long pants and apply tick repellent to their clothing. They should also thoroughly check for ticks upon returning indoors. The deer tick is smaller than a dog tick and is most likely to transmit Lyme disease in the nymphal stage when it is very tiny. Anyone bitten by a tick should watch for symptoms suggestive of Lyme disease and seek early medical treatment if they occur.

Recognizing the widespread impact of Lyme disease and the need for research in this field, the National Institutes of Health is committed to finding better ways of identifying, preventing, and treating all tick-borne illnesses.

To enhance public awareness of Lyme disease and its debilitating side effects, the Congress, by Senate Joint Resolution 142, has designated the week beginning July 23, 1989, as "Lyme Disease Awareness Week" and has authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning July 23, 1989, as Lyme Disease Awareness Week. I call upon all government agencies, health organizations, communications media, and people of the United States to observe this week with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of July, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.



[FR Doc. 89-17921  
Filed 7-27-89; 12:02 pm]  
Billing code 3195-01-M

## Presidential Documents

Proclamation 6001 of July 26, 1989

### National Week of Recognition and Remembrance for Those Who Served in the Korean War, 1989

By the President of the United States of America

#### A Proclamation

In 1950, at the beginning of the post-World War II economic boom, America suddenly found itself engaged in another war. This time the enemy was communism, and the battlefield was Korea. America's men and women in uniform left their mark in history once again and added another litany of unfamiliar names to the list of places where Americans have fought and died to defend freedom—names like Pork Chop Hill, Inchon, and the Pusan Perimeter.

When the communist army of North Korea invaded and attacked the Republic of Korea to the south, it was the beginning of an armed hostility that would eventually involve 21 nations and continue for more than 3 years. Taking the lead in attempting to restore freedom and independence to the people of Korea was the United States of America.

In order to reclaim the territorial integrity of South Korea, a United Nations command was created with the United States serving as the executive agent. Twenty other member nations provided military contingents to serve under the United Nations banner.

The United States' deep commitment to freedom was demonstrated by the number of Americans who served and sacrificed in this bloody conflict. Over 5,700,000 American service men and women were involved directly or indirectly in the war; 54,246 Americans made the supreme sacrifice, dying so that others might be free. Over 100,000 were wounded, and still thousands of others were captured and endured starvation, disease, and physical and psychological torture.

Although the Korean War has been known as America's "Forgotten War," those who served have never forgotten, and our Nation must never forget the great price these men and women paid for the cause of liberty and the right of self-determination.

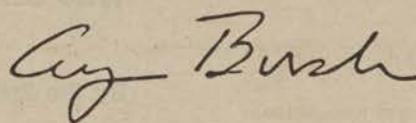
Soon a magnificent monument will be raised on the grounds of the Mall in Washington. The 38 figures that will march silently for all eternity across that panorama will honor, in eloquent fashion, all who served in the Korean War.

In respect, gratitude, and recognition of those Americans who served in the Armed Forces during the Korean War, the Congress, by Senate Joint Resolution 85, has designated the week beginning July 24, 1989, as "National Week of Recognition and Remembrance for Those Who Served in the Korean War" and has authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning July 24, 1989, as National Week of Recognition and Remembrance for Those Who Served in the Korean War. I urge the press, radio, television, and all information media to observe the week with appropriate ceremonies and activities. Further, I direct all departments and agencies of the United States and urge interested organiza-

tions, groups, and individuals to fly the American flag at half-staff on July 27, 1989, in honor of those Americans who died as a result of their service in Korea.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of July, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.



[FR Doc. 89-17922

Filed 7-27-89; 12:03 pm]

Billing code 3195-01-M

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## LIST OF PUBLIC LAWS

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 523-6641. The text of laws is not

published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

**H.J. Res. 174/Pub. L. 101-58**

To designate the decade beginning January 1, 1990, as the "Decade of the Brain". (July 25, 1989; 103 Stat. 152; 3 pages) Price: \$1.00

**S.J. Res. 137/Pub. L. 101-59**

Designating January 7, 1990, through January 13, 1990, as "National Law Enforcement Training Week". (July 25, 1989; 103 Stat. 155; 2 pages) Price: \$1.00

