AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

10-25-89
Vol. 54 No. 205

federal register

Wednesday
October 25, 1989

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

10-25-89
Vol. 54 No. 205
Pages 43415-43574

federal register

Wednesday
October 25, 1989

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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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

Rural Telephone Bank

7 CFR Part 1610

Rural Telephone Bank Loan Policies

AGENCY: Rural Telephone Bank, USDA.

ACTION: Correction to final rule.

SUMMARY: This notice corrects an error in 7 CFR 1610.8 published as a final rule on May 16, 1989 (54 FR 21047). This rule provides for the Rural Telephone Bank's utilization of the Rural Electrification Administration's (REA) regulations as published in 7 CFR chapter XVII except for those regulations applicable solely to the Electric Program. Through an error, both the paragraph explaining these exceptions and the list of exceptions were moved from the regulatory text to the Background portion of the preamble. The regulatory text as originally printed refers to policies identified below and no list of policies appeared. The correct text for this regulation appears below in its entirety.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Chief, Loans and Management Branch, Telecommunications Staff Division, Rural Electrification Administration, telephone number (202) 382-9550.

List of Subjects in 7 CFR Part 1610

Loan programs—communications, Telecommunications, Telephone.

Therefore, the Bank hereby amends 7 CFR part 1610 as follows:

PART 1610—[AMENDED]

1. The authority citation for 7 CFR part 1610 continues to read:

Authority: 85 Stat. 29 et seq., 7 U.S.C. 941 et seq., as amended.

2. Section 1610.8 is correctly revised to read as follows:

§ 1610.8 Adoption of applicable REA policy.

The policies embodied in 7 CFR part 1610, in all parts of 7 CFR chapter XVII except those identified below, and in the REA Telephone Program bulletins listed in appendix A of 7 CFR part 1701 as published at 40 FR 16075, Apr. 9, 1975, and amended at 40 FR 16075, Apr. 9, 1975, and amended at 40 FR 31956, July 30, 1975, will be utilized by the Governor in carrying out the Bank's loan program to the extent that such policies are consistent with title IV of the Act (7 U.S.C. 941 et seq.) and to the extent that policies in 7 CFR chapter XVII and appendix A bulletins are consistent with 7 CFR part 1610. The parts of 7 CFR chapter XVII applicable solely to the Electric Program and thus exceptions to this rule are:

Part	Subject matter
1710	Electric loan policies and application procedures.
1711	Electric loans-advance of funds.
1729	Electric system planning and design.
1735	REA standard form of electric contracts.
1736	Electric standards and specifications.

Dated: October 17, 1989.

Jack Van Mark,

Acting Governor, Rural Telephone Bank.

[FR Doc. 89-25108 Filed 10-24-89; 8:45 am]

BILLING CODE 3410-15-M

Farmers Home Administration

7 CFR Part 1930

Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations governing the management and supervision of FmHA Multiple Family Housing loan and grant recipients. This action is taken to comply with Office of Management and Budget Circulars A-73 and A-128 and U.S. Department of Agriculture, Departmental regulations, subpart I of part 3015 of chapter XXX of title 7. The intended effect of this action is to provide for better borrower auditing standards through the implementation of the above.

EFFECTIVE DATE: November 24, 1989.

FOR FURTHER INFORMATION CONTACT: Booker Reaves, Senior Loan Officer, Multiple Family Housing Servicing and Property Management Division, Farmers Home Administration, USDA, Room 5329, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, telephone (202) 382-1617.

SUPPLEMENTARY INFORMATION:

Classification

This final action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be "nonmajor" because there will not be an annual effect on the economy of $100 million or more; a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. There is no impact on proposed budget levels, and funding allocations will not be affected because of this action.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this action, consisting only of accounting changes, does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmenal Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

The undersigned has determined that this action will not have a significant economic impact on a substantial number of small entities because it contains normal business recordkeeping requirements and minimal essential reporting requirements.

Intergovernmental Consultation

For reasons set forth in the Final Rule related Notice(s) to 7 CFR part 3015,

subpart V, 48 FR 29115, June 24, 1983, this program/activity is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.405 Farm Labor Housing Loans and Grants
10.415 Rural Rental Housing Loans
10.427 Rural Rental Assistance Payments (Rental Assistance)

Background

On January 10, 1989, (54 FR 824), FmHA published a proposed rule on Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients. FmHA now publishes these proposed revisions for final rule.

This package is an accumulation of regulation changes needed to comply with the requirements of the Single Audit Act of 1984, OMB Circular A-128, "Audits of State and Local Governments" and OMB Circular A-73, "Audit of Federal Operations and Programs." The primary changes include the following:

1. OMB Circular A-73 requires that audits submitted in accordance with program requirements must be prepared on the basis of the audit standards issued by the Comptroller General of the United States. These standards are published in "Government Auditing Standards" (1988 Revision). It is important to note that the standards include the requirement that the generally accepted government auditing standards (GAGAS) be used in conjunction with generally accepted auditing standards (GAAS). Audits must be submitted by certain participants in the Multiple Family Housing Programs. There are two types of GAGAS audits: (1) Financial audits; and, (2) performance audits. FmHA will only be requiring auditors to use the GAGAS audit type that provides for financial audits. Basic financial statements should be prepared in conformity with generally accepted accounting principles (GAAP). The change from GAAS to GAGAS will require some additional preparation and planning by auditors for the conduct of audits. GAGAS requires that auditors participate in peer reviews and in continuing education courses. For auditors and auditing firms not currently performing GAGAS audits there will be initial set-up expenses and charges which maybe passed on to their clients in a prorated and amortized manner. For firms currently conducting GAGAS audits the cost increase should be minimal since these firms will already have systems in place.

GAGAS and GAAS both require GAAP and the bulk of the GAGAS requirements are items that are covered in GAAP-based reporting, but not reported on separately. For example, GAGAS requires the auditor to report on the entity's material compliance with requirements governing financial assistance it received and on the entity's internal controls. GAAP-based reporting requires disclosure of material violations of legal and contractual provisions, and the GAAS Standard of Fieldwork No. 2 dwells on the study and evaluation of the existing internal controls. Therefore, it is FmHA's feeling that to perform a GAGAS audit, the auditor would have to conduct similar tests of the accounting records and such other auditing procedures as considered in performing a GAAS audit. FmHA believes the changes will help FmHA to serve the public more efficiently while protecting the Government's interest.

2. The paragraphs on audits of borrower operations are revised to comply with the Single Audit Act of 1984, Public Law 98-502, and OMB Circular A-128, "Audits of State and Local Governments." The Single Audit Act establishes audit requirements for State and local governments that receive Federal assistance and defines Federal responsibilities for implementing and monitoring those requirements. Section 7505 of the Act requires OMB to issue implementing guidelines which were issued as OMB Circular A-128. Further, the Circular directed Federal agencies to publish regulations implementing it.

Discussion of Comments

The proposed rule published in the **Federal Register** (54 FR 824) on January 10, 1989, provided for a 60-day comment period ending March 13, 1989. Four comments were received during the comment period. Of the four comments, one was from an FmHA field employee, and three were from sources outside FmHA.

The major concerns appeared in the area of increase cost of performing GAGAS audits. FmHA acknowledges that to some extent the cost of audits may increase during the first years of implementation of GAGAS requirements. However, the debate on GAGAS is over since it has been mandated by OMB and the USDA/OIG. The increased cost of doing GAGAS audits should be prorated over an auditor's entire governmental client base, since GAGAS is being implemented government-wide. It should be noted that the American Institute of Certified Public Accountants (AICPA) now requires that all of its practicing members participate in peer reviews and the revised (July 1988) GAGAS require that firms must have had peer reviews in order to fulfill GAGAS. In addition, FmHA understands that several State Boards of Accountancy are now requiring similar peer reviews and/or membership in the AICPA. Auditors expecting to perform government audit work must conform to these new standards.

Other minor changes to clarify the rule were considered and implemented as appropriate.

List of Subjects in 7 CFR Part 1930

Accounting, Administrative practice and procedure, Grant programs—Housing and Community Development, Loan programs—Housing and Community Development, Low- and moderate-income housing loans—Rental, Reporting and recordkeeping requirements.

Accordingly, FmHA amends part 1930, subpart C, title 7, Code of Federal Regulations as follows:

PART 1930—GENERAL

1. The authority citation for part 1930 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart C—Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients

2. In § 1930.124, paragraphs (c) (1), (2), (3), (4) and (5) are redesignated as paragraphs (c)(3) (i), (ii), (iii), (iv) and (v); the introductory text of paragraph (c) is revised; and paragraphs (c) (1) and (2) and the title and introductory paragraph (c)(3) are added to read as follows:

§ 1930.124 Borrower budgets, reports, audits, and analysis.

* * * * *

(c) *Audits reports.* All audits are to be performed in accordance with generally accepted government auditing standards (GAGAS), as set forth in "Government Auditing Standards" (1988 Revision), established by the Comptroller General of the United States, and any subsequent revisions (commonly referred to as the "Yellow Book" or "GAO Standards"). In addition, the audits are to be performed in accordance with Departmental Regulations, subpart I of part 3015 of chapter XXX of title 7, when applicable and in accordance with requirements as

specified in separate sections of this subpart.

(1) *State and local governments and Indian tribes.* These organizations are to be audited in accordance with this subpart, title 7 CFR part 3015, subpart I, and OMB Circular A-128, with copies of the audits being forwarded by the borrower to the FmHA District Director and the appropriate Federal cognizant agency, if applicable. For guidance in meeting these requirements, the auditor should refer to the AICPA Audit and Accounting Guide for "Audits of State and Local Government Units."

(i) *Cognizant agency.* (A) "Cognizant agency" means the Federal agency assigned by OMB Circular A-128. Within the Department of Agriculture (USDA), the OIG shall fulfill cognizant agency responsibilities.

(B) *Cognizant agency assignments.* Smaller borrowers not assigned a cognizant agency by OMB should contact the Federal agency that provided the most funds. When USDA is designated as the cognizant agency or when it has been determined by the borrower that FmHA provided the major portion of Federal financial assistance, the appropriate USDA OIG Regional Inspector General shall be contacted.

(ii) *Audit requirements.* It is not intended that audits required by this subpart be separate and apart from audits performed in accordance with State and local laws. To the extent feasible, the audit work should be done in conjunction with those audits.

(A) State and local governments and Indian tribes that receive $100,000 or more a year in Federal financial assistance shall have an audit made in accordance with OMB Circular A-128.

(B) State and local governments and Indian tribes that receive between $25,000 and $100,000 a year in Federal assistance shall have an audit made in accordance with OMB Circular A-128 or in accordance with FmHA audit requirements. This is an option of the State and local government or Indian tribe. If the election is made to have an audit performed in accordance with FmHA requirements, the audit shall be in accordance with paragraph (c)(3) of this section.

(C) State and local governments and Indian tribes that receive less than $25,000 a year in Federal financial assistance shall be exempt from compliance with OMB Circular A-128 and FmHA audit requirements. These State and local governments and Indian tribes shall be governed by audit requirements prescribed by State and local law or regulation.

(D) Public hospitals and public colleges and universities may be excluded from OMB Circular A-128 audit requirements. If such entities are excluded, audits shall be made in accordance with paragraph (c)(2) of this section.

(2) *Nonprofit organizations.* These organizations are to be audited in accordance with OMB Circular A-110 and paragraph (c)(3) of this section. These requirements also apply to public hospitals and public colleges and universities if they are excluded from the audit requirements of paragraph (c)(1) of this section.

(3) *For-profit organizations and other entities referred to this paragraph by paragraphs (c)(1) and/or (c)(2) of this section.* In performing audits under this paragraph, the USDA OIG has published an audit guide entitled "Farmers Home Administration—Audits of Recipients of FmHA Loans, Grants and Guarantees" (available in any FmHA office).

* * * * *

§ 1930.124 [Amended]

3. In § 1930.124, newly redesignated paragraph (c)(3)(ii) is amended in the first sentence by changing the reference "paragraph (c)(3) of this section" to "paragraph (c)(3)(iii) of this section."

Subpart C—[Amended]

4. Exhibit B of subpart C is amended by removing the first sentence in paragraph XIII C 2 c beginning with the word "All" and substituting the following four sentences to read as follows:

Exhibit B—Multiple Housing Management Handbook

* * * * *

XIII * * *
C * * *
2 * * *

c. Audit report or verification. All audits are to be performed in accordance with generally accepted government auditing standards (GAGAS), as set forth in the "Government Auditing Standards" (1988 revision), established by the Comptroller General of the United States and any subsequent revisions. State and local governments and Indian tribes must also meet the audit requirements set forth in title 7 CFR part 3015, subpart I, when applicable. For guidance in meeting these requirements, the auditor should refer to the AICPA Audit and Accounting Guide for "Audits of State and Local Government Units." For all other borrowers, the USDA Office of Inspector General has published an audit guide entitled "Farmers Home Administration—Audits of Recipients of FmHA Loans, Grants and Guarantees" (available in any FmHA Office). * * *

* * * * *

Dated: September 21, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89-25074 Filed 10-24-89; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21 and 23

[Docket No. 061CE, Special Conditions 23-ACE-44]

Special Conditions; Dornier Seastar CD-2 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions.

SUMMARY: These special conditions are being issued to become part of the type certification basis for the Claudius Dornier Seastar GmbH and Company Model CD-2 Series amphibian airplanes. These airplanes will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards for normal, utility, acrobatic, and commuter category airplanes. The novel and unusual design features include the use of advanced composite materials for primary flight structure, the location of the engines and propellers, protection from lightning and high energy radio frequency, and emergency flotation equipment for which the regulations do not contain adequate or appropriate safety standards. These special conditions contain the additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to that envisioned in the applicable regulations.

EFFECTIVE DATE: November 24, 1989.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace Engineer, Standards Office (ACE-110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Missouri 64106; telephone (816) 426-5688.

SUPPLEMENTARY INFORMATION:

Background

On November 18, 1986, Claudius Dornier Seastar GmbH and Company made application for a type certificate through the Luftfahrt Bundesamt (LBA) to the FAA Brussels Office for the Seastar Model CD-2 airplane. At the time of application, commuter airworthiness requirements were not

incorporated into part 23 and certification for 12 passenger airplanes would require part 25 airworthiness standards.

The commuter category airworthiness requirement which permits a seating configuration, excluding pilot seats, of 19 or less, was incorporated into part 23 by amendment 23–34, which became effective February 17, 1987. Claudius Dornier then made a new application for U.S. type certificate on July 31, 1987 for part 23 commuter category.

The Dornier Seastar Model CD–2 is a high wing twin-engine amphibian airplane with turboprop engines that are mounted on the center-top of the parasol wing in a tandem push-pull arrangement. The airframe structure utilizes composite materials. The maximum gross weight is 10,141 lbs. with a seating configuration of 12 passengers.

Type Certification Basis

The type certification basis for the Dornier Seastar Model CD–2 airplane is as follows: Part 21 of the Federal Aviation Regulations (FAR), § 21.29; Part 23 of the FAR, effective February 1, 1965, including amendments 23–1 through 23–34; Special Federal Aviation Regulation (SFAR) No. 27, effective February 1, 1974, as amended by amendments 27–1 through 27–6; Part 36 of the FAR, effective December 1, 1969, as amended by amendments 36–1 through amendment effective on the date of type certification; exemptions, if any; and the special conditions adopted by this rulemaking action.

Discussion

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions, as appropriate, are issued in accordance with § 11.49, after public notice as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, § 21.17(a)(2).

The proposed type design of the Seastar Model CD–2 airplane contains a number of novel or unusual design features not envisaged by the applicable part 23 airworthiness standards. Special conditions are considered necessary because the airworthiness requirements of Part 23 do not contain adequate or appropriate safety standards for the novel and unusual design features of the Seastar Model CD–2 airplane.

Composite Structure

The airframe of the Seastar Model CD–2 airplane is made of composite material and is assembled differently from the typical semi-monocoque aluminum airframes that have been predominant since the early 1940's. Composite materials of the type used on the Seastar Model CD–2 airplane are generally not susceptible to initiation of fatigue cracks by the application of repetitive loads, but are susceptible to damage in the form of cracks, breaks, and delaminations from intrinsic and discrete sources growing under application of repetitive loads. Because of this and other factors, the FAA has determined that the fatigue requirements of § 23.572 are inadequate to assure that composite material structure can withstand the repeated loads of variable magnitude expected in service.

The use of advanced composite materials and extensive bonding of these materials in primary flight structure is a novel and unusual design feature with respect to the type of airplane construction envisaged by the existing airworthiness standards of Part 23. Because the requirements of part 23 do not require the level of substantiation necessary for composite material structure, a special condition is being issued to include the necessary airworthiness standards as a part of the type certification basis for the Seastar Model CD–2 airplane. This special condition is being issued to ensure that a level of safety exists for airplanes made from bonded composite materials equivalent to those existing for aluminum airplanes.

The special condition will require composite structural components critical to safe flight be evaluated by damage tolerance criteria. The damage tolerance consideration includes principal structural elements, such as the fuselage, and the vertical and horizontal stabilizers, and their carry-through structure, since failure of these structures could have catastrophic results. When damage tolerance is shown to be impractical, the special condition is worded to permit approval, based on safe-life testing. Metal detail designs may continue to be evaluated to the fatigue requirements of § 23.572.

Damage tolerance criteria for composite structure, in combination with the existing material requirements of part 23, such as §§ 23.603 and 23.613, will provide a level of safety for the composite material airframe structure used in the Seastar Model CD–2 airplane equivalent to that required by the airworthiness standards of part 23.

In addition to those components requiring fatigue/damage tolerance evaluations, other components that are critical to flight safety, such as movable control surfaces and wing flaps, must also be protected against loss of strength or stiffness. Protection conventionally is provided through design and inspection. Since composite material strength is susceptible to manufacturing defects and damage from discrete sources, including lightning strikes, process controls and inspectability are limited; therefore, structures design must provide for these limits with adequate protection allowances.

The lack of adequate service experience with composite material structures in airplanes type certificated to the airworthiness standards of part 23, the unusual mechanical properties characteristics, and the experience with composite material structural bonding, to date, necessitate issuing special conditions to assure an appropriate level of safety for the Model CD–2 airframe structure. This special condition is intended to require: (1) Accounting for environmental effects, i.e., temperature and humidity on material mechanical properties in all structural substantiation analyses and tests; (2) limit load residual strength with impact damage from discrete sources; (3) ability to carry ultimate load with realistic intrinsic and discrete impact damage at the threshold of detectability; and (4) design features to prevent disbonds greater than the disbonds for which limit load capability has been shown. Proof-testing of each production component to limit load and reliance on manufacturing quality control procedures between limit and ultimate load may be used in lieu of design features provided each bonded joint is subjected to its critical design limit load during the proof-testing. Acceptable non-destructive testing techniques do not yet exist in state-of-the-art composite technology to reliably identify weak bonds. However, proof-testing of each production article may be discontinued if such tests are developed and accepted by the FAA.

Because the composite material and bonding may require preventive maintenance and inspection procedures different from those commonly utilized for existing aluminum airframes, this special condition requires that instructions for continued airworthiness be established in addition to those required by § 23.1529.

Lightning Protection

The regulations incorporated by reference include standards for protection from damage to the structure of the airplane by lightning (§ 23.867) and from ignition of fuel vapor (§ 23.954). These standards do not provide the level of safety for the electronic system installed in composite airframe structures which provide less electromagnetic shielding than metal skins. For airplanes employing the extensive use of composite materials, the lightning produced voltage and currents could increase substantially and additional protecting design features should be installed. These systems can be susceptible to disruption to both the command/response signals and the operational modes as a result of direct lightning strike attachment or electrical and magnetic interference. To ensure that a level of safety is achieved equivalent to that of existing aircraft that utilize a metal structure, a special condition is being proposed which requires that these components be designed and installed to preclude component damage and interruption of function due to both direct and indirect effects of lightning.

Protection from Unwanted Effect of High Energy Radio Frequency (RF) Fields

Traditional airplane designs which utilize metal skins and mechanical control systems had inherent design features which provided protection and were less susceptible to the effects of RF energy from ground-based transmitters. There is a trend toward increased use of composite structures that do not provide the RF shielding normally provided by metal skins and electrical and electronic systems to perform critical and essential airplane functions. Therefore, the effective measures against the effects of high energy radio frequency fields must be provided for by the design and installation of these systems. The primary factors that have contributed to this increased concern are: (1) The increasing use of sensitive electronics that perform critical and essential functions; (2) the reduced electromagnetic shielding afforded airplane systems by advanced technology airframe materials; (3) the adverse service experience of military airplanes which use these technologies; and (4) the increased number and power of radio frequency emitters and expected future increases.

In showing compliance with the regulations for protection against hazards caused by the exposure to high energy radio frequency fields, electrical and electronics systems which perform critical and essential functions must be considered. The hazards addressed include those which would result in a catastrophic failure condition to the airplane. Failures that would be a hazard to the airplane, but not catastrophic, are considered under § 23.1309. To prevent this occurrence, airplane systems which perform critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not adversely affected when the airplane is exposed to high energy radio fields. Airplane systems which perform essential functions must be protected to ensure that essential functions can be recovered after the airplane has been exposed to the high energy radio frequency fields. Manual mode reversion is considered an acceptable method of retaining the essential functions. Reliance on redundancy as a means of protection against the effects of external RF fields is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

No universally accepted guidance to define the maximum energy level in which civilian airplane system installations must be capable of operating safely has been established. At this time, the FAA and other airworthiness authorities are working to establish an agreed RF energy level representative of that to which the airplane will be exposed in service. This special condition requires that the airplane be evaluated under an interim standard for the protection of the electronic system and its associated wiring harness.

Location of the Engines and Propellers

Part 23 envisions propellers located forward of the wing and other aircraft surfaces that may shed ice. On the Seastar Model CD-2 airplane, the propellers are located above and aft of the forward portion of the fuselage and one is a pusher propeller located aft behind the parasol wing and both engine exhaust systems. Ice shed by the wing, wing struts, forward fuselage, or other parts of the airplane may have adverse effects on the propellers. In addition, the effects of exhaust gases impinging on the aft propeller must be evaluated. A special condition is being issued requiring propeller ice and exhaust gas impingement protection.

Since the location of the propellers on the Model CD-2 is an unusual design feature, passengers, crew, and ground personnel may be less aware of the proximity of the propeller blades. Propeller disc conspicuity is of concern during ground operation. Therefore, a special condition is proposed to require the necessary visibility of the propeller discs.

The location of the engines on the Seastar Model CD-2 airplane will prevent the pilot from quickly visually determining if an engine is operating. A special condition is being issued to require a positive means to indicate to the pilot when an engine is inoperative.

Effects of Water in Hull Compartments

The Seastar Model CD-2 is an amphibian airplane with several watertight compartments in the hull area. To ensure that the proper weight and center of gravity is maintained, it is necessary to provide a means for determining the amount of water in the watertight compartments. The Airplane Flight Manual or other approved manual material must describe the means for determining the effects of the water in the compartments for safe operation of the airplane. A special condition is being issued requiring means to determine the presence and quantity of water in the hull compartments.

Emergency Flotation Equipment

The commuter category requirements did not envision an amphibian airplane designed to operate a considerable time near or over water areas. For the level of safety envisioned for the commuter category, such airplanes must include emergency flotation means for each occupant, unless the airplane is restricted to operating over water bodies of such size and depth that life preservers or other flotation means would not be required for survival of occupants during emergency landing and emergency evacuation.

The Seastar Model CD-2 airplane is expected to operate extensively over lakes, rivers, and other bodies of water. In the case of an emergency, this may lead to an inadvertent water landing in water too deep to safely evacuate without appropriate emergency flotation equipment.

In response to Public Law (Pub. L.) 100-223, entitled "Airport and Airway Safety and Capacity Enhancement Act of 1987", enacted December 30, 1987, the FAA published a notice of proposed rulemaking (NPRM) entitled "Improved Survival Equipment for Inadvertent Water Landings" (53 FR 24890; June 30, 1988). This NPRM proposes to amend FAR parts 121 and 135 to require, among other things, adequate life preservers and flotation devices for passengers, including small children and infants, on flights of an air carrier which the

Secretary of Transportation determines will occur partly over water.

The FAA anticipates that these proposals will be adopted essentially as proposed and has determined it is appropriate to issue a special condition for the Seastar to require flotation equipment that will provide the level of safety expected for a commuter category amphibian airplane in over water operation.

Discussion of Comments

Notice of Proposed Special Conditions, Notice No. 23–ACE–44, Docket No. 061CE, was published in the **Federal Register** on May 1, 1989 (54 FR 18530) and the comment period closed August 29, 1989. The FAA received one comment in response to Notice No. 23–ACE–44. The comment was received from Airbus Industrie, 31707 Blagnac Cedex, France. The special conditions for the protection of systems against high energy radio frequency (HERF) fields are applicable to systems that perform critical and essential functions as defined in the special conditions. The commenter stated that past special conditions on HERF for transport category and normal category were only applicable to critical systems. The commenter recommended that this special condition be consistent with previous special conditions, that is, only be applicable to critical system.

The FAA does not agree that for part 23 airplanes, this special condition should only be applicable to critical systems. The protection of aircraft electrical and electronic systems against the effects of external high energy radio frequency may also be required to include essential systems whose failure or malfunction due to HERF could result in a hazard, or affect other systems whose failure or degradation would result in a hazard. The actual determination of what systems should be evaluated against HERF would be made by the applicant preparing a preliminary hazard assessment. Engineering and operational judgment would be on a case-by-case basis jointly by the applicant and the responsible aircraft certification office. Systems such as electronic flap control are normally classified as essential systems but their failure modes under the HERF environment may have a hazardous failure condition to the extent there is a significant reduction in safety. Under the special condition criteria, the essential functions are not required to operate during the HERF exposure, but the essential function must be recoverable after the HERF exposure. These requirements for the protection against external high energy radio frequency are consistent to the requirements for lightning. The existing airworthiness standards of part 23 do not include requirements for complex and safety-critical systems and are based on single-fault or fail-safe concepts. Also, part 23 is different than part 25 or 29 airworthiness standards because part 23 does not have a requirement that the installed equipment meet the applicable Technical Standard Order (TSO). This action is not a rule of general applicability and affects only the model/series of airplane identified in these special conditions. Accordingly, these special conditions are adopted as proposed.

List of Subjects in 14 CFR Parts 21 and 23

Aircraft, Air transportation, Aviation safety, and Safety.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g). (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.49.

Adoption of Special Conditions

In consideration of the foregoing the following special conditions are issued as part of the type certification basis for the Dornier Seastar Model CD–2 Series amphibian airplanes and future changes to those airplanes:

1. Evaluation of Composite Structure

In lieu of complying with § 23.572 and in addition to the requirements of §§ 23.603 and 23.613, airframe structure, the failure of which would result in catastrophic loss of the airplane, the wing, horizontal stabilizer, horizontal stabilizer carry-through and attaching structure, fuselage, vertical stabilizer, vertical stabilizer attaching structure and all movable control surfaces and their attaching structure, must be evaluated to damage tolerance criteria prescribed in paragraphs (a) through (j) of this special condition, unless shown to be impractical. In cases shown to be impractical, the aforementioned structure must be evaluated in accordance with the criteria of paragraphs (a) and (k) of this special condition. Where bonded joints are used, the structure must also be evaluated in accordance with the residual strength criteria in paragraph (h) of this special condition.

(a) It must be demonstrated by tests, or by analysis supported by tests, that the structure is capable of carrying ultimate load with impact damage. The level of impact damage considered need not be more than the established threshold of detectability considering the inspection procedures employed.

(b) The growth rate of damage that may occur from fatigue, corrosion, intrinsic defects, manufacturing defects; e.g., bond defects, or damage from discrete sources under repeated loads expected in service; i.e., between the time at which damage becomes initially detectable and the time at which the extent of damage reaches the value selected by the applicant for residual strength demonstration, must be established by tests or by analysis supported by tests.

(c) The damage growth, between initial detectability and the value selected for residual strength demonstration, factored to obtain inspection intervals, must permit development of an inspection program suitable for application by operations and maintenance personnel.

(d) Instructions for continued airworthiness for the airframe must be established consistent with the results of the damage tolerance evaluations. Inspection intervals must be set so that after the damage initially becomes detectable by the inspection method specified, the damage will be detected before it exceeds the extent of damage for which residual strength is demonstrated.

(e) Loads spectra, load truncation, and the locations and types of damage considered in the damage tolerance evaluations must be documented in test proposals.

(f) The structure of the fuselage must be shown by residual strength tests, or by analysis supported by residual strength tests, to be able to withstand critical limit flight and water loads, considered as ultimate loads, with damage consistent with the results of the damage tolerance evaluations.

(g) The wing, horizontal stabilizer, horizontal stabilizer carry-through and attaching structure, vertical stabilizer and vertical stabilizer attaching structure, and all movable control surfaces and their attaching structure must be shown by residual strength tests, or analysis supported by residual strength tests, to be able to withstand critical limit flight loads, considered as ultimate loads, with the extent of damage consistent with the results of the damage tolerance evaluations.

(h) In lieu of a nondestructive inspection technique which ensures ultimate strength of each bonded joint, the limit load capacity of each bonded joint critical to safe flight must be substantiated by either of the following methods used singly or in combination;

(1) The maximum disbonds of each bonded joint consistent with the capability to withstand the loads in paragraphs (f) and (g) of this special condition must be determined by analysis, tests, or both. Disbonds of each bonded joint greater than this must be prevented by design features.

(2) Proof-testing must be conducted on each production article which will apply the critical limit design load to each critical bonded joint.

(i) The effects of material variability and environmental conditions must be accounted for in the damage tolerance evaluations and in the residual strength tests; e.g., exposure to temperature, humidity, erosion, ultraviolet radiation, and/or chemicals, on the strength and durability properties of the composite materials.

(j) The airplane must be shown by analysis to be free from flutter to V_D with the extent of damage for which residual strength is demonstrated.

(k) For those structures where the damage tolerance method is shown to be impractical, the strength of such structures must be demonstrated by tests, or analysis supported by tests, to be able to withstand the repeated loads of variable magnitude expected in service. Sufficient component, subcomponent, element, or coupon tests must be performed to establish the fatigue scatter and the environmental effects. Impact damage in composite material components which may occur must be considered in the demonstration. The impact damage level considered must be consistent with detectability by the inspection procedures employed.

2. Protection of Systems From Lightning and High Energy Radio Frequency (RF) Fields

(a) Each system which performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not adversely affected when the airplane is exposed to: (1) lightning and (2) high energy radio frequency fields external to the airplane.

(b) Each essential function of the system must be protected to ensure that the essential function can be recovered after the airplane has been exposed to: (1) Lightning and (2) high energy radio frequency fields external to the airplane.

(c) For the purposes of the above, the following definitions apply:

(1) Critical Functions. Functions whose failure would contribute to or cause a failure condition which would prevent the continued safe flight and landing of the airplane.

(2) Essential Functions. Functions whose failure would contribute to or would cause a hazardous failure condition which would significantly impact the safety of the airplane or the ability of the flight crew to cope with adverse operating conditions.

3. Location of the Engines and Propellers

In the absence of requirements for propellers, the following is required:

(a) *Ice impingement on the propeller.* All areas of the airplane forward of the propellers that are likely to accumulate and shed ice into the propeller disc during any operating conditions for which the airplane is certificated must be suitably protected to prevent ice formation, or it must be shown that any ice shed into the propeller disc will not create a hazardous condition.

(b) *Exhaust gas impingement on propeller.* If the engine exhaust gases are discharged into the propeller disc, it must be shown by tests, or analysis supported by tests, that the propeller material is capable of continuous safe operation.

(c) *Propeller marking.* The propellers must be marked so that their discs are conspicuous under normal daylight ground conditions.

(d) *Engine inoperative warning.* A positive means must be provided to indicate an engine is inoperative, or it must be determined that required instruments will readily alert the pilot when an engine is inoperative.

4. Effects of Water in Hull Compartment

In the absence of specific regulations, the hull watertight compartments required by § 23.755 must be equipped with means to determine the presence of water and the effects of any accumulated water on the weight and center of gravity of the airplane in accordance with § 23.1519.

5. Emergency Flotation Equipment

In addition to the requirements of § 23.1415, the emergency flotation equipment installed in the airplane must include an approved life preserver with an approved survivor locator light for each occupant of the airplane, including an approved life preserver for each infant and child. The approved life preserver must be located at the passenger seat, or in the case of the infant and child life preservers, in the immediate vicinity of the seat occupied by the individual responsible for the infant or child. Provisions for storage of each life preserver must be approved by the Administrator. Each approved survivor locator light must activate automatically upon contact with water.

Issued in Kansas City, Missouri, on October 2, 1989.

Don C. Jacobsen,

Acting Manager, Aircraft Certification Service.

[FR Doc. 89-25078 Filed 10-24-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-CE-15-AD; Amdt. 39-6369]

Airworthiness Directives; Schweizer (Grumman) G-164 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 89-18-02, Amendment 39-6300, applicable to all Schweizer (Grumman) G-164 series airplanes, which requires a visual inspection for corrosion and cracks on the forward and aft elevator push-pull rod assemblies. The FAA has become aware that confusion exists concerning the Model and serial number applicability of the AD. This amendment clarifies the applicability statement in the AD.

DATES:

Effective Date: November 24, 1989.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Schweizer Service Bulletin No. 85, dated June 1, 1989, applicable to this AD may be obtained from the Schweizer Aircraft Corporation, P.O. Box 147, Elmira, New York 14902. This information may also be examined at the FAA, Rules Docket, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Al Maila, Aerospace Engineer, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Valley Stream, New York 11581; Telephone (516) 791-6220.

SUPPLEMENTARY INFORMATION: AD 89-18-02, Amendment 39-6300 (54 FR 33875) applicable to all Schweizer (Grumman) G-164 series airplanes, was issued on August 8, 1989. The AD requires visual inspections of the forward and aft elevator push-rod assemblies for corrosion and cracks, and the repair or replacement of assemblies found defective. Since issuance of the AD, the FAA has determined that the applicability statement may be misunderstood. As a result, this action amends the AD by clarifying the applicability statement to clarify the

airplane models and serial numbers covered, and to make other minor editorial changes.

Since the FAA has determined that the unsafe condition described in the unrevised AD is still likely to exist or develop in other airplanes of the same type design, and that clarification of the AD applicability is necessary, AD 89-18-02 is being amended to show positive applicability to all Schweizer G-164 series airplanes. Because an emergency condition still exists that requires the immediate adoption of this regulation, and because this amendment is only clarifying in nature, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of 14 CFR 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 amending AD 89-18-02, Amendment 39-6300, to read as follows:

Schweizer (Grumman): Applies to all G-164 Series (all serial numbers) airplanes certificated in any category.

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

To prevent the failure of the forward and aft elevator control system push-pull rods and end fittings, accomplish the following:

(a) Within the next 30 calendar days after the effective date of this AD, and thereafter at intervals not to exceed 12 calendar months, visually inspect the forward and aft elevator push-pull rod assemblies and end fittings for corrosion and cracks in accordance with the Procedure Section in Schweizer Service Bulletin No. 85, dated June 1, 1989.

(b) If corrosion or cracks are found, prior to further flight, replace or repair the defective assembly in accordance with the Procedures Section of Schweizer Service Bulletin No. 85, dated June 1, 1989, utilizing the replacement parts specified in Figure 1 or 2 therein, as applicable, and continue the repetitive inspections specified in paragraph (a) of this AD.

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

(d) An alternate method of compliance or adjustment of the initial or repetitive compliance times which provides an equivalent level of safety may be approved by the Manager, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

Note.—The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, New York Aircraft Certification Office. All persons affected by this directive, may obtain copies of the documents referred to herein upon request to the Schweizer Aircraft Corporation, P.O. Box 147, Elmira, New York 14902, 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 amends AD 89-18-02, Amendment 39-6300.

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

Earsa L. Tankesley,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25077 Filed 10-24-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 89-AEA-01]

Proposed Revocation of Transition Area; Quarryville, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This revocation of the Quarryville, PA Transition Area is due to the cancellation of the Standard Instrument Approach Procedure (SIAP) for the Quarryville/Tanglewood Airport. As a result of the cancellation of the SIAP, the FAA no longer finds it necessary to retain the transition area established to contain the SIAP. This action will revoke that airspace needed to separate aircraft executing the SIAP from other aircraft during Instrument Meteorological Conditions.

EFFECTIVE DATE: 0901 u.t.c. January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 917-0857.

SUPPLEMENTARY INFORMATION:

History

On July 7, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revoke the Quarryville, PA Transition Area (54 FR 31702). The proposed action would revoke that airspace which was deemed necessary to contain aircraft executing the SIAP for the Quarryville/Tanglewood Airport. The cancellation of the SIAP for the Quarryville/Tanglewood Airport was the result of a previous study.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments on the proposal were received. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6E, January 3, 1989.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revokes the Quarryville, PA Transition Area. As a result of the cancellation of the SIAP for the Quarryville/Tanglewood Airport, this airspace is no longer required.

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. Therefore, this regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

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

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

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center (lat. 39°51'00" N. long. 76°12'55" W.) of Tanglewood Airport, Quarryville, PA, and within 4.5 miles each side of the Lancaster, PA, VORTAC 168° radial extending from the 6.5-mile radius area to the VORTAC.

Issued in Jamaica, New York, on September 25, 1989.

John D. Canoles,

Manager, Air Traffic Division.

[FR Doc. 89-25081 Filed 10-24-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-AWP-18]

Amendment to San Jose, CA, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the effective hours of the San Jose, California, control zone. The San Jose control zone is currently described as a full-time control zone. The control zone does not meet full-time control zone criteria; thus the need for an amendment to part-time status.

EFFECTIVE DATE: 0901 U.t.c., January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Jon L. Semanek, Airspace Specialist, System Management 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 August 10, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the effective hours of the San Jose, CA, control zone (54 FR 32827). 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 amends the effective hours of the San Jose, CA, control zone. The San Jose control zone is currently described in FAA Handbook 7400.6E as a full-time control zone. The control zone does not meet full-time control zone criteria; thus, there is a need for an amendment to part-time status.

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:

San Jose, CA [Revised]

Within a 5-mile radius of San Jose Municipal Airport (latitude 37°21'42" N/ longitude 121°55'39" W), excluding theportion NW of a line from latitude 37°25'45" N/ longitude 121°56'35" W; to latitude 37°19'30" N/longitude 122°00'10" W. 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 October 6, 1989.

Jacqueline L. Smith,

Manager, Air Traffic Division Western-Pacific Region.

[FR Doc. 89-25079 Filed 10-24-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 171

[T.D. 89-86]

Customs Regulations Amendments Concerning Seizure of Property for Possession of Controlled Substances; Correction

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule; correction.

SUMMARY: In T.D. 89-86 published on September 11, 1989 (54 FR 37600), 19 CFR parts 162 and 171 were amended to provide certain expedited procedures when property is seized due to violations involving the possession of personal use quantities of controlled

substances. A typographical error appears in the document.

FOR FURTHER INFORMATION CONTACT: Harriett Blank (202) 566–8317.

§ 171.55 [Corrected]

In FR Doc. 89–21211, on page 37605, in the first column, in § 171.55(b), the word "of" in the second to last line is corrected to read "or".

Dated: October 18, 1989.

Kathryn C. Peterson,

Chief, Regulations and Disclosure Law Branch.

[FR Doc. 89–25050 Filed 10–24–89; 8:45 am]

BILLING CODE 4820–02–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180, 185, and 186

[OPP-300177A and 300178A; FRL 3661-3]

Chlordimeform; Revocation and Amendment of Tolerances and Food and Feed Additive Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document (1) removes the tolerances listed in 40 CFR 180.285 for combined residues of the insecticide chlordimeform and its metabolites containing the 4-chloro-*o*-toluidine moiety (calculated as the insecticide) from application of the insecticide as the free base or as the hydrochloride salt in or on various raw agricultural commodities; (2) amends the tolerances for residues in or on meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep; and (3) removes the food additive tolerances listed in 40 CFR 185.750 and 186.750 for residues in dried prunes and in the animal feed dried apple pomace, respectively, resulting from carryover and concentration of residues in these processed foods and feeds when present as a result of application of the insecticide to the growing crops plums (fresh prunes) and apples. EPA is taking this action to remove tolerances, including food and feed additive tolerances, for residues of a pesticide for which the related registered food uses were voluntarily cancelled by the registrants 5 to 10 years ago, and to amend (reduce) certain other tolerances affected by these cancellations.

EFFECTIVE DATE: October 25, 1989.

ADDRESS: Written objections, identified by the document control number [OPP–300177A and 300178A], may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Room 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Patricia Critchlow, Registration Division (H7505C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Room 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703) 557–1806.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule published in the **Federal Register** of September 19, 1988 (OPP–300178 at 53 FR 36426), which (1) proposed the removal of the tolerances for residues of chlordimeform in or on various raw agricultural commodities, and (2) proposed the amendment of the tolerances for residues of chlordimeform in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep; all the affected tolerances are listed in 40 CFR 180.285.

EPA also issued a second proposed rule published in the same issue of the **Federal Register** (OPP–300177 at 53 FR 36427), which proposed the removal of the food additive tolerances for combined residues of the insecticide chlordimeform [*N*-(4-chloro-*o*-tolyl)-*N,N*-dimethylformamidine] and its metabolites containing the 4-chloro-*o*-toluidine moiety (calclated as the insecticide) in or on dried prunes (40 CFR 185.750) and in the animal feed dried apple pomace (40 CFR 186.750), resulting from carryover and concentration of residues in these processed foods and feeds when present as a result of application of the insecticide to the growing crops plums (fresh prunes) and apples. This final rule consolidates the two proposals into one final rule document.

No public comments on either proposal or requests for referral to an advisory committee on OPP–300178 were received in response to the notices of proposed rulemaking.

Therefore, based on the information considered by the Agency and discussed in detail in the September 19, 1988 proposals and in this final rule, the Agency is hereby (1) removing the tolerances listed in 40 CFR 180.285 for combined residues of chlordimeform and its metabolites in or on the raw agricultural commodities apples, broccoli, brussels sprouts, cabbage, cauliflower, cherries, nectarines, peaches, pears, plums (fresh prunes), tomatoes, and walnuts; (2) reducing the tolerances listed in 40 CFR 180.285 for combined residues of chlordimeform and its metabolites in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep; and (3) removing the food additive tolerances for the combined residues of chlordimeform in or on dried prunes listed in 40 CFR 185.750 and in the animal feed dried apple pomace listed in 40 CFR 186.750.

Any person adversely affected by this regulation removing or amending certain tolerances and food and feed additive regulations for chlordimeform may, within 30 days after the date of publication of the regulation in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

This document has been reviewed by the Office of Management and Budget as required by section 3 of Executive Order 12291.

In order to satisfy requirements for analysis as specified by Executive Order 12291 and the Regulatory Flexibility Act, the Agency has analyzed the costs and benefits of the removal and amendment of tolerances and food and feed additive regulations for this chemical. This analysis is available for public inspection in Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Executive Order 12291

As explained in the proposals published September 19, 1988, the Agency has determined, pursuant to the requirements of Executive Order 12291, that the removal and amendment of these tolerances will not cause adverse economic impact on significant portions of U.S. enterprises.

Regulatory Flexibility Act

This rulemaking has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354; 94 Stat. 1164, 5 U.S.C. 601 *et seq.*), and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. The reasons for this conclusion are discussed in the September 19, 1988 proposals.

List of Subjects in 40 CFR Parts 180, 185, and 186

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Food additives, Animal feeds, Reporting and recordkeeping requirements.

Dated: October 2, 1989.

Linda J. Fisher,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR parts 180, 185, and 186 are amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. By revising § 180.285 to read as follows:

§ 180.285 Chlordimeform; tolerances for residues.

Tolerances are established for combined residues of the insecticide chlordimeform [*N'*-(4-chloro-*o*-tolyl)-*N,N*-dimethyl-formamidine] and its metabolites containing the 4-chloro-*o*-toluidine moiety (calculated as the insecticide) from application of the insecticide as the free base or as the hydrochloride salt in or on the following raw agricultural commodities:

Commodities	Parts per million
Cattle, fat	0.1
Cattle, meat	0.1
Cattle, mbyp	0.1
Cottonseed	5
Eggs	0.05
Goats, fat	0.1
Goats, meat	0.1
Goats, mbyp	0.1
Hogs, fat	0.1
Hogs, meat	0.1
Hogs, mbyp	0.1
Horses, fat	0.1
Horses, meat	0.1
Horses, mbyp	0.1
Milk	0.05
Poultry, fat	0.25
Poultry, meat	0.25
Poultry, mbyp	0.25
Sheep, fat	0.1
Sheep, meat	0.1
Sheep, mbyp	0.1

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 348.

§ 185.750 [Removed]

b. By removing § 185.750 *Chlordimeform.*

PART 186—[AMENDED]

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. By revising § 186.750 to read as follows:

§ 186.750 Chlordimeform.

Tolerances are established for combined residues of the insecticide chlordimeform [*N'*-(4-chloro-*o*-tolyl)-*N,N-dimethyl-formamidine] and its metabolites containing the 4-chloro-o-*toluidine moiety (calculated as the insecticide) in the following processed animal feeds, resulting from carryover and concentration after application of the pesticide to the growing crops:

Commodities	Parts per million
Cottonseed hulls	10

[FR Doc. 89-24848 Filed 10-24-89; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41

[FPMR Temp. Reg. G-53]

Submission of Paid Freight Bills/Invoices, Commerical Bills of Lading, Government Transportation Requests, Passenger Coupons, and Supporting Documentation Covering Transportation Services Under Cost-Reimbursement Contracts

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation, amendment.

SUMMARY: General Services Administration is correcting an error in the expiration date of this regulation which revises Section 101-41.807-4 of the Federal Property Management Regulations to include the submission of U.S. Government Transportation Requests and passenger coupons to the General Services Administration for audit. The expiration date in the **DATES** section of the preamble and in the text of the temporary regulation, published at 54 FR 15942, April 20, 1989, should have been April 20, 1990.

DATES: Effective date: April 20, 1989. Expiration date: April 20, 1990.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Collections, Accounts, and Procedures Division, Office of Transportation Audits, (commercial 202-786-3065) or (FTS 786-3065).

List of Subjects in 41 CFR Part 101-41

Accounting, Air Carriers, Claims, Freight, Freight forwarders, Maritime carriers, Passenger services, Railroads, Transportation.

Authority: 31 U.S.C. 3726 and 40 U.S.C. 486(c).

In 41 CFR chapter 101, FPMR temporary Regulation G-53 in the appendix of Subchapter G is amended by revising the expiration date in paragraph 3 to read:

Federal Property Management Regulations, Temporary Regulation G-53

* * * * *

3. *Expiration date.* This regulation expires on April 20, 1990.

* * * * *

Dated: October 20, 1989

R. W. Piasecki,

Director, Office of Transportation Audits.

[FR Doc. 89-25101 Filed 10-24-89; 8:45 am]

BILLING CODE 6820-24-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6853]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATE: The third date ("Susp.") listed in the third column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, Southwest, Room 417, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and

administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et. seq.). Accordingly, the communities will be suspended on the effective date in the fourth column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**. In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub.L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public procedure under 5. U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

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

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

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

§ 64.6 List of Eligible Communities.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard area
Regular Program Conversions:				
Region I				
Connecticut: Cheshire, town of, New Haven County	090074	Mar. 13, 1975, Emerg.; July 16, 1981, Reg.; Nov. 3, 1989, Susp.	11-3-89	Nov. 3, 1989.
Maine: Canton, town of, Oxford County	230091	July 3, 1975, Emerg.; Nov. 3 ,1989, Reg.; Nov. 3, 1989, Susp.	11-3-89	Do.
Region III				
Pennsylvania:				
Ashville, borough of, Cambria County	422266	July 25, 1975, Emerg.; May 1, 1985, Reg.; November 3, 1989, Susp.	11-3-89	Do.
Irvona, borough of, Clearfield County	420308	Dec. 6, 1976, Emerg.; Nov. 3, 1989, Reg.; Nov. 3, 1989, Susp.	11-3-89	Do.
Port Matilda, borough of, Centre County	420268	Jan. 7, 1975, Emerg.; Nov. 3, 1989, Reg.; Nov. 3, 1989, Susp.	11-3-89	Do.
Unionville, borough of, Centre County	420272	Nov. 11, 1975, Emerg.; Nov. 3, 1989, Reg.; Nov. 3, 1989, Susp.	11-3-89	Do.
Washington, township of, Cambria County	421448	Jan. 27, 1977, Emerg.; Nov. 3, 1989, Reg.; Nov. 3, 1989, Susp.	11-3-89	Do.
Virginia:				
Harrisonburg, city of, Independent City	510076	Dec. 2, 1974, Emerg.; Nov. 3, 1989, Reg.; Nov. 3, 1989, Susp.	11-3-89	Do.
Urbanna, town of, Middlesex County	510292	May 21, 1975, Emerg.; Nov. 3, 1989, Reg.; Nov. 3, 1989, Susp.	11-3-89	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard area
Region IV				
Tennessee:				
Maury County, unincorporated areas	470123	Nov. 29, 1985, Emerg.; May 1, 1985, Reg.; Nov. 3, 1989, Susp.	11-3-89	Do.
Williamson County, unincorporated areas	470204	May 27, 1975, Emerg.; Apr. 1, 1981, Reg.; Nov. 3, 1989. Susp.	11-3-89	Do.
Region V				
Michiagn: Brooks, township of, Newaygo County	260467	Sept. 23, 1976, Emerg.; July 3, 1986, Reg., Nov. 3, 1989, Susp.	11-3-89	Do.
Region VI				
Texas: Poteet, city of, Atascosa County	480016	July 23, 1975, Emerg.; Nov. 3, 1989, Reg.; Nov. 3, 1989	11-3-89	Do.
Region X				
Oregon:				
Burns, city of, Harney County	410084	Apr. 7, 1975, Emerg.; Nov. 3, 1989, Reg.; Nov. 3, 1989, Susp.	11-3-89	Do.
Hines, city of, Harney County	410085	Jan. 17, 1975, Emerg.; Nov. 3, 1989, Reg.; Nov. 3, 1989, Susp.	11-3-89	Do.
Region I				
Maine:				
Jay, town of, Franklin County	230349	July 16, 1975, Emerg.; Nov. 15, 1989, Reg.; Nov. 15, 1989, Susp.	11-15-89	Nov. 15, 1989.
Nobleboro, town of, Lincoln County	230219	May 13, 1976, Emerg.; Nov. 15, 1989, Reg.; Nov. 15, 1989, Susp.	11-15-89	Do.
Region II				
New York:				
Amenia, town of, Dutchess County	361332	Feb. 4, 1976, Emerg.; Sept. 24, 1984, Reg.; Nov. 15, 1989, Susp.	11-15-89	Do.
Greenport, town of, Columbia County	361319	Aug. 29, 1975, Emerg.; June 5, 1988, Reg.; Nov. 15, 1989, Susp.	11-15-89	Do.
Region III				
Pennsylvania:				
Choconut, township of, Susquehanna County	422076	Jan. 26, 1976, Emerg.; Nov. 15, 1989, Reg.; Nov. 15, 1989, Susp.	11-15-89	Do.
Conneaut, township of, Erie County	421361	July 9, 1979, Emerg.; Nov. 15, 1989, Reg.; Nov. 15, 1989, Susp.	11-15-89	Do.
Lower Towanensing, township of, Carbon County	421455	July 29, 1975, Emerg.; Nov. 15, 1989, Reg.; Nov. 15, 1989, Susp.	11-15-89	Do.
New Ringgold, borough of, Schuylkill County	421996	Aug. 22, 1975, Emerg.; Nov. 15, 1989, Reg.; Nov. 15, 1989 Susp.	11-15-89	Do.
North Manheim, township of, Schuylkill County	422013	Sept. 29, 1975, Emerg.; Nov. 15, 1989, Reg.; Nov. 15, 1989, Susp.	11-15-89	Do.
Virginia: Purcellville, town of, Loudoun County	510231	July 30, 1976, Emerg.; Nov. 15, 1989, Reg.; Nov. 15, 1989, Susp.	11-15-89	Do.
West Virginia: Grant County, unincorporated areas	540038	Oct. 22, 1975, Emerg.; Aug. 1, 1987, Reg.; Nov. 15, 1989, Susp.	11-15-89	Do.
Region IV				
Florida: Bradford County, Suwannee County	120015	May 23, 1975, Emerg.; Nov. 15, 1989, Reg.; Nov. 15, 1989, Susp.	11-15-89	Do.
Mississippi: Columbus, city of, Lowndes County	280108	Mar. 3, 1972, Emerg.; July 13, 1976, Reg.; Nov. 15, 1989, Susp.	11-15-89	Do.
Region V				
Indiana: Carroll County, unincorporated areas	180019	Oct. 28, 1975, Emerg.; Nov. 15, 1989, Reg.; Nov. 15, 1989, Susp.	11-15-89	Do.
Michigan: Manistee, township of, Manistee County	260132	Aug. 19, 1974, Emerg.; Nov. 15, 1989, Reg.; Nov 15, 1989, Susp.	11-15-89	Do.
Ohio:				
Allen County, unincorporated areas	390758	July 20, 1977, Emerg.; Nov., 15, 1989, Reg.; Nov. 15, 1989, Susp.	11-15-89	Do.
Butler, village of, Richland County	390605	June 24, 1976, Emerg.; Nov. 15, 1989, Reg.; Nov. 15, 1989, Susp.	11-15-89	Do.
Sabina, village of, Clinton County	390627	Feb. 27, 1981, Emerg.; Nov. 15, 1989, Reg.; Nov. 15, 1989, Susp.	11-15-89	Do.

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

Issued: October 17, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 89-25107 Filed 10-24-89; 8:45 am]

BILLING CODE 6718-21-M

Proposed Rules

Federal Register
Vol. 54, No. 205
Wednesday, October 25, 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

Rural Electrification Administration

7 CFR Part 1762

RIN 0572-AA20

Standard Forms of Telecommunications Contracts REA Form 525—Central Office Equipment Contract (Including Installation)

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR part 1762. The purpose of revising 7 CFR part 1762 is to announce a general revision of REA Contract Form 525. Central Office Equipment Contract (Including Installation) An advance Notice of Proposed Rulemaking was published in the **Federal Register** announcing that REA was proposing to revise REA Form 525. Central Office Equipment Contract (Including Installation) to update the terms and conditions to reflect the current technological and market environment. Public comments and suggestions were invited.

Comments and suggestions were received from four major manufacturers of central office equipment and most of the trade associations. Many useful comments and suggestions were received and many of them have been incorporated into the proposed revised Form 525 Contract.

The last revision to the Form 525 Contract was September 1966. Since that date, significant changes have been made in the telephone industry. The profound advancement in central office equipment technology has made possible many new services on a cost-effective basis. Divestiture and competition, legislation and regulation have brought about many changes in the conduct of telecommunications business. There is a need to revise the Form 525 Contract to incorporate these changes into the Central Office Equipment Contract. The main changes to the Contract proposed are new requirements (1) to provide for a complement of spare parts, (2) to provide a software license, (3) for patent, copyright, and trademark infringement, (4) for consequential damages, and (5) equal employment opportunities, and to revise and update provisions for (1) delivery and installation of equipment, (2) inspection and testing of the completed installations, (3) payments to the contractor, (4) insurance, (5) liquidated damages, and (6) completion of the project. This action will make it possible for REA telephone borrowers to continue to provide their subscribers with the most modern and efficient telephone service.

DATES: Public comments must be received by REA no later than December 26, 1989.

ADDRESSES: Submit written comments to William F. Albrecht, Director, Telecommunications Staff Division, Rural Electrification Administration, Room 2835, South Building, U.S. Department of Agriculture, Washington, DC 20250–1500. Copies of the document are available upon request from the above address. All written submissions made pursuant to this action will be made available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dean A Dion, Chief, Central Office Equipment Branch, Telecommunications Staff Division, Rural Electrification Administration, Washington, DC 20250 1500, telephone (202) 382–8671.

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.

The reporting and recordkeeping provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 et seq.) contained in this rule have been approved by the Office of Management and Budget (OMB) under clearance number 0572–0062.

Background

REA has issued a series of 7 CFR chapter XVII parts which serve to implement the policies, procedures, and requirements for administering its loan and loan guarantee programs and the security instruments which provide for and secure REA financing. The proposed revision to 7 CFR part 1762 is utilized to announce revisions of the Central Office Equipment Contract (Including Installation) REA Form 525. The 7 CFR part 1762 also provides information as to where copies of the contract may be obtained and the price per copy, where applicable. REA Form 525 is a labor and materials contract wherein the contractor furnishes all labor and materials required for the installation of telephone central office equipment. REA telephone borrowers are required to use the Form 525 Contract where major central office facilities are being procured and installed by the contract method. REA Form 525 has become outdated due to technological advancements and other market changes. Advanced technology and

equipment concepts have introduced new legal issues that need to be addressed. Contract terms and obligations need to be modified and updated to more accurately reflect present business practices. Some representative issues that need to be addressed in updating this contract are: expansion of patent infringement protection to include copyrights, trademarks, etc.; software right-to-use licensing terms, warranty coverage; use of information, consequential damages; delays in project; liquidated damages; bonding and insurance, independent contractor provisions; and support of discontinued products. All these proposed additions and changes need to be made so that REA telephone borrowers can continue to provide their subscribers with the most up-to-date and efficient telephone service.

List of Subjects in 7 CFR Part 1762

Loan programs—communications, Telecommunications, Telephone.

In view of the above, REA is proposing to amend 7 CFR part 1762 as follows:

PART 1762—[AMENDED]

1. The authority cited for part 1762 continues to read as follows:

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

2. The table in § 1762.01 would be amended by revising the entry for REA Form 525 to read as follows:

§ 1762.01 List of Standard Forms of Telecommunications Contracts

REA form no.	Issue date	Title	Purpose	Source of copies
525	.....	Central office equipment contract (including installation).	Purchase and installation of central office switching equipment.	Supt. of Doc., Wash, DC 20402[2]

[2] This contract form is for sale by the Superintendent of Documents, Government Printing Office, Washington, DC 20402. REA Form 33, Order Blank for REA Contract Forms from the Government Printing Office should be used to order the publication. Follow the procedure under ([1]) to obtain copies of Form 33 from REA.

Dated: October 2, 1989.

Jack Van Mark,

Acting Administrator.

[FR Doc. 89-24965 Filed 10-24-89; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-89-10]

Petition for Rulemaking; Summary and Dispositions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: December 25, 1989.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC 10), Petition Docket No. 25856, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC on October 17, 1989.

Denise Donohue Hall,

Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Rulemaking

Docket No.: 25856.

Petitioner: National Avionics Society, Inc.

Regulations Affected: 14 CFR Parts 43, 65 and 147.

Description of Petition: To establish new ratings for the certification of avionics and instrument technicians and to provide for FAA-approved aviation technician school curriculums that would train candidates for those ratings. Petitioner's Reason for the Petition: At present most of the avionics and instrumentation systems are maintained by non-certificated personnel. The current FAA airplane and powerplant (A&P) certificates do not require certificate holders to have more than a precursory acquaintance with these systems, and few A&P mechanics are capable of performing even the most basic tests of these systems. The increasing sophistication of avionics systems in modern aircraft require adequately trained technicians to maintain the integrity of those systems to offer the highest degree of safety to aircraft and passengers in flight.

[FR Doc. 89-25085 Filed 10-24-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-162-AD]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300 series airplanes, which would require repetitive inspections for disbonding and corrosion; eddy current and ultrasonic inspections of the fuselage longitudinal lap joints for cracks; and repair, if necessary. This proposal is prompted by full-scale fatigue testing which has identified certain structural components which are prone to fatigue cracks. This condition, if not corrected, could result in reduction of the structural integrity of these airplanes.

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

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-162-AD, 17900 Pacific Highway South,

C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 431-1918. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-162-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Générale de L'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Airbus Industrie Model A300 series airplanes.

Full-scale fatigue testing by the manufacturer has shown that fatigue cracks may develop in certain structural components of the longitudinal lap joints. Inspections of in-service airplanes have also revealed disbonding and corrosion on the bonded inner doublers of the longitudinal lap joints. This condition, if not corrected, could lead to reduced structural capability of these airplanes.

Airbus Industrie has issued Service Bulletin A300-53-211, Revision 1, dated April 10, 1989, which describes procedures for repetitive inspections for cracks of the fuselage longitudinal lap joints in sections 13 through 18, and repair, if necessary.

Airbus Industrie has also issued Service Bulletin A300-53-229, Revision 2, dated July 28, 1989, which describes procedures for inspection of the bonded inner doublers of the fuselage longitudinal lap joints, in sections 13 through 18, for disbonding and corrosion, and repair, if necessary.

The DGAC has classified both service bulletins as mandatory, and has issued Airworthiness Directive 89-061-092(B) addressing these subjects.

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

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require repetitive eddy current and ultrasonic inspections of the fuselage longitudinal lap joints, between section 13 and 18, for cracks, disbonding, and corrosion, and repair, if necessary, in accordance with the service bulletins previously described.

It is estimated that 66 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2,379 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $6,280,560.

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

For the reasons discussed above, I certify that this proposed regulation (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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Applies to all Model A300 series airplanes, Serial Number 001 through 156, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To ensure structural integrity of the airplane, accomplish the following:

A. Inspect longitudinal lap joints for cracks as follows:

1. *Inspection of "special" areas,* as defined in paragraph 1.C(1) of Airbus Industrie Service Bulletin A300-53-211, Revision 1, dated April 10, 1989.

a. Prior to the accumulation of 24,000 landings, or within 10 days after the effective date of this AD, whichever occurs later, perform an eddy current inspection in special areas of the longitudinal lap joints, in accordance with paragraph 2.B. of the service bulletin.

b. If no crack is found, repeat this inspection at intervals not to exceed 6,000 landings.

c. If a crack is detected, repair prior to further flight, in accordance with the service bulletin.

2. *Inspection of "standard" areas,* as defined in paragrpah 1.C(2) of Airbus Industrie Service Bulletin A300-53-211, Revision 1, dated April 10, 1989.

a. Prior to the accumulation of 32,000 landings, or within 10 days after the effective date of the AD, whichever occurs later, perform an eddy current inspection of the standard areas of the longitudinal lap joints

in accordance with paragraph 2.B. of the service bulletin.

b. If no crack is found, repeat the inspection at intervals not to exceed:

(1) 6,000 landings for longitudinal lap joints *with* bonded doublers;

(2) 8,000 landings for longitudinal lap joints *without* bonded doublers.

c. If a crack is found, repair prior to further flight, in accordance with the service bulletin.

3. *Inspection of modified or repaired areas* as defined in Tables 1 and 2 of Airbus Industrie Service Bulletin A300-53-211, Revision 1, dated April 10, 1989.

a. Prior to the accumulation of the threshold values (landings since first flight) identified in Tables 1 or 2 of the service bulletin, or within 60 days after the effective date of this AD, whichever occurs later, perform an eddy current inspection of the longtitudinal lap joints in modified or repaired areas, in accordance with paragraph 2.B. of the service bulletin.

b. If no crack is found, repeat the inspections at intervals not to exceed 6,000 landings for each repair solution identified in Tables 1 and 2 of the service bulletin.

c. If a crack is found, repair prior to further flight, in accordance with the service bulletin.

B. Prior to the accumulation of 24,000 landings or 15 years since new, whichever occurs first, or within 60 days after the effective date of this AD, whichever occurs later inspect fuselage bonded inner doublers of longitudinal lap joints in Sections 13 through 18 (except sections 16 and 17 at Stringer 31 left-hand and and right-hand) for disbonding and corrosion, in accordance with Airbus Industrie Service Bulletin A300-53-229, Revision 2, dated July 28, 1989.

1. If no disbonding or corrosion if found in Sections 13 and 14, repeat the inspection of those areas at intervals not to exceed 12,000 landings or 8 years since last inspection, whichever occurs first in accordance with paragraph 1.B. of the service bulletin.

3. If disbonding is detected, repair prior to further flight, in accordance with the service bulletin.

C. Prior to the accumulation of 24,000 landings or 12 years since new, whichever occurs first, or within 60 days after the effective date of this AD, whichever occurs later, inspect fuselage bonded inner doublers of longitudinal lap joints in Sections 16 and 17 at Stringer 31 left-hand and right-hand for disbonding and corrosion, in accordance with Airbus Industrie Service Bulletin A300-53-229, Revision 2, dated July 28, 1989. Airplanes older than 12 years must be inspected within 12 months after the effective date of this AD.

1. If no disbonding or corrosion is found, no further action is required.

2. If disbonding is detected, repair prior to further flight in accordance with the service bulletin.

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

Note: The request should be forwarded through a FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Standardization Branch, ANM-113.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These docments may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington,

Issued in Seattle, Washington, on September 25, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25083 Filed 10-24-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-203-AD]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300 series airplanes, which would require repetitive visual or high frequency eddy current inspections for cracks in the foot run-outs between Frame 41 and Frame 54, and between Stringer 26 and Stringer 27, and repair, if necessary. This proposal is prompted by fatigue testing by the manufacturer, which revealed cracks in the foot run-outs of several frames. This condition, if not corrected, could lead to reduced structural capability of the fuselage.

DATES: Comments must be received no later than December 12, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-203-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 431-1918. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-203-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on Airbus Industrie Model A300 series airplanes. The manufacturer reported that, during full-scale fatigue tests, cracks developed in the foot run-outs of several frames between Frame 41 and Frame 54, and between Stringer 26 and Stringer 27. These cracks originated from the radius and fitting attachment points. This

condition, if not corrected, could lead to reduced structural capability of the fuselage.

Airbus Industrie has issued Service Bulletin A300-53-238, dated April 10, 1989, which describes procedures for repetitive visual or high frequency eddy current inspection of the frame foot run-outs between Frame 41 and Frame 54, and between Stringer 26 and Stringer 27. The DGAC has classified this service bulletin as mandatory, and has issued Airworthiness Directive 89-109-097(B) addressing this subject.

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

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require repetitive visual or high frequency eddy current inspection for cracks in the frame foot run-outs between Frame 41 and Frame 54, and between Stringer 26 and Stringer 27, on the left- and right-hand sides, and repair, if necessary, in accordance with the service bulletin previously described.

It is estimated that 66 airplanes of U.S. registry would be affected by this AD, that it would take approximately 20 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $52,800.

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

For the reasons discussed above, I certify that this proposed regulation (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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Applies to Model A300 series airplanes, as listed in Airbus Industrie Service Bulletin A300-53-238, dated April 10, 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent reduced structural capability of the fuselage, accomplish the following:

A. Prior to the accumulation of 18,800 landings or within 1,000 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals indicated below, perform either a visual or high frequency eddy current inspection of the frame foot run-outs between Frame 41 and Frame 54, and between Stringer 26 and Stringer 27, in accordance with Airbus Industrie Service Bulletin A300-53-238, dated April 10, 1989.

1. If the immediately preceding inspection was performed visually, the next inspection must be performed within 5,800 landings.

2. If the immediately preceding inspection was performed using a high frequency eddy current technique, the next inspection must be performed wthin 9,400 landings.

B. If cracks are found, repair prior to further flight, in accordance with Airbus Industrie Service Bulletin A300-53-238, dated April 10, 1989. Repeat inspections at intervals indicated in paragraph A., above.

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

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on October 12, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25084 Filed 10-24-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ACE-32]

Proposed Alteration of VOR Federal Airway V-506; Missouri

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke a segment of VOR Federal Airway V-506 segment between Vichy, MO, and Springfield, MO. An FAA traffic survey for that area has indicated negligible use for that segment of V-506. In our effort to reduce chart clutter, we propose that this airway segment be revoked.

DATES: Comments must be received on or before December 4, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ACE-500, Docket No. 89-ACE-32, Federal Aviation Administration, 601 East 12th Street, Federal Building, Kansas City, MO 64106.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-ACE-32." 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 Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. 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 part 71 of the Federal Aviation Regulations (14 CFR part 71) to revoke a segment of VOR Federal Airway V-506 located between Vichy, MO, and Springfield, MO. The FAA has determined that this segment of V-506 is virtually never used or requested and is therefore a candidate for revocation. This action would reduce chart clutter. Section 71.123 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, VOR federal airways.

The Proposed Amendment

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

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

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

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

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-506 [Amended]

By removing the words "Springfield; INT Springfield 043° and Vichy, MO, 254° radials; Vichy." and substituting the words "to Springfield."

Issued in Washington, DC, on October 16, 1989.

Richard Huff,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-25086 Filed 10-24-89; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 417

Trade Regulation Rule; Failure To Disclose The Lethal Effects Of Inhaling Quick-Freeze Aerosol Spray Products Used For Frosting Cocktail Glasses

AGENCY: Federal Trade Commission.

ACTION: Regulatory Flexibility Review, request for comments.

SUMMARY: The Federal Trade Commission (FTC), in accordance with the Regulatory Flexibility Act and publication of a Plan for Periodic Review of Commission Rules, 46 FR 35118 (1981), is soliciting comments and data on whether the Rule on failure to disclose the lethal effects of inhaling quick-freeze aerosol spray products used for frosting cocktail glasses has had a significant economic impact on a substantial number of small entities and if it has, whether the Rule should be amended to minimize such impact.

DATE: All comments and data should be received by the Commission no later than November 24, 1989.

ADDRESS: Comments should be sent to Secretary, Federal Trade Commission, Washington, DC 20580. Comments should be identified as "RFA—Quick Freeze Aerosol Spray Rule" comments.

FOR FURTHER INFORMATION CONTACT: Robert Eliot Easton, Sr., Esq., Special Assistant—Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 326-3029.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164, 5 USC 601 et seq. (RFA) requires that the FTC conduct periodic review of its Rules which have or will have a significant economic impact upon a substantial number of small entities.

The Rule on failure to disclose the lethal effects of inhaling quick-freeze aerosol spray products used for frosting cocktail glasses makes it an unfair or deceptive act or practice to fail to provide a clear and conspicuous warning on quick freeze aerosol spray products containing Fluorocarbon 12 (dichlorodifluoromethane) designed for the frosting of beverage glasses that the contents should not be inhaled because inhalation could cause death or injury. The statement of basis and purpose for the rule states that in several instances direct inhalation of quick freeze aerosol spray, albeit intentional, had resulted in death. Because of this the Commission concluded that it was in the public interest to caution purchasers who may

not otherwise be aware of the lethal effects of inhaling the product.

The Rule was promulgated February 20, 1969, 34 FR 2417 (1969).

This Rule is being reviewed by the FTC in accordance with the periodic review requirement of the RFA. Such a review is conducted to determine whether the Rule should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the Rule upon a substantial number of small entities.

Therefore, the FTC poses the following questions for public comment. The Commission requests that any factual data (e.g., economic and accounting information, statistical analysis, surveys, studies, etc.) upon which submitted comments are based be included with the comments.

(1) Has the Rule had a significant economic impact (costs and/or benefits) on a substantial number of small entities? Please describe the details of any such significant negative and/or positive economic impact.

(2) Is there a continued need for the Rule?

(3)(a) What burdens, if any, does compliance with the Rule place on small entities?

(b) To what extent are these burdens ones that small entities would also experience under standard and prudent business practice?

(4) What changes, if any, could be made to the Rule to minimize the economic impact on small entities?

(5) To what extent does the Rule overlap, duplicate or conflict with other Federal and with state and local governmental rules?

(6) Have technology, economic conditions, or other factors changed in the markets affected by the Rule since 1969 and, if so, what effect do these changes have on the Rule or those covered by it?

List of Subjects in 16 CFR Part 417

Quick-freeze aerosol spray, Trade practices.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89-25127 Filed 9-24-89; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 432

Trade Regulation Rule; Power Output Claims For Amplifiers Utilized In Home Entertainment Products

AGENCY: Federal Trade Commission.

ACTION: Regulatory Flexibility Review, request for comments.

SUMMARY: The Federal Trade Commission (FTC), in accordance with the Regulatory Flexibility Act and its Plan for Periodic Review of Commission Rules, 46 FR 35118 (1981), is soliciting comments and data on whether the Rule on power output claims for amplifiers utilized in home entertainment products has had a significant economic impact on a substantial number of small entities and if it has, whether the Rule should be amended to minimize such impact.

DATE: All comments and data should be received by the Commission no later than November 24, 1989.

ADDRESSES: Comments should be sent to Secretary, Federal Trade Commission, Washington, DC 20580. Comments should be identified as "RFA—Amplifer Rule" comments.

FOR FURTHER INFORMATION CONTACT: Robert Eliot Easton, Sr., Esq., Special Assistant—Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 326-3029.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 et seq. (RFA) requires that the FTC conduct periodic review of its Rules that have or will have a significant economic impact upon a substantial number of small entities.

The Rule on power output claims for amplifiers utilized in home entertainment products makes it an unfair method of competition and an unfair or deceptive act or practice for manufacturers and sellers of sound power amplification equipment for home entertainment purpoes, such as radios, record and tape players, audio amplifiers, etc., to fail to make certain performance information disclosures when they make direct or indirect representations of power output, power band or frequency or distortion characteristics.

The required disclosures relate to minimum since wave continuous average power output, the load impedance in Ohms, rated power band or frequency response and rated percentage of maximum total harmonic distortion and must be made clearly, conspicuously and more prominently than any other representation or disclosures. The Rule also sets out standard test conditions for performing the tests necessary to make the required performance dislcosures. Further, the Rule prohibits representations of performance characteristics if they are not obtainable when the equipment is operated by the consumer in the usual and ordinary manner without the use of extraneous aids, such as coolings fans.

The Rule was promulgated May 3, 1974, 39 FR 15387 (1974) to assist consumers in purchasing power amplification equipment by standardizing the quantification and presentation of the various performance characteristics of the equipment. Prior to the Rule, sellers were making power, distortion and other performance claims based on many different technical test procedures. Some sellers used no recognized test procedures. The Rule establishes uniform test standards and disclosures so that performance claims permit more meaningful comparisions of peformance attributes.

This Rule is being reviewed by the FTC in accordance with the periodic review requirement of the RFA. Such a review is conducted to determine whether the Rule should be continued wthout change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the Rule upon a substantial number of small entities.

Therefore, the FTC poses the following questions for public comment. The Commission requests that any factual data (e.g., economic and accounting information, statistical analysis, surveys, studies, etc.) upon which submitted comments are based be included with the comments.

(1) Has the Rule had a significant economic impact (costs and/or benefits) on a substantial number of small entities? Please describe the details of any such significant negative and/or positive economic impact.

(2) Is there a continued need for the Rule?

(3)(a) What burdens, if any, does compliance with the Rule place on small entities?

(b) To what extent are these burdens ones that small entities would also experience under standard and prudent business practice?

(4) What changes, if any, could be made to the Rule to minimize the economic impact on small entities?

(5) To what extent does the Rule overlap, duplicate or conflict with other Federal and with state and local governmental rules?

(6) Have technology, economic conditions, or other factors changed in the markets affected by the Rule since 1974 and, if so, what effect do these changes have on the Rule or those covered by it?

List of Subjects in 16 CFR Part 432

Amplifier rule, Trade practices.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89-25129 Filed 10-24-89; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1306

Prescriptions; Extension of Comment Period

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking: extension of comment period.

SUMMARY: This will extend the comment period for the notice of proposed rulemaking published on September 5, 1989, 54 FR 36815, regarding an amendment to the requirement for the keeping of prescription information on original dispensing and refills by automated data processing systems. The comment period will now extend to November 24, 1989.

DATE: Comments will be accepted until November 24, 1989.

ADDRESSES: Written comments should be submitted in quadruplicate to the Administrator, Drug Enforcement Administration, Washington, DC 20537, Attn: Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: G. Thomas Gitchel, State and Industry Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, (202) 307-7297.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 5, 1989 (54 FR 36815), a notice of proposed rulemaking was published to amend certain provisions of the regulations relating to prescription information on original dispensing and refills by automated data processng system. The proposal was designed to clarify the requirements to keep automated prescription data for controlled substances and to simplify the requirement to maintain these records.

It is requested the comment period be extended to allow interested parties who are affected by the proposed rulemaking, to comment on the proposal. The Drug Enforcement Administraton has determined that an extension of the comment period would be in the public interest. Accordingly the comment period is hereby extended to November 24, 1989.

Dated: October 17, 1989.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 89-25053 Filed 10-24-89; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AD96

Independent Medical Opinions

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations to implement recent legislation which expanded the authority for requesting independent medical opinions in certain pending claims. Authority to request such opinions had previously been limited to the Board of Veterans Appeals (BVA). The effect of this amendment would be to establish a procedure for obtaining an independent medical opinion if warranted in connection with a claim pending at the regional office level.

DATES: Comments must be received on or before November 24, 1989. Comments will be available for public inspection until December 4, 1989. This change is proposed to be effective thirty days after the date of publication of the final rule.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this change to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132, at the above address and only between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until December 24, 1989.

FOR FURTHER INFORMATION CONTACT: Donald England, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration (202) 233-3005.

SUPPLEMENTARY INFORMATION: Until recently, VA has had the authority to request advisory medical opinions from outside of the Department, but requests could only be made by BVA in conjunction with pending appeals. The Veterans' Judicial Review Act, Public Law 100-687, § 103(a), 102 Stat. 4107 (1988), expanded the authority to request outside medical opinions to include cases in which a claim is pending at the regional office level. We are proposing to establish a procedure for obtaining independent medical opinions when warranted by the medical complexity or controversy associated with a pending claim.

The recent legislation authorizes the use of outside medical opinions not on a regular basis, but only if warranted in the judgment of the Secretary of Veterans Affairs by the medical complexity or controversy associated with the claim. We are proposing that all requests, whether they are initiated by the office having jurisdiction over the claim, by the claimant, or by the claimant's duly appointed representative, be submitted through the Adjudication Officer of the office having jurisdiction over the claim. Under the proposed amendment, each request must be in writing and must clearly set forth the medical issue which justifies soliciting an advisory opinion from outside the Department. The Adjudication Officer would have the authority to decide that an independent medical opinion is not warranted, but any request which in the judgment of the Adjudication Officer merits consideration would have to be referred to the Compensation and Pension Service in VA Central Office for approval.

The final determination as to whether an independent medical opinion is warranted would be the responsibility of the Compensation and Pension Service and would be considered part of VA's process of adjudicating the pending claim. For that reason, a determination that an independent medical opinion is not warranted could only be contested as part of an appeal on the merits of the decision rendered on the claim by the agency of original jurisdiction.

The BVA currently maintains a list of medical institutions which have agreed to provide advisory opinions upon request. Under the proposed amendment, the Compensation and Pension Service would solicit opinions using the same list of institutions and would coordinate requests with the BVA in order to ensure that requests are distributed in such a manner that no medical institution is overburdened. The Compensation and Pension Service would also notify the claimant when an independent medical opinion had been requested with regard to his or her claim and would furnish the claimant with a copy of the opinion when it is received.

We propose to implement this change in the law by adding new § 3.328 to Title 38, Code of Federal Regulations.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.101, 64.104, 64.105, 64.106, 64.109 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pension, Veterans.

Approved: September 28, 1989.

Edward J. Derwinski,

Secretary of Veterans Affairs.

PART 3—[AMENDED]

38 CFR part 3, Adjudication, is proposed to be amended by adding § 3.328 to read as follows:

§ 3.328 Independent medical opinions.

(a) *General.* When warranted by the medical complexity or controversy involved in a pending claim, an advisory medical opinion may be obtained from one or more medical experts who are not employees of VA. Opinions shall be obtained from recognized medical schools, universities, clinics or medical institutions with which arrangements for such opinions have been made, and an appropriate official of the institution shall select the individual expert(s) to render an opinion.

(b) *Requests.* A request for an independent medical opinion in conjunction with a claim pending at the regional office level may be initiated by the office having jurisdiction over the claim, by the claimant, or by his or her duly appointed representative. The request must be submitted in writing and must set forth in detail the reasons why the opinion is necessary. All such requests shall be submitted through the Adjudication Officer of the office having jurisdiction over the claim, and those requests which in the judgment of the Adjudication Officer merit consideration shall be referred to the Compensation and Pension Service for approval.

(c) *Approval.* Approval shall be granted only upon a determination by the Compensation and Pension Service that the issue under consideration poses a medical problem of such obscurity or complexity, or has generated such controversy in the medical community at large, as to justify solicitation of an independent medical opinion. When approval has been granted, the Compensation and Pension Service shall obtain the opinion. A determination that an independent medical opinion is not warranted may be contested only as part of an appeal on the merits of the decision rendered on the primary issue by the agency of original jurisdiction.

(d) *Notification.* The Compensation and Pension Service shall notify the claimant when the request for an independent medical opinion has been approved with regard to his or her claim and shall furnish the claimant with a copy of the opinion when it is received.

(Authority: 38 U.S.C. 210(c) and 3009)

[FR Doc. 89–25098 Filed 10–24–89; 8:45 am]

BILLING CODE 8320-01-M

Notices

Federal Register
Vol. 54, No. 205
Wednesday, October 25, 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 COMMERCE

Office of the Secretary

Performance Review Board; Listing

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Office of the Secretary Senior Executive Service (SES) Performance Appraisal System:

Hugh L. Brennan
Guy W. Chamberlin, Jr.
David L. Edgell
David Farber
Rafael L. Franchi
Mary Ann T. Knauss Fish
James M. LeMunyon
Michael A. Levitt
Otto J. Wolff.

Edward A. McCaw,

Executive Secretary, Office of the Secretary, Performance Review Board.

[FR Doc. 89-25094 Filed 10-24-89; 8:45 am]

BILLING CODE 3510-BS-M

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: October 25, 1989.

FOR FURTHER INFORMATION CONTACT: Holly Kuga or Richard W. Moreland, Office of Countervailing Compliance or Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786/2104.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with §§ 353.22(a)(1), (a)(2), (a)(3), and 355.22(a)(1) of the Department's regulations, for administrative reviews of various antidumping and countervailing duty orders and findings.

Initiation of Reviews

In accordance with §§ 353.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews no later than September 30, 1990.

Antidumping duty proceedings and firms	Periods to be reviewed
Canada:	
Replacement Parts for Self-Propelled *Bituminous Paving Equipment*, A-122-057	1/1/89-8/31/89
Allatt Paving Equipment Division of Ingersoll-Rand Canada, Inc.	
Hong Kong:	
Photo Albums and Filler Pages, A-582-501	12/1/87-11/30/88
Far East Metal & Plastic	
General Trading	
Graphics International	
Great China Industrial	
Hang Fat	
Hip Sing Leather Products	
Pavri Bros.	
Perfect Industrial	
Sincere	
Tai Shun Plastic	
Unique Stationary	
Wing Shing	
Wiseman Plastic Products	
Samford Enterprises	
Korea:	
Photo Albums and Filler Pages, A-580-501	12/1/87-11/30/88
Korea Transportation	
PRC:	
Griege Polyester/Cotton Printcloth, A-570-101	9/1/88-8/31/89
Chinatex	
U.K.:	
Certain Forged Steel Crankshafts, A-412-602	9/1/88-8/31/89
United Engineering & Forging	

Countervailing duty proceedings	Period to be reviewed
Argentina:	
Pipe and Tube, C-357-801	7/14/88-12/31/89
Mexico:	
Portland Hydraulic Cement Clinker, C-201-013	1/1/88-12/31/88
New Zealand:	
Lamb Meat, C-614-503	4/1/88-3/31/89

Interested parties must submit applications for administrative protective orders in accordance with §§ 353.34(b) or 355.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and §§ 353.22(c) and 355.22(c) of the Commerce Department's antidumping and countervailing duty regulations published in the **Federal Register** on March 28, 1989 (54 FR 12742) and December 27, 1988 (53 FR 52306) (to be codified at 19 CFR 353.22(c) and 19 CFR 355.22(c)).

Dated: October 17, 1989.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 89-25047 Filed 10-24-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-307-801]

Final Determination of Sales at Less Than Fair Value; Aluminum Sulfate from Venezuela

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We have determined that aluminum sulfate from Venezuela is being, or is likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of aluminum sulfate from Venezuela as described in the "Continuation of Suspension of Liquidation" section of this notice. The ITC will determine within 45 days of this determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

EFFECTIVE DATE: October 25, 1989.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins, Kimberly Hardin, or Mary S. Clapp, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1756, 377-8371, or 377-3965, respectively.

SUPPLEMENTAL INFORMATION:

Final Determination

We have determined that aluminum sulfate from Venezuela is being, or is likely to be, sold to the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)). The estimated dumping margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

On June 13, 1989, after responding to Section A of the Department's questionnaire, Sulfatos de Orinoco, C.A., (SULFORCA) informed the Department that it would not respond to the remaining portions of the sales questionnaire nor to any cost questionnaire, if issued. Given SULFORCA's failure to respond to our questionnaire, we issued an expedited and affirmative preliminary determination on the basis of best information available (BIA) on August 4, 1989 (54 FR 33254, August 14, 1989).

Interested parties submitted case briefs on September 14 and 15, and rebuttal briefs on September 20, 1989. A public hearing was held on October 6, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after that date will be classified solely according to the appropriate HTS item number. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive of the scope of our investigation.

The product covered by this investigation is aluminum sulfate from Venezuela, liquid or dry, currently provided for under HTS item number 2833.22.00.00.

Period of Investigation

The period of investigation (POI) is August 1, 1988 through March 31, 1989.

Fair Value Comparisons

To determine whether sales of aluminum sulfate from Venezuela to the United States were made at less than fair value, we compared the United States price to the foreign market value. We used BIA, as required by section 776(c) of the Act, for the reasons stated in the "Case History" section of this notice.

United States Price

As BIA, we used petitioner's estimate of U.S. price, as provided in the petition, which is based on a f.o.b. price per ton of aluminum sulfate imported from Venezuela.

Foreign Market Value

As BIA, we used petitioner's estimate of foreign market value (FMV) contained in its May 31, 1989, amendment to the petition. This estimate, based on an ex-factory price submitted in the public version of SULFORCA's May 25, 1989, Section A response, was reported to be the price SULFORCA charged its largest home market customer. We converted SULFORCA's home market price to U.S. dollars based on the 14.5 Bolivares (Bs.)/$1 U.S. exchange rate. *See* Comment and DOC Position.

In our preliminary determination, we stated that petitioner's cost allegation would be considered for the final determination. We have now evaluated the allegation and have determined that, based on home market sales prices submitted in petitioner's amendment to the petition (converted at the 14.5 Bs./$1 U.S. exchange rate), the allegation does not demonstrate that home market prices were below the cost of production. Accordingly, a cost of production investigation was not initiated.

Verification

Because SULFORCA did not furnish a complete response to our questionnaire, we did not conduct verification.

Interested Party Comment

Respondent contends that in determining BIA, the Department should calculate the dumping margin using the free market exchange rate of 39.5 Bs./$1 U.S. because (1) it used only the free-market rate for importation of goods during the POI and (2) it converted the dollars it earned for sales to Puerto Rico at the free-market rate.

Petitioner states that the Department should use the official exchange rate of 14.5 Bs./$1 U.S. to convert home market sales to dollars. Petitioners asserts that (1) SULFORCA obtained its imports of production equipment at this rate and (2) that SULFORCA's aluminum hydrate and sulfuric acid suppliers, both of which are government owned, imported at 14.5 Bs./$1 U.S. Petitioner also says that reports from several sources indicate tha the 14.5 Bs./$1 U.S. exchange rate had been widely used within Venezuela and that when, in March, 1989, the 39.5 Bs./$1 U.S. "free market" rate became standard, business costs and prices rose sharply.

DOC Position

We have converted the home market price to U.S. dollars using the 14.5 Bs./$1 U.S. exchange rate. This was the rate in effect in Venezuela during the POI for converting dollar-denominated export earnings. According to public information in the countervailing duty (CVD) record, and included in our investigation, in November 1987 the exchange rate to be used for all imports and exports was officially changed, by Venezuelan Law, to Bs. 14.50 Bs./$1 U.S. In October 1988, the government set up a program whereby exporters could exchange export earnings at 39.25 Bs./$1 U.S., if they waived benefits under the export bond program. However, public information in both investigations indicates that exporters were not able to take advantage of the program. There is no evidence on the record indicating that SULFORCA could have converted foreign exchange earnings during the POI at the exchange rate of 39.25 Bs./$1 U.S. Not until March 1989, pursuant to *Decree 76 and 77 Exchange Agreement No. 1 and Resolutions 80-03-01 and 89-03-02*, did the Government permit unrestricted currency conversions at the free-market rate.

Therefore, as BIA, given that SULFORCA has not responded to our questionnaire, thereby denying the Department the opportunity to verify the accuracy of SULFORCA's statements and submissions, we consider that 14.5 Bs./$1 U.S. was the appropriate exchange rate in effect for SULFORCA during the POI.

Continuation of Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of aluminum sulfate from Venezuela, as defined in the "Scope of Investigation" section of

this notice, that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register.** The U.S. Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, as shown below. This suspension of liquidation will remain in effect until further notice. The margin percentages are as follows:

Manufacturer/Producer/Exporter	Margin Percentage
Sulfatos Del Orinoco, C.A. (SULFORCA)	259.17
All Others	259.17

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigation, Import Administration. The ITC will make its determination whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the date of this determination. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all security posted as a result of the suspension of liquidation will be refunded or canceled.

However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs Officers to assess an antidumping duty on aluminum sulfate, liquid or dry, from Venezuela entered, or withdrawn from warehouse, for consumption on or after the date of suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Dated: October 18, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-25144 Filed 10-24-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-307-302]

Final Affirmative Countervailing Duty Determination; Aluminum Sulfate From Venezuela

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Venezuela of aluminum sulfate, as described in the "Scope of Investigation" section of this notice. The estimated net subsidies are specified in the "Suspension of Liquidation" section of this notice. We are directing the U.S. Customs Service to suspend liquidation of all entries of aluminum sulfate from Venezuela as specified in the "Suspension of Liquidation" section of this notice.

We have notified the United States International Trade Commission (ITC) of our determination. If the ITC determines that imports of aluminum sulfate materially injure, or threaten material injury to, a U.S. industry, we will issue a countervailing duty order directing the U.S. Customs Service to continue suspension of liquidation of all entries of aluminum sulfate from Venezuela which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of our order and to require a cash deposit on entries of aluminum sulfate in an amount equal to the appropriate estimated net subsidy.

EFFECTIVE DATE: October 25, 1989.

FOR FURTHER INFORMATION CONTACT: Michelle L. O'Neill or Carole A. Showers, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-1673 or 377-3217.

SUPPLEMENTARY INFORMATION:

Final Determination

Based on our investigation, we determine that benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Venezuela of aluminum sulfate under the preferential pricing of aluminum hydrate program.

Case History

Since publication of the "Preliminary Negative Countervailing Duty Determination: Aluminum Sulfate from Venezuela" (54 FR 27195, June 28, 1989), the following events have occurred. On June 30, 1989, we presented a supplemental/deficiency questionnaire to the Government of Venezuela. On July 14, 1989, we received a response from Suflatos del Orinoco, C.A. (SULFORCA). On July 17, 1989, we received a partial response from the Government of Venezuela. On July 21, 1989, we received a response from the Government of Venezuela concerning SULFORCA's raw material suppliers.

On July 20, 1989, petitioner filed a request for alignment of the countervailing duty and antidumping duty final determinations. Pursuant to section 705(a)(1) of the Act, we extended the final determination date in this investigation to no later than October 18, 1989 (54 FR 33254, August 14, 1989).

On August 7, 1989, we presented an additional supplemental/deficiency questionnaire to the Government of Venezuela. On August 21, 1989, we received responses from the Government of Venezuela and SULFORCA. This August 21, 1989 submission included cost of production information for aluminum hydrate requested in our June 30, 1989 supplemental/deficiency questionnaire. On August 31, 1989, we returned as untimely this cost of production information pursuant to §§ 355.2(g), 355.31 (a)(3) and (b)(2) of the new countervailing duty regulations (published on December 27, 1988 as 53 FR 52306 to be codified at 19 CFR 355.2(g), 355.31 (a)(3) and (b)(2). We conducted verification of the questionnaire responses of the Government of Venezuela and SULFORCA in Venezuela from August 28 to Setpember 12, 1989.

Petitioner and SULFORCA requested a public hearing in this case on July 7, 1989 and July 21, 1989, respectively, which was held on October 6, 1989. On September 29, October 2, and October 4, 1989, we received case briefs and rebuttal briefs filed on behalf of petitioner and SULFORCA.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1,

1989, the U.S. tariff schedules were fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS sub-headings. The HTS sub-headings are provided for convenience and Customs purposes. The written description remains dispositive.

The product covered by this investigation is aluminum sulfate from Venezeuela, which is used in water purification, in waste waster treatment, and for other industrial applications. Prior to January 1, 1989, such merchandise was classifiable under item 417.1600 of the "Tariff Schedules of the United States Annonated." This merchandise is currently classifiable under HTS item 2833.22.00.

Analysis of Programs

For purposes of this investigation, the period for which we are measuring subsidies ("the review period") is calendar year 1988. When complete data for the calendar year were not available, we used company fiscal year data as indicated. We have based our determination on our analysis of the petition, the responses to our questionnaires, verification, and written comments filed by petitioner and SULFORCA.

At verification, we found that another producer of aluminum sulfate in Venezuela exported to the United States during the review period. This producer, identified as Ferroaluminio, C.A. (FERRALCA) by the Government of Venezuela in its July 17, 1989 response, failed to respond to our requests for information. As FERRALCA did not respond to any of our questionnaires, we were unable to determine whether it used any of the programs included in this investigation. Therefore, we have determined, in accordance with section 776(c) of the Act, that the use of the best information available is appropriate. Section 776(c) requires the Department to use the best information available "whenever a party or any other person refuses or is unable to produce information requested in a timely manner, or in the form required, or otherwise significantly impedes an investigation." For the purposes of this investigation, we have assigned FERRALCA the country-wide rate calculated in the "Final Affirmative Countervailing Duty Determination: Certain Electrical Conductor Redraw Rod from Venezuela" (53 FR 24763, June 30, 1988) (Redraw Rod) as the best information available. We have determined that the country-wide rate calculated for the purposes of Redraw Rod is the best information available as it is the most recently completed Venezuelan countervailing duty investigation.

I. Program Determined to Confer a Subsidy

We determine that subsidies are being provided to manufacturers, producers, or exporters in Venezuela of aluminum sulfate under the following program:

Preferential Pricing of Aluminum Hydrate

Petitioner alleged that a government-owned firm, Interamerican de Alumina, C.A. (INTERALUMINA), is providing aluminum hydrate to SULFORCA at a preferential rate. We have learned the following, based on the responses and verification.

INTERALUMINA is an integrated aluminum reserve owned by the Government of Venezuela through the Corporacion Venezolana de Guayana (CVG) and the Venezuelan Investment Fund (FIV). INTERALUMINA's principal product is alumina. Aluminum hydrate is extracted at the filtration stage in the production of alumina. Past the filtration stage, further processing in the form of calcination takes place to produce alumina.

The extracted aluminum hydrate is sold to two customers in Venezuela, SULFORCA and FERRALCA. These two purchasers are the only producers of aluminum sulfate in Venezuela. The price charged these two customers differ. FERRALCA pays the same price INTERALUMINA charges to customers purchasing small quantities of alumina. The price INTERALUMINA charges for alumina generally is set by reference to INTERALUMINA's cost of producing alumina plus related costs identified in its financial statements. FERRALCA purchases aluminum hydrate pursuant to purchase orders which set the price and total quantity.

The price paid by SULFORCA for aluminum hydrate was established in a long-term contract entered into between INTERALUMINA and SULFORCA in August 1988, and is lower than the price paid by FERRALCA. INTERALUMINA officials' explanation for SULFORCA's lower price was that the price reflects (1) the expectation that SULFORCA will purchase larger quantities of aluminum hydrate than FERRALCA, and (2) SULFORCA's status as a new company in a developing industry.

In analyzing whether the government's provision of aluminum hydrate constitutes a countervailable benefit, we must first determine whether it is provided to a "specific enterprise or industry, or group of enterprises or industries," as required by section 771(5)(ii) of the Act. Because the government, through INTERALUMINA, provides aluminum hydrate at a particular price only to one company, SULFORCA, we determine that this government action is directed as a "specific enterprise" within the meaning of the Act.

Having determined that the provision of the price for aluminum hydrate is specific to SULFORCA, the next issue we must address is whether that price is preferential. Pursuant to section 771(5)(A)(ii)(II) of the Act, the Department determines whether the government provision of a good or service confers a countervailable benefit by comparing the government price under scrutiny to a benchmark price. That benchmark price will normally be a non-specific price that the government charges to other users of the good in the same political jurisdiction. For the purposes of this investigation, we have determined that the price INTERALUMINA charged FERRALCA for its purchase of aluminum hydrate is the appropriate benchmark price.

In determining the appropriate benchmark price, we considered our application of this provision of the Act in past determinations. for example, in "Carbon Black from Mexico; Preliminary Results of Countervailing Duty Administrative Review" (51 FR 13269, April 18, 1986), (Carbon Black), the two purchasers of the government provided input paid the same price for the input. Therefore, it was necessary for the Department to go beyond its traditional measure of preference, *i.e.*, whether the government charges different prices to different users within the jurisdiction, and to examine the alternative measures of preference in the "Preferentiality Appendix," which was attached to Carbon Black.

In this case, however, the two purchasers of aluminum hydrate are paying diferent prices. After comparing the quantities and terms of SULFORCA's contract to the quantities and terms of FERRALCA's purchase orders, we determined that these did not provide a basis for justifying the price difference involved. Also, according the INTERALUMINA officials, SULFORCA's status as a new firm in a developing industry was taken into account in setting its price.

Consistent with our traditional measure of preferentiality, we have determined that the price paid by FERRALCA for aluminum hydrate is the

proper benchmark for determining whether SULFORCA is receiving this input at preferential rates. Regardless of whether the price INTERALUMINA charged FERRALCA is specific, we have carefully examined the price and believe that it provides the best measure of preference in this situation.

First, as noted above, FERRALCA is charged the same price that small quantity purchasers pay for alumina purchased from INTERALUMINA. This is despite the fact that further processing occurs in the production of alumina. secondly, the alumina price and, hence, the price paid by FERRALCA for aluminum hydrate, is set on the basis of INTERALUMINA's production and financial costs. Therefore, we have no reason to believe that the price aluminum hydrate charged to FERRALCA is preferential.

We recognize the potential difficulties in using the price charged to one purchase as the measure of preference implicit in the price charged to another purchaser. For example, one purchaser might be charged only a very slight premium so that the lower price would not appear to confer a benefit on the company paying that lower price. However, for the reasons described above we are satisfied in this case that the price charged to FERRALCA is not preferential and, therefore, can serve as a benchmark for determining whether aluminum hydrate has been provided to SULFORCA on preferential terms.

Absent complete data for the review period, calendar year 1988, we based our calcuation on SULFORCA's fiscal year data. To calculate a benefit to SULFORCA, we multiplied the resultant price differential by the total amount of aluminum hydrate purchased during the fiscal year. We then divided the resultant figure by SULFORCA's total domestic and export sales figure as reported in its financial statements. On this basis, we calculated an estimated net subsidy of 19.03 percent *ad valorem* for SULFORCA.

II. Programs Determined Not to Confer Subsidies

We determinme that subsidies are not being provided to manufacturers, producers, or exporters in Venezuela of aluminum sulfate under the following programs:

A. Preferential Pricing of Sulfuric Acid

Sulfric acid is one of the primary inputs in the aluminum sulfate production process. Petroquimica de Venezuela, S.A. (PEQUIVEN), a state-owned company, is the only producer of sulfuric acid in Venezuela. PEQUIVEN supplies sulfuric acid to companies in a large number and broad range of industries, including the aluminum sulfate industry.

At verification, we established that all customers paid the same price for sulfuric acid purchased from PEQUIVEN, including companies producing aluminum sulfate. Because the slufuric acid PEQUIVEN produces, and the price it changes, is provided to a wide range of industries, we detemine that this program is not countervailable.

B. Preferential Pricing of Electricty

C.V.G. Electrification del Caroni, C.A. (EDELCA) is a state-owned hydroelectric power company. We verified that EDELCA uses a primary rate schedule to determine that rate it charges to all small and medium size companies with their own transformers, such as SULFORCA.

At verification, we established that the rates charged to SULFORCA during the review period were consistent with the rates charged to other small and medium size companies. Because the electricity EDELCA supplies, and the rate it charges, is provided to a large number and broad range of industries, we determine that this program is not countervailable.

III. Programs Determined Not to Be Used

Based or verified information, we determine that manufacturers, producers, or exporters in Venezuela of aluminum suflate did not apply for, claim, or receive benefits during the review period for exports of aluminum sulfate to the United States under the program listed below. These programs were described in the preliminary determination in this investigation unless otherwise noted.

A. Multiple Exchange Rate System

From January through October 1988, there was a unified rate of 14.50 bolivares [(Bs.), the Venezuelan currency] to the dollar for purchasing imports, exchanging export earnings, and the repayment of foreign debt obligations. On October 19, 1988, Decree 2484 allowed exporters who waived their right to use the export bond program, to purchase imports at the rate of 14.50 Bs. to the dollar and exchange export earnings at the free market rate. Decree 2484 also permitted the repayment of foreign debt obligations to remain at the fixed rate for any company incorporated before 1983. In March 1989, Decree 76 eliminated the multiple exchange rate system established by Decree 2484 and the fixed exchange rate for purchasing imports and exchanging export earnings. Pursuant to this decree, all subsequent foreign exchange transactions would be at the free market rate.

At verification, we established that SULFORCA did not apply for the export bond program and, therefore, did not waive the right to the export bond program in order to exchange export earnings at the free market rate. We verified that SULFORCA did not purchase imports, exchange export earnings, or repay foreign debt obligations at the fixed rate from October 1988 through December 1988. We also established that SULFORCA did not exchange any export earnings until May 1989, when the free market rate was the only available rate in Venezuela. Based on the above, we determine that SULFORCA did not use the multiple exchange rate system during the review period.

B. Export Bond Program

C. Short-term FINEXOP Financing

D. Other FINEXPO Programs

E. Preferential Tax Incentives Under Decrees 1775 and 1776

F. Industrial Financing Co. of Venezuela Loans (FIVA)

G. Government Provision of Loans and Loan Guarantees

1. Central Bank of Venezuela
2. Industrial Bank of Venezuela
3. Venezuelan Investment Fund

IV. Program Determined Not to Exist

Based on verified information, we determine that a sales tax exemption for manufacturers, producers, or exporters of aluminum sulfate from Venezuela does not exist.

Interested Party Comments

All written comments submitted by the interested parties in this investigation, which have not previously been addressed in this notice, are addressed below.

Comment 1: Petitioner claims that SULFORCA's ability to convert its exhange rate earnings at the free markets rate during a period in which major elements of its costs were determined by the official rate constitutes an export subsidy equal to the differential between the two exchange rates. Petitioner aruges that the Government of Venezuela gave SULFORCA access to the free market exchange rate to convert export earnings even though its cost structure, including purchases of basic raw materials and production equipment, was built on the official 14.50 Bs. to the dollar exchange rate. Petitioner further contends that SULFORCA was able to lower its costs because a large portion

of its depreciation costs during the review period was based upon the official exchange rate. Additionally, petitioner contends that the sharp increase in prices for goods and services in Venezuela as a result of the March 1989 reforms in the Venezuelan economy rebuts any contention that SULFORCA was operating in Venezuela on the basis of the free market exchange rate during the review period.

Respondent states that SULFORCA used the free market rate for all purposes during the review period and only recently exchanged export earnings. These export earning were exchanged at a time when the free market rate was required for both export conversion and import purchases. Further, the official rate has not been available for the purchase of imports since the fall of 1988, and was subsequently abolished for all purposes in March 1989. Therefore, respondent argues, there is no basis for the Department to conclude that the change from the fixed to the floating exchange rate system constituted a countervailable benefit.

DOC Position: See section III.A. of this notice for a discussion of the exchange rates used by SULFORCA during the review period.

With respect to the treatment of depreciation costs and the exchange rate used for basic raw materials, petitioner raises these issues for the first time in its September 29, 1989 case brief. Pursuant to § 355.31(c) of the new regulations [to be codified 19 CFR 355.31(c)], the Department will not consider any subsidy allegation submitted less than 40 days prior to the preliminary determination. Thus, we consider these allegations to be untimely and not subject to comment by the Department in this final determination.

Comment 2: Petitioner contends that the price SULFORCA paid INTERALUMINA for aluminum hydrate in 1988 was preferential when compared to any of the benchmarks in the "Preferentiality Appendix." However, petitioner argues that the price at which INTERALUMINA sold aluminum hydrate to FERRALCA is the appropriate benchmark for determining the degree of preferentiality.

Respondent contends that SULFORCA does not purchase aluminum hydrate from INTERALUMINA at subsidized rates and, therefore, there is no preferential pricing. However, if the Department were to determine that there is a countervailable subsidy relating to the provision of aluminum hydrate, the only benchmark available for calculating such an alleged subsidy would be INTERALUMINA's verified cost of production figures. Respondent does not specifically comment on the use of FERRALCA's price as a benchmark, rather, respondent contends that the Department could not use a "world price" to calculate a subsidy because aluminum hydrate is not a commodity but a specialized intermediate product for which there is no "world price." Moreover, because of plentiful raw materials and labor, the price of aluminum hydrate in Venezuela bears little relation to a world price.

DOC Position: See section I. of this notice. With respect to INTERALUMINA's cost of production information, we returned this portion of the Government's response as untimely. Therefore, we did not verify INTERALUMINA's cost of production for aluminum hydrate. Pursuant to section 776(b)(1) of the Act, the Department will only consider verified information for the purposes of a final determination. (*See* Case History section of this notice for further discussion.)

Comment 3: Petitioner alleges that if the Department assumes that PEQUIVEN operated on an official rate of exchange, the price charged to SULFORCA for sulfuric acid should not be considered preferential. But, according to petitioner, the price at which SULFORCA purchased sulfuric acid from PEQUIVEN is preferential if PEQUIVEN's price is converted to dollars at the free market rate. Petitioner further argues that if the Government of Venezuela had responded to the Department's requests for information on the prices at which other companies sold sulfuric acid within Venezuela, there would have been a more reliable basis by which to determine preferentiality. Petitioner suggests that the Department use the price at which PEQUIVEN imports sulfuric acid as a benchmark to determine whether or not PEQUIVEN's price is preferential.

DOC Position: At verification, we found that PEQUIVEN, the only supplier of sulfuric acid in Venezuela, did not import sulfuric acid during 1988. Furthermore, the Department does not consider the exchange rate used by input supplies when investigating preferential pricing of inputs. For further discussion regarding preferential pricing of inputs, *see* DOC Position to *Comment 1* above and section I., II.A. and II.B. of this notice.

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. As mentioned previously, we used the best information available for FERRALCA, who did not participate in our investigation. During the verification, we followed standard verification procedures, including meeting with government and company officials; inspecting internal documents and ledgers; tracing information in the responses to source documents, accounting ledgers and financial statements; and collecting additional information that we deemed necessary for making our final determination. Our verification results are outlined in the public versions of the verification reports which are on file in the Central Records Unit (B–099) of the Main Commerce Building.

Suspension of Liquidation

In accordance with Section 705(c) of the Act [19 U.S.C. 1671d(c)], we are directing the U.S. Customs Service to suspend liquidation of all entries of aluminum sulfate from Venezuela which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond in the amounts indicated below. As explained in the Analysis of Programs section of this notice, the estimated net subsidy rate for FERRALCA is based on the best information available. Becasue we do not have the export statistics for FERRALCA to calculate a weighted-average country-wide rate, we are providing a separate rate for FERRALCA. Therefore, the rate for all other manufacturers, producers, or exporters in this investigation is the rate calculated for SULFORCA .

Manufacturers/Producers/Exporters	Estimated net subsidy
FERRALCA	38.40
All Other Companies	19.03

This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files provided the ITC confirms that it will not disclose such information, either publicly or under administrative

protective order, without the written consent of the Deputy Assistant Secretary for Investigations.

If the ITC determines that material injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refuned or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order directing Customs officers to assess countervailing duties on all entries of aluminum sulfate from Venezuela entered, or withdrawn from warehouse, for consumption, as described in the "Suspension of Liquidation" section of this notice.

This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Lisa B. Barry,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-25145 Filed 10-24-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-122-809]

Preliminary Negative Countervailing Duty Determination: Limousines From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that no benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Canada of limousines, as described in the "Scope of Investigation" section of this notice. If this investigation proceeds normally, we will make a final determination on or before January 2, 1990.

EFFECTIVE DATE: October 25, 1989.

FOR FURTHER INFORMATION CONTACT: Vincent Kane or Carole Showers, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-2815 or 377-3217.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based on our investigation, we preliminarily determine that no benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers or exporters of limousines in Canada.

Case History

Since the publication of the Notice of Initiation in the **Federal Register** (54 FR 34805, August 22, 1989), the following events have occurred. On August 24, 1989, we presented a questionnaire to the Government of Canada in Washington, DC, concerning petitioner's allegations. On September 25, 1989, we received responses to our questionnaire from the Government of Canada (GOC), the Provincial Government of Ontario, A.H.A. Manufacturing Limited (AHA), and Stretch Sales, Inc. (Stretch Sales).

On October 4, 1989, we delivered supplemental/deficiency questionnaires to the GOC and the other respondents. On October 12, 1989, we received responses to the supplemental/deficiency questionnaires.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS sub-headings. The HTS sub-headings are provided for convenience and Customs pruposes. The written description remains dispositive.

The product covered by this investigation is limousines, which is defined as extended wheelbase and expanded seating capacity motor vehicles principally designed for the transport of persons, of a cylinder capacity exceeding 1,500 cubic centimeters, and having spark-ignition internal combustion reciprocating piston engines of six or more cylinders (gasoline-engine powered). The vehicles are built on Lincoln Town Car, Mercury Grant Marquis, Cadillac Brougham or any other six or eight cylinder gasoline engine powered chassis. The vehicle is cut in half and the wheelbase is extended, thereby providing additional rear seating capacity, area and comforts. The sheet metal work is formed to complement the original design of the base care. The vehicles are used by private individuals, corporations and limousine services. Limousines are currently provided for under the following HTS sub-headings: 8703.23.00.75, 8703.24.00.75 and 9802.00.50.40.

Analysis of Programs

For purposes of this preliminary determination, the period for which we are measuring subsidies ("the review period") is calendar year 1988. This review period corresponds to AHA's fiscal year. According to its response, Stretch Sales made no sales for export to the United States during the review period.

Consistent with our practice in preliminary determinations, when a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such reponses, however, are subject to verification. If the response cannot be supported at verification, and a program is otherwise countervailable, the program will be considered a subsidy in the final determination. Based on our analysis of the petition and the responses to our questionnaire, we preliminarily determine the following:

Programs Preliminarily Determined Not To Be Used

We preliminarily determine that manufacturers, producers or exporters in Canada of limousines did not receive benefits during the review period for exports of the subject merchandise to the United States under the following programs:

A. Federal Programs

1. Program for Export Market Development (PEMD) and Promotional Projects Program (PPP)

The PEMD was consolidated and restructured in 1987 and now includes the former PPP. Support provided under the new program is either industry-initiated (former PEMD) or government-initiated (former PPP). Under the industry-initiated component, interest-free loans are provided to industries requesting assistance in export market development. Under the government-initiated component, the GOC organizes and sponsors international trade fairs and missions.

The interest-free PEMD loans are repaid over a period of years from sales revenues on sales to the export market that was the object of the promotional activities sponsored by PEMD. If no sales or insufficient sales are made to the export market in question within a given number of years, the outstanding loan is forgiven.

In 1982 AHA received PEMD loans for a trade fair and a market survey to enhance sales of limousines for export to the United States. The outstanding balances on these loans were subsequently forgiven in 1986. Consistent with past practice, we are considering the forgiven PEMD loans to be grants to AHA in the year in which the loans were forgiven. Because the purpose of these loans is to encourage the development and expansion of exports, we preliminarily determine that benefits under this program are export subsidies.

It is our practice to expense very small grant amounts (less than 0.50 percent of the value of export sales or total sales, as appropriate) entirely in the year of receipt. (See, for example, *Final Affirmative Countervailing Duty Determination: Oil Country Tubular Goods from Canada*, 51 FR 15037, April 22, 1986 (*OCTG*).) Since the amount of the forgiven loans was less than 0.50 percent of total exports of AHA to the United States in the year the loans were forgiven, we expensed these grants entirely in that year.

Because the benefit of these grants was expensed prior to the review period and since no PEMD loans were forgiven or outstanding during the review period, we have concluded for purposes of this investigation that AHA did not use this program.

2. Certain Investment Tax Credits (ITCs)

There are several categories of ITCs in Canada, some of which include different levels of ITC rates depending on the size of the business and the location of the investment. Based on our previous examination of ITCs in Canada (See *OCTG* and *Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada*, 51 FR 10041, March 24, 1986), we initiated an investigation on the following four types of ITCs: (1) Tax credits of three and 13 percent above the basic seven percent rate which we have previously found non-specific, for investment in "qualified property" located in certain regions of Canada; (2) tax credits for investment in "certified property"; (3) tax credits for large companies of 10 percent above the basic twenty percent for investment in capital equipment used for scientific research; and (4) tax credits for investment in transportation and construction equipment.

Canadian tax law provides that ITCs may be subtracted from taxes owed and if no taxes are owed (either because a company is initially in a tax loss position or because only some of the ITCs were used to satisfy all tax liability), those excess ITCs earned after April 19, 1983, have a refundable, one-time cash value equal to 20 percent of the initial, face value of the ITC (40 percent for small businesses).

3. Regional Development Incentive Program (RDIP)

The RDIP was established in 1969 for the purpose of creating stable employment opportunities in areas of Canada where employment and economic opportunities are chronically low, namely the Atlantic provinces. The RDIP was administered by the Department of Regional Economic Expansion (DREE) until 1983 when it was replaced by the Industrial Regional Development Program (IRDP). The DREE offered incentives based on a case-by-case evaluation of capital investment projects. Projects that could proceed without RDIP assistance were ineligible. Assistance was provided in the form of grants or loan guarantees.

4. Industrial and Regional Development Program (IRDP)

The IRDP was established in 1983, replacing the RDIP. The program was designed to promote industrial development in all regions of Canada through financial support in the form of grants, loans and loan guarantees. To accomplish this goal, assistance was provided for four major purposes: (1) to encourage the development of new products and new processes and to increase industrial productivity and competitiveness; (2) to assist in the establishment of new production facilities; (3) to increase industrial productivity through the improvement, modernization and expansion of existing manufacturing and processing operations; and (4) to improve marketing. The level of benefit received under the IRDP depended upon the census district in which a project was located. Census districts were classified into one of four tiers based on economic development. The main factors considered in measuring economic development were employment, per capita income, and tax revenue receipts. The most economically deprived districts received the greatest IRDP assistance. The IRDP program was terminated on June 30, 1988.

5. Export Credit Financing

The Export Development Council (EDC) was created to facilitate and develop Canada's export trade within the framework of the Canadian Export Development Act. The EDC, a self-sustaining Crown Corporation, pursues its purpose by providing insurance, guarantees, and financing. EDC provides export financing to foreign buyers of Canadian goods and services. Funds are disbursed directly by EDC to Canadian exporters on behalf of the foreign buyer, in effect providing the exporter with a cash sale.

6. Loans under the Enterprise Development Program (EDP)

The EDP was established in 1977 to promote the growth of the manufacturing and processing sectors of the Canadian economy by fostering innovation in the design and development of new or improved production processes and by assisting adjustment to changing competitive circumstances. Individuals, firms, or corporations in Canada engaged in manufacturing or processing were eligible for assistance.

7. Community-Based Industrial Adjustment Program (CIAP) Grants

CIAP was established in 1981 as part of the Industrial and Labor Adjustment Program. It was terminated in 1984. Assistance under the CIAP was provided for capital projects to commercial enterprises located in areas affected by serious industrial dislocations. Assistance was provided in the form of non-repayable contributions to cover up to 75 percent of consulting costs for capital projects and repayable contributions to cover up to 50 percent of capital costs. Commercial enterprises throughout Canada were eligible for assistance, provided the project was located in a designated area.

B. Joint Federal-Provincial Programs

1. General Development Agreements (GDA)

GDAs provided the legal basis for various departments of the federal and provincial governments to cooperate in the establishment of economic development programs. The GDAs were umbrella agreements which stated general economic development goals. Ten-year GDAs were signed with most provinces in 1974.

Subsidiary agreements were signed pursuant to the GDAs. The subsidiary agreements were generally between particular federal and provincial government departments and addressed economic development and infrastructure needs. These agreements established various individual types of economic development programs, delineated administrative procedures and set out the relative funding commitments of the federal and provincial governments. Subsidiary agreements were typically directed at

establishing traditional government economic assistance programs, developing infrastructure, providing for economic development assistance for certain regions within the province, and providing financial assistance to specific regions, industries or enterprises.

2. Economic and Regional Development Agreements (ERDA)

ERDAs are essentially a continuation of the GDAs. ERDAs were signed with every province and territory in the early 1980's. Similar to GDA subsidiary agreements, ERDA subsidiary agreements establish programs, delineate administrative procedures and set up the relative funding commitments of the federal and provincial governments. Assistance is aimed at projects designed to upgrade infrastructure, such as transportation and convention centers, and to enhance productivity, particularly for small businesses.

C. Provincial Programs

1. Ontario Development Corporation (ODC) Export Support Loans, Other Loans and Loan Guarantees

This program was established to assist in the development and diversification of industries in Ontario. Assistance is provided in the form of loans, loan guarantees, and grants.

Verification

In accordance with section 776(b) of the Act, we will verify the information used in making our final determination.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If our final determination is affirmative, the ITC will make its final determination within 75 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 355.38 of the Commerce Department's regulations published in the **Federal Register** on December 27, 1988 (53 FR 52306) (to be codified at 19 CFR section 355.38), we will hold a public hearing, if requested, on December 6, 1989, at 10:00 a.m. in room 3708, to afford interested parties an opportunity to comment on this preliminary determination. Interested parties who wish to request or to participate in the hearing must submit a request within ten days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, ten copies of the business proprietary version and five copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than November 29, 1989. Ten copies of the business proprietary version and five copies of the nonproprietary version of rebuttal briefs must be submitted to the Assistant Secretary no later than December 4, 1989. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal brief. Written argument should be submitted in accordance with section 355.38 of the Commerce Department's regulations and will be considered if received within the time limits specified in this notice.

This determination is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: October 12, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-25046 Filed 10-24-89; 8:45 am]

BILLING CODE 3510-DS-M

Issuance of Export Trade Certificate of Review

ACTION: Notice of issuance of an export trade certificate of review, application No. 89-00013.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to the International Lumber Company (ILC). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Douglas J. Aller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register.** Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

Products

Forest products, including all sizes of dimensional lumber, rough or surfaced; all types of panel products; and all types of timbers, from 4" plus dimensional timbers to a length of 85' in all softwood species.

Export Trade Facilitation Services (as They Relate to the Export of Products)

Consulting; international market research; marketing; legal assistance; transportation, including trade documentation and freight forwarding; communication and processing of foreign orders to and for domestic Suppliers; financing; export licensing; warehousing; shipping; foreign exchange; and taking title to goods.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

To engage in Export Trade in the Export Markets, ILC is certified to:

1. Act as an "Export Intermediary."

2. Enter into exclusive agreements with Suppliers to provide Export Trade Facilitation Services wherein:

a. ILC may agree not to represent any competitor of such Supplier for Products unless authorized by the Supplier, and/or

b. the Supplier may agree not to sell, directly or indirectly, through any other Export Intermediary into any Export Market in which ILC exclusively represents the Supplier as an Export Intermediary unless authorized by ILC.

3. Respond to invitations to bid or sales opportunities existing in the Export Markets by:

a. contacting Suppliers of the Products listed in the invitation to bid,

b. inviting the Suppliers to provide independent price quotations for the Products,

c. entering into agreements with Suppliers whereby ILC will submit a response to the bid invitation or request for quotation, and/or

d. forming, for each bid invitation or sales opportunity, a consortium or joint venture of Suppliers to bid on and to fulfill the invitation or opportunity.

4. Purchase Products from Suppliers for export to the Export Markets.

A copy of each Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated October 15, 1989.

Douglas J. Aller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 89-25091 Filed 10-24-89; 8:45 am]

BILLING CODE 3510-DR-M

University of Chicago, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 88-095R. *Applicant:* University of Chicago, Chicago, IL 60637. *Instrument:* Laser System. *Manufacturer:* Lumonics, Canada. *Intended Use:* See notice at 53 FR 8483, March 15, 1988. *Reasons:* The foreign instrument provides 5-6 nanosecond pulses at energies of 100 mJ on XeCl (308).

Docket Number: 89-049. *Applicant:* Baltimore Museum of Art, Baltimore, MD 21218. *Instrument:* Controlled Heating Device. *Manufacturer:* Willard Develoments Ltd., United Kingdom. *Intended Use:* See notice at 54 FR 7461, February 21, 1989. *Reasons:* The foreign article provides accurate temperature holding ($\pm 1\%$) capability between 0-150 °C.

Docket Number: 89-053R. *Applicant:* Carleton College, Northfield, MN 55057. *Instrument:* Laser System (Excimer Laser and Excimer-Pumped Dye Laser). *Manufacturer:* Lumonics, Canada. *Intended Use:* See notice at 54 FR 9076, March 3, 1989. *Reasons:* The foreign instrument provides an average power of 0.4w on fluorine (F^2) with a pluse rate of 50pps and typical linewidth of 0.06 cm^{-1} at 580 nm.

Docket Number: 89-151. *Applicant:* University of Colorado, Institute for Arctic and Alpine Research, Boulder, CO 80309-0450. *Instrument:* Two (2) Mass Spectrometers, Model SIRA Series II. *Manufacturer:* VG Isogas, Untied Kingdom. *Intended Use:* See notice at 54 FR 23509, June 1, 1989. *Reasons:* The foreign instruments provide precise automated analysis of the following masses without adjustment: 28/29/30 in N_2, 32/33/34 in O_2, 44/45/46 in CO_2 and 64/66 in SO_2 with a guaranteed precision for CO_2 and SO_2 of 0.015°/00 using an automated cold finger with a sample size <10 bar μl.

Docket Number: 89-169. *Applicant:* University of Georgia, Athens, Ga 30602. *Instrument:* Electron Probe X-ray Microanalyzer, Model JXA-8600. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 54 FR 30788, July 24, 1989. *Reasons:* The foreign instrument provides image analysis combining x-ray electron and cathodoluminescence signals.

Docket Number: 89-174. *Applicant:* Princeton University, Princeton, NJ 08554. *Instrument:* Dilution Refrigerator, Model 400 TLE. *Manufacturer:* Oxford Instruments, United Kingdom. *Intended Use:* See notice at 54 FR 31721, August 1, 1989. *Reasons:* The foreign article provides ultra low temperature in the milli-kelvin range.

Docket Number: 89-175. *Applicant:* Cornell University, Ithaca, NY 14853. *Instrument:* Inductively Coupled Plasma Mass Spectrometer, PlasmaQuad PQ2+. *Manufacturer:* VG Elemental, United Kingdom. *Intended Use:* See notice at 54 FR 31721, August 1, 1989. *Reasons:* The foreign instrument is capable of detecting elements, isotopes or impurities down to concentrations of ten parts per trillion.

Docket Number: 89-178. *Applicant:* University of Rochester, Rochester, NY 14627. *Instrument:* Rare Gas Mass Spectrometer, Model VG 5400. *Manufacturer:* VG Isotopes, United Kingdom. *Intended Use:* See notice at 54 FR 31721, August 1, 1989. *Reasons:* The foreign instrument is capable of accurate analysis of small samples, providing a precision of 0.5% in the $^3He/^4He$ ratio and a sensitivity $-1\times10-^4$ amps/torr. He.

Docket Number: 89-179. *Applicant:* U.S. Geological Survey, Denver, CO 80225. *Instrument:* Laser Ablation Inductively Coupled Plasma Mass Spectrometer. *Manufacturer:* VG Instruments, Inc., United Kingdom. *Intended Use:* See notice at 54 FR 31721, August 1, 1989. *Reasons:* The foreign instrument is capable of detecting elements, isotopes or impurities down to concentrations of ten parts per trillion.

Docket Number: 89-197. *Applicant:* University of Alabama, Tuscaloosa, AL 35487. *Instrument:* Electron Microprobe, Model JXA-8600. *Manufacturer:* JEOL, Japan. *Intended Use:* See notice at 54 FR 34543, August 21, 1989. *Reasons:* The foreign instrument permits quantitative analysis of EDS/WDX signals and real time display of spectral acquisition.

The capability of each of the foreign instruments described above is pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89-25048 Filed 10-24-89; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by B.J. Bull From an Objection by the South Carolina Coastal Council

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Dismissal.

On June 20, 1989, B.J. Bull (Appellant), filed with the Department of Commerce (Department) a notice of appeal

pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.*, and the Department of Commerce's implementing regulations, 15 CFR part 930, subpart H. The appeal arose from an objection by the South Carolina Coastal Commission (State) to the Appellant's consistency certification for a U.S. Army Corps of Engineers (Corps) permit to place dredged or filled material in an isolated wetland in the South Carolina coastal zone.

On August 31, 1989 Appellant requested that his appeal be dismissed. Appellant also failed to submit an appellate brief in a timely fashion. The State does not object to a dismissal. Accordingly, on September 27, 1989 the Under Secretary dismissed the appeal for good cause pursuant to 15 CFR 930.128 (1988). That dismissal bars the Appellant from filing another appeal from the State's original objection to the aforementioned activities.

FOR FURTHER INFORMATION CONTACT: Kirsten Erickson, Attorney-Adviser, NOAA Office of General Counsel, U.S. Department of Commerce, 1825 Connecticut Avenue NW., Suite 603, Washington, DC 20235 (202) 673-5200.

Dated: October 16, 1989.

John A. Knauss,

Under Secretary for Oceans and Atmosphere.

[Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance]

[FR Doc. 89-25132 Filed 10-24-89; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Singapore

October 19, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of adjusting limits.

EFFECTIVE DATE: October 26, 1989.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535-6736. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 338/339, 638 and 639 are being increased for special shift, reducing the limits for Categories 334, 335, 634, and 635.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 50440, published on December 15, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implemenation of certain of its provisions.

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementing of Textile Agreements

October 19, 1989.

Commissioner of Customs,

Department of the Treasury, Washington, DC

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 12, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Singapore and exported during the period which began on January 1, 1989 and extends through December 31, 1989.

Effective on October 26, 1989 the directive of December 12, 1988 is being amended to adjust the current limits for the following categories, as provided by the current agreement between the Governments of the United States and Singapore:

Category levels in group I	Adjusted 12 month limit [1]
334	60,238 dozen.
335	156,021 dozen.
338/339	877,971 dozen of which not more than 501,570 dozen shall be in Category 338 and not more than 576,681 dozen shall be in Category 339.
634	204,853 dozen.
635	118,360 dozen.
638	815,709 dozen.
639	2,020,484 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Donald R. Foote,

Acting Chairman, Committee for the Implemenation of Textile Agreements.

[FR Doc. 89-25044 Filed 10-24-89; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Turkey

October 19, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 26, 1989.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6582. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 54 FR 27666, published on June 30, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist

only in the implementation of certain of its provisions.

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 19, 1989.

Commissioner of Customs,
Department of the Treasury, Washington, DC

Dear Mr. Commissioner: This directive amends, but does not cancel, the directives of June 23, 1989 and September 27, 1989 issued to you by the chairman, Committee for the Impelmentation of Textile Agreements. Those directives concern imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in the Republic of Turkey and exported during the twelve-month period which began on July 1, 1989 and extends through June 30, 1990.

Effective on October 26, 1989 the directives of June 23, 1989 and September 27, 1989 are amended to adjust the limits for the following categories, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and the Republic of Turkey:

Category	Adjusted 12-month limit[1]
219, 313, 314, 315, 317, 326, 617, 625, 626, 627 and 628, as a group.	86,746,642 square meters of which not more than 22,135,218 square meters shall be in 219; 27,054,155 square meters shall be in 313; 15,740,599 square meters shall be in 314; 21,151,431 square meters shall be in 315; 22,135,218 square meters shall be in 317; 2,459,469 square meters shall be in 326; 14,756,812 square meters shall be in 617; 2,459,469 square meters shall be in 625; 2,459,469 square meters shall be in 626; 2,459,469 square meters shall be in 627 2,459,469 square meters shall be in 628.
Limits not in a group	
200	851,030 kilograms.
237	156,350 dozen.
300/301	3,757,340 kilograms.
335	110,874 dozen.
336/636	277,290 dozen.
338/339	1,396,460 dozen of which not more than 977,522 dozen shall be in Categories 338-S/339-S [2].
340/640	662,688 dozen of which not more than 265,075 dozen shall be in Categories 340-Y/640-Y[3]
341	552,720 dozen of which not more than 193,452 dozen shall be in Category 341-Y[4]
342/642	351,350 dozen.
347/348	1,502,815 dozen of which not more than 751,408 dozen shall be in Categories 347-T/348-T[5]
350	157,654 dozen.
361	567,100 numbers.
369-S[6]	794,216 kilograms.
604	828,120 kilograms.

[1] The limits have not been adjusted to account for any imports exported after June 30, 1989.

[2] In Categories 338-S/339-S, only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.3010, 6109.10.0009, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.0068, 6112.11.0030 and 6114.20.0005 in Category 338-S; and 6104.22.0060, 6104.29.2046, 6106.10.0010, 6106.10.0030, 6106.90.2010, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.0070, 6112.11.0040, 6114.20.0010 and 6117.90.0022 in Category 339-S.

[3] In Categories 340-Y/640-Y, only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060 in Category 340-Y; and 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060 in Category 640-Y.

[4] In Category 341-Y, only HTS numbers 6204.22.3060, 6206.30.3010 and 6206.30.3030.

[5] In Categories 347-T/348-T, only HTS numbers 6103.19.2015 6103.19.4020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.3010, 6112.11.0050, 6113.00.0035, 6203.19.1020, 6203.19.4020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.3020, 6210.40.2030, 6211.20.1520, 6211.20.3010 and 6211.32.0040 in Category 347-T; and 6104.12.0030, 6104.19.2030, 6104.22.0040, 6104.29.2034, 6104.62.2010, 6104.62.2025, 6104.69.3022, 6112.11.0060, 6113.00.0040, 6117.90.0042, 6204.12.0030, 6204.19.3030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.3010, 6204.69.9010, 6210.50.2030, 6211.20.1550, 6211.20.6010, 6211.42.0030 and 6217.90.0050 in Category 348-T.

[6] In Category 369-S, only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Donald R. Foote,

Acting Chariman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-25092 Filed 10-24-89; 8:45 am]

BILLING CODE 3510-DR-M

Amendment of Sublevels for Certain Wool Textile Products Produced or Manufactured in the Socialist Federal Republic of Yugoslavia

October 19, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing sublevels.

EFFECTIVE DATE: October 26, 1989.

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of the sublevels, refer to the Quota Status Reports posted on the bulletin Boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and the Socialist Federal Republic of Yugoslavia agreed to increase the current sublevels for Categories 447 and 448 (sublevels of merged Categories 447/448) to conform with the Harmonized System.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 51299, published on December 21, 1988.

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 19, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 16, 1988, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Socialist Federal Republic of Yugoslavia and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989.

Effective on October 26, 1989 the directive of December 16, 1988 is amended to increase the sublevels for Categories 447 and 448, as follows:

Category	Amended 12-month limit[1]
447/448	48,908 dozen of which not more than 30,962 dozen shall be in Category 447 and not more than 30,962 dozen shall be in Category 448.

[1] The sublevels have not been adjusted to account for any imports exported after December 31, 1988.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-25045 Filed 10-24-89; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Monthly Report on Employment, Plant Hours, and Straight-Time Payrolls in Selected Shipyards; BLS Form 1360; O.M.B. No. 0703-0044.

Type of Request: Extension.

Average Burden Hours/Minutes Per Response: 40 minutes.

Frequency of Response: Monthly.

Number of Respondents: 9.

Annual Burden Hours: 72.

Annual Responses: 108.

Needs and Uses: The BLS Form 1360 data is used to adjust payments to Shipbuilders for labor and selected overhead costs incurred on certain Government contracts.

Affected Public: Business.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Dr. Timothy Sprehe. Written comments and recommendations on the proposed information collection should be sent to Dr. Timothy Sprehe at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison. Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

Dated: October 20, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-25114 Filed 10-24-89; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group C (Mainly Opto Electronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Tuesday through Thursday, 7-9 November 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 Acquisitions, 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 Public Law 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.

Dated: October 20, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 89-25113 Filed 10-24-89; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Privacy Act of 1974; Systems of Records Notices

AGENCY: Department of the Air Force, DoD.

ACTION: Addition of three new systems of records notices for public comment.

SUMMARY: The Department of the Air Force proposes to add three new systems to its inventory of systems of records subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a). The new systems are set forth below.

DATE: The new systems will be effective on or before November 24, 1989, unless comments are received which would result in a contrary determination.

ADDRESS: Linda G. Adams, SAF/AADA, The Pentagon, Washington, DC 20330-1000. Telephone (202) 697-3491; Autovon 227-3491.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a), have been published in the **Federal Register** as follows:

50 FR 22090, May 29, 1985 (Compilation, changes follow)
50 FR 47087, Nov. 14, 1985
51 FR 11807, Apr. 7, 1986
51 FR 11803, Apr. 7, 1986
51 FR 17508, May 13, 1986
51 FR 23573, Jun. 30, 1986
51 FR 44668, Dec. 11, 1986
51 FR 44672, Dec. 11, 1986
51 FR 44670, Dec. 11, 1986
51 FR 44665, Dec. 11, 1986
52 FR 4645, Feb. 13, 1987
52 FR 11849, Apr. 13, 1987
52 FR 23334, Jun. 19, 1987
52 FR 16431, May 5, 1987
52 FR 22837, Jun. 16, 1987
52 FR 15868, May 4, 1988
52 FR 27894, Jul. 25, 1988

The new systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act were submitted on October 18, 1989, to the Committee on Governmental Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985 (50 FR 52730, December 24, 1985).

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 20, 1989.

F040 AF DP A

SYSTEM NAME:

F040 AF DP A—Civilian Employee Drug Testing Records.

SYSTEM LOCATION:

Air Force central civilian personnel offices; military medical laboratories; approved contract and/or Air Force drug testing laboratories. Official mailing addresses are listed in the appendix to the Air Force's compilation of systems of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian employees and applicants for Air Force civilian positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to selection, notification, and testing for the use of illegal drugs by civilian employees and selected applicants for civilian positions, to include: Self identification records; requests for testing submitted by employees, supervisors, and commanders; testing notification; documentary evidence in support of testing decision; chain of custody records regarding testing samples; reports of testing results; records relating to the type and quality of testing performed; documentary evidence submitted by employee or applicant in rebuttal of test results; reports of medical findings regarding test results; disciplinary/adverse action records to include notification of proposed action and documentary evidence submitted in support thereof, employee's response and documentary evidence submitted in support thereof, and management's action; referrals to counseling/rehabilitation services; and records regarding employee's consent for release of information concerning counseling/rehabilitation progress.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7301; Pub. L. 100–71; Executive Orders 12564, "Drug-Free Federal Workplace" and 9397; and 10 U.S.C. 8013, Secretary of the Air Force: Powers and Duties, delegation by; and DoD Directive 1010.9, "DoD Civilian Employee Drug Abuse Testing Program".

PURPOSE(S):

Provides the record system necessary to manage the Air Force civilian employee and applicant drug abuse testing program. This system tracks the identification, notification, and testing for drug abuse of civilian employees and applicants for selected civilian positions. The system also tracks follow up corrective actions.

The records are also used by the employee's Medical Review Official; the administrator of any Employee Assistance Program in which the employee is receiving counseling or treatment or is otherwise participating; and supervisory or management officials within the employee's agency having authority to take adverse personnel action against such employee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In order to comply with provisions of 5 U.S.C. 7301, the Department of the Air Force's "Blanket Routine Uses" do not apply to this system of records.

To a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action is a compatible routine use required by statute.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

System is maintained on paper records kept in file folders and/or on computer tapes and discs.

RETRIEVABILITY:

Records are retrieved by employee name, Social Security Number, date of birth, specimen identification number or any combination of these.

SAFEGUARDS:

Records are accessed by custodian of the records system and by person(s) responsible for servicing the records system in performance of their official duties who are properly screened. Except when under direct physical control by authorized individuals, records will be stored in security file containers/cabinets or safes and controlled by personnel screening. Computer terminals are located in supervised areas with terminal access controlled by password or other user code systems.

RETENTION AND DISPOSAL:

Local retention varies from 3 months to 5 years; or one year after individual has reassigned, separated, retired, or has died. After that time, records are destroyed by tearing, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters United States Air Force, Directorate of Civilian Personnel, Benefits and Entitlements Division (HQ USAF/DPCE), Washington, DC 20330–5060, or comparable official of the Civilian Personnel Office serving the Air Force activity/installation. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system contains information about themselves should address written inquiries to or may appear in person at their servicing Central Civilian Personnel Office of the appropriate Air Force activity/installation or to the Headquarters United States Air Force, Directorate of Civilian Personnel, Benefits and Entitlements Division (HQ USAF/DPCE), Washington, DC 20330–5060. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records.

Written requests should contain the full name and signature of the requester and the approximate period of time, by date, during which the case record was developed. Requests in person must be made during normal working hours Monday through Friday, excluding national and/or local holidays.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to or appear in person to the servicing Central Civilian Personnel Office of the appropriate Air Force activity/installation or to the Headquarters United States Air Force, Directorate of Civilian Personnel, Benefits and Entitlements Division (HQ USAF/DPCE), Washington, DC 20330–5060. Proof of identification will be required prior to disclosure.

CONTESTING RECORD PROCEDURE:

The Department of the Air Force rules for accessing records and for contesting contents and appealing initial determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR Part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Records in this system are obtained from (a) the individual to whom the record pertains; (b) Air Force employees involved in the selection and notification, and collection of individuals to be tested; (c) laboratories that test urine specimens for the presence of illegal drugs; and (d) supervisors and managers and other Air Force officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F075 AF DP A

SYSTEM NAME:

F075 AF DP A—Application for Early Return of Dependents.

SYSTEM LOCATION:

All overseas host base Central Base Personnel Office (CBPO) outbound assignments sections (DPMI!). Official

mailing addresses are published as an appendix to the Air Force's compilation of systems of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Command sponsored dependents of military personnel assigned overseas.

CATEGORIES OF RECORDS IN THE SYSTEM:

Members name, grade, Social Security Number, initial date of sponsor entry into overseas theater, date of separation, date of rotation (DEROS); names, relationships, sexes, dates of birth, passport, numbers, and addresses of dependents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 U.S.C. 401, Chapter 7 and E.O. 9397.

PURPOSE(S):

Used by the Unit Commander, CBPO personnel, and the approval authority to approve/disapprove requests for early return of dependents. Under the provisions of Air Force Regulation 75–8, Vol II, member or spouse may request early return of dependents to their country of origin if desired, prior to the time PCS orders are required. If member declines to initiate request for early return of dependents, the spouse may request early return for self but not for minor children. Documentation must be provided by the applicant to substantiate the existence of a situation which required dependents to be returned (Joint Federal Travel Regulation (JFTR) U5240, D1–De, Items a–h).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Air Force's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Retrieved alphabetically by name.

SAFEGUARDS:

Records are stored in locked cabinets, rooms, or buildings. Records are accessed by the custodian and personnel responsible for servicing the record system in performance of their official duties. Access is controlled by the system manager and restricted to authorized personnel.

RETENTION AND DISPOSAL:

Early return of dependents case files are retained in office files for one year after the annual cutoff, then destroyed. These records are destroyed by one of the following means: Tearing into pieces, shredding, pulping or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Personnel Utilization (DPMU), host base CBPO. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Chief, Personnel Utilization (DPMU), host base CBPO. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records. Full name and SSN of sponsor are required for inquiries.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Chief, Personnel Utilization (DPMU), host base CBPO. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR Part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from individuals requesting early return of dependents, personnel, legal, chaplain, or other agencies providing pertinent information for the case file.

EXEMPTIONS CLAIMED FOR THE SYSTEM

None.

F211 AF MP A

SYSTEM NAME:

F211 AF MP A—Family Services Volunteer Record

SYSTEM LOCATION:

Family Services offices at all Air Force installations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All volunteers participating in the program and former participants.

CATEGORIES OF RECORDS IN THE SYSTEM:

As a minimum, the file contains forms and general correspondence by name, Social Security Number, address, and associated information relating to an individual volunteer's training, honors/awards, participation, and associated actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; and Air Force Regulation 211–24, "Family Services Program".

PURPOSE(S):

To document an individual volunteer's training, honors/awards, participation, and associated actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Air Force's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets or card files.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records from this system of records may be accessed by person(s) in performance of official duties who are properly screened and cleared for need-to-know. Records will be maintained in locked rooms.

RETENTION AND DISPOSAL:

In active volunteer status, retained indefinitely or until superseded. The record of a volunteer who transfers or who has not been credited with participation in a 90-day period is placed in an inactive file and destroyed after 2 years by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Personnel for Military Personnel, Randolph Air Force Base, TX 78150–6001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Family Services Office of the Air Force installation in question or to the Assistant Deputy Chief or Staff/ Personnel for Military Personnel, Randolph Air Force Base, TX 78150–6001. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records contained in this system of records should address written inquiries to the Family Services Office of the Air Force installation in question or to the Assistant Deputy Chief or Staff/ Personnel for Military Personnel, Randolph Air Force Base, TX 78150–6001. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records.

CONTESTING RECORD PROCEDURE:

The Department of the Air Force rules for accessing records and for contesting contents and appealing initial determinations are published in Air Force Regulation 12–35; 32 CFR Part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from individual volunteer or is based on program participation as documented by other means.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 89–25115 Filed 10–24–89; 8:45 am]

BILLING CODE 3810–01

Department of the Navy

Privacy Act of 1974; Amended Record Systems

AGENCY: Department of the Navy.

ACTION: Notice of amended systems of records subject to the Privacy Act.

SUMMARY: The Department of the Navy proposes to amend nine systems of records in its inventory of record systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATE: This proposed action will be effective without further notice November 24, 1989, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mrs. Gwen Aitken, Head, PA/FOIA Branch, Office of the Chief of Naval Operations (OP–09B30), Room 5E521, Department of the Navy, The Pentagon, Washington, DC 20350–2000. Telephone (202) 697–1459, Autovon: 227–1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices inventory subject to the Privacy Act of 1974 have been published in the **Federal Register** as follows:

51 FR 12908, Apr 16, 1986
51 FR 18086, May 16, 1986 (Compilation, changes follow)
51 FR 19884, Jun 3, 1986
51 FR 30377, Aug 26, 1986
51 FR 30393, Aug 26, 1986
51 FR 45931, Dec 23, 1986
52 FR 2147, Jan 20, 1987
52 FR 2149, Jan 20, 1987
52 FR 8500, Mar 18, 1987
52 FR 15530, Apr 29, 1987
52 FR 22671, Jun 15, 1987
52 FR 45846, Dec 2, 1987
53 FR 17240, May 16, 1988
53 FR 21512, Jun 8, 1988
53 FR 22028, Jun 13, 1988
53 FR 25363, Jul 6, 1988
53 FR 39499, Oct 7, 1988
53 FR 41224, Oct 20, 1988
54 FR 8322, Feb 28, 1989
54 FR 14377, Apr 11, 1989
54 FR 32682, Aug 9, 1989
54 FR 40160, Sep 29, 1989
54 FR 41495, Oct 10, 1989

The specific changes to the record systems being amended are set forth below, followed by the system notices, as amended, published in their entirety. These notices are not within the purview of subsection (r) of the Privacy Act, 5 U.S.C. 552a, which requires the submission of altered systems reports.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 19, 1989.

N01070–14

System name:

Next of Kin Information for Sea Trial Riders (51 FR 18093, May 16, 1986).

Changes:

* * * * *

Storage:

Delete the entire entry and substitute with "File folders."

* * * * *

N01070–14

SYSTEM NAME:

Next of Kin Information for Sea Trial Riders.

SYSTEM LOCATION:

Naval Sea Systems Command (Code 08), Washington, DC 20362–5101.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals attending nuclear propulsion plant sea trials of Navy ships.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names and addresses of next of kin, name, Social Security Number, and security clearance of individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations.

PURPOSE(S):

To maintain information necessary to notify the next of kin in case of accident or other emergency of those individuals assigned to nuclear propulsion plant sea trials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Retrieved alphabetically by name.

SAFEGUARDS:

Locked in 3-way combination safe in a restricted area.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Sea Systems Command (Code 08), Washington, DC 20362–5101.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Naval Sea Systems Command (Code 08), Washington, DC 20362–5101.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, Naval Sea Systems Command (Code 08), Washington, DC 20362–5101. The request should contain full name, address and Social Security Number.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and for contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5, 32 CFR Part 701, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N04410–3

System name:

Duty Free Vehicle Log (51 FR 18138, May 16, 1986).

Changes:

* * * * *

Categories of individuals covered by the system:

Delete the entire entry and substitute with "All U.S. Navy personnel and their dependents stationed aboard Naval Weapons Facility Detachment, Machrihanish."

Categories of records in the system:

Delete the entire entry and substitute with "Name and rank/rate of individual; make, year and registration of vehicle status; UK purchase or imported; and date of purchase or importing."

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

Storage:

Add to end of entry "in lockable file cabinet."

Retention and disposal:

Delete the entire entry and substitute with "Maintained for one year after transfer, sale, death, or other change in status. Old pages are shredded."

* * * * *

N04410–3

SYSTEM NAME:

Duty Free Vehicle Log.

SYSTEM LOCATION:

Officer in Charge, U.S. Naval Weapons Facility Detachment, FPO New York 09515–0052 and Customs Officer, HMS Customs and Excise, Campbeltown, Argyll, Scotland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All U.S. Navy personnel and their dependents stationed aboard Naval Weapons Facility Detachment, Machrihanish.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and rank/rate of individual; make, year and registration of vehicle status; U.K. purchase or imported; and date of purchase or importing.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations.

PURPOSE(S):

To assist local customs officials in protecting against the illegal transfer of duty-free vehicles to UK citizens.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folder in lockable file cabinet.

RETRIEVABILITY:

Name.

SAFEGUARDS:

The records are maintained in an office that is locked when not manned.

RETENTION AND DISPOSAL:

Maintained for one year after transfer, sale, death or other change in status. Old pages are shredded.

SYSTEM MANAGER(S) AND ADDRESS:

Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York 09515–0052.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York 09515–0052. The request should contain name and address.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Officer in Charge, U.S. Naval Weapons Facility, Detachment, FPO New York 09515–0052.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5, 32 CFR Part 701, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from documents provided by the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05815–1

System name:

Special courts-martial resulting in bad conducting discharges or concerning commissioned officers. (51 FR 18171, May 16, 1986).

Changes:

System name:

Delete the entire entry and substitute with "Records of trial of special courts-martial resulting in bad conduct discharges or concerning officers."

System location:

Delete entire entry and substitute with "Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, Building 111, Washington, DC 20374–2001."

* * * * *

N05815–1

SYSTEM NAME:

Record of trial of special courts-martial resulting in bad conduct discharges or concerning officers.

SYSTEM LOCATION:

Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, Building 111, Washington, DC 20374–2001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy and Marine Corps personnel tried by special courts-martial and awarded a bad conduct discharge, and all Navy and Marine Corps commissioned officers tried by special courts-martial.

CATEGORIES OF RECORDS IN THE SYSTEM:

Special courts-martial which resulted in a bad conduct discharge, or involving commissioned officers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 865; 10 U.S.C. 866(b), 5 U.S.C. 301, Departmental Regulations; and E.O. 11476 of June 19, 1969, as amended by E.O. 11835 of January 27, 1975, paragraph 94b (manual for courts-martial, 1969 (rev.))

PURPOSE(S):

To complete appellate review as required under 10 U.S.C. 866(b) and provide central repository accessible to the public who may request information concerning the appellate review or want copies of individual public records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Files are kept by Navy courts-martial number and each case is cross-referenced by an index card which is filed in alphabetical order according to the last name of the individual concerned.

SAFEGUARDS:

Files are maintained in file cabinets and other storage devices under the control of authorized personnel during working hours; the office space in which the file cabinets and storage devices are located is locked outside official working hours.

RETENTION AND DISPOSAL:

Records are maintained in office for three years and then forwarded to the Federal Records Center, Suitland, MD 20409 for storage.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Judge Advocate General (Military Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General, Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, Building 111, Washington, DC 20374-2001. The request should contain the full name and address.

Personal visits may be made to the Administrative Support Division, Office of the Judge Advocate General, Washington Navy Yard, Building 111, Washington, DC 20374-2001. Individuals making such visits should be able to provide some acceptable identification, e.g. Armed Forces' identification card, driver's license, etc.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Deputy Assistant Judge Advocate General, Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, Building 111, Washington, DC 20374-2001.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5, 32 CFR Part 701, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Special courts-martial proceedings.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05817-1

System name:

Courts-Martial Statistics (51 FR 18171, May 16, 1986).

Changes:

* * * * *

System location:

Delete the entire entry and substitute with "Administrative Support Division (Code 40), Navy-Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Building 111, Washington Navy Yard, Washington, DC 20374-1111."

* * * * *

Categories of records in the system:

In line nine, delete the words "* * * to present * * *" and substitute with "through 1986".

Authority for maintenance of the system:

Add the following to the end of the entry: ", Departmental Regulations and E.O. 9397."

* * * * *

Storage:

Delete the entire entry and substitute with "On computer hard disk."

* * * * *

Safeguards:

Delete the entire entry and substitute with "Computer hard disk is located in office which is under observation during working hours and is locked at night. The office is located in a secure building which is guarded 24 hours a day. Admission is allowed only to personnel on official business and to authorized visitors. The computer is not accessible by telephone modem."

Retention and disposal:

Delete the entire entry and substitute with "Permanent".

System manager(s) and address:

Delete the entire entry and substitute with "Director, Administrative Support Division (Code 40), Navy-Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Building 111, Washington Navy Yard, Washington, DC 20374-1111."

* * * * *

N05817-1

SYSTEM NAME:

Courts-Martial Statistics.

SYSTEM LOCATION:

Administrative Support Division (Code 40), Navy-Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Building 111, Washington Navy Yard, Washington, DC 20374-1111.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy and Marine Corps personnel tried by general courts-martial and by special courts-martial when the special courts-martial sentence, as finally approved, includes a punitive discharge.

CATEGORIES OF RECORDS IN THE SYSTEM:

Courts-martial information on special courts-martial if sentence, as finally approved, includes a punitive discharge and all general courts-martial including name, Social Security Number, pleas, convening authority action, supervisory authority action, and Court of Military

Review action. Information available from 1970 through 1986 only.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and E.O. 9397.

PURPOSE(S):

To collect statistical data on general and bad conduct discharge special courts-martials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To governmental, public and private organizations and individuals, as required.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

On computer hard disc.

RETRIEVABILITY:

Name, Social Security Number or Navy courts-martial number.

SAFEGUARDS:

Computer hard disc is located in office which is under observation during working hours and is locked at night. The office is located in a secure building which is guarded 24 hours a day. Admission is allowed only to personnel on official business and authorized visitors. The computer is not accessible by telephone modem.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Judge Advocate General (Military Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Navy-Marine Corps Appellate Review Activity), Office of the Judge Advocate General, Building 111, Washington Navy Yard, Washington, DC 20374-1111. Written requests must be signed by the requesting individual.

Personal visits may be made to the Navy-Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Building 111, Room 48, Washington Navy Yard, Washington, DC 20374-1111. Individuals must be able to provide some acceptable identification, e.g. Armed Forces identification card, driver's license, etc.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves in this system of records should address written inquiries to the Deputy Assistant Judge Advocate General (Navy-Marine Corps Appellate Review Activity), Office of the Judge Advocate General, Building 111, Washington Navy Yard, Washington, DC 20374-1111. Written requests must be signed by the requesting individual.

Personal visits may be made to the Navy-Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Building 111, Room 48, Washington Navy Yard, Washington, DC 20374-1111. Individuals must be able to provide some acceptable identification, e.g., Armed Forces identification card, driver's license, etc.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5, 32 CFR Part 701, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Navy Judge Advocate General Form 5813/1.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05819-1

System name:

Article 69 Petitions (51 FR 18172, May 16, 1986).

Changes:

* * * * *

System location:

Delete the entire entry and substitute with "Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, Building 111, Washington, DC 20374-2001."

* * * * *

N05819-1

SYSTEM NAME:

Article 69 Petitions.

SYSTEM LOCATION:

Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, Building 111, Washington, DC 20374-2001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy and Marine Corps personnel who were tried by courts-martial which were not reviewed by the Navy Court of Military Review and when such service member has petitioned the Judge Advocate General pursuant to Article 69, Uniform Code of Military Justice, for review.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain individual service member's petition together with all forwarding endorsements and copy of action taken by the Judge Advocate General with supporting memorandum.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Article 69, Uniform Code of Military Justice (10 U.S.C. 869).

PURPOSE(S):

To complete appellate review as required under 10 U.S.C. 869(b) and to provide a central repository accessible to the public who may request information concerning the appellate review or want copies of individual public records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Records are maintained in chronological calendar order with alphabetical cross-referencing system.

SAFEGUARDS:

Files are maintained in file cabinets and other storage devices under the control of authorized personnel during working hours; the office spaces in which the file cabinets and storage devices are located are locked outside official working hours.

RETENTION AND DISPOSAL:

Records are maintained in office for three years and then forwarded to the Federal Records Center, Suitland, MD 20409 for storage.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Judge Advocate General (Military Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General, Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, Building 111, Washington, DC 20374-2001. The request should contain full name and address of the individual concerned and should be signed.

Personal visits may be made to the Administrative Support Division, Office of the Judge Advocate General, Washington Navy Yard, Building 111, Washington, DC 20374-2001. Individuals making such visits should be able to provide some acceptable identification, e.g. Armed Forces' identification card, driver's license etc.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Deputy Assistant Judge Advocate General, Administrative Support Division, Navy and Marine Corps Appellate Review Authority, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, Building 222, Washington, DC 20374-2001.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5, 32 CFR Part 701, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The records comprise of the following source materials: (1) Petitions for relief, (2) forwarding endorsements thereon by petitioner's commanding officer and convening/supervisory authorities of courts-martial (above information is omitted if petitioner is former service member), and (3) action of the Judge Advocate General on petition.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None

N05819-2

System name:

Article 73 Petitions for New Trial (51 FR 18173, May 16, 1986).

Changes:

* * * * *

System location:

Delete the entire entry and substitute with "Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, Building 111, Washington, DC 20374-2001."

* * * * *

N05819-2

SYSTEM NAME:

Article 73 Petitions for New Trial.

SYSTEM LOCATION:

Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, Building 111, Washington, DC 20374-2001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy and Marine Corps personnel who submitted petitions for new trial to the Judge Advocate General within two years after approval of their courts-martial sentence by the convening authority but after their case had been reviewed by the Navy Court of Military Review or Court of Military Appeals, if appropriate.

CATEGORIES OF RECORDS IN THE SYSTEM:

The petition for new trial, the forwarding endorsements if the petition was submitted via the chain of command, and the action of the Judge Advocate General on the petition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Article 73, Uniform Code of Military Justice, (10 U.S.C. 873).

PURPOSE(S):

To provide a record of individual petitions in order to answer inquiries from the individual concerned and to provide additional advice to commands involved when and if such petitions are granted.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Files are kept in alphabetical order according to the last name of the individual concerned.

SAFEGUARDS:

Files are maintained in file cabinets and other storage devices under the control of authorized personnel during working hours; the office space in which the file cabinets and storage devices are located is locked outside official working hours.

RETENTION AND DISPOSAL:

Records are maintained in office for two years and then forwarded to the Federal Records Center, Suitland, MD 20409 for storage.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Judge Advocate General (Military Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Military Justice), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400. The request should contain full name and address.

Personal visits may be made to the Military Justice Division, Office of the Judge Advocate General, Room 9S09, Hoffman Bldg II, 200 Stovall Street, Alexandria, VA 22332-2400. Individuals should have the following items of identification: driver's license or military identification card.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Deputy Assistant Judge Advocate General (Military Justice), Office of the Judge Advocate General, Department of the Navy, 200

Stovall Street, Alexandria, VA 22332-2400.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5, 32 CFR Part 701, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The records are comprised of the following source materials: (1) Petitions for new trial; (2) forwarding endorsements thereon by petitioner's commanding officer and convening/supervisory authorities of courts-martial (above information is omitted if petitioner is former service member); and (3) action of the Judge Advocate General on petitions.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N06150-2

System name:

Health Care Treatment Record System (52 FR 45851, December 2, 1987).

Changes:

System name:

In line one, delete the word "Treatment".

System location:

Delete the entire entry and substitute with "Military outpatient health (medical and dental) records of active duty individuals are retained at the member's medical or dental treatment facility. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records. Military outpatient health (medical and dental) records of current reservists are retained by the member's command. Military outpatient health (medical and dental) records of retired and separated individuals are retained at National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132-5100; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA 70149-7800; Marine Corps Reserve Support Center, 10950 El Monte, Overland Park, KS 66211-1408; Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120; or Headquarters, U.S. Marine Corps, Navy Department, Washington, DC 20380-0001.

Inpatient health records are retained at the originating naval medical treatment facility. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records. Veterans Administration Hospitals; other medical treatment facilities; National Personnel Records Center (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132-5100; National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA 70149-7800; Marine Corps Reserve Support Center, 10950 El Monte, Overland Park, KS 66211-1408; Medical Director, American Red Cross, Washington, DC 20226; or Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120; or, Headquarters, U.S. Marine Corps, Navy Department, Washington, DC 20380-0001.

Outpatient health (medical and dental) treatment records of civilians are retained at the originating naval medical or dental treatment facility. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records. Other medical treatment facilities: National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132-5100; National Personnel Records Center, (Civilian Personnel Records), 111 Winnebago Street, St.Louis, MO 63118; Medical Director, American Red Cross, Washington, DC 20226; or Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120; or, Headquarters, U.S. Marine Corps, Navy Department, Washington, DC 20380-0001.

Secondary health records may be retained separate from the health record by individual departments at naval medical or dental treatment facility.

Subsidiary records are retained by individual departments within medical or dental treatment facilities or located at Naval Medical Data Services Center, Bethesda, MD; Regional Data Service Centers; Naval Environmental Health Center, Norfolk, VA 23511-6695; and, other approved locations for compiling data and conducting research studies."

Categories of individuals covered by the system:

In line three, after the word "retired" add "and separated) * * *". Also, delete last paragraph beginning with "Navy" and ending with "hazards".

Categories of records in the system:

Delete the entire entry and substitute with "Outpatient and inpatient health (medical and dental) records contain forms documenting care and treatment. These records contain patient and sponsor demographic data. Medical record documentation conforms with Joint Commission on the Accreditation of Health Organizations standards.

Secondary health records contain forms documenting care and treatment at specific departments or clinics.

Subsidiary health records contain information from individual health records and supporting documentation. Examples are x-ray files; electrecephalogram tracings files; laboratory files; pharmacy files; nursing care plans; medication and treatment cards; stat/daily orders; patient intake and output forms; ward reports; day books; nursing service reports; pathology and clinical laboratory reports; tumor registries; autopsy reports; laboratory information system (LABIS); blood transfusion reaction records; blood donor and blood donor center records; pharmacy records; surgery records; vision records and reports; communicable disease case files, statistics, and reports; occupational health, industrial hygiene, and environmental control records, statistics, and reports; including data concerning periodic and total lifetime accumulated exposure to occupational/environmental hazards; emergency room and sick call logs; family advocacy case files, statistics, reports, and registers; psychiatric workload statistics and unit evaluations; gynecology malignancy data, etc.

Aviation physical examinations and evaluation case files contain medical records documenting fitness for admission or retention in aviation programs.

Marine Security Guard Battalion psychological examination, evaluation, and treatment case files contain medical records documenting suitability for assignment as Embassy Guards."

Authority for maintenance of the system:

In line three, delete the words "Title 10, CFR Part 20," and substitute with "10 CFR Part 20,". At the end of the entry, add "* * * and E.O. 9397."

Purpose(s):

Delete paragraph one and substitute with "This system is used by officials, employees and contractors of the Department of the Navy (and members of the National Red Cross in naval medical treatment facilities) in the performance of their official duties relating to the health and medical treatment of Navy and Marine Corps members; physical and psychological

qualifications and suitability of candidates for various programs; personnel assignment; law enforcement; dental readiness; claims and appeals before the Council of Personnel Boards, and the Board for Correction of Naval Records; member,s physical fitness for continued naval service; litigation involving medical care; performance of research studies and compilation of statistical data; implementation of preventive medicine programs and occupational health surveillance programs; implementation of communicable disease control programs; and management of the Bureau of Medicine and Surgery's Radiation program and to report data concerning individual's exposure to radiation."

Add a new paragraph two that reads "This system is also used for the initiation and processing, including litigation, of affirmative claims against potential third party payors."

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Delete the entire entry and substitute with "To officials and employees of the Veterans Administration in the performance of their official duties relating to the adjudication of veterans claims and in providing medical care to Navy and Marine Corps members.

To officials and employees of other departments and agencies of the Executive Branch of Government upon request in the performance of their official duties related to review of the physical qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies.

To private organizations (including educational institutions) and individuals for authorized health research in the interest of the Federal Government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies.

To officials and employees of the National Research Council in officially approved studies of the National History of Disease.

To officials and employees of local and state governments and agencies in the performance of their official duties relating to public health and welfare, communicable disease control, preventive medicine, child and spouse abuse prevention, and public safety. To officials and employees of local and state governments and agencies in the performance of their official duties relating to professional certification, licensing, and accreditation of health care providers.

To law enforcement officials to protect the life and welfare of third parties. This release will be limited to necessary information. Consultation with the hospital or regional judge advocate is advised.

To spouses of service members (including reservists) who are infected with the Human Immunodeficiency Virus. This release will be limited to HIV positivity information. Procedures for informing spouses will be published by the Director, Naval Medicine and must be used.

To military and civilian physicians to further the medical care and treatment of the patient.

To release radiation data per 10 CFR Part 20.

When required by federal statute, by executive order, or by treaty, medical record information will be disclosed to the individual, organization, or government agency, as necessary.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records also apply to this system.

Note: Records of identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–3 and 290ee–3. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The Navy's "Blanket Routine Uses" do not apply to these records."

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system

Storage:

In line one, delete the word "on-site". In line two, delete the words "medical treatment" and substitute with "health".

Retrievability:

In lines two and three, delete the words "treatment records, both primary and secondary records" and substitute with "records". In lines 10 and 11, delete the words "treatment records both primary and secondary" and substitute with "health records". In lines 20 and 21, delete the words "treatment records, both primary and secondary" and substitute with "health records of dependents * * *".

Safeguards:

In line six, delete the words "areas; access" and substitute with "areas. Access". In lines seven and eight, delete the words "system; utilization" and substitute with "system. Utilization".

Retention and disposal:

Delete the entire entry and substitute with "Health care records are retained, retired, and disposed of in accordance with Secretary of the Navy Instruction 5215.15 series (Disposal of Navy and Marine Corps Records) and Naval Medical Command Instruction 6150.1 series (Health Care Treatment Records). Specifics are given below:

Military health (medical and dental) records are transferred with the member upon permanent change of duty station to his/her new duty station. These records are retired to National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132–5100; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA 70149–7800; and, Marine Corps Reserve Support Center, 10950 El Monte, Overland Park, KS 66211–1408.

Inpatient health records are transferred to National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132–5100; National Personnel Records Center, (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA 70149–7800; and Marine Corps Reserve Support Center, 10950 El Monte, Overland Park, KS 66211–1408, two years after the calendar year of the last date of treatment.

Outpatient (medical and dental) health records of civilians are transferred to the National Personnel Records Center, 9700 Page Avenue, St. Louis, MO 63132–5100 or National Personnel Records Center, 111 Winnebago Street, St. Louis, MO, two years after the calendar year of the last date of treatment.

X-ray files are retained on site and destroyed three years after the last x-ray in the file. Asbestos x-rays are retained on site indefinitely.

Secondary health records may be retained separate from the health record. A notation is made in the health record that these records exist and where they are being kept. When the health record is retired or the patient transfers, these records should be entered in the health record.

Aviation medical records are retained on board and destroyed when 30 years old.

Marine Security Guard Battalion psychological examination, evaluation, and treatment case files containing medical records documenting fitness for assignment as Embassy Guards are retained on board and destroyed after 50 years.

Clinical psychology case files documenting suitability for special assignment will be retained at the originating medical treatment facility and destroyed when 50 years old.

Radiation exposure records for personnel exceeding exposure limits are retained at Bureau of Medicine and Surgery 50 years, then destroyed; all others are retained five years, then destroyed."

System manager(s) and address:

Delete the entire entry and substitute with "Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120 and commanding officers of medical and dental clinics. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records."

* * * * *

N06150-2

SYSTEM NAME:

Health Care Record System.

SYSTEM LOCATION:

Military outpatient health (medical and dental) records of active duty individuals are retained at the member's medical or dental treatment facility. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records. Military outpatient health (medical and dental) records of current reservists are retained by the member's command.

Military outpatient health (medical and dental) records of retired and separated individuals are retained at the National Personnel Records Center, 9700 Page Boulevard, St. Louis, MO 63132-5100; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA 70149-7800; Marine Corps Reserve Support Center, 10950 El Monte, Overland Park, KS 66211-1408; Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120; or Headquarters Marine Corps, Navy Department, Washington, DC 20380-0001.

Inpatient health records are retained at the originating naval medical treatment facility. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records. Veterans Administration Hospitals; other medical treatment facilities; National Personnel Records Center (Military), 9700 Page Avenue, St. Louis, MO 63132-5100; National Personnel Records Center, (Civilian), 111 Winnebago Street, St. Louis, MO 63118; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA 70149-7800; Marine Corps Reserve Support Center, 10950 El Monte, Overland Park, KS 66211-1408; Medical Director, American Red Cross, Washington, DC 20226; Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120; or, Headquarters, U.S. Marine Corps, Navy Department, Washington, DC 20380-0001.

Outpatient health (medical and dental) treatment records of civilians are retained at the originating naval medical or dental treatment facility. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records. Other medical treatment facilities: National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132-5100; National Personnel Records Center, (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118; Medical Director, American Red Cross, Washington, DC 20226; Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120; or Headquarters, U.S. Marine Corps, Navy Department, Washington, DC 20380-0001.

Secondary health records may be retained separate from the health record by individual departments at naval medical or dental treatment facility.

Subsidiary records are retained by individual departments within medical or dental treatment facilities or located at Naval Medical Data Services Center, Bethesda, MD 20814-5066; Regional Data Service Centers; Naval Environmental Health Center, Norfolk, VA 23511-6695; and, other approved locations for compiling data and conducting research studies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy and Marine Corps personnel, other military personnel, dependents, retired and separated military personnel and dependents, civilian employees, Red Cross personnel, foreign personnel, VA beneficiaries, humanitarian patients, and all other individuals who receive treatment at a Navy medical or dental treatment facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Outpatient and inpatient health (medical and dental) records contain forms documenting care and treatment. These records contain patient and sponsor demographic data. Medical record documentation conforms with Joint Commission on the Accreditation of Health Organization standards.

Secondary health records contain forms documenting care and treatment at specific departments of clinics.

Subsidiary health records contain information from individual health records and supporting documentation. Examples are x-ray files; electroencephalogram tracing files; laboratory files; pharmacy files; nursing care plans; medication and treatment cards; stat/daily orders; patient intake and output forms; ward reports; day books; nursing service reports; pathology and clinical laboratory reports; tumor registries; autopsy reports; laboratory information system (LABIS); blood transfusion reaction records; blood donor and blood donor center records; pharmacy records; surgery records; vision records and reports; communicable disease case files, statistics, and reports; occupational health, industrial hygiene, and environmental control records, statistics, and reports; including data concerning periodic and total lifetime accumulated exposure to occupational/environmental hazards; emergency room and sick call logs; family advocacy case files, statistics, reports, and registers; psychiatric workload statistics and unit evaluations; gynecology malignancy data, etc.

Aviation physical examinations and evaluation case files contain medical records documenting fitness for admission or retention in aviation programs.

Marine Security Guard Battalion psychological examination, evaluation, and treatment case files contain medical records documenting suitability for assignment as Embassy Guards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5131 (as amended); 10 U.S.C. 5132; 44 U.S.C. 3101; 5 U.S.C. 301; 10 CFR Part 20, Standards for Protection Against Radiation, and E.O. 9397.

PURPOSE(S):

This system is used by officials, employees and contractors of the Department of the Navy (and members of the National Red Cross in naval medical treatment facilities) in the performance of their official duties relating to the health and medical

treatment of Navy and Marine Corps members; physical and psychological qualifications and suitability of candidates for various programs; personnel assignment; law enforcement; dental readiness; claims and appeals before the Council of Personnel Boards, and the Board for Correction of Naval Records; member's physical fitness for continued naval service; litigation involving medical care; performance of research studies and compilation of statistical data; implementation of preventive medicine programs and occupational health surveillance programs; implementation of communicable disease control programs; and management of the Bureau of Medicine and Surgery's Radiation program and to report data concerning individual's exposure to radiation.

This system is also used for the initiation and processing, including litigation, of affirmative claims against potential third party payors.

This system is used by officials and employees of other components of the Department of Defense in the performance of their official duties relating to the health and medical treatment of those individuals covered by this record system; physical and psychological qualifications and suitability of candidates for various programs; and, the performance of research studies and compilation of medical data.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To officials and employees of the Veterans Administration in the performance of their official duties relating to the adjudication of veterans' claims and in providing medical care to Navy and Marine Corps members.

To officials and employees of other departments and agencies of the Executive Branch of Government upon request in the performance of their official duties related to review of the physical qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies.

To private organizations (including educational institutions) and individuals for authorized health research in the interest of the Federal Government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies.

To officials and employees of the National Research Council in cooperative studies of the National History of Disease.

To officials and employees of local and state governments and agencies in the performance of their official duties relating to public health and welfare, communicable disease control, preventive medicine, child and spouse abuse prevention and public safety.

To officials and employees of local and state governments and agencies in the performance of their official duties relating to professional certification, licensing and accreditation of health care providers.

To law enforcement officials to protect the life and welfare of third parties. This release will be limited to necessary information. Consult with the hospital or regional judge advocate is advised.

To spouses of service members (including reservists) who are infected with the Human Immunodeficiency Virus. This release will be limited to HIV positivity information. Procedures for informing spouses will be published by the Director, Naval Medicine and must be used.

To military and civilian physicians to further the medical care and treatment of the patient.

To release radiation data per 10 CFR Part 20.

When required by federal statute, by executive order, or by treaty, medical record information will be disclosed to the individual, organization, or government agency, as necessary.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records also apply to this system.

Note: Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–3 and 290ee–3. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The Department of the Navy's "Blanket Routine Uses" do not apply to these records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Primary, secondary, and subsidiary medical health records are stored in file folders, microform, on magnetic tape, punched cards, machine listings, discs, and other computerized or machine readable media.

RETRIEVABILITY:

Military health (medical and dental) treatment records are filed and maintained by the last four digits of the military member's Social Security Number, the member's last name, or the member's social security number. A locator case file cross-references the patient's name with the location of his/her record.

Inpatient (clinical) health records are filed and maintained by the last four digits of the sponsor's social security number or a register number. A manual or automatic register of patients is kept at each Navy medical treatment facility. The location of the file can be determined by a seven-digit register number or the patient's name.

Outpatient (medical and dental) health records of dependents filed and maintained by the sponsor's social security number or date of birth, relationship to the sponsor, and name. A locator case file cross-references the patient's name with the location of his/her record.

Treatment records retired to a Federal Records Center prior to 1971 are retrieved by the name and service number or file number. After that date, records are retrieved by name and Social Security Number.

Aviation medical records are filed and maintained by Social Security Number and name.

Marine Security Guard Battalion psychological examination, evaluation, and treatment case files contain medical records documenting fitness for assignment as Embassy Guards and are filed and maintained by social security number and name. Subsidiary health care records may or may not be identified by patient identifier. When they are, they may be retrieved by name and Social Security Number.

SAFEGUARDS:

Records are maintained in various kinds of filing equipment in specific monitored or controlled access rooms or areas; public access is not permitted. Computer terminals are located in supervised areas. Access is controlled by password or other user code system. Utilization reviews ensure that the system is not violated. Access is restricted to personnel having a need for the record in providing further medical care or in support of administrative/clerical functions. Records are controlled by a charge-out system to clinical and other authorized personnel.

RETENTION AND DISPOSAL:

Health care records are retained, retired, and disposed of in accordance with Secretary of the Navy Instruction 5215.5 (Disposal of Navy Marine Corps Records) and Naval Medical Command Instruction 6150.1 (Health Care Treatment Records). Specifics are given below:

Military health (medical and dental) records, are transferred with the member upon permanent change of duty station to his/her new duty station. These records are retired to the National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132–5100; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA 70149–7800; and, Marine Corps Reserve Support Center, 10950 El Monte, Overland Park, KS 66211–1408.

Inpatient health records are transferred to the National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132–5100 or to the National Personnel Records Center, (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO two years after the calendar year of the last date of treatment.

Outpatient health of civilians are transferred to the National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132–5100 or to the National Personnel Records Center, (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO, two years after the calendar year of the last date of treatment.

X-ray files are retained on site and destroyed three years after the last x-ray in the file. Asbestos x-rays are retained on site indefinitely.

Secondary health records may be retained separate from the health record. A notation is made in the health record that these records exist and where they are being kept. When the health record is retired or the patient transfers, these records should be entered in the health record.

Aviation medical records are retained on board and destroyed when 30 years old.

Marine Security Guard Battalion psychological examination, evaluation, and treatment case files containing medical records documenting fitness for assignment as Embassy Guards are retained on board and destroyed after 50 years.

Clinical psychology case files documenting suitability for special assignment will be retained at the originating medical treatment facility and destroyed when 50 years old.

Radiation exposure records for personnel exceeding exposure limits are retained at Bureau of Medicine and Surgery for 50 years, then destroyed; all others are retained 5 years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372–5120 and commanding officers of hospitals and medical and dental clinics. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records.

NOTIFICATION PROCEDURE:

Active duty Navy and Marine Corps personnel and drilling members of the Navy and Marine Corps Reserves seeking to determine whether this system of records contains information about themselves should address written inquiries to the originating medical or dental treatment facility. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records.

Inactive Naval Reservists should address requests for information to the Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA 70149–7800. Marine Reservist's should address requests for information to Marine Corps Reserve Support Center, 10950 El Monte, Overland Park, KS 66211–1408.

Former members who have no further reserve or active duty obligations should address requests for information to the Director, National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132–5100.

All written requests should contain the full name and social security number of the individual, his/her signature, and in those cases where his/her period of service ended before 1971, his/her service or file number. In requesting records for personnel who served before 1964, information provided to the National Personnel Records Center should also include date and place of birth and dates of periods of active Naval service.

Records may be requested in person. Proof of identification will consist of the Armed Forces Identification Card or by other types of identification bearing picture and signature.

Requests for inpatient records within two years of inpatient stay should be addressed to the Commanding Officer of the hospital where the individual was treated.

Requests for inpatient records after two years after inpatient stay should be addressed to Director, National Personnel Records Center, (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118 or Director, National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132–5100.

Requests for subsidiary medical records should be addressed to the Commanding Officer of the originating medical or dental treatment center.

The following data should be provided: full name, social security number, status, date(s) of treatment or period of hospitalization, address at time of medical treatment, and service number.

Full name, date, and place of birth, ID card or driver's license, or other identification to sufficiently identify the individual with the medical records held by the treatment facility must be presented.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the originating medical or dental treatment facility or to the officials listed above under "Notification procedure". Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5, 32 CFR Part 701, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Reports from attending and previous physicians and other medical personnel regarding the results of physical, dental, and mental examinations, treatment, evaluation, consultation, laboratory, x-ray, and special studies conducted to provide health care to the individual or to determine the individual's physical and dental qualification.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N06320–2

System name:

Family Advocacy Program System (51 FR 18191, May 16, 1986)

Changes:

* * * * *

System location:

In line three, after "20372" add "-5120".

Categories of individuals covered by the system:

In line two, delete the word "Navy" and substitute with "naval".

Categories of records in the system:

Delete the entire entry, and substitute with "Medical records, investigative reports, correspondence, family advocacy committee reports, follow-up and evaluative reports, and any other supportive data assembled relevant to suspected, at risk, and confirmed cases of family member abuse or neglect."

Authority for maintenance of the system:

At the end of the entry, add "* * * and E.O. 9397."

Purpose(s):

Delete the entire entry and substitute with "This system is used by officials and employees of the Department of the Navy and the Department of Defense in the performance of their official duties relating to the health and medical treatment of Department of Defense beneficiaries in naval medical and dental facilities.

This system is used by officials and employees of the Department of the Navy to collect information pertaining to the identification, evaluation, intervention, treatment, prevention and follow-up of victims and perpetrators of abuse or neglect."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In paragraph three, line three, add the phrase "and public * * *". Delete the remainder of the paragraph and add "When not considered mandatory, patient identification data shall be eliminated from records used for research studies."

Add a new paragraph four "To officials and employees of federal, state, and local governments and agencies when required by law and/or regulation in furtherance of local communicable disease control, family abuse prevention programs, preventive medicine and safety programs, and other public health and welfare programs."

Add a new paragraph five "To officials and employees of local and state governments and agencies in the performance of their official duties relating to professional certification, licensing, and accreditation of health care providers."

Add a new paragraph six "To law enforcement officials to protect the life and welfare of third parties. This release will be limited to necessary information. Consultation with the hospital or regional judge advocate is advised."

Add a new paragraph seven "When required by federal statute, by executive order, or by treaty; information will be disclosed to the individual, organization, or government agency, as necessary."

Change the existing paragraph four to paragraph eight The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records also apply to this system.

Add a new paragraph nine as follows:

Note: Records of identity, diagnosis, prognosis or treatment of any client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd-3 and 290ee-3. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. "Blanket Routine Uses" do not apply to these records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

Retrievability:

In line five, delete the words "Social Security Numbers" and substitute with "Social Security Number of the sponsor".

* * * * *

Retention and disposal:

Delete the entire entry and substitute with "Family advocacy case records are maintained at the originating activity for a period of five years after the last entry in the file and then destroyed. Central registry records are permanently retained under the control of the Bureau of Medicine and Surgery."

System manager(s) and address:

In lines one, two, and three, delete the words "Commander, Naval Medical Command, Navy Department, Washington, DC 20372" and replace with "Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5220".

Record source categories:

Delete the entire entry and substitute with "Medical and dental records and reports and information from other sources including educational institutions, medical institutions, law enforcement agencies, public and private health and welfare agencies, and witnesses."

NO6320-2

SYSTEM NAME:

Family Advocacy Program System.

SYSTEM LOCATION:

Central Registry: Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120.

Individual Case Files: Naval medical treatment facilities and duty stations of the military sponsors. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All beneficiaries entitled to care at Navy medical and dental facilities whose abuse or neglect is brought to the attention of appropriate authorities, and all persons reported for abusing or neglecting such beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records, investigative reports, correspondence, family advocacy, committee reports, follow-up and evaluative reports, and any other supportive data assembled relevant to suspected, at risk, and confirmed cases of family members abuse or neglect.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 5132; 44 U.S.C. 3101; and E.O. 9397.

PURPOSE(S):

This system is used by officials and employees of the Department of the Navy and the Department of Defense in the performance of their official duties relative to the health and medical treatment of Department of Defense beneficiaries in naval medical and dental facilities.

This system is used by officials and employees of the Department of the Navy to collect information pertaining to the identification, evaluation, intervention, treatment, prevention and follow-up of victims and perpetrators of abuse or neglect.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To the Executive Branch of government in the performance of their official duties relating to the coordination of family advocacy programs, medical care, and research concerning family member abuse or neglect.

To federal, state or local government agencies when it is deemed appropriate to utilize civilian resources in the counseling and treatment of individuals or families involved in abuse or neglect or when it is deemed appropriate or necessary to refer a case to civilian authorities for civil or criminal law enforcement.

To authorized officials and employees of the National Academy of Sciences, and private and public organizations and individuals for authorized health research in the interest of the federal government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies.

To officials and employees of federal, state, and local governments and agencies when required by law and/or regulation in furtherance of local communicable disease control, family abuse prevention programs, preventive medicine and safety programs, and other public health and welfare programs.

To officials and employees of local and state governments and agencies in the performance of their official duties relating to professional certification, licensing, and accreditation of health care providers.

To law enforcement officials to protect the life and welfare of third parties. This release will be limited to necessary information. Consultation with the hospital or regional judge advocate is advised.

When required by federal statute, by executive order, or by treaty; information will be disclosed to the individual, organization, or government agency, as necessary.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records also apply to this system.

Note: Records of identity, diagnosis, prognosis or treatment of any client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–3 and 290ee–3. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. "Blanket Routine Uses" do not apply to these records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored in file folders, microfilm, magnetic tape, punched cards, machine lists, discs, and other computerized or machine readable media.

RETRIEVABILITY:

Records are retrieved through indices and cross indices of all individuals and relevant incident data. Types of indices used include, but are not limited to: names, Social Security Numbers, and types of incidents.

SAFEGUARDS:

Records are maintained in various kinds of filing equipment in specified monitored or controlled access rooms or areas. Public access is not permitted. Records are accessible only to authorized personnel who are properly screened and trained, and on a need-to-know basis, only.

Computer terminals are located in supervised areas, with access controlled by password or other user code system.

RETENTION AND DISPOSAL:

Family advocacy case records are maintained at the originating activity for a period of five years after the last entry in the file and are then destroyed. Central registry records are permanently retained under the control of the Bureau of Medicine and Surgery.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372–5120 and commanding officers of medical treatment facilities. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the commanding officer of the medical treatment facility for which they received treatment or to the Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372–5120. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records. The request should contain the full name of the individual and Social Security Number of the military or civilian sponsor or guardian, date and place of treatment, and alleged reporting of incident.

The requester may visit the office of the Chief, Bureau of Medicine and Surgery, 23rd and "E" Streets, NW, Washington, DC 29372–5120 and the commanding officers of the individual medical treatment facilities to obtain information on whether or not the system contains records pertaining to him or her. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records. Armed Forces I.D. card or other type of identification bearing the picture and signature of the requester will be considered adequate proof of identity.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the commanding officer of the medical treatment facility for which they received treatment of to the Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372–5120. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy 5211.5, 32 CFR Part 701, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Medical and dental records and reports and information from other sources including educational institutions, medical institutions, law enforcement agencies, public and private health and welfare agencies, and witnesses.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Part of this system may be exempt under 5 U.S.C. 552a(k)(2) and (5), as applicable. For additional information, contact the system manager.

N07300–1

System name:

Relief of Accountable Personnel from Liability for Losses of Public Funds (51 FR 18202, May 16, 1986)

Changes:

System name:

Delete entire entry and substitute with "Relief for Losses of Public Funds/SBP Annuitants for Overpayments of Benefits."

* * * * *

Categories of individuals covered by the system:

In the second and third lines, delete "disbursing" and "and collection agents". Delete the period at the end of the entry and add "* * * and Survivor Benefit Plan annuitants who request waiver of overpayments of benefits."

Categories of records in the system:

In the second line, delete "category" and substitute with the word "categories". In the fourth line, after the word "custody," insert "overpayments of Survivor Benefit Plan benefits". At the end of the entry, insert "or overpayments" before the period.

Authority for maintenance of the system:

Delete the first and second lines in their entirety and substitute with "10 U.S.C. 1453; 31 U.S.C. 3527."

Purpose(s):

In line two, delete the words "as to". In line four after the word "* * * funds * * *", insert "* * * or overpayments of Survivor Benefit Plan benefits * * *". In line five, delete "* * * accountable individuals".

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

At the beginning of the entry, add a new paragraph "To officials and employees of the General Accounting Office in cases requiring the concurrence of the Comptroller General for a grant of relief from liability." In paragraph two, line three, after the word "* * * compilation * * *", add the word "* * * also * * *".

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

* * * * *

Retention and disposal:

Delete entire entry and substitute with "Records are retained indefinitely; however, after three years records are transferred to the Federal Records Center, Suitland, Maryland."

* * * * *

Notification procedure:

Delete the entire entry and substitute with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Assistant Judge Advocate General (Civil Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall St., Alexandria, VA 22332-2400. The request should contain full name, address, and the approximate date on which relief was requested.

Personal visits may be made to the Civil Affairs Division (Code 32), Office of the Judge Advocate General, Room 9N11, Hoffman Bldg II, 200 Stovall Street, Alexandria, VA 22332-2400. Armed forces identification card or state driver's license is required for identification."

Record access procedure:

Delete the entire entry and substitute with "Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Assistant Judge Advocate General (Civil Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400."

Contesting record procedure:

Delete the entire entry and substitute with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5, 32 CFR Part 701, or may be obtained from the system manager."

Record source categories:

In line six, after the word "funds", add "* * * or overpayments of Survivor Benefit Plan benefits".

* * * * *

N07300-1

SYSTEM NAME:

Relief for Losses of Public Funds/SBP Annuitants for Overpayment of Benefits.

SYSTEM LOCATION:

Office of the Judge Advocate General (Code 32), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Accountable Navy and Marine Corps military and civilian personnel who request relief from liability for losses of public funds in their custody and survivor benefit plan annuitants who request waiver of overpayment of benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of requests submitted by individuals of the above-stated categories for grant of relief from liability, together with information voluntarily furnished by the affected individuals concerning the circumstances of losses of funds in their custody, or overpayments of Survivor Benefit Plan benefits, and additional information derived from investigatory and audit reports and comments of forwarding endorsers concerning circumstances of losses or overpayments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 1453; 31 U.S.C. 3527; 5 U.S.C. 301, Departmental Regulations; and 44 U.S.C. 3101.

PURPOSE(S):

To determine within the Department of the Navy and General Accounting Office (GAO) whether the circumstances of particular losses of public funds or overpayments of Survivor Benefit Plan benefits warrant granting requests for relief from liability.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To officials and employees of the GAO in cases requiring the concurrence of the Comptroller General for a grant of relief from liability.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

By name of individual requesting relief.

SAFEGUARDS:

Files are maintained in file cabinets under the control of personnel during working hours; the office space in which the file cabinets are located is locked outside official working hours.

RETENTION AND DISPOSAL:

Records are retained indefinitely; however records are transferred to the Federal Records Center, Suitland, MD.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Judge Advocate General (Civil Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Assistant Judge Advocate General (Civil Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400. The request should contain full name, address, and the approximate date on which relief was requested.

Personal visits may be made to the Civil Affairs Division (Code 32), Office of the Judge Advocate General, Room 9N11, Hoffman Bldg II, 200 Stovall Street, Alexandria, VA 22332-2400. Armed forces identification card or driver's license is required for identification.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Assistant Judge Advocate General (Civil Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR Part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information in the system is furnished partly by the individual requesting relief, and is supplemented by reports of Department of the Navy audits and investigations pertaining to the particular losses of funds or overpayments of Survivor Benefits Plan benefits involved. Additional amplifying information is typically furnished by officers forwarding requests to the Secretary of the Navy.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 89-25056 Filed 10-24-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER89-664-000, et al.]

Arizona Public Service Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 18, 1989.

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. ER89-664-000]

Take notice that on October 6, 1989, Arizona Public Service Company (APS or Company) tendered for filing a request for waiver of the Commission's Notice Requirements to allow for revised effective dates for the following Exhibits to the Wholesale Power Agreement and Transmission Agreement with the Town of Wickenburg;

FERC docket No.	FERC rate schedule No.	Exhibit designation	Exhibit revision No.	Proposed effective date
ER89-616-000.	74	B	3	Aug. 1, 1989.
ER89-616-000.	170	A	2	July 1, 1989.
ER89-616-000.	74	B	4	Sept. 1, 1989.

No changes from the currently effective rate levels are proposed herein. No new facilities are required to provide these services.

The Company requests waiver of the Commission's Notice Requirements 18 CFR 35.3 (a) under § 35.11 to allow for these effective dates, as intended by the parties, which was inadvertently omitted from the originally filings in Docket Nos. ER89-616-000 and ER89-664-000.

Comment date: November 1, 1989, in accordance with Standard paragraph E at the end of this notice.

2. PacifiCorp. doing business as Pacific Power & Light Company and Utah Power & Light Company

[Docket No. ER90-19-000]

Take notice that on October 10, 1989, PacifiCorp, doing business as Pacific Power & Light Company and Utah Power & Light company (PacifiCorp.), tendered for filing, in accordance with the Commission's Rules and Regulations, a revised cover page and First Revised Sheet No. 5D (Index of Purchasers, superseding Original Sheet NO. 5D) of Pacific Power & Light Company's FERC Electric Tariff, Original Volume No. 3 ("Tariff"); and a Service Agreement between PacifiCorp and Public Utility District No. 1 of Chelan County (Chelan).

PacifiCorp states that the Service Agreement provides for the sale of firm power and energy for resale in accordance with the rates specified in Service Schedule PPL-3 under the Tariff.

PacifiCorp requests, pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and that the rate schedule become effective of July 19, 1989 correspondence to be the effective date of the Service Agreement.

Copies of this filing have been supplied to Chelan and the Washington Utilities and Transportation Commission.

Comment date: November 1, 1989, in accordance with Stardard Paragraph E end of this notice.

3. Florida Power & Light Company

[Docket No. ER90-22-000]

Take notice that on October 16, 1989, Florida Power & Light Company (FPL), tendered for filing a document entitled Amendment Number Thirteen to Revised Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and Jacksonville Electric Authority (Rate Schedule FERC No. 60).

FPL states that under Amendment Number Thirteen, FPL will transmit power and energy for Jacksonville Electric Authority (JEA) as is required in the implementation of its interchange agreement with Florida Power Corporation, Orlando Utilities Commission and Seminole Electric Cooperative, Inc.

FPL requests that waiver of Section 35.3 of the Commission's Regulations be granted and that the proposed Amendment be made effective immediately. FPL states that copies of the filing were served on JEA.

Comment date: November 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Southern California Edison Company

[Docket No. FA85-67-001]

Take notice that on October 16, 1989, Southern California Edison Company tendered for filing its refund report in compliance with the Commission's order issued on July 29, 1987.

Comment date: November 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Oregon Trail Electric Consumers Cooperative, Inc.

[Docket No. EC90-2-000]

Take notice that on October 16, 1989, Oregon Trail Electric Consumers Cooperative, Inc. filed an application pursuant to section 203 of the Federal Power Act, 16 U.S.C. 824(b) (1982), for Commission authorization to lease certain transmission facilities in the State of Oregon to the Bonneville Power Administration.

Comment date: November 3, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. AES Newington, Inc.

[Docket No. QF90-7-000]

On October 11, 1989, AES Newington, Inc. (Applicant), of 1001 N. 19th Street, Arlington, Virginia 22209, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cyle cogeneration facility will be located in Newington, New Hampshire. The facility will consist of two coal-fired fluidized bed combustion boilers and an extraction/condensing steam turbine generator. Extraction steam from the steam turbine will be used in the production of carbon dioxide and as a heating medium for oil storage tanks. The maximum net electric power production capacity of the facility will be 198 MW. Construction of the facility is expected to begin on or about July 1991.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

7. Bangor Hydro-Electric Company Public Service Company of New Hampshire

[Docket No. ER90-21-000]

Take notice that Bangor Hydro-Electric Company (Bangor) and Public Service Company of New Hampshire (PSNH) on October 16, 1989 tendered for filing as an Initial Rate Schedule, an Electric Generating Capability Sales Agreement. The agreement provides for the sale by Bangor to PSNH of 15,000 KW of electric generating capability during November 1, 1989 through April 30, 1990 and the total output associated therewith.

Comment date: November 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. PacifiCorp, doing business as Pacific Power & Light and Utah Power & Light

[Docket No. ER90-23-000]

Take notice that PacifiCorp, doing business as Pacific Power & Light and Utah Power & Light on October 16, 1989, tendered for filing, in accordance with section 35.30 of the Commission's Regulations, PacifiCorp's Utah Division (PacifiCorp) Revised Appendix 1 for the state of Idaho and Bonneville Power Appendix 1 for the state of Idaho and Bonneville Power Administration's (Bonneville) Determination of Average System Cost (ASC) for the state of Idaho (Bonneville's Docket No. 5-A3-8902). The Revised Appendix 1 calculates the ASC for the state of Idaho applicable to the exchange of power between Bonneville and PacifiCorp.

PacifiCorp requests waiver of the Commission's notice requirements to permit this rate schedule to become effective February 10, 1989, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Idaho Public Utilities Commission and Bonneville's Direct Service Industrial Customers.

Comment date: November 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. Multitrade Limited Partnership

[Docket No. ER90-18-000]

Take notice that Multitrade Limited Partnership (Multitrade), a Delaware limited partnership, on October 10, 1989, tendered for filing, pursuant to 18 CFR 35.1 and 35.12, proposed FERC Rate Schedule No. 1, applicable to sales of energy and capacity to Virginia Electric and Power Company (Virginia Power) from a biomass waste wood electric generating facility owned and operated by Multitrade in Pittsylvania County, Virginia (the Facility). The Facility is certified as a qualifying small power production facility within the meaning of sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 and the regulations promulgated thereunder.

The proposed initial rate is set forth in the Power Purchase and Operating Agreement (the Agreement), dated January 24, 1989, between Multitrade and Virginia Power. The Agreement establishes a purchase price, based on Virginia Power's avoided cost and applicable to all electricity delivered by Multitrade to Virginia Power, which includes both an energy charge and a capacity charge.

Virginia Power will pay for energy on a per kilowatthour basis. The energy rate is composed of the fuel compensation price and the operation and maintenance price and is adjusted annually based on a set of indices as set forth in the Agreement. Virginia Power will pay a capacity rate commencing on the date of commercial operation. The capacity rate is fixed for the term of the Agreement, and is reduced for failure to comply with certain terms of the Agreement.

Multitrade requests waiver of the Federal Energy Regulatory Commission's (the "Commission") notice requirements so that the rate schedule may take effect as the date of Multitrade's initial delivery to Virginia Power. Multitrade also seeks waiver of the Commission's requirements for filing changes in its Rate schedule No. 1 in the event of any change in the rates calculated pursuant to the formula as set forth in the Agreement.

Additionally, Multitrade seeks waiver of the Commission's regulations regarding cost-of-service documentation, accounting practices, reporting requirements, property dispositions and consolidations, securities issuances or assumptions of liability, the holding of interlocking positions and such other matters as the Commission deems appropriate.

Copies of the instant filing have been served upon Virginia Power and the Commonwealth of Virginia State Corporation Commission.

Comment date: November 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. Oklahoma Gas and Electric Company

[Docket No. ER90-20-000]

Take notice that on October 11, 1989, Oklahoma Gas and Electric Company (OG&E) tendered for filing a set of three Amendatory Agreements dated June 30, 1989, between OG&E and the Oklahoma Municipal Power Authority (OMPA).

The amendments modify the (1) Power Sales Agreement, (2) Transmission Service Agreement, and (3) Dispatch and Load Agreement.

Copies of this filing have been served on OMPA, the Corporation Commission of the State of Oklahoma and the Arkansas Public Service Commission.

Comment date: November 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25058 Filed 10-24-89; 8:45 am]

BILLING CODE 6717-01-M

Noncompetitive Financial Assistance Award Resources for the Future

October 23, 1989.

SUMMARY: The Federal Energy Regulatory Commission (FERC) announces that pursuant to 10 CFR 600.6(a)(2), discretionary award of a cooperative agreement resulting from an unsolicited proposal will be awarded to Resouces For The Future (RFF). The FERC is conducting negotiations with RFF for support of joint indepth policy research and analysis on immediate and long-term issues in the area of energy economics, regulatory economics and environmental economics, relevant to FERC's regulatory responsibilities in meeting statutory obligations. These negotiations are expected to result in the issuance of Cooperative Agreement Number DE-FC39-89RC90024, in which FERC will provide $225,000 of the total estimated cost of $250,000 for a performance period of five years estimated to begin November 1, 1989.

Objective: The objective of the proposed agreement is RFF and FERC to work cooperatively to perform timely independent and objective research on economic and regulatory issues facing the FERC.

Note: This is a correction to a Notice that previously appeared in the **Federal Register** dated October 12, 1989, Vol. 54, No. 196, pg. 41864.

FOR FURTHER INFORMATION CONTACT: Federal Energy Regulatory Commission, Division of Procurement, ED-33, ATTN: Charlotte A. Greenwell, Contract Specialist, 941 North Capitol Street, NE., Washington, DC 20426, Telephone Number (202) 357-5620.

Lois D. Cashell,

Secretary.

[FR Doc. 89-75307 Filed 10-24-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-2195-000, et al.]

ANR Pipeline Company, et al.; Natural Gas Certificate Filings

October 18, 1989.

Take notice that the following filings have been made with the Commission:

1. ANR Pipeline Company

[Docket No. CP89-2195-000]

Take notice that on September 28, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89-2195-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing ANR (1) to acquire a property interest in certain jurisdictional facilities currently owned by Arkla Energy Resources (AER), a division of Arkla, Inc. (Arkla), and Mississippi River Transmission Corporation (MRT); and (2) to operate and provide service by means of its interest in certain transmission facilities that have been or will be constructed pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA); all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR requests all authorizations necessary to implement its part of an arrangement under which ANR would acquire property interests in certain specified pipeline and related facilities currently owned by ANR and MRT. Under the arrangement ANR states that it would acquire property interests in certain existing facilities to be conveyed to ANR by AER and MRT, and in a new pipeline currently being constructed by AER, AER's Line AC.

ANR indicates that the specific facilities to be acquired are as follows:

(1) That portion of AER's Line AD and related facilities extending approximately from Hemphill County, Texas eastward to AER's Chandler Compressor Station (Chandler Station) in Latimer County, Oklahoma. The property interest conveyed would give ANR ownership of capacity in Line AD and related facilities sufficient to receive and deliver to the outlet of the Chandler Station, as well as the ability to receive and deliver at the Custer Station, up to 100,000 Mcf of gas per day, as provided in the Agreement.

(2) Certain jurisdictional and non-jurisdictional gathering, transmission and compressor facilities owned by AER in the geological area known as the Arkoma Basin in eastern Oklahoma and northwestern Arkansas. These facilities are located in the twelve counties identified in the Agreement and are referred to as the Arkoma Gathering Facilities. The property interest conveyed to ANR will give ANR ownership of capacity in the Arkoma Gathering Facilities sufficient to gather and deliver, from time to time, at specified points, up to 150,000 Mcf of gas per day, as provided in the agreement.

(3) Those portions of AER's transmission and compressor facilities, including proposed Line AC and related facilities, referred to as the Eastern Segment, commencing at the outlet of AER's Chandler Compressor Station and extending easterly to points of interconnection with the MRT system. The property interest conveyed would give ANR ownership of capacity in the Eastern Segment sufficient to receive and deliver, from time to time, at specified points, up to 250,000 Mcf of gas per day, as provided in the Agreement. Line AC would be initially constructed and operated pursuant to section 311(a) of the NGPA and § 284.3 of the Commission's Regulations. ANR requests authority to own and to provide services utilizing Line Ac and related facilities pursuant to Section 7(c) of the NGA. ANR states that by a companion application, AER is requesting authorization to operate and provide service through Line AC pursuant to section 7(c) of the NGA.

(4) An interest in certain MRT facilities in Arkansas and Louisiana referred to as the MRT Facilities. The property interest would give ANR ownership of capacity sufficient to receive at specified delivery points and transport southerly to an interconnection with AER, near Monroe, Louisiana, up to 250,000 Mcf of gas per day.

(5) An interest of AER's Line FT-18, from a point commencing at the outlet of MRT's Perryville Compressor Station near Monroe, Louisiana to the beginning of an existing pipeline (FM-56 pipeline), which is jointly owned by AER and ANR. The property interest conveyed in Line FT-18 would give ANR ownership of capacity sufficient to permit ANR to provide transportation services up to 250,000 Mcf of gas per day of natural gas.

ANR further requests authority pursuant to section 7(c) of the Natural Gas Act, to provide jurisdictional services through 31 miles of 30-inch pipeline (FM-56 pipeline) extending from an interconnection with AER's Line FT-18 in Ouachita Parish, Louisiana, to and including an interconnection with ANR's facilities in Richland Parish, Louisiana, in which ANR owns a one-half interest. This pipeline and related facilities, including the interconnection

at Custer, Oklahoma, for which ANR seeks section 7(c) authorizations, was constructed pursuant to section 311 of the NGPA and § 284.3(c) of the Commission's Regulations.

ANR states that the value of the facilities at the date of filing, in which ANR would acquire a property interest is estimated at $129.8 million, consisting of the net book value of existing facilities as of June 30, 1989, and ANR's share of the estimated cost of Line AC.

ANR proposes that the property interest in the mainline facilities which it would acquire be treated, for rate purposes, as part of ANR's Mainline Area and that the applicable rates be those set forth in ANR's Volume 1-A Tariff. ANR proposes no changes to any of its existing rates. With respect to those facilities, consisting of gathering facilities and supply-related transmission facilities, previously referred to as the Arkoma Gathering Facilities, which feed into AER's mainline, ANR proposes to establish a new area of its system to be known as the Arkoma Area. For the Arkoma Area, ANR proposes to establish new rates, in its Volume 1-A Tariff, which would be applicable to transportation services provided utilizing these facilities. ANR further proposes that the costs associated with such capacity be incremental and unbundled from all of its existing services and its existing rates. ANR states that both firm and interruptible transportation would be made available to prospective shippers, pursuant to Rate Schedules FTS-1, FTS-2 and ITS of ANR's Volume 1-A Tariff and that it would render open-access, non-discriminatory transportation services for others through these facilities.

ANR asserts that an important benefit of the proposed arrangements is the increased access to natural gas reserves in the Arkoma Basin which these facilities would provide for ANR's existing and future customers. ANR further asserts that the arrangements would also permit ANR, to connect the two main legs of its transmission system in the producing areas. Such an interconnection it is indicated, would permit ANR to meet the substantial unmet demand for gas transportation services on its system. In addition, ANR explains that the arrangements would provide added operational flexibility and reliability for both its sales and transportation services.

Comment date: November 8, 1989, in accordance with Standard Paragraph F at the end of this notice.

2. United Gas Pipe Line Company

[Docket No. CP90-62-000]

Take notice that on October 16, 1989, United Gas Pipe Line Company (United), P. O. Box 1478 Houston, Texas 77251-1478, filed in Docket No. CP90-62-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Amoco Production Company (Amoco), a producer of natural as, under its blanket authorization issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United would perform the proposed interruptible transportation service for Amoco, pursuant to an interruptible transportation service agreement dated July 21, 1988, as amended January 25 and July 14, 1989 (Contract No. TI-21-1745). The transportation agreement is effective for a primary term of one month from the date of first delivery thereunder or such date that the parties mutually agree to terminate the agreement. The agreement shall continue for successive one month terms unless terminated by thirty days written notice by either party. United proposes to transport 51,500 MMBtu of natural gas on a peak and average day; and on an annual basis 18,797,500 MMBtu of natural gas for Amoco. United proposes to receive the subject gas at existing points of interconnection located in the state of Texas. It is stated that the points of delivery are located in the states of Louisiana, Mississippi and Texas. United avers that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self-implementing provision of § 284.223(a)(1) of the Commission's Regulations. United commenced such self-implementing service on September 7, 1989, as reported in Docket No. ST89-4858-000.

Comment date: December 4, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Tennessee Gas Pipeline Company

[Docket No. CP90-48-000]

Take notice that on October 11, 1989, Tennessee Gas Pipeline Company (Tennessee) Post Office Box 2511, Houston, Texas 77252, filed an application in abbreviated form pursuant to section 7(b) of the Natural Gas Act, and § 157.7 of the Commission's Regulations, for authorization to partially abandon certain firm sales service to North Penn Gas Company (North Penn). Specifically, Tennessee requests authorization to reduce sales service to North Penn under Tennessee's Rate Schedule CD-4 by 6,429 dekatherms (dt) per day, resulting in a revised sales service entitlement of 25,139 dt per day and 9,174,735 dt annually, effective November 1, 1989, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee requests that the Commission authorize the partial abandonment of service to North Penn effective November 1, 1989, so that North Penn's demand charge from Tennessee can be reduced as of that date in accordance with the parties' intent as set forth in the new Gas Sales Contract.

Comment date: November 8, 1989 in accordance with Standard Paragraph F at the end of the notice.

4. Blue Dolphin Pipe Line Company

[Docket No. CP89-2150-000]

Take notice that on September 21, 1989, as supplemented on October 16, 1989, Blue Dolphin Pipe Line Company (Blue Dolphin), Eleven Greenway Plaza, Suite 1606, Houston, Texas 77046, filed in Docket No. CP89-2150-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to continue transportation service for NICOR Exploration Company (NICOR) under its blanket authorization issued in Docket No. CP87-31-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Blue Dolphin requests authorization to transport, on an interruptible basis, up to 3,500 MMBtu of natural gas per day for NICOR from an existing subsea tap on Blue Dolphin's facilities located in Galveston Block 273, Offshore Texas, to a delivery point located at the facilities of Dow Chemical Company located near Freeport, Texas. Blue Dolphin anticipates transporting on an average day 700 MMBtu and an annual volume of 260,000 MMBtu. Blue Dolphin avers that no new facilities are required to provide the proposed service.

Blue Dolphin states that it has transported for NICOR under § 284.223(a) of the Commission's Regulations and that an initial full report was filed with the Commission in Docket No. ST89-1391-000.

Comment date: December 4, 1989 in accordance with Standard Paragraph G at the end of this notice.

5. El Paso Natural Gas Company

[Docket No. CP90-37-000]

Take notice that on October 10, 1989, El Paso Natural Gas Company (El Paso), P.O. Nox 1492, El Paso, Texas 79978, filed in Docket No. CP90-37-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to continue transportation service for Chino Mines Company (Chino Mines) under its blanket authorization issued in Docket No. CP88-433-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso states that the transportation service for Chino Mines was initiated under subpart B of part 284 on February 1, 1986. El Paso states that its full report in accordance with § 284.106(a) of the Commission's Regulations was filed with the Commission on February 28, 1986, in Docket No. ST86-1029-000. El Paso further states that it has agreed with Chino Mines to continue such transportation under subpart G of Part 284 and to terminate the subpart B transaction upon receipt of the appropriate regulatory approvals for the Subpart G transaction. Therefore, El Paso requests authority to continue the transportation pursuant to subpart G of the Regulations of up to 17,618 MMBtu of natural gas on a peak day for Chino Mines from any point on El Paso's system to a delivery point located in the SW/4, Section 31, T18S, R21W, Grant County, New Mexico. El Paso states that the average daily and annual quantities to be transported would be 11,605 MMBtu and 4,235,825 MMBtu, respectively. El Paso avers that no new facilities are required to provide the proposed service.

Comment date: December 4, 1989 in accordance with Standard Paragraph G at the end of this notice.

6. United Gas Pipe Line Company

[Docket No. CP90-63-000]

Take notice that on October 16, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77152-1478, filed in Docket No. CP90-63-000 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of American Central Gas Companies, Inc. (American), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport, on an interruptible basis, up to 185,400 MMBtu per day for American. United states that construction of facilities would not be required to provide the proposed service.

United further states that the maximum day, average day, and annual transportation volumes would be approximately 185,400 MMBtu, 185,400 MMBtu and 67,671,000 MMBtu respectively.

United advises that service under § 284.223(a) commenced September 5, 1989, as reported in Docket No. ST89-4861.

Comment date: December 4, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Natural Gas Pipeline Company of America

[Docket No. CP90-52-000]

Take notice that on October 12, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP90-52-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Chevron U.S.A. Inc. (Chevron), under Natural's blanket certificate issued in Docket No. CP86-582-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural requests authorization to transport, on an interruptible basis, up to a maximum of 35,000 MMBtu of natural gas per day (plus any additional volumes accepted pursuant to the overrun provision's of Natural's Rate Schedule ITS) for Chevron from receipt points located in Louisiana, offshore Louisiana, Texas and offshore Texas to delivery points located in offshore Texas and Louisiana. Natural anticipates transporting, on an average day 35,000 MMBtu and an annual volume of 12,775,000 MMBtu.

Natural states that the transportation of natural gas for Chevron commenced September 1, 1989, as reported in Docket No. ST89-114-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Natural in Docket No. CP86-582-000.

Comment date: December 4, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Texas Eastern Transmission Corporation

[Docket No. CP90-50-000]

Take notice that on October 11, 1989, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77252-2521, filed in Docket No. CP90-50-000, an application pursuant to section 7(b) of the Natural Gas Act, as amended, and the regulations promulgated thereunder for an order permitting and approving abandonment of firm transportation service provided for Northern Natural Gas Company (Northern), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Texas Eastern is currently authorized to provide 2,000 Mcf per day for firm transportation service for Northern, it is stated. Northern has provided Texas Eastern a notice of cancellation in accordance with Article II of the transportation agreement dated April 2, 1979. Texas Eastern states that only the firm transportation service is being discontinued, and that there will be no abandonment of any facilities. Texas Eastern further states that Northern intend to continue receiving the remaining volumes through interruptible transportation arrangements with Texas Eastern.

Texas Eastern states that this transportation service provides for gas to be transported for Northern from a production platform in West Cameron Block 620, offshore Louisiana, to an interconnection with the Columbia Gulf Transmission Company and Northern's 30-inch pipeline in West Cameron Block 606, offshore Louisiana. It is further stated that this service commenced on October 26, 1989. Texas Eastern requests that the abandonment be effective October 25, 1989, the effective date for termination of the agreement.

Comment date: November 8, 1989, in accordance with Standard Paragraph F at the end of this notice.

9. National Fuel Gas Supply Corporation

[Docket No. CP90-12-000]

Take notice that on October 3, 1989, National Fuel Gas Supply Corporation (National), Ten Lafayette Square, Buffalo, New York, 14203, filed in Docket No. CP90-12-000 pursuant to section 7(c) of the Natural Gas Act a petition to amend it certificates of public convenience and necessity in Docket Nos. CP84-502, CP88-890 and CP85-826 to authorize the continuation of

interruptible transportation service on behalf of Kane Gas Light and Heat co. (Kane), Columbia Gas Transmission Corporation (Columbia), National Fuel Gas Distribution Corporation (Distribution), Transco Energy Marketing Company (TEMCO), Pine-Roe National Gas Company (Pine-Roe), Highland Land and Minerals, Inc. (Highland), Elizabethtown Gas Company (Elizabethtown) and New Jersey Natural Gas Company (NJN) for an additional one-year term commencing December 10, 1989, all as more fully set forth in the application on file with the Commission and open to public inspection.

National proposes to transport up to 3,000 Mcf of natural gas per day on behalf of Kane, 3,500 Mcf per day on behalf of Columbia, 30 Mcf per day on behalf of Pine Roe, 75,000 Mcf per day on behalf of TEMCO, 127 Mcf per day on behalf of Highland, 9,400 Mcf per day on behalf of Elizabethtown, 600 Mcf per day on behalf of NJN, and in two separate arrangements, 51,615 Mcf and 6,000 Mcf of natural gas per day on behalf of Distribution.

National states that it would provide the transportation service through the use of existing facilities. National also states that it proposes to charge the rate presently authorized under National's Rate Schedule T-1 which is on file and approved by the Commission.

Comment date: November 8, 1989 in accordance with Standard Paragraph F at the end of the notice.

10. ANR Pipeline Company

[Docket No. CP90-56-000]

Take notice that on October 13, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-56-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Texas Eastern Gas Services Company (Texas), a marketer of natural gas, under ANR's blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR states that the transportation service will be provided pursuant to a transportation agreement dated May 1, 1989, wherein ANR proposes to transport natural gas on an interruptible basis for Texas. ANR states that it would receive the gas at ANR's existing point of receipt in the offshore Louisiana gathering area and redeliver the gas for the account of Texas at existing interconnections located in the offshore Louisiana gathering area.

ANR proposes to transport on a peak day up to 10,000 dekatherms (dt), with an estimated average daily quantity of 10,000 dt. On an annual basis, ANR could transport up to 3,650,000 dt.

ANR also states that no construction of new facilities will be required to provide this transportation service.

ANR states that service for Texas under § 284.223(a) commenced August 11, 1989, as reported in Docket No. ST90-54-000.

Comment date: December 4, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. Arkla Energy Resources, a Division of Arkla, Inc.

[Docket No. CP89-2174-000]

Take notice that on September 27, 1989, Arkla Energy Resources (AER), a division of Arkla, Inc., P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP89-2174-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing AER to: (1) Operate, and to own and provide service by means of its interests in, a new transmission line extending from eastern Oklahoma to eastern Arkansas and related compressor facilities which will be constructed and operated by AER pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA); (2) operate, and to own and provide service by means of its interests in, certain additional transmission facilities that have been or will be constructed in central Arkansas and northeastern Louisiana and operated pursuant to section 311 of the NGPA; and (3) own, construct and operate, on a blanket basis, sales taps and related facilities on the transmission facility described in (1) above to be used for the delivery of natural gas to Arkansas Louisiana Gas Company (ALG), also a division of Arkla, Inc., for resale to new residential and commercial customers in Arkansas and Oklahoma, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Specifically, AER requests authority to operate, and to own and provide service by means of its interests in, the following facilities that either have been or will be constructed and operated pursuant to section 311 of the NGPA: (a) Approximately 225 miles of both 36-inch and 42-inch pipeline an appurtenant facilities, to be designated ANR's Line AC, which would extend from the Wilburton Field area in Latimer County, Oklahoma, to an interconnection with the mainline system of Mississippi River Transmission Corporation (MRT) near MRT's Glendale Compressor Station (Glendale Station) in Lincoln County, Arkansas; (b) 19,250 horsepower of compressor facilities to be installed on Line AC in Hot Spring County, Arkansas, at AER's new Malvern Compressor Station; (c) a tap and related facilities to be constructed on Line AC in Hot Spring County, Arkansas, and owned by AER, interconnecting AER's facilities with those of Natural Gas Pipeline Company of America; (d) approximately 31 miles of 30-inch pipeline extending from an interconnection with AER's Line FT-18 in Ouachita Parish, Louisiana, to an interconnection with the facilities of ANR in Richland Parish, Louisiana, designated by AER as Line FM-56, which AER owns jointly with ANR, and an existing tap on Line FM-56 and related facilities, owned by AER and interconnecting AER's facilities with those of Trunkline Gas Company, designated as AER's Line FM-57; (e) approximately 11 miles of 24-inch pipeline extending from an interconnection on the discharge side of AER's Sterlington Compressor Station to and including an interconnection on the inlet side of Texas Eastern Transmission Corporation's Monroe Compressor Station in Ouachita Parish, Louisiana, designated as AER's Line FM-55, and two taps on that pipeline and related facilities interconnecting AER's facilities with those of Louisiana Gas Services, Inc. (existing), and United Gas Pipe Line Company (United) (to be constructed), the latter tap to be designated as AER's Line FM-58; and (f) a tap to be constructed on AER's already certificated Line FT-18 in Ouachita Parish, Louisiana, interconnecting AER's system and that of Texas Gas to be designated as AER's Line FM-59. AER states that the extent of its interests in (a) and (b) above is subject to rulings on additional certificate applications to be filed separately by ANR Pipeline Company (ANR) and Texas Gas Transmission Corporation (Texas Gas) for the acquisition of interests in Line AC.

AER also requests authority to construct, own and operate sales taps on Line AC required to initiate natural gas service in nine counties in Arkansas and four counties in Oklahoma, and to deliver gas through these facilities to ALG, in accordance with right-of-way agreements between AER and landowners along the route of that line. ALG, in turn, would provide retail distribution service to such landowners

pursuant to ALG's retail sales tariffs on file and effective at the Arkansas Public Service Commission and the Oklahoma Corporation Commission. Because the precise number of such sales taps is not yet known, AER requests blanket authorization for AER to connect and deliver gas to those and any other landowners requiring the initiation of natural gas service as part of their Line AC right-of-way conveyances to AER.

AER states that the facilities for which authorization is sought are the result of AER's successful and continuing efforts to participate fully in the nationwide natural gas marketplace. AER further states that the available capacity in its main west-to-east transmission facilities has been fully absorbed and, to satisfy the need for additional eastbound transmission capability, AER is constructing Line AC and related compressor facilities, which would add approximately one Bcf per day of transmission capacity from the Arkoma Basin. AER indicates that it has commenced construction of such facilities under section 311 of the NGPA because of the clear and immediate need for this additional capacity. AER avers that a portion of this need is reflected by separate agreements with ANR and Texas Gas under which those companies would acquire property rights in Line AC and other AER facilities enabling them to own west to-east capacity of 250,000 Mcf per day and 300,000 Mcf per day, respectively. It is stated that, AER and Texas Gas would be filing separate applications for authority to acquire such property rights.

AER asserts that its decision to proceed under section 311 is market driven and consistent with its continuing public utility obligation to provide service to its customers at the lowest reasonable cost.

Comment date: November 8, 1989, in accordance with Standard Paragraph F at the end of this notice.

12. Transcontinental Gas Pipe Line Corporation

[Docket No. CP89-2205-000]

Take notice that on September 29, 1989, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed an application pursuant to section 7(c) of the Natural Gas Act, as amended, for a certificate of public convenience and necessity authorizing Transco (1) to provide firm transportation service for Transco Energy Marketing Company (TEMCO) of up to 80,000 dekatherms per day; and (2) to construct and operate a new compressor station and certain related facilities on Transco's South Virginia Lateral which are necessary to enable Transco to render such service, all as more fully described in the application which is on file with the Commission and open to public inspection.

By this application, Transco seeks authorization to transport on a firm basis a maximum daily quantity of up to 80,000 Dt per day for TEMCO from a point of receipt at the discharge side of Transco's Compressor Station No. 165 to a proposed point of interconnection between the facilities of Commonwealth Gas Pipeline Corporation and Transco's South Virginia Lateral at Emporia, Virginia. Transco states that the proposed service would commence on April 1, 1990, or as soon thereafter as reasonably practicable when all necessary regulatory approvals are secured and when all necessary facilities are ready for service.

Transco states that in order to render the firm transportation service for TEMCO as proposed herein, the following facilities must be constructed:

(1) A new 5,300 horsepower compressor station at South Hill, Virginia; and

(2) A new measuring and regulating station with a capacity of 80,000 Dt per day at Emporia, Virginia.

Transco also states that the proposed facilities are estimated to cost approximately $7.4 million. Since the proposed facilities are necessary to provide incremental firm service to TEMCO, TEMCO has agreed to pay Transco for the costs of such facilities as a contribution in aid of construction and will also directly reimburse Transco on a monthly basis for the actual costs of operating and maintaining the facilities proposed herein. In recognition of TEMCO's contribution in aid of construction, Transco will provide the firm service proposed at no transportation rate.

Comment date: November 8, 1989 in accordance with standard Paragraph F at the end of the notice.

13. Arkla Energy Resources, a Division of Arkla, Inc.; Mississippi River Transmission Corporation

[Docket No. CP89-2173-000]

Take notice that on September 28, 1989,[1] Arkla Energy Resources (AER), a division of Arkla, Inc., P.O. Box 21734, Shreveport, Louisiana 71151, and Mississippi River Transmission Corporation (MRT) 9900 Clayton Road, St. Louis, Missouri 63124, jointly filed in Docket No. CP-3173-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for an order permitting and approving the abandonment by sale to ANR Pipeline Company (ANR) of property interests in certain jurisdictional facilities they currently wholly own, together with pre-granted authorization for AER and MRT, if and when events occur triggering a reversion of the aforementioned property interestes to AER and MRT, to reacquire, operate and provide service through the subject facilities without further Commission review, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

AER amd MRT request all abandonment authorizations necessary for them to implement their part of an arrangement (the Agreement) under which ANR would acquire certain property interests in specified facilities owned by AER and MRT.[2] Under the Agreement, AER and MRT would each convey to ANR property interests in certain of their existing facilities, and AER would convey such an interest to ANR in a new pipeline currently being constructed under section 311 of the NGPA, AER's Line AC, collectively referred to as the "Subject Facilites".

AER notes that ANR would acquire property interests in the Subject Facilities (including *e.g.*, lines of pipe, compressor facilities, easements and rights-of-way, and equipment and facilities located thereon and appurtenant thereto) sufficient to provide ANR with pipeline capacity that would enable ANR to receive and deliver natural gas at certain points on the Subject Facilities up to specified aggregate maximum volumes set out in the Agreement.

AER states that the western portion of the Subject Facilities, consisting of AER's Line AD and related facilities extending from Hemphill County, Texas eastward to and including AER's Chandler Compressor Station (Chandler Station) in Latimer County, Oklahoma, would give ANR ownership of capacity in these facilities sufficient to receive and deliver to the outlet of the Chandler Station up to 100,000 Mcf of natural gas

[1] The notice of application was tendered for filing on September 27, 1989; however, the fee required by § 381.207 of the Commission's Rules (18 CFR 381.207) was not paid until January 11, 1989. Section 381.103 of the Commission's Rules provides that the filing date is the date on which the fee is paid.

[2] As used herein, the Agreement encompasses two documents, the Sale of Pipeline Interests Agreement and the Operating Agreement Between Arkla, Inc. and ANR Pipeline Company (Opeating Agreement).

per day. It is indicated that the Subject Facilities also include an interest in jurisdictional and non-jurisdictional gathering, transmission and compressor facilities owned by AER in eastern Oklahoma and northwestern Arkansas, designated as the Arkoma Gathering Facilities, would give ANR ownership of capacity therein sufficient to gather and deliver up to 150,000 Mcf of natural gas per day to that portion of the main transmission system in the area also being acquired by ANR.

AER explains that ANR additionally would acquire an interest in certain AER transmission and compressor facilities connecting to and extending from the Chandler Station to centra, Arkansas, including proposed Line AC and related facilities, referred to as the Eastern Segment. AER further explains that ANR's interest in the Eastern Segment would include capacity sufficient to receive and deliver at specified points up to 250,000 Mcf of natural gas per day.

AER avers that to facilitate the transmission of ANR's gas from the Eastern Segment to ANR's existing transmission facilities in northeastern Louisiana, ANR would acquire from MRT an interest in certain MRT facilities in Arkansa and Louisiana, which includes capacity sufficient to receive and deliver at specified points up to 250,000 Mcf of natural gas per day.

AER states that on approval by the Commission, ANR would be obligated to pay AER and MRT on the date of conveyance an amount of money equal to the net book value of the Subject Facilities, including Line AC, not to exceed a total of $125 million. AER indicates that under the Agreement, AER and MRT would be designated as operators of the Subject Facilities subject to comprehensive provisions for such operation set forth in the Operating Agreement.

AER insists that implementation of the Agreement is viable only if AER is allowed to retain the take-or-pay credits applicable to gas transported in the Subject Facilities. AER notes that ANR has agreed to assign to AER all rights to such credits which might inure to ANR as a result of its ownership interest in the Subject Facilities. AER states that the Agreement is conditioned on, and AER requests, a Commission declaration, condition or appropriate order providing in substance that (a) any party, including without limitation ANR or any affiliate of ANR, requesting transportation of, transmitting, gas on any of the Subject Facilities shall offer to AER the take-or-pay credits provided for in 18 CFR 284.8(f) and 284.9(f) (1988) to the same extent that such credits would have been required to be offered to AER had AER continued to own the Subject Facilities in their entirety and the same gas had been transported thereon and (b) to the extent that any person provides to AER the credits described in the preceding clause (a), such person shall not be required to offer to ANR any credits with respect to such gas.

AER explains that under the Agreement, the occurrence of certain events would cause a reversion to AER and MRT of ANR's interests in the Subject Facilities, including those involving Line AC and related facilities. To permit the orderly operation of these contractual rights, if and when they are triggered, AER and MRT request pre-granted authorization for their reacquisition of such interest and the subsequent use to provide service under then-applicable tariffs of AER and MRT.

AER and MRT assert that implementation of the Agreement would result in reduction in their respective rate levels, provide ANR with a direct connection between its existing Southwest and Southeast systems, provide ANR and its customers with direct access to Arkoma Basin supplies and markets, and result in the direct injection of an additional competitor into the affected transportation markets.

Comment date: November 8, 1989, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25059 Filed 10-24-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-4-20-000]

Algonquin Gas Transmission Co.; Proposed Change in FERC Gas Tariff

October 18, 1989.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on October 16, 1989, tendered for filing, to its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Proposed to be effective, October 1, 1989

Second Substitute Thirty-sixth Revised Sheet No. 203
Second Substitute Thirty-second Revised Sheet No. 204

Proposed to be effective, November 1, 1989

Thirtieth Revised Sheet No. 205

Algonquin states that on October 4, 1989 in Docket No. TF90-1-22-000, Algonquin's pipeline supplier, CNG Transmission Corporation ("CNGT") filed an Interim Purchased Gas Adjustment ("PGA") to reflect increases

in CNGT's cost of gas from its major pipeline suppliers. Such changes included the rates in CNGT's Rate Schedule CD which underlies Algonquin's Rate Schedule F-2. Pursuant to section 7 of Rate Schedule F-2, Algonquin is filing Second Substitute Thirty-sixth Revised Sheet No. 203 to concurrently track the rate changes made by CNGT in the service underlying Algonquin's Rate Schedule F-2. Algonquin maintains that the effect of CNGT's filing is to increase the demand charge by 3.5¢ per MMBtu and the commodity charge by 8.39¢ per MMBtu over those rates in effect for the month of September, 1989 under Algonquin's Rate Schedule F-2.

Algonquin states that on September 29, 1989, in Docket No. TF90-1-16-000, Algonquin's pipeline supplier, National Fuel Gas Supply Corporation ("National"), filed an Interim Purchased Gas Adjustment to change its commodity rate in the service underlying Algonquin's Rate Schedule F-3. Accordingly, Algonquin states that it is filing Second Substitute Thirty-second Revised Sheet No. 204 to concurrently track National's rate change as permitted by Section 7 of its Rate Schedule F-3. Algonquin maintains that the effect of National's filing is to increase the commodity rate by 21.18¢ per MMBtu from the rates in effect for the month of September, 1989 under Algonquin's Rate Schedule F-3.

Algonquin states that in a filing dated September 29, 1989, Algonquin's pipeline supplier, Texas Eastern Transmission Corporation ("Texas Eastern"), made a Quarterly Purchased Gas Adjustment to update its rates to reflect changes in the projected quarterly cost of purchased gas, which includes the service underlying Algonquin's Rate Schedule F-4. Algonquin further states that it is filing Thirtieth Revised Sheet No. 205 to concurrently track such rate changes made by Texas Eastern as permitted by Section 7 of its Rate Schedule F-4. The effect of the change in rates made by Texas Eastern is to decrease the demand charge by 3.9¢ per MMBtu while increasing the commodity charge by 51.04¢ per MMBtu from the rates in effect for the month of October, 1989 under Rate Schedule F-4.

Algonquin notes that a copy of this filing was served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 25, 1989.

Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25061 Filed 10-24-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-63-001]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 18, 1989.

Take notice that on October 12, 1989, Carnegie Natural Gas Company (Carnegie) tendered for filing the following two sets of alternate, substitute rate sheets:

Substitute Eighteenth Revised Sheet No. 48, First Revised Volume No. 1 of Carnegie's FERC Gas Tariff, which is proposed to become effective on November 1, 1989 if the Commission has not authorized Carnegie's Second Revised Volume No. 1 to become effective on that date.

Substitute First Revised Sheet No. 9, Second Revised Volume No. 1 of Carnegie's FERC Gas Tariff, which is proposed to become effective on the date Carnegie's Second Revised Volume No. 1 becomes effective.

Carnegie states that on October 4, 1989, it filed in this docket rate sheets which, among other things, included a ssurcharge adjustment in the "Average Cost of Gas" and a "100% Load Factor" rate computations. Carnegie also states that on October 12, 1989, the Commission's staff informed Carnegie that the surcharge adjustment should not be included in these computations. Carnegie is therefore refiling these substitute tariff sheets to reflect deletion of the surcharge adjustment from the "Average Cost of Gas" and 100% Load Factor's adjusted rates.

Carnegie proposes that copies of the transmittal letter and the attached rate sheets have been served on all parties noted in the service list.

Any person desiring to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such protests should be filed on or before October 25, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestant a party to the proceedings. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and area available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25062 Filed 10-24-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-2-22-000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 18, 1989.

Take notice that CNG Transmission Corporation ("CNG"), on October 13, 1989, pursuant to section 4 of the Natural Gas Act, the Commission's August 12, 1988, September 30, 1988, November 4, 1988, December 28, 1988, March 3, 1989, June 1, 1989, and August 25, 1989, orders in Docket Nos. RP88-217 and RP89-165, and Section 12.9 of the General Terms and Conditions of CNG's tariff, filed the following revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff:

Fourth Revised Sheet No. 49
First Revised Sheet No. 49B
Second Revised Sheet No. 49C

The proposed effective date of these sheets is November 1, 1989. CNG states that the purpose of this filing is to change its take-or-pay passthrough provisions to reflect modifications and additions to Order No. 500 buyout and buydown costs that have been made recently by CNG's pipeline suppliers.

Copies of the filing were served upon CNG's sales customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211. All motions or protests should be filed on or before 10/25/89. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25067 Filed 10-24-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-50-005, CP68-179-017, CP89-555-003, CP89-556-003, CP74-192-013, CP86-704-004, CP65-393-007, CP65-284-001, CP64-249-001, G-9262-005, and G-18615-001] (Not Consolidated)

Florida Gas Transmission Co; Offer of Settlement

October 18, 1989.

Take notice that on October 17, 1989,[1] Florida Gas Transmission Company (FGT), P.O. Box 1188, Houston, Texas 77251-1188, filed an Offer of Settlement pursuant to Rule 602 of the Commission's Rules of Practice and Procedure (18 CFR § 385.602) in the above-captioned proceedings. The Offer of Settlement contains a Stipulation and Agreement (S&A) that provides for: (1) Resolution of all issues in Docket Nos. RP89-50-000, CP68-179-013, CP89-555-000 and CP89-556-000 (consolidated), except for certain issues in Docket No. RP89-50-000 that are reserved for hearing and prospective implementation; (2) resolution of all issues in Docket Nos. CP68-179-006, CP74-192, and CP86-704 (consolidated), subject to environmental review of certain proposed facilities; and (3) resolution of all issues in Docket Nos. CP65-393-006, CP65-284, CP64-249, G-9262, and G-18615.

The S&A provides for all requisite certificate and abandonment authority pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) for FGT to implement proposed changes to existing services, for the implementation of new services, for the addition of new customers, and for related revisions to FGT's FERC Gas Tariff, all as more fully set forth in the S&A which is on file with the Commission and open to public inspection.

FGT states that this S&A supersedes in its entirety the S&A filed by FGT on October 30, 1987, (Phase II Settlement) in Docket No. CP68-179-012, *et al.*, and constitutes withdrawal thereof and cancellation of all letter agreements and service agreements between the parties contained therein. As noted by FGT, the Phase II Settlement addressed two central issues: (1) The justification for the proposed facilities which would expand FGT's peak day capacity up to approximately 925,000 Mcf per day (Phase II Facilities) and (2) the restructuring of contractual relationships with its customers in order to offer an expansion of its services.

It is also noted that on January 13, 1989, FGT filed four interrelated applications: (1) Docket No. CP68-179-013 in which FGT proposed an allocation of its current system (Phase I capacity), nominations of annual volumetric entitlements to existing customers, implementation of a new small customer sales service under proposed Rate Schedule SGS, and other revisions to its FERC Gas Tariff, (2) Docket No. RP89-50-000 in which FGT proposed a general rate increase pursuant to section 4(e) of the Natural Gas Act, (3) Docket No. CP89-555-000 in which FGT requested a blanket transportation certificate under the Commission's Order Nos. 436 and 500, and (4) Docket No. CP89-556-000 in which FGT requested a blanket certificate to make interruptible sales for resale to others. FGT asserted that these four filings were interrelated, and conditioned its willingness to accept the requested blanket transportation certificate in Docket No. CP89-555-000 on the approval of all four applications.[2]

In the general rate proceeding in Docket No. RP89-50-000 the S&A provides for: (1) The settlement of all cost-of-service and throughput volume issues and (2) interim rates pending final Commission resolution of reserved issues. The reserved issues are issues enumerated by the Commission's policy statement dated May 30, 1989 in Docket No. PL89-2-000, *et al.*, including rate design, cost allocation and cost classification.

The S&A filed on October 16, 1989, specifically proposes the following actions and requests the necessary authorizations pursuant to sections 7(b) and 7(c) of the NGA:

(1) *Article V—Transition Cost Recovery (TCR) Mechanism*—Provides that upon the Commission's approval of the S&A, FGT would be authorized to implement a volumetric surcharge which would be applied to all sales and transportation volumes delivered under FGT's jurisdiction services both sales and transportation. FGT proposes that the TCR surcharge not exceed a charge of $0.035 per dekatherm delivered and would be adjusted on an biannual basis in order to recover prudently incurred transition costs from the prior six month period, as defined in FGT's proposed by the new section 25 of the General Terms and Conditions of its FERC Gas Tariff. FGT proposes that the TCR mechanism would be the only means permitted to FGT to flowthrough transition costs paid under gas supply contracts in existence as of January 13, 1989, and paid no later than December 31, 1996.

(2) *Article VI—Construction and Operation of Phase II Facilities*—Provides that upon Commission approval of the S&A, FGT would be authorized to construct and operate the Phase II facilities described in Appendix C of the S&A. Total estimated cost to construct Phase II Facilities would be approximately $61,748,100. The S&A would provide that the costs, approximately $48,825,200, related to FGT's mainline compressor stations and certain identified delivery laterals and related measuring and regulating stations would be treated for accounting and rate purposes on a rolled-in basis. As such, FGT requests waiver of Section 14 of its General Terms and Conditions of its FERC Gas Tariff, as necessary. For those facilities identified in the S&A's Appendix C, Tab 4, FGT proposes that the related costs and expenses would be paid by those customers receiving expanded or new services through such facilities.

(3) *Article VII—Allocation of Capacity*—Provides that upon Commission approval of the S&A, FGT would be authorized to abandon its existing system of Annual Volumetric Entitlements (AVE's) which are reflected in the Index of Entitlements contained in the General Terms and Conditions of FGT's FERC Gas Tariff. Commission approval would provide the acceptance of a revised Index of Entitlements, which is reflected in Appendix B, Tab 11 to the S&A. The revised Index of Entitlements would set forth the total sales entitlements for each new and existing resale and direct sale customer receiving an allocation of capacity on FGT's system. Commission approval of the S&A would also authorize an allocation of FGT's Phase I capacity as set forth in the S&A's Appendix D, Tab 1, all which would be placed in effect immediately upon the effective date of the S&A. Likewise, Commission approval of the S&A would authorize an allocation of FGT's proposed Phase II capacity as set forth in the S&A's Appendix D, Tab 3. Phase

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[1] The Offer of Settlement was tendered for filing on October 16, 1989. However, the fee required by § 381.207 of the Commission's Rules (18 CFR 381.207) was not paid until October 17, 1989. Section 381.103 of the Commission's Rules provides that the filing date is the date on which the appropriate fee is paid.

[2] It is noted that the Commission's May 24, 1989, order in Docket Nos. CP68-179-013, CP89-555-000, CP89-556-000 and RP89-50-000 (47 FERC ¶ 61,253) consolidated the certificate proceedings into the ongoing formal hearing previously established for Docket No. RP89-50-000. It is further noted, that the Commission did not consolidate FGT's Phase II Settlement with the formal hearing proceeding set forth in Docket No. RP89-50-000, *et al.*

II allocation is proposed to become effective upon the in-service date of the Phase II Facilities. The S&A provides that the Phase I and Phase II allocations for each customer would be provided on defined levels of seasonal Maximum Daily Contract Quantities (MDCQ) and Maximum Annual Contract Quantities (MACQ) for firm sales services, seasonal Maximum Daily Transportation Quantities (MDTQ) and Maximum Annual Transportation Quantities (MATQ) for firm transportation services; and preferred AVE's and MATQ's for preferred sales and transportation services, respectively.

(4) *Article VIII—Transportation Services*—Provides that the Commission's approval of S&A would constitute a blanket certificate pursuant to section 7(c) of the NGA and § 284.221 of the Commission's regulations. Self-implementing transportation services would be provided under the terms and conditions proposed for Rate Schedules FTS–1, PTS–1, and ITS–1 for firm, preferred, and interruptible services, respectively. Upon the effective date of the S&A, FGT would commence transportation services under the authority of Section 311 of the Natural Gas Policy Act and Part 284 of the Commission's regulations. Upon the effective date of the S&A and acceptance of the requests blanket certificate, FGT would immediately commence transportation services through its Phase I capacity for those shippers listed in the S&A's Appendix D, Tab 1, Schedule 1, up to each customer's MATQ's and seasonal MDTQ's under Rate Schedule FTS–1 and transport for those shippers listed in Appendix D, Tab 1, Schedule 2, up to each customer's Preferred MATQ's under Rate Schedule PTS–1. Upon the in-service dates of the Phase II Facilities, FGT would commence transportation services as proposed for Phase II capacity under Rate Schedules FTS–1 and PTS–1 up to the levels listed in Appendix D, Tab 3, Schedule 1, and Appendix D, Tab 3, Schedule 2, respectively. In order to implement each identified shipper's transportation services in this manner, FGT requests that the Commission grant a waiver of the prior notice requirements of §§ 157.205 and 284.223 of the Commission's regulations. In addition, Commission approval would grant FGT the abandonment authority to terminate the existing transportation services rendered upon behalf of Florida Power and Light Company (FPL) under Rate Schedule T–3, to be effective concurrently with the commencement of service to FPL for Phase I capacity under Rate Schedule FTS–1. For purposes of the S&A only, FGT has also agreed that certain municipal corporations, which are existing sales customers engaged in the generation of electricity, may assign all or a portion of their firm capacity under Rate Schedule FTS–1 to an interlocal entity which was formed by such municipal corporations in accordance with Chapter 163 of the Florida Statutes. The interlocal entity would be identified as the Florida Gas Utility and includes: The City of Gainesville, through Gainesville Regional Utilities, and the City of Homestead. In the event that the provision contained in this section VIII of the S&A is not approved, it is agreed that each of the municipal corporations shall be allocated capacity rights for Phase I and Phase II which will be set forth in Appendix D, Tab 4, of the S&A no later than 10 days from the effective date of the S&A.

(5) *Article IX—Sales For Resale Service*—Provides that Commission's approval of the S&A would constitute its acceptance and approval of all tariff sheets which are filed in regards to FGT's proposals concerning FGT's existing and proposed resale services. Commission approval would also constitute the requisite abandonment authority for FGT to abandon all previously certificated sale for resale services under Rate Schedules G (General) and I (Preferred Interruptible) and the requisite certificate authority to render sales for resale services for Phase I capacity under revised Rate Schedules G and I and under the newly proposed services described in Rate Schedules Small General Service (SGS) and Winter Peaking Period Service (WPPS). It is requested that Commission approve the levels indicated for each existing and new customer listed in Appendix D, Tab 1 to become effective concurrently with the effective date of the S&A. Commission approval of the S&A would also constitute the pre-granted authority under sections 7(b) and 7(c) of the NGA to supersede the Phase I levels for all resale customers by the increased levels proposed under Rate Schedule G, SGS, I and WPPS and as listed in Appendix D, Tab 3 to become effective on the in-service date of the Phase II Facilities.

(6) *Article X—Direct Sales Service*—Provides that Commission approval of the S&A would constitute the necessary abandonment authority for FGT to abandon use of its transmission facilities which are being utilized to transport and deliver all previously certificated levels of direct sales service to the direct sales customers identified in the S&A's Appendix D, Tab I. In the S&A, FGT also proposes that the Commission grant the certificate authorization permitting FGT to utilize its transmission facilities to transport and deliver up to the new seasonal MDCQ's and MACQ's and Preferred AVE's levels for Phase I capacity for each existing and new direct sales customer listed in Appendix D, Tab I to be effective concurrently with the effective date of the S&A. Also the Commission's approval of the S&A would constitute the pre-granted atuhority under sections 7(b) and 7(c) of the NGA to supersede the Phase I levels of direct sales services authorized for each customer by the increased levels listed for each buyer listed in Appendix D, Tab 3 to be effective on the in-service date of the Phase II Facilities.

(7) *Article XI—Conversion of Sales Service To Transportation Service*—Describes FGT's agreement to permit any buyer under Rate Schedule G to convert up to 100 percent of its seasonal MDCQ and MACQ quantities to firm transportation service and to permit any buyer under Rate Schedule I to convert up to one hundred percent of its Preferred AVE to preferred tranportation service under FGT's respective Rate Schedules FTS–1 and PST–1 over a 5-year conversion period commencing with FGT's acceptance of a blanket certificate under § 284.221 of the Commission's regulations. Such conversion options will be made pursuant to proposed Section 16A of the new General Terms and Conditions of FFT's FERC Gas Tariff which is contained in the S&A's Appendix B, Tab 11. In addition, FGT would provide any firm and preferred direct sales customer who has requested such rights during the settlement process in Docket No. RP89–50–000, *et al.*, similar conversion rights proposed above for the resale services under Rate Schedules G and I. The Commission's approval of the S&A would constitute the pre-granted abandonment authority for all firm and preferred sales entitlements which are converted. The S&A notes that the parties recognize all first-year conversions which have been elected are already reflected in the levels listed for the resale and direct sales services and the firm and preferred transportation services in the S&A's Appendix D, Tabs 1 and 3. The Commission's approval of the S&A would constitute waiver to the proposed Section 16A of the General Terms and Conditions as necessary to permit such first-year conversions concurrently with the effective date of the S&A.

(8) *Article XII—Curtailment*—Provides that the Commission approval of the S&A would constitutes approval for the curtailment methodology on FGT's system as set forth in proposed Sections 9 and 9A of the revised General Terms and Conditions of FGT's FERC Gas Tariff which are included at the S&A's Appendix B, Tab 11 to be effective concurrently with the effective date of the S&A.

(9) *Article XIII—Changes In Firm Contract Quantities, AVE's, and D-2 Billing Determinants*—Pursuant to section 13 of the revised General Terms and Conditions of FGT's FERC Gas Tariff which is contained in the S&A's Appendix B, Tab 11, FGT proposes to permit firm transportation and sales customers the right to increase or decrease firm contract quantities on a temporary and/or permanent basis under certain conditions. This article provides that Commission approval of the S&A would constitute blanket certificate authority under section 7(c) and pre-granted authorization under section 7(b) of the NGA to permit FGT to effectuate such temporary and permanent changes in firm contract quantities. Further, FGT would permit customers under Rate Schedule I and PTS-1 to renominate reduced levels of Preferred AVE's and MATQ's respectively upon the earlier of (i) the third anniversary of the effective date for the S&A, or (ii) the date FGT places into effect revised rates pursuant to a general rate increase filing under section (4) of the NGA. The S&A indicates that FGT would file for the requisite abandonment authority to effect such renominations of Preferred AVE's and MATQ's.

(10) *Article XIV—Other Transportation Issues*—Provides that FGT agrees to permit firm shippers under proposed Rate Schedule FTS-1 upon request to (i) contract for a service term which provides a unilateral option on the part of such shippers to extend the term of service for an additional term not to exceed the initial primary term, with a year-to-year evergreen clause thereafter. Under this option either FGT or the shipper could thereafter terminate the service upon 6-month written notice or (ii) contract for a service term of a fixed duration which requires FGT to file for and receive specific abandonment authorization under Section 7(b) of the NGA prior to termination. Further, Article XIV provides that FGT would utilize the proportional access methodology set forth in the S&A's Appendix E in arriving at the allocation of firm receipt point capacity under Rate Schedule FTS-1. FGT agrees to treat firm system supply sales volumes on a comparable basis with firm transportation volumes. Moreover, FGT agrees to file revised tariff sheets after resolution of reserved rate issues which would amend Rate Schedules FTS-1, PTS-1, and ITS-1 to provide that FGT's Compressor stations Nos. 7 and 11 (in-line transfer points) could be nominated as a receipt and delivery points by any shipper. As provided further in this article, FGT agrees to conduct a 10-day open season for receipt of requests for interruptible transportation service under FGT's proposed Rate Schedule ITS-1 and receipt of requests for interruptible sales service under proposed Rate Schedule ISS-1 and a comparable direct sales service. Within 30 days of the Presiding Administrative Law Judge's certification of this S&A, FGT would provide at least a 30 day public notice of the commencement date of such open season via its electronic bulletin board and through notice in trade publications.

(11) *Article XV—Blanket On-System And Off-System Interruptible Sales Program*—Provides that Commission approval of the S&A would constitute the issuance of a blanket certificate with pregranted abandonment which would give FGT the authority to sell gas on an interruptible basis both on-system and off-system to any party in accordance with the provisions of new Rate Schedule ISS-1 which is reflected in Appendix B, Tab 12 to the S&A. In addition, the requested blanket certificate would include the necessary authorization with pregranted abandonment authority for FGT to utilize its transmission facilities to effectuate direct sales to end-users under comparable terms and conditions specified in the FGT's proposed Rate Schedule ISS-1. The S&A explains: (i) That there will be no minimum purchase obligations, (ii) that in the event FGT discounts the non-gas component of its rate under Rate Schedule ISS-1 that an equal discount will be offered under Rate Schedule ITS-1, and (iii) that FGT shall treat sales under Rate Schedule ISS-1 in the same manner as any interruptible transportation service under Rate Schedule ITS-1 for purposes of scheduling, allocating capacity and curtailing services and notice procedures. In the event that FGT receives authority to abandon its blanket transportation certificate, FGT requests that authorization for its blanket sales certificate should terminate concurrently as well.

(12) *Article XVI—Second Revised Volume No. 1 Tariff*—Provides that Commission approval of the S&A would grant the necessary approval for the cancellation of FGT's FERC Gas Tariff, First Revised Volume No. 1 Tariff and the Commission's acceptance and approval of a Second Revised Volume No. 1 which would consist of the tariff sheets designated as such in Appendix B of this S&A; all proposed to become effective on the effective date of this S&A. Aside from those changes previously mentioned, the Second Revised Volume No. 1 would reflect proposed changes to the General Terms and Conditions Section, the Table of Contents, the Preliminary Statement, FGT's System Map, the Index of Requirements and the Index of Purchasers.

(13) *Article XVIII—Other Proceedings*—Provides that the Commission order approving this S&A would render moot FGT's application filed on January 25, 1985, in Docket No. CP68-179-006 and FGT's application filed on February 17, 1987 in Docket Nos. G-9262, G-18615, CP64-249 and CP65-284.

(14) *Article XXI—Effective Date*—provides that neither the S&A nor any of its provisions shall become effective until the Commission order approving it becomes final and is no longer subject to appeal before any appellate court having jurisdiction of the premise; provided, however, FGT may waive the condition(s) that such order be final and/or no longer subject to appeal. In such event, the effective date of this S&A would become the first day of the first month following the date on which the Commission order becomes final and is no longer subject to appeal, or, in the event FGT waives the latter condition(s), the effective date would be the first day of the first month following such waiver by FGT.

Any person desiring to be heard or to make any protest with reference to the Offer of Settlement should on or before November 6, 1989 file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons

who have heretofore filed need not file again.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25066 Filed 10-24-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ90-1-16-001, TM90-1-16-001, TF90-1-16-001]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

October 18, 1989.

Take notice that on October 12, 1989, National Fuel Gas Supply Corporation ("National") tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets proposed to become effective on October 1, 1989.

Substitute Twenty-First Revised Sheet No. 4

Substitute Twenty-Second Revised Sheet No. 4

National states that the filing is made to comply with the Commission's order issued September 29, 1989 in Docket Nos. TQ90-1-16-000 and TM90-1-16-000. Compared to National's original filing, Substitute Twenty-First Revised Sheet No. 4 reflects a per-dekatherm decrease in National's CD and RQ demand and commodity rates of 2 cents and .25 cents, respectively. Substitute Twenty-Second Revised Sheet No. 4 is said to be filed solely to reflect the change in the demand rate filed in National's interim Purchased Gas Adjustment filed in Docket No. TF90-1-16-000 on September 29, 1989.

National requests waiver of the Commission's Rules and Regulations as may be required to permit the tariff sheets to become effective on October 1, 1989. The compliance filing is made with the understanding that acceptance of these rates will not prejudice National's right to request rehearing of the Commission's September 29, 1989 order in Docket Nos. TQ90-1-16-000 and TM90-1-16-000, in order to seek recovery of Account No. 858 charges.

National states that copies of this filing were posted in accordance with the Commission's Regulations and served upon the Company's jurisdictional customers and the Regulatory Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts and New Jersey.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such protests should be filed on or before October 25, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25063 Filed 10-24-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-137-004]

Northwest Pipeline Corp.; Change in FERC Gas Tariff

October 18, 1989

Take notice that on October 6, 1989, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance Fifty-Sixth Revised Sheet No. 10 to be part of its First Revised Volume No. 1 Tariff.

Northwest states that the purpose of this filing is to implement a 6.39¢ per MMBtu credit to be reflected as an offset against the Commodity SSP Surcharge that relates to Northwest's jurisdictional sales service. The 6.39¢ per MMBtu credit is filed to avoid a double recovery of certain processing costs and will remain in effect for the 12 months commencing November 1, 1989 which is the proposed effective date for Fifty-Sixth Revised Sheet No. 10. Additional detail concerning the aforementioned surcharge credit is included in Northwest's March 31, 1989 Order No. 500 Buyout/Buydown Cost Recovery Filing in this docket.

Northwest states that a copy of this filing has been sent to all parties of record in Docket No. RP89-137-000 and to all jurisdictional customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before October 25, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and area available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25064 Filed 10-24-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-9-000]

Trailblazer Pipeline Co.; Changes in FERC Gas Tariff

October 18, 1989.

Take notice that on October 11, 1989, Trailblazer Pipeline Company (Trailblazer) submitted for filing tariff sheets to be part of its FERC Gas Tariff, Original Volume No. 1 and sheets encompassing its new Original Volume No. 1A, to be effective November 1, 1989.

Trailblazer states that the purposes of these sheets are: (1) to submit revised tariff sheets, including a *pro forma* service agreement, in compliance with Ordering Paragraph (B) of the Commission's order issued October 6, 1989 in Docket Nos. RP84-94-000, *et al.* (October 6 Order); (2) to place into effect tariff sheets complying with CFR 284.7 so that Trailblazer may commence "open access" transportation under section 311 of the Natural Gas Policy Act of 1978; and (3) to submit an alternate set of rates to become effective November 1, 1989.

In addition, Trailblazer requested waiver of the Commission's Regulations to the extent, if any, necessary to permit its tariff sheets to become effective November 1, 1989 and to commence section 311 "open access" transportation on that date.

Trailblazer further states that a copy of its filing and tariff sheets has been mailed to Trailblazer's jurisdictional transportation customers, interested state regulatory agencies and all parties in Docket Nos. RP84-94-000, *et al.*

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before October 25, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party msut file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-25065 Filed 10-24-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of September 8 Through September 15, 1989

During the Week of September 8 through September 15, 1989, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: October 17, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of September 8 through September 15, 1989]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 8, 1989	Exxon/Ronson Aviation, Inc., Washington, DC	RR307-1	Request for Modification/Rescission. If granted: The August 23, 1989 Decision and Order (Case No. RF307-4683) issued to Ronson Aviation, Inc. would be modified regarding the firm's Application for Refund submitted in the Exxon Refund Proceeding.
Sept. 11, 1989	Boulder Scientific Co., Washington, DC	KFA-0318	Appeal of an information request denial. If granted: The April 28, 1989 Freedom of Information Request denial issued by the Savannah River Operations Office would be rescinded and the Boulder Scientific Company would receive access to certain DOE Information.
Sept. 15, 1989	Radiation Research Project Knoxville, TN	KFA-0319	Appeal of an information request denial. If granted: The August 22, 1989 Freedom of Information Request denial issued by the Oak Ridge Operations Office would be rescinded, and Radiation Research Project would receive access to certain DOE Information.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund application	Case No.
09/08/89 thru 09/15/89	Crude Oil Refund, Applications Received.	RF272-75651 thru RF272-75675
09/08/89 thru 09/15/89	Atlantic Richfield Refund, Applications Received.	RF304-10300 thru RF304-10385
09/08/89 thru 09/15/89	Shell Oil Refund, Applications Received.	RF315-7101 thru RF315-7187
09/11/89	Pennzoil, OKC Corp, Coline, Nat'l Helium/Kansas.	RQ10-532 thru RQ10-535
09/11/89	Amoco/New York	RQ251-536
09/14/89	Excelsior Utilities, Inc..	RF307-10059
09/14/89	Waters Oil Company	RF307-10060

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of refund proceeding/name of refund application	Case No.
09/19/89	International Paper Company.	RC272-71

[FR Doc. 89-25125 Filed 10-24-89; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of September 15 Through September 22, 1989

During the Week of September 15 through September 22, 1989, the appeal and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: October 17, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of September 15 through September 22, 1989]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 15, 1989	Automation Engineering, Inc., Washington, DC	KFA-0320	Appeal of an information request denial. If granted: The August 17, 1989 Freedom of Information Request denial issued by the Savannah River Operations Office would be rescinded and Automation Engineering, Inc. would receive access to documents relating to the purchase of a Charge and Discharge Input Ordering System, Purchase Order AZ 0789430.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund application	Case No.
09/15/89 thru 09/22/89	Crude Oil Refund, Applications Received.	RF272-75676 thru RF272-75696
09/15/89 thru 09/22/89	Atlantic Richfield Refund, Applications Received.	RF304-10386 thru RF304-10440
09/15/89 thru 09/22/89	Shell Oil Refund, Applications Received.	RF315-7188 thru RF315-7255
09/18/89	Sam Ross Gulf	RF300-10865
09/18/89	Peru Propane Corporation.	RF300-10866
09/19/89	H.H. Park, Inc.	RF300-10867
09/20/89	Donald Ragsdale	RC272-72
09/20/89	Enron Corporation	RF265-2861
09/21/89	Marine Fueling Div. Manuel.	RF309-1371

[FR Doc. 89-25126 Filed 10-24-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3674-4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATE: Comments must be submitted on or before November 24, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Comprehensive Assessment Information Rule (EPA ICR #1325.03; OMB #2010-0019). This ICR requests renewal of the existing clearance.

Abstract: Under section 8(a) of TSCA, EPA has the authority to require chemical manufacturers, importers and processors to maintain records and submit reports to the Agency. The Comprehensive Assessment Information Rule (CAIR) establishes uniform reporting and recordkeeping requirements for the chemical industry and a list of generic questions that EPA and other Federal agencies can use to collect chemical-specific information. The information collected under CAIR will be used to support the assessment and regulation of chemical substances.

Burden Statement: The public reporting burden for this collection of information is estimated to average 205 hours per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Chemical manufacturers, importers, and processors.

Estimated No. of Respondents: 460.

Estimated Total Annual Burden on Respondents: 189,010 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimates, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street, SW., Washington, DC 20460,

and

Tim Hunt, Office of Management and Budget, Paperwork Reduction Project (2070-0057), Washington, DC 20503, Telephone: (202) 395-3084.

Dated: October 11, 1989.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89-25137 Filed 10-24-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3674-7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATE: Comments must be submitted on or before November 24, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Notice for Recall of Cancelled or Suspended Pesticides (EPA ICR # 1520.01). This ICR requests clearance for a new information collection.

Abstract: Under section 19(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, EPA has the authority to request the voluntary recall of suspended or cancelled pesticides by the registrant and others in the chain of distribution. As part of a suspension and cancellation order, registrants will be asked to submit a report indicating: (1) Who they contacted in carrying out their recall, (2) how much suspended/cancelled pesticide they have on hand and (3) where this product is stored. EPA will use this information to plan for reimbursement of storage costs, to allocate resources for indemnification claim processing, and to monitor compliance.

Burden Statement: The public reporting burden for this collection of information is estimated to average 40 hours per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information.

Respondents: Pesticide registrants.

Estimated No. of Respondents: 40.

Estimated Total Annual Burden on Respondents: 1,600 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimates, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street, SW., Washington, DC 20460,

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20503, Telephone: (202) 395-3084.

Dated: October 16, 1989.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89-25138 Filed 10-24-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3674-8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATE: Comments must be submitted on or before November 24, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202 382–2740).

SUPPLEMENTARY INFORMATION:

Title: State Water Quality Standards Regulation. (ICR # 0988.03; OMB # 2040–0049). (This is a renewal of a previously approved collection).

Abstract: Under the Clean Water Act, this regulation requires States to review and, as appropriate, revise their water quality standards at least once every three years. They must then submit the results of their reviews to the Administrator of EPA, who uses these submissions to determine compliance with the Act.

Burden Statement: The public reporting burden for this collection of information is estimated to average 4634 hours per response. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Respondents are the States and Territories.

Estimated Number or Respondents: 57.

Estimated Total Annual Burden on Respondents: 264,138

Frequency of Collection: At least triennially.

To obtain a copy of the ICR package contact Sandy Farmer at (202) 382–2740).

Send comments regarding the burden estimate, or any other aspect of these information collections, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street, SW., Washington, DC 20460,

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Washington, DC 20530.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89–25139 Filed 10–24–89; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3674–9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATE: Comments must be submitted on or before November 24, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Notice for Stored Pesticides with Cancelled or Suspended Registrations (EPA ICR #1519.01). This ICR requests clearance for a new information collection.

Abstract: Under section 6(g) of the Federal Insecticide, Fungicide, and Rodenticide Act, persons who possess cancelled or suspended pesticides must notify EPA (and state and local officials) of how much of the substance they have in their physical possession and where it is stored. EPA will use the information to monitor compliance, estimate disposal burdens, and decide on the need for a recall.

Burden Statement: The public reporting burden for this collection of information is estimated to average 1 hour per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information.

Respondents: Holders of suspended or cancelled pesticide products

Estimated No. of Respondents: 156,000

Estimated Total Annual Burden on Respondents: 156,000 hours

Frequency of Collection: On occasion

Send comments regarding the burden estimates, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street, SW., Washington, DC 20460,

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20503, Telephone: (202) 395–3084.

Dated: October 16, 1989.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 89–25140 Filed 10–24–89; 8:45 am]

BILLING CODE 6560–50–M

[AD–FRL–3674–5]

Symposium on Regulatory Approaches for Reducing Emissions of Volatile Organic Compounds (VOC's) From the Use of Consumer Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of symposium.

SUMMARY: The EPA is evaluating the air emissions of VOC's from a variety of consumer products, and the techniques and strategies available for controlling those emissions. As a part of this evaluation, the EPA will conduct a symposium entitled "Regulatory Approaches for Reducing VOC Emissions from the Use of Consumer Products" on November 14 and 15, 1989. Participants at this symposium will include representatives of the industries that would be affected by regulation of VOC emissions from the use of consumer products, personnel from State and local air pollution control agencies and from the EPA, and other interested parties.

FOR MORE INFORMATION ON THE SYMPOSIUM: Contact Mr. Bruce Moore, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Emission Standards Division (MD–13), Research Triangle Park, North Carolina 27711, Telephone (919) 541–5460.

SUPPLEMENTARY INFORMATION: The symposium on "Regulatory Approaches for Reducing VOC Emissions from the Use of Consumer Products" will be held on November 14 and 15, 1989, at the Sheraton Imperial Hotel & Towers, Interstate 40, Exit 282, at Page Road, Research Triangle Park, North Carolina. The objectives of the symposium are to:

1. Communicate to the consumer products industry that the EPA is considering approaches for regulating VOC emissions from the use of consumer products.

2. Initiate a dialogue among the EPA, the States, and the consumer products industry.

3. Provide a forum for discussing the views of the industry, the States, and the EPA regarding the implementation of alternative control measures and regulatory approaches to reduce VOC emissions from the use of consumer products.

4. Develop an approach for continued industry and State participation in the EPA's investigations of approaches for reducing VOC emissions from the use of consumer products.

Individuals and organizations targeted to attend the symposium include industry representatives knowledgeable in their product categories, personnel from State and local air pollution control agencies involved in the development of regulations for VOC emissions from the use of consumer products, and other interested parties. Plenary sessions will include EPA, State, and industry presentations. Work groups comprised of approximately 10 persons will be established for each of 6 broad product categories: Personal care products, home care products, automotive products, adhesives and sealants, household pesticides, and aerosol spray paints. The concurrent work group sessions will be open to an audience of the remaining symposium participants. Registration will be limited to 200 participants.

Dated: October 19, 1989.

Gerald Emison,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 89-25141 Filed 10-24-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-44540; FRL 3661-1]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on oleylamine (CAS No. 112-90-3) submitted pursuant to a final test rule under the Toxic Substances Control Act (TSCA). Data was also received for 3,4-dichloroaniline (CAS No. 95-76-1), pursuant to a testing consent order under TSCA. Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a) within 15 days after it is received. Under 40 CFR 790.60, all TSCA section 4 consent orders must contain a statement that results of testing conducted pursuant to these testing consent orders will be announced to the public in accordance with section 4(d).

I. Test Data Submissions

Test data for oleylamine was submitted by Chemical Manufacturers association on behalf of Akzo Chemicals Inc., Jetco Chemicals, Inc., Sherex Chemical Company, Inc., and Witco Corporation, Humko Chemical Division pursuant to a test rule at 40 CFR 799.3175. It was received by EPA on October 2, 1989. The submission describes mouse lymphoma mutagenesis assay with confirmation. Mutagenic testing is required by this test rule.

Test data for 3,4-dichloroaniline was submitted by Synthetic Organic Chemical Manufacturers Association, Inc., on behalf of E. I. du Pont de Nemours and Company, Inc., pursuant to a testing consent order at 40 CFR 799.5000. It was received by EPA on October 3, 1989. The submission describes mouse bone marrow micronucleus assay of 3,4-dichloroaniline. Metagenic testing is required by this consent order.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPTS-44540). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

Dated: October 18, 1989.

Charles M. Auer,

Director, Existing Chemical Assessment Division, Office of Toxic Substances.

[FR Doc. 89-25142 Filed 10-24-89; 8:45 am]

Billing code 6560-50-D

Water Quality Criteria Document for Tributyltin; Data Availability

[OW-FRL-3673-2]

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of data and request for comments.

SUMMARY: On July 1, 1989, the Environmental Protection Agency (EPA) announced a notice of request for comments on the proposed ambient aquatic life water quality criteria document for tributyltin. When published in final form, following review of public comments, water quality criteria may form the basis for enforceable State water quality standards. These criteria are published pursuant to section 304(a)(1) of the Clean Water Act and section 9 of the Organotin Antifouling Paint Control Act of 1988.

Today, EPA is making available for public review and comment additional data for tributyltin. This data will be considered in the review process of the tributyltin water quality criteria document. EPA will review this data and all information submitted to determine if the proposed criteria should remain as proposed or be modified.

DATES: Written comments should be submitted to the person listed directly below by November 24, 1989.

FOR FURTHER INFORMATION CONTACT: Kennard W. Potts, U.S. Environmental Protection Agency, Office of Water Regulations and Standards, Criteria and Standards Division (WH-585), 401 M Street SW., Washington, DC 20460, Telephone: (202) 475-7315.

ADDRESSES:

Availability of Data

This notice requests comments on additional data which may be used to modify the proposed ambient water quality criteria document for tributyltin that contains criteria for the protection of aquatic life and its uses. Copies of the complete proposed criteria document may be obtained upon request at the above address. The available data as well as this document are available for public inspection and copying during normal business hours at: Public Information Reference Unit, U.S.

Environmental Protection Agency, Room 2404 (rear), 401 M Street SW., Washington, DC 20460. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services.

SUPPLEMENTARY INFORMATION:

Background

Section 304(a)(1) of the Clean Water Act (33 U.S.C. 1314(a)(1)) requires EPA to publish and periodically update ambient water quality criteria. These criteria are to reflect the latest scientific knowledge on the identifiable effects of pollutants on public health and welfare, aquatic life and recreation. EPA has periodically issued ambient water quality criteria, beginning in 1973 with publication of the "Blue Book" (Water Quality Criteria 1972). All criteria work through late 1986 was summarized in "Quality Criteria for Water, 1986" which was released by the Office of Water Regulations and Standards on December 3, 1986 (51 FR 43665). Final water quality criteria documents for chlorpyrifos, nickel, pentachlorophenol, parathion, and toxaphene were also issued by EPA on December 3, 1986 (51 FR 43665). On March 2, 1987 (52 FR 6213), EPA announced the publication of revised ambient water quality criteria for zinc which updated criteria previously published in the 1980 ambient water quality document. On January 5, 1988 (53 FR 177), EPA announced the publication of revised ambient water quality criteria for selenium which also updated criteria previously published in 1980. Final documents were issued for chloride on May 26, 1988 (53 FR 19028) aluminum on August 30, 1988 (53 FR 33177) and for ammonia (Saltwater) on May 4, 1989 (54 FR 19227). No previous criteria had been issued for these substances.

Available Data

Today EPA is announcing the availability for public comment of additional data which pertains to the proposed tributyltin (TBT) water quality criteria document for the protection of aquatic organisms. Tributyltin is an organotin compound that is used as an active ingredient in antifouling coatings to reduce the growth of sessile aquatic organisms or surfaces submerged in water, such as ship hulls. On January 8, 1986, EPA issued a notice of Special Review, under the Federal Insecticide, Fungicide, and Rodenticide Act, or certain pesticide products containing tributyltin used as antifoulants (51 FR 778). On October 4, 1988, EPA issued a partial conclusion of the Special Review and notice of intent to cancel registrations and deny applications for all pesticide products containing TBT as an active ingredient for use as antifoulants unless the registrations/applications comply with the specific terms and conditions provided in the notice (53 FR 39022). Specific terms and conditions established under the Act include an interim release rate restriction and certification program; this program will expire when a final Special Review decision regarding the release of organotin into the aquatic environment is issued and takes effect. The Act also requires EPA to issue a final water quality criteria document concerning organotin compounds by March 30, 1989. The Agency chose to propose a document addressing TBT specifically because it is the most toxic form or organotin used in antifouling formulations now on the market. It is the only organotin with sufficient data available to calculate criterion values.

EPA previously issued a water quality advisory for tributyltin in September 1987. Subsequent to the last literature search cited in the criteria document, EPA continued to collect data on the effects of tributyltin. These data, now available for public comment, will be considered during review of the document. Particular attention will be directed toward data indicating that some species of marine snails may be sensitive to concentrations of TBT which are lower than the concentration published in the advisory and criterion continuous concentration (CCC) proposed in the present document. EPA will review all information submitted to determine if the proposed criteria should remain as proposed or be modified.

Dated: October 13, 1989.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 89-25143 Filed 10-24-89; 8:45 am]

BILLING CODE 6560-50-M

EXPORT-IMPORT BANK OF THE UNITED STATES

Privacy Act of 1974; Amendment of Systems of Records

AGENCY: Export-Import Bank of the United States.

ACTION: Notice of amendment.

SUMMARY: The Export-Import Bank of the United States is publishing an amendment to its Systems of Records.

EFFECTIVE DATE: October 1, 1989.

ADDRESS: Export-Import Bank of the United States, Washington, DC 20571.

FOR FURTHER INFORMATION CONTACT: Helene H. Wall, Administrative Officer, Export-Import Bank of the United States, Washington, DC 20571, Telephone (202) 566-8111.

SUPPLEMENTARY INFORMATION: Due to a reorganization, The Export-Import Bank's System of Records have been amended as follows:

EIB-1 **SYSTEM MANAGER(S) AND ADDRESS:** "Personnel Office" has been changed to "Office of Personnel", **NOTIFICATION PROCEDURE:** "Vice President—Administration" has been changed to "Administrative Officer".

EIB-2, 13, 26, 28, 29 and 30 **NOTIFICATION PROCEDURE:** "Vice President—Administration" has been changed to "Administrative Officer".

EIB-3 **RETRIEVABILITY:** "Numerically" has been changed to "Chronological", **SAFEGUARDS:** "Locked desk drawer" has been changed to "Locked office", **SYSTEM MANAGER(S) AND ADDRESS:** "Vice President—Administration" has been changed to "Administrative Officer", **NOTIFICATION PROCEDURE:** "Vice President—Administration" has been changed to "Administrative Officer", and **RECORDS SOURCE CATEGORIES:** "SF-47" to "SF-46".

EIB-4, 7, 16, 17, 18, 19 and 31 **NOTIFICATION PROCEDURE:** "Vice President—Administration" has been changed to "Administrative Officer".

EIB-5 and 33 **SYSTEM MANAGER(S) AND ADDRESS:** "Vice President—Administration" has been changed to "Administrative Officer", **NOTIFICATION PROCEDURE:** "Vice President—Administration" has been changed to "Administrative Officer".

EIB-6 **RETRIEVABILITY:** "Alphabetical" has been changed to "Numerically", **RETENTION AND DISPOSAL:** "2 years after the case has been resolved" has been changed to "indefinite", **SYSTEM MANAGER(S) AND ADDRESS:** "Vice President—Administration" has been changed to "Administrative Officer/EEO Officer", and **NOTIFICATION PROCEDURE:** "Vice President—Administration" has been changed to "Administrative Officer".

EIB-8 **ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:** "Used by the Treasury * * *" has been changed to "Used by the Treasurer" * * *, **NOTIFICATION PROCEDURE:** "Vice President— Administration" has been changed to "Administrative Officer", and **RECORD ACCESS PROCEDURES:** "Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above" has been changed to "Individuals desiring to contest or amend information maintained in the system should direct

their request to the Payroll Section, Treasurer Controller's office".

EIB-9 **NOTIFICATION PROCEDURE:** "Vice president—Administration" has been changed to "Administrative Officer", and **RECORD ACCESS PROCEDURES:** "Individuals desiring to contest or amend information maintained in the system should direct their request to the Notification listed above" has been changed to "Individuals desiring to contest or amend information maintained in the system should direct their request to the Payroll Section, Treasurer Controller's office".

EIB-10 **SAFEGUARDS:** "File cabinet * * *" has been changed to "File cabinet in Locked office", **SYSTEM MANAGER(S) AND ADDRESS:** "Vice President—Administration" has been changed to "Administrative Officer", and **NOTIFICATION PROCEDURE:** "Vice President—Administration" has been changed to "Administrative Officer".

EIB-11, 14 and 21 Delete entirely.

EIB-12 **CATEGORIES OF RECORDS IN THE SYSTEM:** "Name, title, grade, approximate dates of travel, destination, purpose of travel and date of security clearance" has been changed to "Name, title, grade, approximate dates of travel, destination, and purpose of travel and grade", **SYSTEM MANAGER(S) AND ADDRESS:** "Vice president—Administration" has been changed to "Administrative Officer", and **NOTIFICATION PROCEDURE:** "Vice President—Administration" has been changed to "Administrative Officer".

EIB-15 **SYSTEM NAME:** "EIB payroll Coding Sheet, Magnetic Tape" has been changed to "EIB Payroll File", **SYSTEM LOCATION:** add "and off-site", **ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:** add the following paragraph "Disclosures may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681A(F) of the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))", **RETRIEVABILITY:** add "employee number and social security number", **SAFEGUARDS:** add "copy retained off-site", **NOTIFICATION PROCEDURE:** "Vice President—Administration" has been changed to "Administrative Officer".

EIB-20 **RETENTION AND DISPOSAL:** "As long as employee is employed by the Eximbank" has been changed to "As long as employee is employed by the Eximbank and is eligible for a Periodic Step Increase", **SYSTEM MANAGER(S) AND ADDRESS:** "Vice President—Administration" has been deleted, and **NOTIFICATION PROCEDURE:** "Vice President—Administration" has been changed to "Administrative Officer".

EIB-22 **RETENTION AND DISPOSAL:** 2. "upon employee's departure" has been changed to "2 years after employee's departure, except SF-312 which is retained for 50 years", **SYSTEM MANAGER(S) AND ADDRESS:** "Vice President—Administration" has been changed to "Administrative Officer", and **NOTIFICATION PROCEDURE:** "Vice President—Administration" has been changed to "Administrative Officer".

EIB-23 **SYSTEM MANAGER(S) AND ADDRESS:** "Vice President-Administration" has been deleted, and **NOTIFICATION PROCEDURE:** "Vice President—Administration" to "Administrative Officer".

EIB-24 **RETRIEVABILITY:** "Chronologically" has been changed to "Kept chronologically in employee's security folder", **RETENTION AND DISPOSAL:** "2 years, destroyed by burning" has been changed to "2 year after employee separates from the Bank, destroyed by burning", **SYSTEM MANAGER(S) AND ADDRESS:** "Vice President—Administration" has been changed to "Administrative Officer", and **NOTIFICATION PROCEDURE:** "Vice President—Administration" has been changed to "Administrative Officer".

EIB-25 **SYSTEM MANAGER(S) AND ADDRESS:** "Vice President—Administration EDP Center" has been changed to "Vice President, Information Management Division", and **NOTIFICATION PROCEDURE:** "Vice President—Administration" to "Administrative Officer".

EIB-27 **RETRIEVABILITY:** "According to bond subscriber number" has been changed to "Alphabetical", **SAFEGUARDS:** "2 drawer horizontal file cabinet" has been changed to "Steel file cabinet", **NOTIFICATION PROCEDURE:** "Vice President—Administration" has been changed to "Administrative Officer".

EIB-32 **STORAGE:** "Ledger" has been changed to "Microcomputer", **RETRIEVABILITY:** "Period basis" has been changed to "Travel order number, Traveler's name", **SAFEGUARDS:** delete "Cabinet and", **RETENTION AND DISPOSAL:** "Unit audited" changed has been changed to "retained 3 years", **SYSTEM MANAGER(S) AND ADDRESS:** "Travel and Administrative Expense Unit" has been changed to "Payroll and Administrative Expensive Section", **NOTIFICATION PROCEDURE:** "Vice President—Administration" has been changed to "Administrative Officer".

EIB-34 **STORAGE:** "inactive in boxes: has been changed to "inactive in locked filing cabinet", **SYSTEM MANAGER(S) AND ADDRESS:** "Vice President—Administration, Personnel Office" has been changed to "Office of Personnel", and **NOTIFICATION PROCEDURE:** "Vice President—Administration" has been changed to "Administrative Officer".

Helene H. Wall,

Administrative Officer.

[FR Doc. 89-25054 Filed 10-24-89; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-845-DR]

Major Disaster and Related Determinations—California

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA-845-DR), dated October 18, 1989, and related determinations.

DATED: October 18, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice: Notice is hereby given that, in a letter dated October 18, 1989, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Public Law 93-288, as amended by Public Law 100-707), as follows:

I have determined that the damage in certain areas of the State of California, resulting from an earthquake and aftershocks which began on October 17, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288, as amended by Public Law 100-707. I, therefore, declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Public Law 93-288, as amended by Public Law 100-707, for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing

Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Tommie C. Hamner of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster:

The City and County of San Francisco and the counties of Alameda, Monterey, San Benito, San Mateo, Santa Clara, and Santa Cruz for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Robert H. Morris,

Acting Director, Federal Emergency Management Agency.

[FR Doc. 89-25105 Filed 10-24-89; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Association Agreement(s) Filed; Lloyd/Nacional Association

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212-010265-004

Title: Lloyd/Nacional Association Agreement.

Parties: Companhia de Navegacao Lloyd Brasileiro, Companhia Maritima Nacional.

Synopsis: The proposed amendment would permit the parties to cross charter space to one another in the agreement trade.

By order of the Federal Maritime Commission.

Dated: October 19, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-25070 Filed 10-24-89; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed; Jacksonville Port Authority

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200297

Title: Jacksonville Port Authority Terminal Agreement.

Parties: Jacksonville Port Authority (Authority), Empresa Lineas Maritimas Argentinas, S.A. (ELMA).

Synopsis: The Agreement provides ELMA with certain discounts from the Authority's tariff rates for wharfage and container receiving/delivery charges based on the number of vessel calls at the Port of Jacksonville; ELMA guarantees 24 vessels calls within the one year term of the Agreement.

By Order of the Federal Maritime Commission.

Dated: October 19, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-25071 Filed 10-24-89; 8:45 am]

BILLING CODE 6730-01-M

[Petition No. P3-89]

Maximum Container Weights

Due to difficulties created by the California earthquake, a one-week extension of time to October 27, 1989, is granted for filing responses to the petition in this matter, noticed in the **Federal Register** on August 23, 1989 (54 FR 35246).

Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573-0001 and shall consist of an original and 15 copies. Comments shall also be served on the filing parties as follows: (1) Attorneys for South Europe/U.S.A. Freight Conference—Stanley O. Sher, Marc J. Fink, Dow, Lohnes & Albertson, 1255 Twenty-third Street NW., Suite 500, Washington, DC 20037; and (2) Attorney for American Trucking Associations and ATA Intermodal Council—Kenneth E. Siegel, Associate General Counsel, American Trucking Associations, 2200 Mill Road, Alexandria, VA 22314.

Joseph C. Polking,

Secretary.

[FR Doc. 89-25089 Filed 10-24-89; 8:45 am]

BILLING CODE 6730-01-M

[PETITION NO. P4-89]

Elimination of "Per Container" Rates; Enlargement of Time to Comment

Due to difficulties created by the California earthquake, a one-week extension of time to October 27, 1989, is granted for filing responses to the petition in this matter, noticed in the **Federal Register** on August 24, 1989 (54 FR 35246).

Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573-0001 and shall consist of an original and 15 copies. Responses shall also be served on the filing parties as follows: (1) Attorneys for Transpacific Westbound Rate Agreement—R. Frederic Fisher, Lillick, McHose & Charles, Two Embarcadero Center, Suite 2700, San Fransico, California 94111, and (2) Attorney for American Trucking Associations and ATA Intermodal Council—Kenneth E. Siegel, Associate General Counsel, American Trucking Associations, 2200 Mill Road, Alexandria, Virginia 22314.

Joseph C. Polking,

Secretary.

[FR Doc. 89-25090 Filed 10-24-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Amcore Financial, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) 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 acquire or control voting securities or assets of a

company engaged 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 each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than November 13, 1989.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Amcore Financial, Inc.*, Rockford, Illinois; to acquire Mid-American Financial Services Company, Loves Park, Illinois, and thereby engage in purchasing retail installment contracts from retailers, originating retail installment loans to consumers, and originating equity loans and second mortgages to consumers pursuant to section 225.25(b)(1) of the Board's Regulation Y.

2. *First State Bancorp, Inc.*, Harwood Heights, Illinois; to acquire American Mortgage and Real Estate Services, Inc., Chicago, Illinois, and thereby engage in originating, processing and underwriting residential first and second mortgages pursuant to section 225.25(b)(1)(iii) of the Board's Regulation Y.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Fourth Financial Corporation*, Wichita, Kansas; to acquire Southwest Financial Corporation, Garden City, Kansas, and thereby engage in the sale of life and accident and health insurance directly related to extensions of credit by applicant's subsidiary banks pursuant to section 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 18, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-25119 Filed 10-24-89; 8:45 am]

BILLING CODE 6210-01-M

Amcore Financial, Inc., 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 interest, 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 November 15, 1989.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Amcore Financial, Inc.*, Rockford, Illinois; to engage *de novo* through its subsidiary, Amcore Trust Company, Rockford, Illinois, in accepting and executing trusts and carrying on a general trust company business pursuant to section 225.25(b)(3) of the Board's Regulation Y.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Gaylord Bancorporation, Inc.*, Gaylord, Minnesota; to engage *de novo* in acting as an investment or financial advisor to the extent of providing portfolio investment advice to any other person; furnishing general economic information and advice, general economic statistical forecasting services and industry studies; and providing financial advice to state and local governments pursuant to section 225.25(b)(4); management consulting advice to nonaffiliated bank and nonbank depository institutions, including commercial banks, savings and loan associations, mutual savings banks, credit unions, industrial banks, Morris Plan banks, cooperative banks, and industrial loan companies pursuant to § 225.25(b)(11); and performing appraisals of real estate and tangible and intangible personal property including securities pursuant to § 225.25(b)(13) of the Board's Regulation Y. These activities will be conducted in Colorado, Iowa, Michigan, Missouri, Minnesota, Montana, Nebraska, North Dakota, South Dakota, and Wisconsin.

2. *Norwest Corporation*, Minneapolis, Minnesota; Norwest Financial Services, Inc., Des Moines, Iowa; and Norwest Financial, Inc., Des Moines, Iowa (financing and management and data processing services activities; New Hampshire); to engage directly or through one or more subsidiaries in the activities of consumer finance; sales finance; and the offering for sale and selling of bookkeeping, payroll and other management financial reporting services and data processing services. These activities are permissible pursuant to § 225.25(b)(1) and (b)(7) of the Board's Regulation Y. These activities will be conducted in the State of New Hampshire.

Board of Governors of the Federal Reserve System, October 18, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-25118 Filed 10-24-89; 8:45 am]

BILLING CODE 6210-01-M

The Fuji Bank, Limited, Tokyo, Japan; Application to Engage in Nonbanking Activities

The Fuji Bank, Limited, Tokyo, Japan ("Fuji"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (the "Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), to engage *de novo* indirectly through its wholly owned subsidiary, Heller Capital Markets Group, Inc. ("Company"), in the following activities:

(i) Providing advice in connection with merger, acquisition, divestiture, recapitalization and financial transactions for unaffiliated financial and non-financial institutions;

(ii) Providing valuation services for unaffiliated financial and non-financial institutions;

(iii) Rendering fairness opinions in connection with merger, acquisition and similar transactions for non-affiliated financial and non-financial institutions;

(iv) Providing advice regarding the structuring and arranging of loan syndications, interest rate swaps, interest rate caps and similar transactions; and

(v) Providing loan marketing and advisory services to financial institutions; other business entities and pension plans, including providing advice to such entities which seek to purchase or sell loans and other extensions of credit about opportunities to do so and providing assistance in the purchase and sale of such loans and other extensions of credit.

This activity will be conducted throughout the United States.

Fuji contends that the Board has previously determined by Order that all of the activities listed above are permissible under the Act.[1]

Section 4(c)(8) of the Act provides that a bank holding company may, with prior Board approval, engage directly or indirectly in any activities "which the Board after due notice and opportunity for hearing has determined [by order or regulation] to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 **Federal Register** 806 (1984).

In determining whether an activity meets the second, or proper incident to banking, test of section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate of a holding company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweight possible adverse effects, such as under concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Interested persons are requested to express their views in writing on 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 interest, or unsound banking practices.

Applicant agrees to conduct its activities in accordance with certain limitations imposed by the Board in the Orders cited above, and accordingly makes the following commitments:

(i) Company will not make available to Fuji or any of its subsidiaries, confidential information received from any customer of Company, except as consented to by such customer;

(ii) Disclosure always will be made to each potential customer or Company that Company is an affiliate of Fuji;

(iii) Company will render advice on an explicit fee basis without regard to correspondent balances maintained by the customer of Company with Fuji or any of its subsidiary depository institutions; and

(iv) Company's financial advisory and loan marketing activities will not encompass the performance of routine tasks or operations for a customer on a daily or continuous basis.

In publishing the proposal for comment, the Board does not take any position on issues raised by the proposals under the Act. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the Act.

Any views or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than November 8, 1989. Any request for a hearing must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by 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, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, October 19, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-25124 Filed 10-24-89; 8:45 am]

BILLING CODE 6210-01-M

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 section 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

[1] *Bryn Mawr Bank Corporation*, 74 Federal Reserve Bulletin 329 (1988); *Canadian Imperial Bank of Commerce*, 74 Federal Reserve Bulletin 571 (1988); *The Royal Bank of Canada*, 74 Federal Reserve Bulletin 334 (1988); *SunTrust Banks, Inc.*, 74 Federal Reserve Bulletin 256 (1988); *The Bank of Nova Scotia*, 74 Federal Reserve Bulletin 249 (1988); *Signet Banking Corporation*, 73 Federal Reserve Bulletin 59 (1987); *Security Pacific Corporation*, 71 Federal Reserve Bulletin 118 (1985); *Post-Och Kreditbanken, PKbanken*, 68 Federal Reserve Bulletin 787 (1982); *Societe Generale*, 67 Federal Reserve Bulletin 453 (1981).

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 November 17, 1989.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grant Avenue, Kansas City, Missouri 64198:

1. *Philip Burns*, West Point, Nebraska, to acquire an additional 34.9 percent, totalling 41.0 percent, of the voting shares of West Point Bancorp, St. Joseph, Missouri, parent of Farmers and Merchants National Bank, West Point, Nebraska, and thereby indirectly acquire 36.9 percent of the voting shares of Dakota Bancshares, Inc., St. Joseph, Missouri, parent of Dakota County State Bank, South Sioux City, Nebraska.

Board of Governors of the Federal Reserve System, October 19, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-25120 Filed 10-24-89; 8:45 am]

BILLING CODE 6210-01-M

The Owego National Financial Corp. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 15, 1989.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Owego National Financial Corporation*, Owego, New York; to become a bank holding company by acquiring 100 percent of the voting shares of The Owego National Bank, Owego, New York.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *BancShares National Corp.*, Atlanta, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Vinings Bank & Trust, N.A., Atlanta, Georgia.

C. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *North Bancorp, Inc.*, Gaylord, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Gaylord, Gaylord, Michigan. Comments on this application must be received by November 9, 1989.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Fourth Financial Corporation*, Wichita, Kansas; to acquire 100 percent of the voting shares of McPherson Bank and Trust Co., McPherson, Kansas. Comments on this application must be received by November 9, 1989.

E. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Cornerstone Bancorp, Inc.*, Carson City, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Cornerstone Bank, N.A., Dallas, Texas.

Board of Governors of the Federal Reserve System, October 18, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-25121 Filed 10-24-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 7, 1989.

A. **Federal Reserve Bank of Chicago.** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Larry Wenzl*, Ames, Iowa; to acquire 89.63 percent of the voting shares of Mid-Iowa, Inc., Panora, Iowa, and thereby indirectly acquire Panora State Bank, Panora, Iowa.

B. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Joe C. Wessendorff*, Richmond, Texas; to acquire 8.61 percent of the voting shares of Community Bancorporation, Inc., Bellville, Texas, and thereby indirectly acquire The First National Bank of Bellville, Bellville, Texas.

2. *Arvin Ryan Dillard, Jr.*, Wichita Falls, Texas; to acquire 17.3 percent of the voting shares of United Texas Financial Corporation, Wichita Falls, Texas, and thereby indirectly acquire First State Bank in Archer City, Archer City, Texas; The Farmers & Merchants National Bank, Nocona, Texas; The Farmers National Bank of Seymour, Seymour, Texas, and Parker Square State Bank, Wichita Falls, Texas.

Board of Governors of the Federal Reserve System, October 18, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-25122 Filed 10-24-89; 8:45 am]

BILLING CODE 6210-01-M

West Point Bancorp, Inc.; 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 225.24) 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 November 17, 1989.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. **West Point Bancorp, Inc.**, St. Joseph, Missouri; to acquire an additional 16.8 percent, totalling 36.9 percent, of the voting shares of Dakota Bancshares, Inc., St, Joseph, Missouri, parent of Dakota County State Bank, South Sioux City, Nebraska. Dakota County state Bank engages in general insurance activities purusant to state law.

Board of Governors of the Federal Reserve System, October 19, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-25123 Filed 10-24-89; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; Correction

AGENCY: Federal Trade Commission.

ACTION: Correction.

SUMMARY: This document corrects a Commission document previously published in the **Federal Register** on Tuesday, October 10, 1989 (54 FR 41502, FR Doc. 89-23809). The listing of early terminations contained transactions which were previously published in the **Federal Register** and, therefore, did not fall within the timeframe indicated in the notice. The agency is publishing the corrected listing of transactions granted early termination between 9-18-89 and 9-29-89.

DATE: The correction is effective October 25, 1989.

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 of 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: 09-18-89 AND 09-29-89

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN No.	Date terminated
John W. Kluge, c/o Metromedia Company, NAC Re Corporation, NAC Re Corporation	89-2576	09/18/89
John J. Rigas, Joseph S. Gans, Sr. and Irene F. Gans, Joseph S. Gans, Inc.	89-2606	09/18/89
Glenn R. Jones, Cable TV Joint Fund 11, Total TV of Kenosha	89-2619	09/18/89
Bowater Industries plc, The Mead Corporation, Mead Release Products, Inc	89-2637	09/18/89
Oy Wartsila AB, PacificCorp, Cardkey Systems Inc. and Cardkey Government Sys. Inc	89-2638	09/18/89
The Berkshire Fund, A Limited Partnership, Dayton Hudson Corporation, Lechmere, Inc.	89-2656	09/18/89
Berkshire Hathaway Inc., The Coca-Cola Company, The Coca-Cola Company	89-2661	09/18/89
Shoji Kanazawa, Charter Communities-Hacienda De Monterey, Charter Communites-Hacienda De Moneterey	89-2667	09/18/89
LDI, Ltd., Robert A. Nickell, Ed Tucker Distributor, Inc.	89-2681	09/18/89
Masaru Tsuzuki, Fieldcrest Cannon, Inc., Swift Spinning Mills Division	89-2683	09/18/89
Alexander & Baldwin, Inc., Thomas B. Crowley, SS Atlantic Spirit	89-2691	09/18/89
Triton Group Ltd., Liquor Barn Northern CA, Inc. & Southern CA, Inc., LBI Holdings, Inc., a Delaware Corporation	89-2692	09/18/89
Carena Holdings Inc., JC Penney Company, Inc., Ridgmar Associates	89-2725	09/18/89
Philips N.V., Island Settlement Trust, Island Entertainment Group, Inc.	89-2578	09/19/89
Corporate Capital Limited, Carvel Corporation, Carvel Corporation	89-2684	09/19/89
Jungfrau Trust, R & J Realty Corp., Modernage Furniture, Inc.	89-2703	09/19/89
Fiat S.p.A., INCSTAR Corporation, INCSTAR Corporation	89-2549	09/20/89
David P. Miller, c/o Columbia National Corporation, LeeMar Steel Co., Inc., LeeMar Steel Co., Inc.	89-2571	09/20/89
Jeffrey H. Smulyan, George L. Argyros, Seattle Mariners	89-2690	09/20/89
David B. McKane, c/o McKane Robbins & Co., Frye Acquisition Partners, Frye Acquisition Inc.	89-2585	09/21/89
Peter G. Robbins, c/o McKane Robbins & Co., Frye Acquisition Partners, Frye Acquisition Inc.	89-2586	09/21/89
PPG Industries, Inc., The Clorox Company, Olympic HomeCare Products Company, Lucite HomeCare,	89-2597	09/21/89
Wellman, Inc., Fiber Industries, Inc., Fiber Industries, Inc.	89-2617	09/21/89
UCC Investors Holding, Inc., Avery, Inc., Uniroyal Chemical Holding Company	89-2630	09/21/89
Lafarge Coppee S.A., Standard Slag Holding Company, Standard Slag Holding Company	89-2671	09/21/89
Unilever N.V. and Unilever PLC, Alco Industries, Inc., Alco Chemical Corporation	89-2556	09/22/89
Chiyoda Finance, Inc., The Park at Coronado, Ltd., The Park at Coronado Ltd.	89-2559	09/22/89
Christopher C. Skase, Kirk Kerkorian, MGM/UA Communications Co.	89-2567	09/22/89
Frontenac Venture V Limited Partnership, Marks Bros. Jewelers, Inc., Marks Bros. Jewelers, Inc.	89-2610	09/22/89
Marks Bros. Jewelers, Inc., Frontenac Venture V Limited Partnership, Marks Holding Company	89-2611	09/22/89
Daniel J. Sullivan, Unitel Video, Inc., Unitel Video, Inc.	89-2631	09/22/89
John J. Rigas, Centel Corporation, Centel Cable Television Company	89-2662	09/22/89
MAPCO Inc., Robert E. Perkinson, Sr., REP Sales, Inc.	89-2676	09/22/89
MAPCO Inc., Jno. McCall Coal Company, Inc., Jno. McCall Coal Export Corp., Frazee-McCall Joint	89-2677	09/22/89
Tele-Communications, Inc., Heritage Cablevision Associates of Dallas, L.P., Heritage Cablevision Associates of Dallas, L.P.	89-2687	09/22/89
Bowater Industries plc, Norton Opax plc, Norton Opax plc	89-2710	09/22/89
NCNB Corporation, First RepublicBank Corporation, First RepublicBank Trust Company	89-2711	09/22/89
John J. Rigas, Jack Kent Cooke, Cooke Communications of Syracuse, Inc., Cooke	89-2715	09/22/89
Westinghouse Electric Corporation, Goldome, Goldome Strategic Investments & Coast Manuafacturing, Inc	89-2717	09/22/89

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 09-18-89 AND 09-29-89—Continued

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN No.	Date terminated
Daniel J. Sullivan, Howard Burch, Manhattan Transfer-Edit, Inc.	89-2721	09/22/89
Marriott Corporation, Bank of Boston Corporation, BOCA 106 Corporation	89-2723	09/22/89
Carena Holdings, Inc., Whitemak Associates, Whitemak Associates	89-2726	09/22/89
Carena Holdings Inc., Kravco Management, Inc., Kravco Company (a partnership)	89-2728	09/22/89
Carena Holdings Inc., Kravco, Inc., Kravco Company (a partnership)	89-2729	09/22/89
The Tokio Marine and Fire Insurance Co., Ltd., Legend Capital Group, L.P., Delaware Management Holdings, Inc.	89-2730	09/22/89
Masami Kato, Caroline Hunt Trust Estate, Rosewood Property Company	89-2731	09/22/89
SunGard Data Systems Inc., Dyatron Corporation, Dyatron Corporation	89-2732	09/22/89
Vendex International NV., Bookstop, Inc., Bookstop, Inc.	89-2736	09/22/89
Michael C. Hall, Don Tyson, Dixie Portland Flour Mills, Inc., Diana Fruit	89-2740	09/22/89
Citation Invesment Trust, Mobil Corporation, Mobil Exploration and Producing North America Inc.	89-2744	09/22/89
Leonard Riggio, Bookstop, Inc., Bookstop, Inc.	89-2746	09/22/89
Helmerich & Payne, Inc., Freeport-McMoRan Inc., FMP Operating Company, LP	89-2754	09/22/89
Giant Group, Ltd., Aspen Airways, Inc., Aspen Airways, Inc.	89-2762	09/22/89
John W. Kluge, Benale Holdings, Corporation, Benale Holdings Corporation	89-2767	09/22/89
Ohbayashi Corporation, Erik Sande, E.W. Construction Group, Inc.	89-2788	09/22/89
Wyman-Gordon Company, Allied-Signal Inc., KDI Composite Technology, Inc.	89-2668	09/25/89
Robert Bosch Industrietreuhand KG, Joint Venture Corporation, Joint Venture Corporation	89-2707	09/25/89
Nippondenso Co., Ltd., Joint Venture Corporation, Joint Venture Corporation	89-2708	09/25/89
Pitney Bowes Inc., Pandick Holding, Inc., Pandick Technologies, Inc.	89-2645	09/26/89
Mitsui & Co., Ltd., Michael W. Wilsey, Wilsey Foods, Inc.	89-2248	09/26/89
Generale Occidentale S.A., James River Corporation of Virginia, James River Timber Corporation	89-2649	09/26/89
Paramount Communications Inc., Allen J. Becker, SRO/Pace Promotions	89-2659	09/26/89
Asahi Glass Company, Ltd., Asahi Glass Company, Ltd., AP Technoglass Co.	89-2685	09/26/89
Thomas Schmidheiny, Newell Col, Anchor Hocking Corporation	89-2694	09/26/89
St. Ives Group plc, Eagle-Picher Industries, Inc., A.D. Weiss Lithograph Company, Inc.	89-2698	09/26/89
General Electric Company, Telefonaktiebolaget L M Ericsson, Ericsson North America Inc.	89-2699	09/26/89
Telefonaktiebolaget L M Ericsson, General Electric Company, General Electric Company	89-2700	09/26/89
Markel Corporation, Rhulen Agency, Inc., Rhulen Agency, Inc.	89-2702	09/26/89
Mr. Nelson Peltz, Avery Inc., Avery Inc	89-2704	09/26/89
Mr. Peter W. May, Avery Inc., Avery Inc	89-2705	09/29/89
Esterline Corporation, Charles H. and Margaret M. Dyson, Korry Electronics Co., TA Mfg Co.	89-2735	09/26/89
Bessemer Securities Corporation, Zapata Gulf Marine Corporation, Zapata Gulf Marine Corporation	89-2752	09/26/89
James H. Possehl, Gibraltar Financial Corporation, GFC Leasing Corporation	89-2763	09/26/89
Mitsubishi Kasei Corporation, Boston University, Seradyn, Inc	89-2772	09/26/89
United Newspapers public limited company, Barron E. Ressler, Pacific Media Group, Inc., Community Distribution Sys	89-2589	09/27/89
Columbus Holdings Limited, Stone Container Corporation, Stone Container Corporation	89-2633	09/27/89
The Sherwin-Williams Company, Whittaker Corporation, Whittaker Corporation	89-2636	09/28/89
AGA Aktiebolag, UGI Corporation, AmeriGas, Inc	89-2701	09/28/89
MA Associates, L.P., McGraw-Hill, Inc., Electrical Group of McGraw-Hill Inc	89-2771	09/28/89
The Walt Disney Company, James M. Henson, Henson Associates, Inc	89-2759	09/29/89
Atlas Copco AB, PACCAR Inc., Wagner Mining Equipment Co. and Russel Brothers	89-2775	09/29/89
The Retail Property Trust, British Coal Staff Superannuation Scheme Trustees Ltd., Pan-American Properties, Inc	89-2777	09/29/89
The Retail Property Trust, Cmte. of Management of the Mineworkers Pension Scheme, Pan-American Properties, Inc	89-2778	09/29/89
Colorado National Bankshares, Inc., Central Bank, Cenval of Colorado Corporation d/b/a Cenval Leasing Co	89-2781	09/29/89
Pearson plc, WH Smith Group plc, WH Smith Publishers Inc	89-2791	09/29/89
Jon M. Huntsman, Hoechst Aktiengesellschaft, Hoechst Celanese Corporation	89-2794	09/29/89
Elders IXL Limited, Thinking Machines Corporation, Thinking Machines Corporation	89-2795	09/29/89
Joseph J. Zilber, Everything's A Dollar, Inc., Everything's A Dollar, Inc	89-2798	09/29/89
Charles H. & Margaret M. Dyson, The Dyson-Kissner, Muncy Homes, Inc., Muncy Homes, Inc., Muncy Homes Corp	89-2803	09/29/89
Colorado National Bankshares, Inc., Western Savings and Loan Association, F.A., Western Savings and Loan Association, F.A	89-2810	09/29/89
W.R. Grace & Co., Gulf Resources & Chemical Corporation, Pend Oreille Oil & Gas Comapny	89-2812	09/29/89
Paul Schull, Helix Limited, General Homes Corporation, GHX, Inc	89-2818	09/29/89

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Federal Trade Commission, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,
Secretary.

[FR Doc. 89-25128 Filed 10-24-89; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89N-0438]

Public Workshop; Bioequivalence Requirements for Topical and Vaginal Antifungal Drug Products and Topical Tretinoin

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming public workshop to discuss bioequivalence requirements for topical and vaginal antifungal drug products and topical tretinoin. This workshop is being held to aid FDA in the development of approval standards for generic topical and vaginal antifungal drug products and generic topical tretinoin.

DATES: The workshop will be held on November 16, 1989, 8:30 a.m. to 5 p.m. Written comments by (January 23, 1990).

ADDRESSES: The workshop will be held in Conference Rm. D, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD. Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Robert W. Pollock, Center for Drug Evaluation and Research (HFD-232), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-0193.

or

Donald B. Hare, Center for Drug Evaluation and Research (HFD-200), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2784.

SUPPLEMENTARY INFORMATION:

I. Background

Due to the forthcoming patent expirations of topical and vaginal

antifungal drug products and topical tretinoin, FDA has received a number of inquiries regarding the bioequivalence standards for generic versions of these drug products. An applicant intending to market a generic drug must submit to FDA, among other things, information to show that its product is bioequivalent to the pioneer drug product. The workshop is sponsored by FDA's Center for Drug Evaluation and Research to obtain information to assist FDA in the development of biolequivalence standards for generic topical and vaginal antifungal drug products and topical tretinoin. The workshop will provide a forum for panel discussions between FDA and outside experts.

II. Topics

The workshop will cover the following topics:

Topic 1: Antifungal Drug Products

A. Topical Drug Products

1. Suggested clinical protocol
   a. Mycological endpoint
   b. Clinical endpoint
   c. Need for a control
2. Statistical considerations and statistical validity
3. Study requirements for altenate dosage forms and reformulations
4. Alternative methodologies

B. Vaginal Drug Products

1. Suggested clinical protocol
   a. Mycological endpoint
   b. Clinical endpoint
   c. Need for a control
2. Statistical considerations and statistical validity
3. Study requirements for alternate dosage forms and reformulations

Topic 2: Acne (Tretinoin) Drug Products

A. Suggested Study Design

1. Methods of evaluation
2. Need for a control

B. Statistical Considerations and Statistical Validity

C. Study Requirements for Alternate Dosage Forms, Strengths, and Reformulations

D. Alternative Methodologies

III. Attendance and Participation

The meeting is open to the public. Interested persons attending the workshop will be given an opportunity to make oral presentations during the workshop, as time permits and at the discretion of the session chairperson. Written comments submitted prior to the meeting will be considered by the panel.

Any interested person may submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this notice and should be submitted by January 23, 1990.

Dated: October 18, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-25055 Filed 10-24-89; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; Notice of Meetings.

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearing before FDA's advisory committees. MEETINGS: The following advisory committee meetings are announced:

Ear, Nose, and Throat Devices Panel

Date, time, and place. November 13 and 14, 1989, 9:30 a.m., Rm. 800, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, November 13, 1989, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; closed committee deliberations, November 14, 1989, 8:30 a.m. to 9:30 a.m.; open committee discussion, 9:30 a.m. to 10:30 a.m.; open public hearing, 10:30 a.m. to 11:30 a.m., unless public participation does not last that long; open committee discussion, 11:30 a.m. to 5 p.m.; Celeste F. Bove, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1230.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the committee contact person before November 1, 1989, and submit a verbatim copy of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Interested persons who are hearing impaired and require interpreter services should contact Carlton Coleman (voice only), 301-443-3310, or telecommunication device for the deaf (TDD) 301-443-1818.

Open committee discussion. The committee will discuss a premarket approval application for a cochlear implant in children. During the second day, the committee will also discuss reclassification of the argon laser for rhinological and laryngological use, HGM Medical Laser Systems, Inc., Docket No. 89P-0349/CP.

Closed committee deliberations. The committee will discuss trade secret or confidential commercial information regarding the cochlear implant for children. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. November 13 and 14, 1989, 8:30 a.m., Parklawn Bldg., Conference Rm. D, 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, November 13, 1989, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion 9:30 a.m. to 2:30 p.m.; closed committee deliberations, 2:30 p.m. to 5:30 p.m.; open committee discussion, November 14, 1989, 8:30 a.m. to 10 a.m.; closed committee deliberations, 10 a.m. to 3 p.m.; Jack Gertzog, Center for Drug Evaluation and Research (HFD-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5455.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational human drugs for use in the diagnosis, prevention, or treatment of human diseases. The committee also reviews and evaluates the quality and relevance of FDA's research program which provides scientific support for the regulation of these products.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the

committee contact person before October 30, 1989, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On November 13, 1989, the committee will discuss BCG Vaccines (Connaught Laboratories, Ltd. and Organon Teknika Corp.) for the treatment of bladder cancer. On November 14, 1989, the committee will discuss poliovirus vaccine live oral (OPV) testing.

Closed committee deliberations. The committee will discuss trade secret or confidential commercial information relevant to pending product license applications and investigational new drug applications in the Center for Biologics Evaluation and Research. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Orthopedic and Rehabilitation Devices Panel

Date, time, and place. November 17, 1989, 8:15 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 8:15 a.m. to 9:15 a.m., unless public participation does not last that long; open committee discussion, 9:15 a.m. to 10:30 a.m.; closed presentation of data, 10:30 a.m. to 10:40 a.m.; open committee discussion, 10:55 a.m. to 12:10 p.m.; closed presentation of data, 12:10 p.m. to 12:20 p.m.; Marie A. Schroeder, Center for Devices and Radiological Health (HFS-410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1036.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 10, 1989, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application for a porous metal-coated total hip prosthesis.

Closed presentation of data. The committee may discuss trade secret or confidential commercial information regarding materials, design, and manufacturing information for the porous metal-coated total hip prosthesis. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, Rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial and financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly

frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. I), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: October 18, 1989.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 89-25100 Filed 10-24-89; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[BPO-084-FNC]

Medicare Program, Data, Standards and Methodology Used To Establish Budgets for Fiscal Intermediaries and Carriers

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

ACTION: Final notice with comment period.

SUMMARY: This notice describes the data, standards, and methodology that we will use to establish fiscal intermediary and carrier budgets for fiscal year (FY) 1990. Intermediaries and carriers assist in the administration of the Medicare program by performing numerous functions related to paying for medical services and equipment.

This notice implements section 4035(a) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203). Section 4035(a) requires us to publish for public comment in the Federal Register data, standards, and methodology we will use to establish budgets for Medicare intermediaries and carriers.

DATE: The provisions for this notice apply to fiscal year 1990, beginning October 1, 1990. We will consider any comments on this notice received at the appropriate address, as provided below, by no later than 5:00 p.m. on November 24, 1989.

ADDRESS: Address comments in writing to:

Health Care Financing Administration, Department of Health and Human Services, Attention: BPO-84-FNC, P.O. Box 26676, Baltimore, Maryland 21207

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments.

In commenting, please refer to file code BPO-84-FNC.

If you prefer, you may deliver your comments to Room 309-G Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309-G of the Department's office at 200 Independence Avenue, SW., Washington, DC 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone 202-245-7890).

FOR FURTHER INFORMATION, CONTACT: J. Thomas Hessenauer (301) 966-7542.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 1816 of the Social Security Act (the Act), public or private organizations and agencies participate in the administration of Part A of the Medicare program (Hospital Insurance) under agreements with the Secretary of HHS. These agencies or organizations are known as fiscal intermediaries, and they perform bill processing and benefit payment functions for the Medicare program. Most providers of services (such as hospitals, skilled nursing facilities (SNFs), and home health agencies (HHAs)) submit bills to these intermediaries, which determine whether the services are covered under Medicare and determine correct payment amounts. The intermediaries then make payments to the providers on behalf of the beneficiaries.

Under section 1842 of the Act, the Secretary of HHS is also authorized to enter into contracts with entities, known as carriers, to fulfill various functions in the administration of Part B of the Medicare program (Supplementary Medical Insurance). Beneficiaries, physicians, and other suppliers of services or supplies submit claims to these carriers. The carriers determine whether the services or supplies are covered under Medicare and the payment amount (usually on the basis of reasonable charges) for the services or supplies and then make payment to the appropriate party.

A. Current Fiscal Intermediary and Carrier Budget Process

Oversight of intermediary and carrier performance by HCFA is exercised by staff of both the central office and regional office (RO). In general, national policies are addressed at the central office level, and regional and local policies and operations are addressed by the regional offices. Communication between HCFA and the intermediaries and carriers is continuous. Established consultation workgroups, consisting of representatives of HCFA central office, regional offices and Medicare contractors, meet periodically.

HCFA central office is responsible for developing a national contractor budget for both Part A and Part B of the Medicare program. The budget is formulated over a 15-month period, beginning in March of the year preceding the fiscal year to which it applies. It is formulated after input from the contractor community, HCFA's ROs, various central office components, several levels in the Department of HHS, and the Office of Management and Budget (OMB), prior to submittal to the President for approval and forwarding to Congress.

Our past practice has involved use of the HCFA ROs in obtaining budget estimates from the contractors. The ROs' assessment of the contractor's needs is reviewed during a budget level determination process based on current claims processing trends, legislative mandates, administrative initiatives, current year performance standards and criteria, and the availability of funds appropriated by Congress. We subsequently allocate funding within these constraints.

B. New Legislation

Section 4035(a) of Public Law 100-203, the Omnibus Budget Reconciliation Act of 1987 (OBRA 87), amended sections 1816(c)(1) and 1842(c)(1) of the Act by requiring the Secretary to publish in the

Federal Register, by no later than September 1 before each fiscal year, the final data, standards, and methodology to be used to establish budgets for fiscal intermediaries and carriers under these sections for that fiscal year. We also are required to publish in the Federal Register for public comment these data, standards, and methodology.

II. Overview of Fiscal Year 1990 National Medicare Contractor Budget: Data, Standards and Methodology

The FY 1990 Medicare contractor budget request was submitted to Congress in January 1989. In order to determine the amount of the FY 1990 request, we projected a workload growth under Part A of 10 percent and under Part B of 11.7 percent. Our estimate involved the use of a regression model that uses the last 36 months of actual contractor workload data. For the FY 1990 projections, we used April 1988 data. These data were the latest available at the time. The results of the regression yielded a FY 1990 workload of 83.6 million Part A bills and 463.0 million Part B claims. The regression model provides us with not only national totals, but also regional workload projections.

Based on the projected FY 1989 unit costs for processing bills and claims, we then applied a 3.7 percent inflation factor (the economic assumption used by the OMB based on changes to the Consumer Price and Wage Index as developed by the Department of Labor). This amount is then further adjusted for incremental workload efficiencies, cost efficiency benchmarks, savings achieved by prior and anticipated productivity investments, and costs associated with new legislation. This calculation results in a new unit cost, which, when multiplied by the Part A and/or Part B workloads, shows the total amount to be earmarked for bills and claims payment in FY 1990.

A. Medicare Contractor Functional Areas

The Medicare contractor budget consists of seven functional area responsibilities performed by intermediaries for Part A and eight functional area responsibilities performed by carriers for Part B. The functional area responsibilities for Part A are: (1) Bills Payment; (2) Reconsiderations and Hearings; (3) Medicare Secondary Payer; (4) Medical Review and Utilization; (5) Provider Audit (Desk Reviews, Field Audits and Provider Settlements); (6) Provider Reimbursement; and (7) Productivity Investments. The functional area responsibilities for Part B are: (1) Claims Payment; (2) Reviews and Hearings; (3) Beneficiary/Physician Inquiries; (4) Medical Review and Utilization Review; (5) Medicare Secondary Payer; (6) Participating Physicians; (7) Professional Relations; and (8) Productivity Investments. These functions are funded from the Hospital Insurance (HI) and Supplementary Medical Insurance (SMI) trust funds and the Catastrophic Health Insurance (CHI) Program. The data, standards and methodology used in these functional areas are dicussed in section III. below. In the following national budget summary, we have combined the discussion of functional areas common to both intermediaries and carriers. However, data specific to Part A and Part B are provided under each heading.

1. Bills Payment and Claims Payment

We currently estimate the Part A workload to be 94.6 million bills in FY 1990. A portion of this workload is related to anticipated increase in SNF, HHA, home IV and immunosuppressive drug claims resulting from the enactment of the CHI program. This estimate results from a workload regression model that uses the last 36 months of intermediary data through April 1988 with a 10 percent growth factor. Intermediaries are required by section 9311 of Pub. L. 99–509, the Omnibus Budget Reconciliation Act of 1986 (OBRA 86), to pay 95 percent of Part A bills within 24 days of receipt.

The Part B workload is currently projected at 463 million claims with a 11.7 percent growth rate. All Part B claims must be processed within the same timeframes as Part A bills, except that participating physician claims must be paid within 17 days of receipt.

Section 4031 of OBRA 87 imposed a 14-day payment floor standard effective October 1, 1988 for Part A bills and Part B claims. This standard provides that no payment may be made within 14 calendar days after the date that the bill/claim is received. Section 4031 also prohibits the Secretary from issuing before October 1, 1990, other regulations, instructions or policies intended to slow down Medicare payments.

2. Reconsiderations (Reviews under Part B) and Hearings

This function includes all activities related to guaranteeing due process of law as a result of contractor action (i.e., disallowances) on bills and claims. As a result of budget constraints in FY 1990, funding in this area has been reduced to approximately 70 percent of the FY 1989 level.

Section 4032 of OBRA 1987 amended section 1816(f) of the Act to require that intermediaries process 75 percent of reconsiderations within 60 days for FY 1990. As a result of the FY 1990 funding levels, we are reevaluating the reconsiderations, reviews, and hearings process with an aim to further increase efficiency.

3. Medicare Secondary Payer

The Medicare Secondary Payer function is the first of three initiatives (Medicare Secondary Payer (MSP), Medical Review and Utilization Review, and Provider Audit) we developed as "Payment Safeguards" in an attempt to safeguard the Medicare program against improper payments.

The focus of the MSP initiative is to ensure that the Medicare program pays for covered care only after reimbursement from other primary insurers has been made. An intermediary and a carrier must administer the program in a manner that achieves maximum savings and cost avoidance to the Medicare trust funds. Medicare Secondary Payer activities center on claims involving: the working aged; spousal working aged; beneficiaries with end-stage renal disease; beneficiaries eligible for payment under automobile, medical liability and no-fault insurance; individuals eligible for or receiving workers compensation; and the disabled. By concentrating efforts in these key areas, the Medicare program has had tremendous success in recovering and reducing improper program payments.

Medicare contractors are responsible for identifying MSP situations and aggressively pursuing the recovery of improper payments from the appropriate party. In conjunction with the actuary, we develop specific savings goals for each contractor based on past performance.

The standard for determining the amount of MSP funding a contractor will receive in FY 1990 is based on savings goals, workload volumes, required systems changes, and any special projects that may be assigned to contractors.

We gather actual MSP claims volume, overall claims volume for the prior fiscal year, and special project data (e.g., cost of claims, amount of savings achieved). We compare a contractor's previous year's data to the contractor's projections for the next fiscal year and allocate funding in proportion to the savings goals to be achieved. Additional funding is allocated for specific projects as required. The amounts vary based on

the scope of the project, extent of systems changes if any, and workload.

4. Medical Review and Utilization Review

In addition to processing and paying claims from providers of services and Medicare beneficiaries, the contractors perform a medical review (MR) of claims to determine whether services were medically necessary and constituted an appropriate level of care.

Intermediaries are responsible for medical review of HHA, SNF, outpatient hospital services (excluding surgery), and other outpatient services, such as those provided by rehabilitation facilities, rural health clinics, etc. This review assures that medical care is necessary and appropriate and that quality medical services are delivered to Medicare beneficiaries.

During FY 1990, the review of HHA and outpatient services will account for most of the uses of medical review resources. Medical review of all HHA provider claims will be the responsibility of regional home health intermediaries.

In FY 1990, we will continue efforts in the standard cost analysis system developed in FY 1987 to evaluate the efficiency of carrier prepayment medical review screens. This systematic approach is expected to yield benefits to the medical review process, such as: (1) a current inventory of the number, types, and cost effectiveness of medical review screens; (2) ability to analyze the current inventory of screens and set a framework that yields a high return on investment; (3) ability to target strategies for specific medical review activities; and (4) measurement of the relative cost effectiveness of screens among different contractors.

In FY 1990, we will continue to focus on prepayment review, including additional mandatory prepayment screens. We also will continue with our efforts with postpayment medical review.

The carrier postpayment process consists of preparing profiles of providers and beneficiaries, identifying patterns of fraud and abuse, correcting program abuse or overutilization, preventing futher abuse in service utilization by educating providers in acceptable norms and proper billing practices, recommending administrative action, where appropriate, and identifying areas for the development and installation of future prepayment review screens.

Carriers must continue to provide support to HHS/Office of Inspector General (OIG) in developing cases of suspected fraud and abuse. This is in addition to the fraud and abuse activities that currently exist in other intermediary and carrier functions.

Intermediaries and carriers are to play a more active role in the detection and handling of fraud and abuse cases. The primary program integrity role of intermediaries and carriers is to identify and develop suspected fraud and abuse cases for referral to the OIG.

In abuse cases, the contractors have an even greater responsibility than in the fraud area because correction and prevention of abuse are among their basic functions. In addition to other duties, contractors are required to establish and maintain program integrity units; conduct ongoing employee training on fraud and abuse goals, techniques, and control; develop guidelines for timely processing of all potential fraud and abuse cases; establish and maintain histories and documentation on all program integrity cases; and conduct periodic reviews to identify any patterns of potential fraud and abuse situations for particular providers.

The distribution of funding is in proportion to workload, individual contractor medical review/utilization review (MR/UR) projects, and the budget constraints brought about by reduced funding availability.

The actual and cost avoidance benefits in safeguarding program dollars are significant. Educational encounters lead to fewer incorrect billings and administrative cost avoidance in the form of reductions in the number of requests for reviews and hearings. We will continue to focus on: review of providers with demonstrably aberrant billing and practice patterns; review of educational efforts; and development of a methodology for quantifying the level of program and administrative cost avoidance resulting from postpayment medical review activities.

Carrier medical review costs will be offset by avoiding payment for medically unnecessary services through proper medical review/utilization review.

5. Provider Audit

In FY 1990, contractors will perform nondiscretionary audit activities, including desk reviews, and final settlements. Historically, the audit process has recovered millions of dollars in improper program payments each year.

6. Provider Reimbursement (Part A only)

In FY 1990, Medicare contractors are required to provide reimbursement services to 25,145 health care providers. This represents an increase of 6 percent over the number of providers requiring reimbursement services in FY 1989. Reimbursement services are required for provider-based SNFs, and HHAs in addition to ESRD facilities, comprehensive outpatient rehabilitation facilities (CORFs), and hospices regardless of whether the provider is audited on an annual or other basis. The budget provides for the following activities:

- Collection of Provider Overpayments—A system must be maintained to collect and record overpayments made to providers. In addition to collection and recordkeeping activities, contractors will investigate and provide profile data on uncollectible overpayment cases and provide monthly reports to HCFA on the uncollectible accounts.
- Interim Payments—Interim payment rates must be established and periodically reviewed throughout the fiscal year for all Medicare providers. The interim rates process requires the review of provider cost and utilization statistics and the calculation of adjusted rates.
- Consultative Services—Onsite assistance must be provided to any provider experiencing difficulties in preparing the cost report, preparing claims or any other payment area.
- Records and Reports—According to specific instructions from NCFA, files and records must be established and maintained by the contractors to ensure proper payments to providers. In addition, several different provider cost and payment reports must be prepared and submitted quarterly to HCFA.

In determining the amount of reimbursement funding each contractor receives, we analyze provider profiles submitted by contractors. The provider profiles show types and numbers of periodic interim payment (PIP) and non-PIP providers. We review prior periods of reimbursement funding and assess the contractor's future needs based on projected provider workload and the availability of funds. We make every attempt to distribute funds in proportion to workload.

7. Productivity Investments

The costs of implementing new initiatives designed to improve the effectiveness of Medicare program administration are referred to as productivity investments (PIs). Productivity investments generally provide start-up funds for contractor activities. Once these projects are operational, funding for these projects becomes part of the contractor's ongoing costs. The criteria for selection of PIs to

be implemented vary. For example, some PIs are required by legislation or regulatory requirements. We also fund projects that will improve administrative cost efficiency, for example, the Common Working File and Standard Systems.

There is no single distribution methodology for the allocation of PI funds. After we determine the national cost of a PI, funds are divided among the contractors based on either the contractors' cost estimates or through HCFA derived formulas based on project specifications. Other PI initiatives require equal effort by all contractors regardless of size, and are, therefore, divided equally among contractors. Finally, other PI's, such as the common working file and standard systems, are given only to contractors that are involved in the specific projects.

In FY 1990, we will fund the following PIs: for Part A—common working file, catastrophic health insurance systems changes, and facilities management; and for Part B—common working file, catastrophic health insurance systems changes, physician identification, and facilities management.

8. Beneficiary/Physician Inquiries

The Medicare program is complex. It is based on many provisions required by law, regulations and policy dealing with entitlement, coverage of services, comprehensive payment rules, and the rights and responsibilities of beneficiaries. Since contractors are the direct link between beneficiaries, physicians, and the program, this activity includes all costs related to beneficiary and physician and supplier inquires generated by means of telephone calls, correspondence, and personal visits, estimated to be 22.5 million FY 1990. Current contractor performance and evaluation criteria and standards require that inquiries be processed within 30 calendar days. For telephone inquiries, the level of service for a busy signal must equate to an "all trunks busy" of no higher than 20 percent. All calls must be acknowledged in no more than 20 seconds and must be handled by a telephone representative within 120 seconds of acknowledgment. The standards require that 80 percent of the calls must be handled to completion during the initial call and that call backs must be made within 2 working days. These standards apply to both toll free and local calls. The funding level for this activity in FY 1990 is to cover the anticipated costs associated with the Catastrophic Health Insurance program.

9. Participating Physicians (Part B only)

Participating physicians are those who agree to accept assignment on all Medicare claims in return for certain incentives/benefits. All physicians must be given an opportunity to enroll/disenroll in the participation program annually.

The participating physician program for carriers includes the following activities: monitoring Maximum Allowable Actual Charges (MAAC); producing and distributing Medicare Participating Physician Directory (MEDPARD); monitoring nonparticpating physicians for compliance with section 9332(d) of OBRA 1986; monitoring participating physicians; furnishing toll-free electronic media claims lines for participating physicians; responding to participation related inquiries from beneficiaries in a timely and responsive manner; enrolling participating physicians and suppliers; monitoring systems changes for pricing screens and files related to the participating physician program; and monitoring data requests (participation counts).

When the Congress initially provided funding for the participation program, we identified each of the activities involved and priced each activity nationally. An algorithm was developed for distributing the funds to each contractor for each activity. Some algorithms distributed funds based on workload and others based on the number of sites with systems changes. One activity was funded based on the participation rates. We then totaled the cost of the various activities for each carrier and provided funding accordingly.

Section 9332 of OBRA 1986 requires HCFA to pay carrier bonuses for increasing the rate of physician participation in the Medicare program. The methodology used to determine carrier bonuses for FY 1990 will be published in a subsequent notice.

10. Professional Relations

The success of the Medicare program depends upon the continuing cooperation of individuals and institutions providing health care services. Carriers must notify physicians and suppliers, in writing, of policy and procedure changes prior to the effective dates of changes. They are to develop claims prior to denial or reduction. Carriers must initiate regular contact with physicians/suppliers through representative organizations. Scheduling regular and periodic training for new personnel and as part of a continuing education program for previously trained staff on current Medicare coverage, reimbursement, and billing policy is required. Carriers must conduct regular meetings with beneficiaries or their representative organizations to inform them about the participation program. Carriers must also provide adequate telephone service in order to answer queries concerning claims status and processing questions. The funding provided in FY 1990 will allow carriers to perform the above activities and others as outlined in the Medicare Carriers Manual, section 4600.

11. Printing Claims Forms

Although this activity is not among the seven contractor functional areas, it is a part of the national Medicare contractor budget. In the interest of maintaining standard formats and quality of Medicare entitlement and report forms, intermediaries and carriers supply beneficiary enrollment and provider cost reporting forms. The use of these forms is essential to beneficiary notification, effective and efficient contractor operations, and other program purposes.

With a steady increase in the number of beneficiaries and providers, we project a corresponding increase in a substantial number of HCFA forms. An increase in the volume of forms equates to increased printing costs in FY 1990. However, we have decreased our base printing costs for FY 1990 by $300,000 by removing the printing requirement for the survey and certification forms.

B. Contractor Unit Cost Calculations

A key step in the contractor budget process is the development of contractor unit costs for processing Part A bills and Part B claims. A factor in the development of contractor unit costs is a reduction of the unit cost based upon the application of the cost efficiency benchmark (CEB). The CEB is one of the many adjustments used in determining the unit cost. Following is a brief description of how we developed the CEB.

For FY 1990, we revised the method for developing the CEB. We switched to a data base comprised of efficient and effective performing cost contractors. We used the average unit cost of the intermediaries or carriers that fall into the lower half of a unit cost ranking of those contractors in the top 50 percent of the current FY 1988 Contractor Performance Evaluation Program (CPEP) ranking. This results in approximately 25 percent of the cost contractors being included in the data base of efficient (low cost) and effective (satisfactory CPEP rank) performers.

The CEB for FY 1990 reflects line 1 unit cost only and is the unweighted (simple) average of FY 1988 actual unit cost for those contractors selected in the process described above.

The unit cost data has been normalized for noncontrollable variables for the contractors in the top 50 percent of the CPEP ranking. This was done prior to ranking the cost data to determine the lower cost group. This process avoided setting an efficiency level that is possibly contingent on having (or not having) a unique characteristic. Appropriate adjustments (either + and/or −) were then made to each contractor's unit cost for statistically significant factors, such as the percent of SNF bills to the total volume and outpatient/HHA bill mix for intermediaries, prior to ranking the cost data and selecting the lower cost group.

The resulting CEB is used in determining the unit cost as described in section III. C. under Bills Payment and Claims Payment below.

III. Fiscal Year 1990 National Medicare Contractor Budget: Data, Standards, and Methodology

After the President's FY 1990 Medicare contractor budget request was submitted to the Congress in January 1989, HCFA proceeded to develop budget guidelines to be issued to the contractors. These guidelines outline the scope of work that intermediaries and carriers are expected to perform during the upcoming fiscal year in each of the functional areas for which they are responsible. In May 1989, the budget guidelines were issued to the regional offices. The regional offices added information pertinent to intermediaries and carriers within their own region. These final individualized guidelines were sent to each intermediary and carrier in early June to provide them with assistance in preparing their FY 1990 budget requests. Intermediaries and carriers must submit their budget requests to HCFA no later than six weeks after the issuance of the budget guidelines.

While intermediaries and carriers were preparing their budget requests, the Division of Contractor Financial Management within HCFA was developing preliminary budget allocations for the functional areas based upon historical patterns, workload growth/inflation assumptions, and any other available information. Both central office and regional office staff review intermediary and carrier budget requests as they are submitted. Regional office staff will discuss the differences between the intermediary and carrier requests and the HCFA derived allocations and negotiate with each intermediary and carrier a final, mutually acceptable budget within the limits of the funding available to HCFA. The central office prepares a Financial Operating Plan (FOP) for each regional office that provides total regional funding authority for each functional area. The regional offices in turn prepare a Notice of Budget Approval (NOBA) for each intermediary and carrier that provides a full year budget plan subject to quarterly cash draw limitations.

A. Standards

In May 1989, the basic scope of work, along with new and special activities, that intermediaries and carriers will be expected to perform, were described in the budget guideline package. Intermediaries and carriers are expected to perform the work as described in the budget guideline package and in accordance with the standards included in the CPEP for FY 1990. For consideration in developing their initial budget requests, we issued a draft copy of the CPEP standards to contractors in June.

B. Data

In developing the individual intermediary and carrier budgets for FY 1990, we utilized the following sources of data that contain various workload volumes, functional costs, and manpower information: (The basic forms that supply the data that are utilized in developing intermediary and carrier budgets are the HCFA-1523/1524 and the HCFA-1565/1566.) Forms HCFA-1523/1524 (a multipurpose form which serves as the Budget Request, Notice of Budget Approval and Interim Expenditure Report); Forms HCFA-1523/1524A Schedule of Productivity Investments and Other; Forms HCFA-1523/1524B Schedule of Credits, EDP and Overhead; Forms HCFA-1523/1524C Schedule of Appeals; Forms HCFA-1523/1524D Schedule of MSP Costs; Forms HCFA-1525/1525A Contractor Audit Settlement Report (CASR); Schedules A, B, & C; Audit Priority Matrix; Crossover from CASR to Audit Priority Matrix; Provider Reimbursement Profile; Schedule of Providers Serviced; MSP Savings Report; MR/UR Savings Report; Form HCFA-2580 Cost Classification Report; Form HCFA-3259 Facilities and Occupancy Schedule; Forms HCFA-1565/1566 Carrier Performance Report/Monthly and Intermediary Workload Report; HCFA Actuary's Workload Estimates; OMB's Economic Assumption of 3.7 Percent; Incremental Workload Efficiencies; Cost Efficiency Benchmark Reduction; Savings from Prior Productivity Investments; New Legislation Costs; Regional Office Recommendations; and Contract Provisions.

C. Methodology

The Medicare contractor budget is built around the previously listed seven major functions performed by intermediaries for Part A and eight major functions performed by carriers for Part B.

1. Bills Payments and Claims Payment

The individual intermediary and carrier workload levels for FY 1990 (subject to the national workload levels and approved funding) are determined by the regional offices based upon regional forecasted totals that are derived from a statistical forecasting model. We are also projecting the number of bills/claims an intermediary and carrier expect to have pending at the end of FY 1989 using the same data. We then combine the FY 1990 receipt estimate with the anticipated end of FY 1989 pending level, and subtract the estimated FY 1990 pending for each intermediary and carrier to establish a processed workload (i.e., Estimated FY 1990 receipts + Estimated end of FY 1989 pending − Estimated end of FY 1990 pending = Estimated FY 1990 Processed Workload).

In order to price individual contractor bill/claims workloads, we develop a unit cost that is the cost of processing a single bill/claim. The individual intermediary and carrier unit costs for FY 1990 are calculated based upon unit costs (line 1 of the FY 1989 NOBA HCFA-1523/1524) in effect at the time that we perform our computations. The calculations include increases to recognize the cost of new legislation, and 3.7 percent for price inflation. Reductions associated with the application of the Cost Efficiency Benchmark, incremental workload efficiencies, and savings achieved from the common working file and other prior Productivity Investments will also be part of the formula employed in computing FY 1990 target unit costs. The regional offices will negotiate with intermediaries and carriers to resolve any differences between the HCFA target unit cost and the contractors' requested unit costs, within the limits of the funding available to HCFA.

2. Reconsiderations (Reviews under Part B) and Hearings

We will allocate funding based on the amount of dollars spent (line 2 of the NOBA HCFA-1523/1524C) in the prior

year, adjusted for inflation and volume. Specifically, we will adjust the previous year's costs for reconsiderations and hearings by the percentage change in inflation, which for FY 1990 is a 3.7 percent increase (a rate that reflects productivity gains generally for the economy, but which may cause over/understatement of costs depending on the productivity efficiencies experienced by the individual contractors), and for the percentage change in workload. We have revised these forms to allow us to capture more discrete workload and cost data. We will use these data to develop budgeted costs for reconsiderations and hearings as we do for bills payment and claims payment costs, that is, forecasted processed volume times unit cost. The individual intermediary and carrier budget allocations for reconsiderations, reviews, and hearings are determined by using the old methodology. If sufficient reliable data are collected, then we may redetermine the allocations by multiplying anticipated workload levels in FY 1990 times the newly developed unit cost. We will consider the current pending workload and projected receipts for each intermediary and carrier. The regional offices will negotiate with intermediaries and carriers to resolve any differences between the HCFA allocations and the contractors' requests, within the limits of the funding available to HCFA.

3. Beneficiary/Provider Inquiries (Part B only)

The prior year's cost is adjusted by the percentage change in inflation, which for FY 1990 will be a 3.7 percent increase, as well as any projected workload increase or decrease to establish a budgeted amount for beneficiary and provider inquiries. We also consider special conditions unique to specific carriers in negotiating the budget. We are now developing new reporting requirements that will allow us to capture more discrete workload and cost data. We are beginning the year using the old budgeting methodology until we have sufficient reliable data under the new reporting system. We may use the data to develop a budgeted cost for beneficiary/provider inquiries by multiplying forecasted processed volume times unit cost. The regional offices will negotiate with the carriers to resolve any differences between the HCFA allocations and carriers' requests, within the limits of the funding available to HCFA.

4. Provider Reimbursement (Part A only)

In determining individual intermediary budgets for reimbursement activities, we first calculate an FY 1989 unit cost using the funding included on the latest FY 1989 NOBA (HCFA 1523/1524C) and dividing that amount of money by the workload reported on the Schedule of Providers Serviced (SPS) for the same period.

The SPS is a listing of all the facilities serviced by the intermediary. This report offers a more detailed description of the providers because it identifies them by type, bed size, and freestanding or provider-based and whether they are paid on a periodic interim payment basis. The SPS is submitted with each initial budget request so that a part of the analysis is the comparison of the composition of the provider community serviced by the intermediary and any change reported between fiscal years.

The unit cost found by dividing the amount of the FY 1989 NOBA by the workload from the SPS for the same period forms the first of the "raw" data used to project the FY 1990 budget. This unit cost is increased by 3.7 percent, which is the rate of inflation provided to HCFA by OMB. This adjusted unit cost is then multiplied by the FY 1990 workload as reported on the SPS. The result is then adjusted based on a review of cost documentation of special initiatives.

In order to resolve major differences between the intermediary's budget request and the amount developed by the preceding approach, we analyze the reimbursement profile that is an addendum to the budget request. This profile shows the cost claimed by type of reimbursement activity (Interim Rate Determinations, Overpayment Recoupment, Consulting Services, etc.).

The regional offices will negotiate with the intermediaries to resolve any differences between the HCFA allocations and the intermediaries' requests, within the limits of the funding available to HCFA.

5. Provider Audit (Part A only)

For FY 1990, the provider audit function is divided into two major activities, desk reviews and settlements.

The basic report on all audit analysis is based is the Contractor Auditing and Settlement Report (CASR) (HCFA-1525/1525A). This form provides a breakout of audit activities and costs by type of provider as well as documents the savings incurred as a result of audit activity. Using this as a base, the desk review costs are developed by projecting the workload using the total count of providers serviced. (All cost reports must be desk reviewed.). The count of providers serviced is compared to the total shown on the Schedule of Providers Serviced for verification. We then multiply this count by the unit cost per desk review (developed from the latest CASR for FY 1989) to determine the cost of handling the FY 1990 workload at the FY 1989 unit cost.

Settlement costs are based on the workload projected in the intermediary's budget request multiplied by the unit cost for settlements found in the most recent CASR for FY 1989. This will cost out the FY 1990 activity at the FY 1989 level of expenditure.

The overriding priority of all audit efforts is comprised of the special activities required by legislation (COBRA, OBRA). The second priority is that all cost reports must be desk reviewed, and, to the extent possible, settled.

All of the above costs are adjusted for inflation, which for FY 1990 will be a 3.7 percent increase.

The regional offices will negotiate with intermediaries to resolve any differences between the HCFA allocations and the intermediaries' requests, within the limits of the funding available to HCFA.

6. Medicare Secondary Payer (MSP)

We will extract data, including processed volumes, costs and program savings, from the HCFA-1523/1524D and the MSP Savings Report to determine MSP funding allocations. In allocating the FY 1990 MSP budget to individual intermediaries and carriers, we consider (1) estimated potential savings goals by category and by State (e.g., working aged and spousal working aged insurance, automobile, medical liability and no-fault insurance, end-stage renal disease, disability, and workers compensation); (2) the relationship of available funds to expected savings among contractors; and (3) staffing mix differences, levels of systems sophistication, and special tasks. The regional offices will consider item 1, 2, and 3 of this section III. C. when negotiating with intermediaries and carriers within the limits of the funding available to HCFA.

7. Medical Review/Utilization Review (MR/UR)

The individual intermediary and carrier MR/UR budgets for FY 1990 will be calculated in three components: prepayment medical review, postpayment activities, and medical review policy development (carriers only). As a part of the budget guidelines, we asked intermediaries and carriers to estimate (1) the number of bills/claims to be processed by bill types, (2) the required funding, (3) staff level changes expressed in terms of percent of full-

time equivalents, and (4) the percent of electronic data processing costs attributable to MR/UR review. We will allocate to each contractor prepayment and postpayment medical review funding based upon the workload that an intermediary or carrier projects will be processed under the FY 1990 budget guidelines for medical review and the funds requested by the intermediary or carrier to perform the reviews. Carrier budgets for medical review policy development are based on levels of sophistication of carrier policy development and dissemination and the need for medical direction. The funding calculations for all MR/UR activities will include a 3.7 percent factor for price inflation where applicable. The regional offices will negotiate with intermediaries and carriers to resolve any differences between the HCFA allocations and the contractors' requests, within the limits of the funding available to HCFA.

8. Participating Physicians (Part B only)

In determining the individual carrier funding levels for the participating physician program for FY 1990, we considered the following factors: the number of physicians in the carrier's service area; the carrier's current participation rate; the carrier's recent performance in increasing its participation rate; the scope of work to be performed as outlined in the budget guidelines; and last year's cost experience. Since participating physicians are eligible for free electronic media claims (EMC) lines for billing, allowance has been made for these expenses. Carriers with lower participation rates will receive greater funding for MAAC violation monitoring and monitoring of nonparticipating physicians for compliance with elective surgery disclosure requirements. Carrier monitoring funds are allocated based on the nation percentage of nonparticipating physicians. All carriers will receive the same funding amount for reporting participation statistics. Our computations of the carrier's budgets for these activities will include an allowance for price inflation. The regional offices will negotiate with the carriers to resolve any differences between the HCFA allocations and the carriers' requests, within the limits of the funding available to HCFA.

9. Productivity Investments

The costs of implementing legislation and new initiatives designed to improve the effectiveness and efficiency of Medicare program administration are referred to as Productivity Investments. Several allocation methodologies will be employed in calculating the Productivity Investment budgets for individual intermediaries and carriers. For those projects involving only single contractors or small groups of contractors, we will allocate funds based upon the specifications of the particular project. For those projects involving all intermediaries and/or carriers in that the costs are driven by bill/claims volume, we will distribute the funding based upon our workload projections for each contractor. Finally, for those projects involving all intermediaries and/or carriers that require equal effort regardless of the contractor's size, we derived a standard allocation to be given to all contractors. The regional offices will negotiate with the intermediaries and carriers to resolve any differences between the HCFA allocations and the contractors' requests, within the limits of the funding available to HCFA.

10. Professional Relations

In determining the individual carrier funding levels for the professional relations function for FY 1990, we considered the number of physicians and suppliers in the carrier's service area. Distribution of funds made available to HCFA for the performance of the professional relations function by carriers is made to each carrier based upon the ratio of physicians and suppliers in the carrier's service area to the national total of physicians and suppliers.

The sum of the preceding functions, plus printing costs, is the FY 1990 national Medicare contractor budget. HCFA distributes the funding to intermediaries and carriers in accordance with the established guidelines and allocations as previously discussed.

IV. Waiver of Proposed Notice; Opportunity for Public Comment

Section 4035(a) (1) and (2) of Public Law 100–203 provides that we publish a proposal in the **Federal Register** and offer the public opportunity to comment on the data, standards and methodology that we propose to use to establish budgets for fiscal intermediaries and carriers before we issue them as final. We believe that there is good cause to waive issuing a proposed notice.

We have had extensive input from the involved parties, particularly contractors, as a basis for the national contractors budgets that were presented to Congress and that are the basis for the contents of this notice. This input has been in the form of detailed presentations by HCFA to fiscal intermediary and carrier representative groups. Both proposed budget levels and the impact on their organization of those levels were discussed and, in some instances, we made modifications to our proposal based on their response. Following this, our regional offices negotiated budgets with each individual intermediary and carrier. Therefore, we find that the depth of this consultation and negotiation with the parties most affected by the content of this notice served the same purpose as publishing a proposed notice and publishing a further proposed notice is impracticable.

This notice is the second such item required since enactment of Public Law 100–203. We have not made substantive changes in the data, standards and methodologies from the prior fiscal year (see 53 FR 36495), other than necessary updates, except in one instance—determining target unit costs for claims. (In this instance, the contractor community has been consulted and their concerns taken into consideration.) We received no public comments on this first notice. We believe the lack of response was tied to the fact that the intermediaries and carriers make up that segment of the general population with an interest in these matters and to the thoroughness of our effort to properly inform the affected intermediaries and carriers.

Although we have not been able to meet the statutory requirement that we publish a final notice by September 1, we have contracts with all intermediaries and carriers and budgets that have been negotiated to include the provisions outlined in this notice. To issue a proposal, which implies lack of finality, would introduce an element of uncertainty to an ongoing operation and would be contrary to the public interest. Consistent with the requirements of Public Law 100–203, should revisions to budgets be made as a result of comments on this notice, they would be made prospectively. This would be accomplished by negotiating any affected areas of the intermediaries' and carriers' budgets within the level of funding made available by Congress. By doing this, we believe that we can appropriately provide adequate opportunity for public comment concurrently with issuance of a final, rather than a proposed, notice.

For the reasons identified above, we find good cause to dispense with the issuance of a proposed notice, as such notice would be impracticable, unnecessary and contrary to the public interest. We are, therefore, issuing this final notice with a 30 day comment period. Because of the large number of comments we receive on notices

generally, we cannot acknowledge or respond to them individually. However, we will consider all comments received by the date specified in the "DATE" section of this notice and respond to them appropriately.

V. Regulatory Impact Statement and Flexibility Analysis

Executive Order 12291

Executive Order (E.O.) 12291 requires us to prepare and publish an initial regulatory impact analysis for any final notice that meets one of the E.O. criteria for a "major rule"; that is, that woud be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Also, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Administrator certifies that a final notice such as this would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, fiscal intermediaries and carriers are not small entities, although we treat all providers and suppliers as small entities.

Additionally, section 1102(b) of the Act requires the Secretary to prepare an initial regulatory impact analysis for any final notice such as this that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds located outside a Metropolitan Statistical Area.

This final notice does not contain rules. Rather, the purpose of this final notice is to fulfill our obligation under section 4035(a) of Pub. L. 100-203 to inform the public of our budgeting methodology, the data used in the budgeting process, and the standards we expect our contractors to achieve; and to permit the public the opportunity to comment on our notice. As a purely informational document, this final notice would not promulgate any rule or implement any policy. Nor would this final notice be a part of, or substitute for, any negotiations we intend to conduct with the intermediaries and carriers. Although the outcome of our negotiations are expected to have beneficial effects on contractor operations and on the program (as described earlier in section II.), such effects would be the result of these negotiations rather than as a result of this final notice. This, this document, by itself, would not produce an impact either on contractor operations or on program activities.

For these reasons (that is, this final notice does not represent an attempt at rule making, and the publishing of this final notice would have no impact on any aspect of the Medicare program), we believe that the Executive Order would not apply to this final notice. Therefore, we have not prepared a regulatory impact analysis.

For these same reasons, we also have determined, and the Secretary certifies that this final notice would not have a significant impact on a substantial number of small entities and would not have a significant effect on the operations of a substantial number of small rural hospitals. Therefore, we have not prepared a regulatory flexibility analysis or a regulatory impact analysis on small rural hospitals.

D. Paperwork Reduction Act

This notice contains no information collection requirements subject to OMB approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et. seq.).

(Sec. 1102, 1816, 1842, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395h, 1395u, and 1395hh)

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

Dated: May 16, 1989.

Louis B. Hays,

Administrator, Health Care Financing Administration.

[FR Doc. 89-25051 Filed 10-24-89; 8:45 am]

BILLING CODE 4120-01-M

Statement of Organization, Functions and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (**Federal Register** Vol. 52, No. 178, pp. 34849 and 34850, dated Tuesday, September 15, 1987, and Vol. 53, No. 139, pp. 27401 and 27402, dated Wednesday, July 20, 1988) are amended by cancelling the temporary pilot test reorganization within Regions I, III, and VIII, which were announced in the above referenced **Federal Register** notices, and making the reorganization permanent. Regions I, III, and VIII will now formally operate in a programmatic structure with respect to the administration of Medicaid and Medicare. The permanent reorganization abolishes the previous Divisions of Program Operations and Financial Operations and replaces them with the Division of Medicaid and the Division of Medicare.

The specific amendments to Part F are described below:

Section FP.20.D., Office of the Regional Administrator (FPD (I-X)) is amended as follows:

- Section FP.20.D.5., Division of Medicaid (FPD (I, III, and VIII)E) is deleted in its entirety are replaced with the following:

5. Division of Medicaid (FPD(I, III, and VIII)E)

Under the direction of the HCFA Regional Administrator, plans, manages, and provides Federal leadership to State agencies in program implementation, maintenance, and the regulatory review of State Medicaid program management activities under Title XIX of the Social Security Act and assures the propriety of Federal expenditures. Provides consultation and guidance to States on appropriate matters including interpretation of Federal requirements, options available to States under these requirements, and information on practices in other States. Maintains day-to-day liaison with State agencies and monitors their Medicaid program activities and practices by conducting periodic program management and financial reviews to assure State adherence to Federal law and regulations. Reviews, approves, and maintains official State plans and plan amendments for medical assistance. Provides consultation to States in the administration of the amount, duration, scope, and payment of health services available under the State program. Reviews, approves, and monitors State payment systems (after central office concurrence for hospitals and long term care facilities) and determines the allowability or nonallowability of claims for Federal financial participation (FFP); and where State expenditures have not been made in accordance with Federal requirements, takes action to disallow such claims. Stimulates State action toward achievement of selected program objectives and monitors their progress. Reviews States' quarterly statements of expenditures and recommends

appropriate action on amounts claimed. Defers payment action on questionable State claims, reviews the claims for allowability, and recommends appropriate action. Issues orders suspending FFP on behalf of State payments to Title XIX provider institutions and the revocation of such suspension orders. Supports, evaluates, and provides advice on State management information and claims payment systems. Implements Title XIX special initiatives, such as prepaid health plans, health maintenance organizations, and other special or experimental programs and operations of major management initiatives such as quality control. Where appropriate, provides an opportunity for State input to operational plans, policy, regulations, legislation, and budget formulation. Responds to beneficiary, congressional, provider, and public inquiries concerning Medicaid issues and takes appropriate action on individual case situations. Accepts and responds to Freedom of Information Act requests and on matters concerning the Privacy Act. Supports HCFA headquarters in activities concerning research and demonstration projects.

• Section FP.20.D.6., Division of Medicare (FPD(I, III, and VIII)F) is deleted in its entirety and replaced with the following:

6. Division of Medicare (FPD(I, III, and VIII)F)

Under the direction of the HCFA Regional Administrator, assures the effective administration of the Medicare program through the day-to-day working relationship with Medicare contractors, providers, physicians, the Social Security Administration (SSA) regional office and district office personnel, elements of the Office of the Inspector General (OIG), and other organizations and individuals concerned with program operations. Assures the continuing surveillance and appraisal of Medicare contractors in the administration of health insurance provisions. Monitors contractor overpayment identification and collection activities. Monitors beneficiary overpayment identification and collection activities for amounts up to $20,000; prepares overpayment cases for submission to the General Accounting Office (GAO) for collection and/or to the Department of Justice for possible litigation. Identifies problems and initiates action to ensure contractor adherence to national Medicare policy and procedures. Directs Medicare regional financial management activities. Directs a program of in-depth reviews to evaluate the effectiveness of the Medicare program. Conducts quality assurance programs and onsite performance appraisals and analyzes statistical performance reports. Negotiates and approves contractor budget modifications to budget allotments and final cost settlements. Coordinates day-to-day contractor financial management activities. Reviews and approves certain subcontracts and leases, monitors banking activities, and evaluates the cost allocation procedures of contractors. Conducts contractor appraisals. Interprets HCFA's institutional payment policies. Relates appropriately to elements of SSA, providing consultation on Medicare program matters and any other activity necessary to achieve program objectives. Provides direction to Medicare contractors in carrying out their responsibilities for interfacing with peer review organizations (PROs). Establishes and maintains liaison with organizations representing health care professionals, providers of health care services, and program beneficiaries. Takes necessary action on matters relating to the Freedom of Information Act and the Privacy Act. Performs regional responsibilities relating to experimental and demonstration projects. Assumes responsibility for program training and assures timely responses to congressional and public inquiries. Relates appropriately to central office components, such as providing feedback on operations, activities, and problems; and provides regional perspectives in the development of Agency policies, objectives, and workplans. In coordination with the Division of Medicaid, handles inter-program activities such as the Medicare buy-in for Medicaid beneficiaries.

Date: October 10, 1989.

Robert A. Streimer,

Acting Associate Administrator for Management.

[FR Doc. 89-25052 Filed 10-24-89; 8:45 am]

BILLING CODE 4120-03-M

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Meeting of Basic Sciences II Subcommittee of Acquired Immunodeficiency Syndrome Research Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Basic Sciences II Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, National Institute of Allergy and Infectious Diseases, on November 6, 1989, at the Holiday Inn Crowne Plaza, 300 Army Navy Drive, Arlington, Virginia 22202.

The meeting will be open to the public from 8:30 a.m. to 9:15 a.m. on November 6 to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9:15 a.m. until adjournment on November 6. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. John Meyer, Ph.D., Executive Secretary, Acquired Immunodeficiency Syndrome Research Review Committee, NIAID, NIH, Westwood Building, Room 3A11, Bethesda, Maryland 20892, telephone (301-496-8426), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: October 16, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-25186 Filed 10-24-89; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Flathead Indian Irrigation Project, Montana

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed operation and maintenance rates.

SUMMARY: The purpose of this notice is to change the assessment rates for

operating and maintaining the Flathead Indian Irrigation Project. The assessment rates are based on a prepared estimate of the cost of normal operations and maintenance of the irrigation project. Normal operations and maintenance is defined as the average per acre cost of all activities involved in delivering irrigation water, including maintaining pumps and other facilities.

EFFECTIVE DATE: Interested parties may submit written comments no later than November 24, 1989.

FOR FURTHER INFORMATION CONTACT: Area Director, Portland Area Office, Bureau of Indian Affairs, Post Office Box 3785, Portland, Oregon 97208.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce an increase in the assessment rates commensurate with actual operation and maintenance costs on the Flathead Irrigation Project. The proposed assessment increases for 1990 amount to approximately 2%.

This notice of proposed operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with § 171.1(e) of part 171, chapter 1, of title 25 of the Code of Federal Regulations, which provides for the Area Director to fix and announce the rates for operation and maintenance assessments and related information of the Flathead Irrigation Project for Calendar Year 1990 and subsequent years.

This notice sets forth changes to the operation and maintenance charges and related information applicable to the Flathead Irrigation Project, St. Ignatius, Montana. These charges were proposed pursuant to the authority contained in the Acts of August 1, 1913 and March 7, 1928, (38 Stat. 583, 25 U.S.C. 382; 45 Stat. 210, 25 U.S.C. 387).

Irrigation Operation and Maintenance Charges

In compliance with the above, the operation and maintenance charges for the lands under the Flathead Irrigation Project, Montana, for the season of 1990 and subsequent years until further notice, are hereby fixed as follows:

Lands included in an Irrigation District, lands held in trust for Indian and non-District lands will be assessed operation and maintenance charges at $14.36 per acre for the season of 1990 and subsequent years.

Payment

The operation and maintenance charges on the trust and non-District lands become due on April 1 each year and on the lands within an Irrigation District are biannually billed. To all assessments on lands in non-Indian ownership, remaining unpaid 60 days after the due date, there shall be added a penalty for each month, or fraction thereof, from the due date until paid. No water shall be delivered to any farm unit until all O&M charges have been paid.

Interest and Penalty Fees

Interest and penalty fees will be assessed, where required by-law, on all delinquent operation and maintenance assessment charges as prescribed in the code of Federal Regulations, title 4, part 102, Federal Claims Collection Standards; and 42 BIAM Supplement 3, part 3.8 Debt Collection Procedures.

Wilford Bowker,

Acting Portland Area Director.

[FR Doc. 89-25102 Filed 10-24-89; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[CA-067-09-4352.12]

California Desert District; Camping Closure Order Correction in Imperial County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Camping Closure Correction.

SUMMARY: The camping closure published in Volume 54, Number 143, page 31255, of the **Federal Register** on July 27, 1989 incorrectly said the closure was for Township 17 South, Ranges 19 and 20, SBM. Township 16 South, Ranges 19 and 20, SBM should have been used.

EFFECTIVE DATE: This closure, as corrected, will be effective immediately and will remain in effect until rescinded or modified by the authorized officer.

FOR FURTHER INFORMATION CONTACT: Arnold Schoeck, Supervisory Outdoor Recreation Planner, Bureau of Land Management, El Centro Resource Area, 333 South Waterman, El Centro, California 92243, (619) 352-5842.

H.W. Riecken,

Acting District Manager.

[FR Doc. 89-25103 Filed 10-24-89; 8:45 am]

BILLING CODE 4310-40-M

[AZ-040-4333-11-SPCA]

Establishment of Fees for Special Recreation Permits

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of special recreation permit fees.

SUMMARY: Pursuant to 36 CFR part 71 and 43 CFR part 8372, a fee of $1.50 per person per night will be charged for permits for overnight camping at any location within the San Pedro Riparian National Conservation Area, Cochise County, Arizona. This notice applies only to undeveloped backcountry camping.

DATES: The charging of fees becomes effective on November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Erick Campbell, Project Manager, San Pedro Riparian National Conservation Area, Box 9853, RR 1, Huachuca City, Arizona 85616 (telephone (602) 457-2265) or Vernon L. Saline, San Simon Resource Area Manager, Bureau of Land Management, 425 East Fourth Street, Safford, Arizona 85546 (telephone (602) 428-4040).

SUPPLEMENTARY INFORMATION: The fees being charged are for the issuance of special recreation permits for overnight camping. Permits can be obtained during regular office hours (7:45 a.m.-4:15 p.m., Monday-Friday) at the National Conservation Area headquarters at the old town of Fairbank, on State Highway 82 just east of the San Pedro River and about 9 miles west of Tombstone, Arizona.

Dated: October 17, 1989.

Ray A. Brady,

District Manager.

[FR Doc. 89-25095 Filed 10-24-89; 8:45 am]

BILLING CODE 4310-32-M

National Park Service

Farmington Wild and Acenic River Study Massachusetts and Connecticut Farmington River Study Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App. 1 s 10), that a meeting of the Farmington River Study Committee will be held Thurdsay, November 9, 1989.

The Committee was established pursuant to Public Law 99-590. The purpose of the Committee is to consult with the Secretary of the Interior and to advise the Secretary in conducting the

study of two segments of the Farmington River.

The meeting will convene at 7:30 p.m. at the Sandisfield Town Hall, Sandisfield, Massachusetts, for the following reasons:

1. Approval of minutes of September 14, 1989 meeting;
2. Report on Budget Status;
3. Update on Resource Assessment and Report from Eligibility Subcommittee;
4. Report from Water Resources Subcommittee;
5. Report from River Conservation Planning Subcommittee;
6. Review of proposed themes/goals for the study and the river conservation plan;
7. Review of Public Awareness Campaign;
8. Opportunity for Public Comment;
9. Other business.

It is anticipated that about 100 people will be able to attend the session in addition to the Committee members.

Interested persons may make oral/written presenations to the Committee or file written statements. Such requests should be made to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from the Public Affairs Officer, National Park Service, North Atlantic Region, 15 State Street, Boston, Massachusetts, 02109–3572 at (617) 223–5199.

Dated: October 18, 1989.

Charles P. Clapper,

Acting Regional Director.

[FR Doc. 89–25093 Filed 10–24–89; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 14, 1989. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by November 9, 1989.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Clark County

Gurdon Jail, W. Joslyn and Front Sts., Gurdon, 89001959

Conway County

Conway County Courthouse, Moose St. at Church St., Morrilton, 89001960

Franklin County

Shelton—Rich Farmstead, Address Restricted, Webb City vicinity, 89001973

Ouachita County

Ouachita County Courthouse, 145 Jefferson Ave., Camden, 89001958

Scott County

Scott County Courthouse, Address Unavailable, Worsham, 89001971

FLORIDA

Hillsborough County

House at 36 Aegean Avenue (Mediterranean Revival Style Buildings of Davis Islands MPS), 36 Aegean Ave., Tampa, 89001964

KENTUCKY

Henderson County

Henderson Commercial District, Roughly bounded by Main, Third, Elm, and First Sts., Henderson, 89001975

Todd County

Elkton Commercial Historic District, Jct. of N., S., E., and W. Main Sts., Elkton, 89001976

MASSACHUSETTS

Norfolk County

Baxter—King House (Quincy MRA), 270 Adams St., Quincy, 89001953

Masonic Temple (Quincy MRA), 1156 Hancock St., Quincy, 89001952

Pettengill, C. F., House (Quincy MRA), 53 Revere Rd., Quincy, 89001951

Woodward Institute (Quincy MRA), 1090 Hancock St., Quincy, 89001954

Worcester County

Freegrace Marble Farm Historic District, 80 Burbank Rd., Sutton, 89001967

NEW JERSEY

Camden County

Station Avenue Business District, Station Ave. from seventh Ave. to White Horse Pike, Haddon Heights, 89001945

Hunterdon County

Mount Airy Historic District, Roughly bounded by NY 179, Rt. 605, Rt. 603, and Rt. 601, Lambertville vicinity, 89001943

Morris County

Merchiston Farm, Longview Rd., Chester, 89001946

Warren County

Blair Presbyterial Academy, NY 94 and Main St., Blairstown, 89001944

NEW YORK

Cayuga County

Willard, Dr. Sylvester, Mansion, 203 W. Genesee St., Auburn, 89001948

Ontario County

East Bloomfield Historic District, Roughly Main, South, Park Sts. and NY 5, East Bloomfield, 89001947

Saratoga County

Mechanicville Hydroelectric Plant, At NY 32 on Hudson River, Mechanicville vicinity, 89001942

OKLAHOMA

Blaine County

Gillespie Building, 102 E. Main St., Geary, 89001963

Public Water Trough, Jct. Main, Canadian, and Northeast Blvd., Geary, 89001965

Muskogee County

Nancy Taylor No. 1 Oil Well Site, Haskell Lake Rd., W of US 64, Haskell vicinity, 89001962

Pontotoc County

Ada Public Library, 400 S. Rennie, Ada, 89001950

Washita County

Cordell Carnegie Public Library, 105 E. First St., Cordell 89001966

OREGON

Multnomah County

Gedamke, William, House, 1304 E. Powell Blvd., Gresham, 89001970

Portland New Chinatown—Japantown Historic District, Bounded by NW. Glisan, NW. 3rd Ave., W. Burnside, and NW. 5th Ave., Portland, 89001957

Yamhill County

Young, Ewing, Site, Address Restricted, Newburg vicinity, 89001977

TENNESSEE

Belford County

Valley Home, Potts Rd., W of Wartrace, Wartrace vicinity, 89001956

Blount County

Russel—Lackey—Prater House (Blount County MPS), Prater Rd. off Old Lowes Ferry Rd. at Poland Creek, Louisville vicinity, 89001961

Davidson County

Chadwell, Robert, House, 712 Neeleys Bend Rd., Madison, 89001972

Giles County

Bethany Presbyterian Church Complex, Elkton Rd., Bryson vicinity, 89001968

Knox County

Mabry, Joseph Alexander, Jr., House, 1711 Dandridge Ave., Knoxville, 89001974

Shelby County

Saunders, Clarence, Estate, 5922 Quince, Memphis, 89001969

WASHINGTON

Walla Walla County

Moore, Miles C. House, 720 Bryant, Walla Walla, 89001949

WISCONSIN

Richland County

Court Street Commercial District, Roughly bounded by Mill, Church, Haseltine, and Main Sts., Richland Center, 89001955

[FR Doc. 89-25060 Filed 10-14-89; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related form may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1029-0024), Washington, DC 20503, telephone 202-395-7340.

Title: Procedures and Criteria for Approval or Disapproval of State Program Submissions 30 CFR 732.

OMB approval number: 1029-0024.

Abstract: The regulations require a State to report to the Office of Surface Mining Reclamation and Enforcement (OSM) the information collected by the State and also requires notification to be made by the State of any changes to the State program. The information submitted by the State is used by OSM in evaluating whether the State is meeting the provisions of the approved State program.

Bureau form number: None.

Frequency: Quarterly and on occasion.

Description of Respondents: State Regulatory Authorities.

Estimated completion time: 9 hours.

Annual Responses: 120.

Annual Burden Hours: 1,080.

Bureau Clearance Officer: Andrew F. DeVito, 202-343-5954.

Dated: September 21, 1989.

Annetta L. Cheek,

Chief, Regulatory Development and Issues Management.

[FR Doc. 89-25096 Filed 10-24-89; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget (OMB) for review.

Purpose of Information Collection: The proposed information collection is for use by the Commission in connection with investigation No. 332-135 for the annual synthetic organic chemicals report, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

Summary of Proposal:

(1) *Number of forms submitted:* One.

(2) *Title of form:* Synthetic Organic Chemicals, U.S. Production and Sales by Original Manufacturers Only (form no. CD-A1).

(3) *Type of request:* Extension.

(4) *Frequency of use:* Annual.

(5) *Description of respondents:* Firms manufacturing synthetic organic chemicals in the United States.

(6) *Estimated number of respondents:* 718.

(7) *Estimated total number of hours to annually complete the forms:* 7,898.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional Information or Comment: Copies of the proposed form and supporting documents may be obtained from James A. Emanuel, telephone (202) 252-1367. Comments about the proposals should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Attention: Don Arbuckle, Desk Officer for the U.S. International Trade Commission. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly, you should advise OMB of your intent within 2 weeks of the date this notice appears in the **Federal Register**. Mr. Arbuckle's telephone number is (202) 395-7340. Copies of any comments should be provided to Charles Ervin (U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436).

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 252-1810.

Issued: October 18, 1989.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-25136 Filed 10-24-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-433 (Final)]

Certain Residential Door Locks and Parts Thereof From Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-433 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Taiwan of residential door locks and parts thereof, provided for in subheading 8301.40.60 of the Harmonized Tariff Schedule of the United States (previously reported under item 646.9210 of the former Tariff Schedules of the United States), that have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determination on or before December 18, 1989, and the Commission will make its final injury determination by February 2, 1990 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: October 6, 1989.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202-252-1188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background. This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain residential door locks and parts thereof from Taiwan are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673). The investigation was requested in a petition filed on April 24, 1989, by counsel on behalf of the Ad Hoc Committee of Door Lock Manufacturers. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (54 FR 25351 (June 14, 1989)).

Participation in the investigation. Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service list. Pursuant to 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3, as amended in 54 FR 5220 (Feb. 2, 1989)), each public document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order and business proprietary information service list. Pursuant to section 207.7(a) of the Commission's rules (19 CFR 207.7(a), as amended in 53 FR 33039 (Aug. 29, 1988) and 54 FR 5220 (Feb. 2, 1989)), the Secretary will make available business proprietary information gathered in this final investigation to authorized applicants under a protective order, provided that the application be made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Staff report. The prehearing staff report in this investigation will be placed in the nonpublic record on December 7, 1989, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing. The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on December 21, 1989, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on December 14, 1989. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on December 18, 1989, at the U.S. International Trade Commission Building. Pursuant to § 207.22 of the Commission's rules (19 CFR 207.22) each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is December 18, 1989. Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions. Prehearing briefs submitted by parties must conform with the provisions of § 207.22 of the Commission's rules (19 CFR 207.22) and should include all legal arguments, economic analyses, and factual materials relevant to the public hearing. Posthearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on January 5, 1990. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before January 5, 1990.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of § 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7, as amended).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a), as amended) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than January 11, 1990. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20).

Issued: October 16, 1989.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-25112 Filed 10-24-89; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31539]

Indiana Hi-Rail Corp.; Trackage Rights Exemption

Norfolk and Western Railway Company (NW) has agreed to grant overhead trackage rights to Indiana Hi-Rail Corporation (IHRC) between mileposts TS-123.0 and TS-123.6, at Bluffton, Wells County, IN. The trackage rights in this proceeding connect with two segments of NW's line between Douglas, OH, and Van Buren, IN, that are the subject of a petition for exemption, filed concurrently with this notice, in Finance Docket No. 31532, *Indiana Hi-Rail Corporation—Lease and Operation Exemption—Between Douglas, OH, and Van Buren, IN.*[1] The trackage rights will become effective upon consummation of the lease transaction in the related petition for exemption.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: John D. Heffner (IHRC), Gerst, Heffner, Carpenter & Podgorsky, 1700 K Street, NW., Suite 1107, Washington, DC 20006; and Robert S. Cooney (NW), Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510-2191.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights— BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: October 10, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-25010 Filed 10-24-89; 8:45 am]

BILLING CODE 7035-01-M

[1] In that proceeding, IHRC seeks exemption authority to lease and operate NW's line: (1) between milepost TS-65.5 (Douglas) and milepost TS-123.0 (Bluffton); and (2) between milepost TS-123.6 (Bluffton) and milepost TS-144.2 (Van Buren).

[Ex Parte No. 431 (Sub-No. 1); [Ex Parte No. 477]]

Adoption of the Uniform Railroad Costing System as a General Purpose Costing System for all Regulatory Costing Purposes; Modifications to General Purpose Costing System—GPCS

AGENCY: Interstate Commerce Commission.

ACTION: Notice of postponement for compliance with policy determination.

SUMMARY: The Commission has decided to grant the motion filed by the Association of American Railroads (AAR) which requested a postponement of implementation of the recently adopted Uniform Railroad Costing System (URCS) and associated costing modifications.

EFFECTIVE DATES: October 20, 1989.

FOR FURTHER INFORMATION CONTACT: William T. Bono, (202) 275-7354, Thomas A. Schmitz, (202) 275-7549, [TDD for hearing impaired, (202) 275-1721].

SUPPLEMENTARY INFORMATION: In a decision published at 54 FR 38910 (1989) and served September 20, 1989 in Ex Parte No. 431 (Sub-No. 1), *Uniform Railroad Costing System*, 5 I.C.C.2d 894 (1989), the Commission adopted URCS as its general purpose costing system (GPCS) in lieu of Rail Form A, which has been used traditionally for all regulatory purposes where costs are appropriate. In a related decision published at 54 FR 38910 (1989) and served September 20, 1989 in Ex Parte No. 477, *Modifications to General Purpose Costing System*, 5 I.C.C.2d 880 (1989), the Commission determined that certain modifications were appropriate for inclusion in its GPCS which had not been previously reflected in Rail Form A. In light of the sweeping changes in the manner in which costs are computed, the AAR's request that the Commission postpone the date for compliance with the new costing system and rules until February 1, 1990 is reasonable. The decisions in the subject proceedings are effective on October 20, 1989. However, the Commission will not require use of the new costing system before February 1, 1989.

To purchase a copy of the full decision write to, call or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington DC 20423, or telephone (202) 289-4357 or 4359. Assistance for the hearing impaired is available through TDD Services at (202) 275-1721 or by pickup from Dynamic Concepts, Inc., Room 2229 at Commission Headquarters.

This action will not significantly affect either the quality of the human environment or energy conservation.

Authority: 49 U.S.C. 10321, 10705a and 10709.

Decided: October 18, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners André, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-25116 Filed 10-24-89; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[89-74]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee.

DATES: November 15, 1989, 8:30 a.m. to 5 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room 625, Federal Office Building 10B, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Smith, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2367.

SUPPLEMENTARY INFORMATION: The NAC Space Systems and Technology Advisory Committee (SSTAC) was established to provide overall guidance and direction to the space research and technology activities in the Office of Aeronautics and Space Technology (OAST). The Committee, chaired by Dr. Joseph F. Shea, is comprised of 20 members. The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons including the Committee members and other participants).

Type of Meeting: Open.

Agenda:

November 15, 1989

8:30 a.m.—Opening Remarks.

8:45 a.m.—Space Technology Program Review.

1 p.m.—Continue Space Technology Program Review.
4 p.m.—Discussion.
4:50 p.m.—Summary Session.
5 p.m.—Adjourn.

Dated: October 17, 1989.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 89-25111 Filed 10-24-89; 8:45 am]

BILLING CODE 7510-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Approval of Form RI 34-1 Financial Resources Questionnaire Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request to extend the use of form RI 34-1, Financial Resources Questionnaire. OPM uses form RI 34-1, Financial Resources Questionnaire, to determine action on the collection of debts owned by individuals who received overpayments from the Civil Service Retirement and Disability Fund.

Approximately 8,200 are processed annually; each form requires approximately 60 minutes to complete, for a total public burden of 8,200 hours. For copies of this proposal, call Larry Dambrose, on (202) 632-0199.

DATES: Comments on this proposal should be received on or before November 24, 1989.

ADDRESSES: Send or deliver comments to—Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 3235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey on (202) 632-5472.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 89-25109 Filed 10-24-89; 8:45 am]

BILLING CODE 6325-01-M

Excepted Service; Schedules A, B, and C

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Leesa Martin, (202) 632-0728.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on September 28, 1989 (54 FR 39833). Individual authorities established or revoked under Schedule A, B, or C between September 1, 1989, and September 30, 1989, appear in a listing below.

Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exceptions were established:

Federal Deposit Insurance Corporation

Not to exceed 300 positions in field offices of the Resolution Trust Corporation. No new appointments may be made under this authority after September 30, 1992. Effective September 5, 1989.

Executive Office of the President, Office of National Drug Control Policy

Not to exceed 35 positions, GS-15 and below, of senior policy analysts and other personnel with expertise in drug-related issues and/or technical knowledge to aid in anti-drug abuse efforts. Appointments under this authority may not exceed January 20, 1994. Effective September 15, 1989.

Department of the Treasury

All positions involved in the supervision of savings associations for the Office of Thrift Supervision. No new appointments may be made under this authority after December 31, 1990. Effective September 20, 1989.

Thrift Oversight Board

All positions in the Thrift Oversight Board. No new appointments may be made under this authority after December 31, 1994. Effective September 22, 1989.

Department of Justice, Immigration and Naturalization Service

Not to exceed 25 positions, GS-15 and below, with proficiency in speaking, reading, and writing the Russian language and serving in the Soviet Refugee Processing Program with permanent duty location in Moscow, USSR. Employment under this authority may not exceed 4 years. No new appointments may be made under this authority after September 30, 1991.

Schedule B

National Endowment for the Humanities

One position of Humanities Administrator, GM-1701-15, in the Office of the Assistant Chairman for Programs and Policy. Effective September 26, 1989.

Department of Justice

Positions other than secretarial, GS-6 through GS-15, requiring knowledge of the bankruptcy process, on the staff of offices of the United States Trustees or the Executive Office for U.S. Trustees. Effective September 29, 1989.

Schedule C

Department of Agriculture

One Confidential Assistant to the Administrator, Office of International Cooperation and Development. Effective September 18, 1989.

One Private Secretary to the Administrator, Agricultural Stabilization and Conservation Service. Effective September 18, 1989.

One Confidential Assistant to the Administrator, Food Safety and Inspection Service. Effective September 18, 1989.

Department of Commerce

One Confidential Assistant to the Assistant Secretary for Tourism Marketing. Effective September 1, 1989.

One Special Assistant to the Deputy Under Secretary for Economic Affairs. Effective September 1, 1989.

One Director of Public Affairs to the Assistant Secretary for Communications and Information. Effective September 12, 1989.

One Special Assistant to the Under Secretary for Travel and Tourism. Effective September 13, 1989.

One Confidential Assistant to the Deputy Assistant Secretary for Trade Information and Analysis. Effective September 14, 1989.

One Confidential Assistant to the Director, Minority Business Development Agency. Effective September 15, 1989.

One Director, Office of External Affairs, to the Chief of Staff. Effective September 18, 1989.

One Confidential Assistant to the Deputy Under Secretary for Travel and Tourism. Effective September 19, 1989.

One Confidential Assistant to the Director, Executive Programs, (Office of White House Liaison). Effective September 21, 1989.

One Director of Internal Analysis to the Assistant Secretary for Economic Development. Effective September 21, 1989.

One Director, Office of Policy Coordination, to the Deputy Assistant Secretary for International Economic Policy. Effective September 21, 1989.

One Confidential Assistant to the Deputy Under Secretary for International Trade. Effective September 26, 1989.

One Confidential Assistant to the Assistant Secretary for Communications and Information. Effective September 26, 1989.

One Director of Congressional Affairs to the Assistant Secretary and Commissioner of Patents and Trademarks. Effective September 27, 1989.

One Confidential Assistant to the Counselor to the Secretary. Effective September 27, 1989.

One Special Assistant to the Assistant Secretary for Export Enforcement. Effective September 27, 1989.

Department of Defense

One Special Assistant for Foreign Affairs to the Assistant Secretary (Legislative Affairs). Effective September 6, 1989.

One Private Secretary to the Under Secretary for Policy. Effective September 6, 1989.

One Special Assistant for International Security Affairs to the Assistant Secretary (Legislative Affairs). Effective September 6, 1989.

One Special Assistant for Strategic Systems to the Assistant Secretary (Legislative Affairs). Effective September 6, 1989.

One Administrative Assistant to the Assistant to the Secretary. Effective September 19, 1989.

Department of Education

One Special Assistant to the Assistant Secretary, Office of Civil Rights. Effective September 1, 1989.

One Special Assistant to the Comptroller. Effective September 6, 1989.

One Confidential Assistant to the Deputy Under Secretary for Planning, Budget and Evaluation. Effective September 12, 1989.

One Confidential Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective September 12, 1989.

Two Confidential Assistants to the Executive Assistant to the Under Secretary. Effective September 18, 1989.

One Executive Secretary to the Chief of Staff/Counselor to the Secretary. Effective September 20, 1989.

Two Confidential Assistants to the Deputy Assistant Secretary for Student Financial Assistance Programs. Effective September 26, 1989.

One Secretary's Regional Representative to the Director, Regional Liaison Staff. Effective September 27, 1989.

One Special Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs. Effective September 27, 1989.

One Special Assistant to the Director, Public Affairs Service. Effective September 27, 1989.

One Special Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective September 27, 1989.

One Special Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective September 28, 1989.

Department of Energy

One Special Assistant to the General Counsel. Effective September 1, 1989.

One Special Assistant to the Deputy Secretary. Effective September 1, 1989.

One Staff Assistant to the Executive Assistant to the Secretary. Effective September 1, 1989.

One Staff Assistant to the Assistant Secretary for Fossil Energy. Effective September 1, 1989.

One Legislative Affairs Specialist to the Deputy Assistant Secretary for House Liaison. Effective September 6, 1989.

One Staff Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective September 7, 1989.

One Public Liaison Specialist to the Deputy Assistant Secretary for Intergovernmental and Public Liaison. Effective September 7, 1989.

One Special Assistant to the Assistant Secretary, Management and Adminstration. Effective September 18, 1989.

One Special Assistant o the Deputy Under Secretary, Office of Policy, Planning and Analysis. Effective September 20, 1989.

One Staff Assistant to the Director, Office of Public Affairs. Effective September 26, 1989.

Department of Health and Human Services

One Staff Assistant to the Director, Scheduling, Security and Protection. Effective September 6, 1989.

One Confidential Staff Assistant to the Administrator, Health Care Financing Administration. Effective September 7, 1989.

One Confidential Assistant to the Director, Office of Consumer Affairs. Effective September 11, 1989.

One Confidential Assistant to the Executive Assistant to the Secretary. Effective September 12, 1989.

One Confidential Assistant (Scheduling) to the Director, Scheduling, Security and Protection. Effective September 14, 1989.

One Special Assistant to the Deputy Assistant Secretary for Human Development Services. Effective September 14, 1989.

One Associate Commissioner for Family and Youth Services to the Commissioner, Administration for Children, Youth and Families. Effective September 15, 1989.

One Confidential Asssistant to the Assistant Secretary for Human Development Services. Effective September 15, 1989.

One Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation (Congressional Liaison). Effective September 18, 1989.

One Congressional Relations Specialist to the Deputy Commissioner, Policy and External Affairs. Effective September 18, 1989.

One Writer to the Secretary. Effective September 18, 1989.

One Special Assistant to the Assistant Secretary for Management and Budget. Effective September 27, 1989.

One Special Assistant to the Secretary. Effective September 27, 1989.

Two Special Assistants to the Commissioner of Social Security. Effective September 28, 1989.

One Director, Office of Public Affairs, to the Associate Administrator for Communications. Effective September 28, 1989.

One Executive Director, Federal Council on Aging, to the Assistant Secretary for Human Development Services. Effective September 28, 1989.

One Deputy Director, Office of Refugee Resettlement, to the Director. Effective September 28, 1989.

One Confidential Assistant to the Executive Secretary. Effective September 28, 1989.

Department of Housing and Urban Development

One Special Assistant to the Assistant Secretary for Housing-Federal Housing Commissioner. Effective September 7, 1989.

One Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations. Effective September 7, 1989.

One Special Assistant for Indian and Alaska Native Programs to the Secretary. Effective September 7, 1989.

One Assistant for Congressional Relations to the Deputy Assistant Secretary. Effective September 15, 1989.

One Special Assistant (Scheduling) to the Assistant Secretary for Public Affairs. Effective September 15, 1989.

One Special Assistant to the Assistant Secretary for Public and Indian Affairs. Effective September 15, 1989.

One Special Assistant (Speech Writer) to the Assistant Secretary for Public Affairs. Effective September 15, 1989.

One Staff Assistant to the Special Assistant to the Secretary/Director, Executive Secretariat. Effective September 15, 1989.

One Special Assistant to the Regional Administrator. Effective September 18, 1989.

One Associate Deputy General Counsel to the General Counsel. Effective September 21, 1989.

One Deputy to the General Counsel. Effective September 21, 1989.

One Special Assistant to the Assistant Secretary for Administration. Effective September 21, 1989.

One Special Assistant to the Deputy Assistant Secretary for Multifamily Housing Programs. Effective September 27, 1989.

One Staff Assistant to the Assistant Secretary for Policy Development and Research. Effective September 27, 1989.

One Assistant for Congressional Relations to the Deputy Assistant Secretary. Effective September 27, 1989.

One Special Assistant to the Assistant Secretary for Fair Housing and Equal Opportunity. Effective September 27, 1989.

One Staff Assistant to the President, Government National Mortgage Association. Effective September 27, 1989.

Department of the Interior

One Special Assistant to the Director, Office of Surface Mining Reclamation and Enforcement. Effective September 1, 1989.

One Executive Assistant to the Director, Bureau of Land Management. Effective September 1, 1989.

One Special Assistant to the Assistant to the Secretary and Director, External Affairs. Effective September 6, 1989.

One Legislative Assistant to the Director, Minerals Management Service. Effective September 20, 1989.

One Special Assistant to the Assistant Secretary-Policy, Budget and Administration. Effective September 22, 1989.

One Program Assistant to the Deputy Director, Minerals Management Service. Effective September 26, 1989.

Department of Labor

One Special Assistant to the Director, Office of Information and Public Affairs. Effective September 15, 1989.

One Special Assistant to the Assistant Secretary for Labor Management Standards. Effective September 15, 1989.

One Secretary's Representative to the Assistant Secretary for Public and Intergovernmental Affairs. Effective September 20, 1989.

One Assistant to the Secretary's Representative to the Assistant Secretary for Public and Intergovernmental Affairs. Effective September 20, 1989.

One Secretary's Representative to the Assistant Secretary for Public and Intergovernmental Affairs. Effective September 20, 1989.

One Deputy to the Secretary's Representative. Effective September 26, 1989.

One Special Assistant to the Assistant Secretary for Employment Standards. Effective September 27, 1989.

One Staff Assistant to teh Assistant Secretary for Mine Safety and Health. Effective September 29, 1989.

Department of the Navy

One Staff Assistant to the Secretary. Effective September 18, 1989.

Department of State

One Special Program Assistant to the Director for Human Rights Legislation and Public Diplomacy. Effective September 15, 1989.

One Secretary (Stenography) to the Coordinator for Counter-Terrorism. Effective September 15, 1989.

One Staff Assistant to the Special Assistant to the Under Secretary for Management. Effective September 15, 1989.

One Secretary (Typing) to the Under Secretary for Management. Effective September 15, 1989.

One Foreign Affairs Officer to the Deputy Assistant Secretary for Bilateral/Multilateral Affairs. Effective September 18, 1989.

One Secretary (Stenography) to the Assistant Secretary, Bureau of Politico-Military Affairs. Effective September 21, 1989.

One Secretary to the Assistant Secretary, Bureau of International Organization Affairs. Effective September 21, 1989.

Department of Transportation

One Special Assistant to the Administrator for the Saint Lawrence Seaway Development Corporation. Effective September 18, 1989.

One Special Assistant to the Assistant Administrator for Public Affairs. Effective September 18, 1989.

One Congressional Liaison Officer to the Director, Office of Congressional Affairs. Effective September 9, 1989.

One Chief, Consumer Affairs Division, to the Director, Office of Public and Consumer Affairs. Effective September 19, 1989.

One Special Assistant to the Federal Highway Administrator. Effective September 19, 1989.

One Director, Office of Public and Consumer Affairs, to the Administrator. Effective September 19, 1989.

One Special Assistant to the Administrator. Effective September 20, 1989.

One Staff Assistant to the Deputy Administrator, Urban Mass Transportation Administration. Effective September 21, 1989.

One Special Assistant for Personnel and Organizational Management to the Secretary. Effective September 26, 1989.

One Special Assistant to the Assistant Secretary for Public Affairs. Effective September 26, 1989.

One Special Assistant to the Director, Office of Public Affairs, Effective September 28, 1989.

One Staff Assistant to the Chief of Staff. Effective September 28, 1989.

One Deputy Director of Industry Affairs to the Director, Intergovernmental and Industry Affairs. Effective September 28, 1989.

One Staff Assistant to the Assistant Secretary for Governmental Affairs. Effective September 29, 1989.

One Staff Assistant to the Associate Administrator for Policy, Planning and International Aviation. Effective September 29, 1989.

One Special Assistant to the Deputy Assistant Secretary for Policy and International Affairs. Effective August 29, 1989. Note: This position should have been listed in the previously published issue.

Department of the Treasury

One Public Affairs Specialist to the Assistant Secretary. Effective September 18, 1989.

One Review Assistant to the Executive Secretary. Effective September 18, 1989.

One Public Affairs Specialist to the Treasurer of the United States. Effective September 27, 1989.

One Confidential Assistant to the Secretary. Effective September 27, 1989.

One Assistant to the Commissioner of Internal Revenue. Effective September 27, 1989.

Department of Veterans Affairs

One Special Assistant to the Assistant Secretary for Veterans Liaison and Program Coordination. Effective September 1, 1989.

Agency for International Development

One Special Assistant to the Assistant Administrator for Asia and the Near East. Effective September 7, 1989.

One Special Assistant to the Deputy Administrator. Effective September 27, 1989.

Commission on Civil Rights

One Special Assistant to the Commissioner. Effective September 8, 1989.

Council of Economic Advisers

One Secretary to the Council Member. Effective September 1, 1989.

Environmental Protection Agency

One Special Assistant to the Deputy Administrator. Effective September 11, 1989.

One Congressional Liaison Specialist to the Director, Office of Congressional Liaison. Effective September 18, 1989.

Two Congressional Liaison Specialists to the Director, Office of Congressional Liaison. Effective September 19, 1989.

One Congressional Relations Officer to the Director, Office of Congressional Liaison. Effective September 19, 1989.

Export-Import Bank of the United States

One Personal and Confidential Assistant to the First Vice President and Vice Chairman. Effective September 12, 1989.

One Executive Assistant to the President and Chairman. Effective September 12, 1989.

General Services Administration

One Confidential Assistant to the Regional Administrator. Effective September 6, 1989.

National Credit Union Administration

One Confidential Assistant to the Vice Chairman. Effective September 6, 1989.

National Endowment for the Humanities

One Special Assistant to the Deputy Chairman. Effective September 6, 1989.

Office of Personnel Management

One Staff Assistant to the Director, Office of Executive Administration. Effective September 8, 1989.

One Confidential Assistant to the Director, Office of Congressional Relations. Effective September 13, 1989.

One Director of Intergovernmental Affairs to the Director, Office of Personnel Management. Effective September 21, 1989.

One Confidential Assistant to the Director, Office of Executive Administration. Effective September 29, 1989.

Small Business Administration

One Special Assistant to the Assistant Administrator for Congressional and Legislative Affairs. Effective September 7, 1989.

One Special Assistant to the Regional Administrator. Effective September 12, 1989.

One Special Assistant to the Associate Deputy Administrator for Finance, Investment and Procurement. Effective September 14, 1989.

One Special Assistant to the Administrator. Effective September 14, 1989.

One Executive Assistant to the Deputy Administrator. Effective September 15, 1989.

One Director, Office of International Trade, to the Associate Deputy Administrator for Special Programs. Effective September 20, 1989.

One Special Assistant to the Assistant Administrator for Public Communications. Effective September 21, 1989.

One Deputy Associate Administrator for Business Development to the Associate Administrator. Effective September 26, 1989.

United States Tax Court

One Trial Clerk to a Judge. Effective September 12, 1989.

One Secretary (Confidential Assistant) to a Judge. Effective September 6, 1989.

United States Information Agency

One Staff Specialist to the Special Assistant, Private Sector Programs. Effective September 22, 1989.

One Staff Assistant to the Associate Director, Bureau of Programs. Effective September 22, 1989.

One Special Assistant to the Associate Director, Bureau of Educational and Cultural Affairs. Effective September 28, 1989.

Authority: 5 U.S.C. 3301, 3303; E.O. 10555, 3 CFR 1954–1958 Comp., P. 218.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 89–25110 Filed 10–24–89; 8:45 am]

BILLING CODE 6325-01-M

POSTAL RATE COMMISSION

[Order No. 850; Docket No. A90-1]

Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Before Commissioners: Henry R. Folsom, Vice-Chairman; John W. Crutcher; W.H. "Trey" LeBlanc III; Patti Birge Tyson.

In the matter of: Powder Springs, Tennessee 37848 (A.B. Acuff, *et al.*, Petitioners)

October 18, 1989.

Docket Number: A90–1.

Name of Affected Post Office: Powder Springs, Tennessee 37848.

Name(s) of Petitioner(s): A.B. Acuff and others.

Type of Determination: Closing.

Date of Filing of Appeal Papers: October 10, 1989.

Categories of Issues Apparently Raised:

1. Effect on postal services [39 U.S.C. 404(b)(2)(C)]

2. Effect on the community [39 U.S.C. 404(b)(2)(A)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule [39 U.S.C. 404(b)(5)], the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda wil be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission orders

(A) The record in this appeal shall be filed on or before October 25, 1989.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Cyril J. Pittack,

Acting Secretary.

October 10, 1989

Filing of Petition

October 18, 1989

Notice and Order of Filing of Appeal
November 6, 1989
Last day of filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
November 14, 1989
Petitioners' Participant Statement or Initial Brief [*see* 39 CFR 3001.115(a) and (b)].
December 4, 1989
Postal Service Answering Brief [*see* 39 CFR 3001.115(c)]
December 19, 1989
Petitioners' Reply Brief should Petitioners choose to file one [*see* CFR 3001.115(d)].
December 26, 1989
Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 CFR 3001.116].
February 7, 1990
Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 80-25097 Filed 10-24-89; 8:45 am]
BILLING CODE 7710-FW-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-27365; File Nos. SR-Amex-89-26; SR-CBOE-89-21; SR-PSE-89-28; SR-PHLX-89-52]

Self-Regulatory Organizations; Order Granting Accelerated Approval to Proposed Rule Changes by the American Stock Exchange, Inc., Chicago Board Options Exchange, Inc., the Pacific Stock Exchange, Inc, and the Philadelphia Stock Exchange, Inc. Relating to Emergency Arrangements to Trade PSE Options on Other Options Exchanges

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 18, 1989, the American ("Amex"), Pacific ("PSE") and Philadelphia ("Phlx") Stock Exchanges and the Chicago Board Options Exchange, Inc. ("CBOE") (collectively the "Exchanges") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule changes as described in Items I, II and II below, which Items have been prepared by the self-regulatory organizations. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

The proposed rule changes concern arrangements made for the continued trading of options listed on the PSE due to mechanical disruptions to the PSE options floor caused by the October 17, 1989 earthquake in San Francisco. Starting October 19, 1989, under arrangements worked out by the PSE, Amex, CBOE, "Phlx" and New York Stock Exchange ("NYSE"), options listed on the PSE will trade temporarily on the floors of different options exchanges around the United States. The options still will be considered to be traded on the PSE, although the physical execution of the trades will occur on the other options exchanges.

I. Self-Regulatory Organizations' Statements of the Terms of Substance of the Proposed Rule Changes

The Exchanges propose to allow: (1) PSE options to be traded on other trading floors; (2) PSE market makers to trade on the floors of the Amex, Phlx, and CBOE without market makers from their exchanges effecting transactions in PSE options; and (3) the floor brokers to become deputized PSE members while in the PSE options series crowd. Because of the nature of the circumstances and the relief requested, the PSE also requests that it not be held responsible for trade input while such transactions are effected through the facilities of the other exchanges.

A. American Stock Exchange, Inc. ("Amex")

Temporary Rule

1. The Amex shall permit the PSE and its members to use a portion of the Amex floor (hereinafter, the "PSE Facility at the Amex") to conduct the trading of such stock options as shall have been designated by the PSE by prior notice to the Amex. The Amex will provide appropriate support facilities to enable the PSE members to conduct such trading at the PSE Facility at the Amex. Such trading shall be conducted in accordance with the rules of the PSE, to the same extent as if conducted on the facilities of the PSE in California.

2. By accepting this arrangement, the PSE, its members and their employees who are authorized to enter onto the Amex floor to carry out trading as above described, shall accept the same limitations on the liability of the Amex for use of its facilities for the conduct of business as they apply to any Amex member, member organization or employee thereof in the conduct of his or its business on the Amex.

3. PSE members authorized to make markets at the PSE Facility at the Amex shall not be authorized to trade in any Amex-listed securities, except that they shall be deemed, for so long as this rule shall be in effect, to be temporary members of the Amex solely for the purpose of trading on the Amex Floor, for their proprietary accounts only, the three options dually traded on both Amex and PSE (Mentor, Microsoft, and Micron). In exercising the privileges of such temporary membership, the PSE members shall comply in all respects with all provisions of the Amex Constitution and Rules applicable to Amex members engaged in such trading activity on the Amex Floor.

B. Chicago Board Options Exchange, Inc. ("CBOE")

(Brackets indicate language to be deleted, italics indicate new language.)

Rule 6.5 Limitations on Dealings. No change.

* * * Interpretations and Policies:

.01 No Change.

.02 During the period from October 19, 1989 until emergency conditions cease, Pacific Stock Exchange ("PSE") members who are qualified to trade options may bid, offer, purchase or write options contracts open for trading on the Exchange, only with respect to the following underlying securities:

(1) Genetech Inc.

(2) Itel Corporation.

(3) Micron Technology, Inc.

(4) Polaroid Corporation.

(5) Teledyne, Inc.

(6) Zerox Corporation.

.03 Exchange members who are nominees of member orgaizations of the CBOE and PSE shall be allowed to bid, offer, purchase or write option contracts on PSE options on the Exchange from October 19, 1989 until the emergency conditions cease.

Rule 6.7 Use of Facilities of Exchange. No change.

* * * Interpratations and Policies.

.01 and .02 No change.

.03 This rule will apply to Pacific Stock Exchange ("PSE") members and associated persons for the period commencing October 19, 1989, until the cessation of emergency conditions which require PSE members and associated persons to be present on the CBOE floor.

C. Pacific Stock Exchange, Inc. ("PSE")

The PSE requests emergency authorization to allow PSE options to be traded on other exchanges, for PSE market makers to trade on other exchanges, and floor brokers from these other exchanges to become deputized PSE members while in the PSE trading crowd.

D. Philadelphia Stock Exchange, Inc. ("PHLX")

Temporary Rule

1. The PHLX shall permit the PSE and its members to use a portion of the PHLX options trading floor (hereinafter, the Specialist Post "T" on the PHLX) to conduct the trading of such stock options as shall have been designated by the PSE by prior notice to the PHLX. The PHLX will provide appropriate support facilities to enable the PSE members to conduct such trading at the Specialist Post "T" on the PHLX. Such trading shall be conducted in accordance with the rules of the PSE, to the same extent as if conducted on the facilities of the PSE in California.

2. By accepting this arrangement, the PSE, its members and their employees who are authorized to enter onto the PHLX floor to carry out trading as above described, shall accept the same limitations on the liability of the PHLX for use of its member, member organization or employee thereof in the conduct of his or its business on the Exchange.

3. PSE members authorized to make markets at Specialist Post "T" on the PHLX shall not be authorized to trade in any PHLX-registered listed securities.

II. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filings with the Commission, the self-regulatory organizations included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below and is set forth in section (A), (B), and (C) below.

(A) Self-Regulatory Organizations' Statements of the Purpose of, and the Statutory Basis for, the Proposed Rule Changes

The Exchange note that as a result of the October 17, 1989 earthquake in San Francisco, the San Francisco trading facilities of the PSE have sustained a temporary loss of electrical power. As a consequence, the PSE is currently unable to open its San Francisco option facilities for trading. The Exchanges state that the proposed rule changes will act to facilitate and maintain transaction in PSE option issues, thereby maintaining the mechanism of a free and open market for PSE options and protecting the public interest.

Amex

The Amex is adopting a temporary rule to provide space on its floor and appropriate support facilities to enable the PSE and authorized members thereof to trade certain securities thereon, while the options facilities of the PSE in California remain unavailable due to the recent earthquake, and to deem certain PSE market makers temporary Amex members for such period solely to enable them to trade on the Amex, for their proprietary accounts only, certain dually traded options.

CBOE

Due to a natural disaster certain members of the PSE will be leasing space on the CBOE floor. In order to assure that CBOE will not be liable to such persons for the use of CBOE facilities, the CBOE requests that Rule 6.7 Interpretation .03 apply during the period for which PSE members are present on the CBOE floor.

The CBOE believes that New Interpretation .02 to Rule 6.5 is necessary to accommodate PSE members who regularly act as market makers and floor brokers in dually listed option classes to conduct such business on the CBOE floor at such stations where the named options are regularly traded by CBOE.

PSE

As a result of the earthquake which occurred in the San Francisco area on October 17, 1989, the San Francisco trading facilities of the PSE, along with much of the rest of the San Francisco area, has sustained a temporary loss of electrical power. As a consequence, the Exchange is currently unable to open its San Francisco option facilities for trading.

The PSE requests that, through October 20, 1989, PSE options to be traded on other Exchanges, PSE market makers to trade on other Exchanges without market makers from those other exchanges effecting transaction in PSE options, and to allow floor brokers from these other exchanges to become deputized PSE members while in that option series crowd. Because of the nature of these circumstances and the relief requested here it is also the request of the PSE that the PSE will not be held responsible for trade input while such transactions are effected through the facilities of these other exchanges. The PSE believes that the proposed rule change is necessary to maintain the necessary markets in these issues.

(B) Self-Regulatory Organization's Statements on Burden on Competition

The Exchanges do not beleive that the proposed rule changes will impose a burden on competition.

(C) Self-Regulatory Organizations' Statements on Comments on the Proposed Rule Changes Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6 and the rules and regulations thereunder. Specifically, the Commission believes that the arrangements worked out between the PSE and the other options exchanges to provide facilities for PSE market makers to trade PSE options on those other exchanges will ensure that these options continue to be freely traded despite the disruption to the options trading floor in San Francisco.[1] Floor brokers on the host exchanges will be deputized as PSE members for purposes of handling orders in PSE options, thereby providing adequate personnel for order handling purposes. The trade entry and match functions for PSE options will be performed by the host exchanges. The Commission is satisfied that these arrangements will enable continuous, liquid markets to be maintained for these options in an exchange environment while maintaining the usual investor protection safeguards for exchange-traded options.[2] This is especially important in light of the upcoming options expiration on October 20, 1989. Accordingly, the rule proposals are consistent with sections 6(b) (1), (2), (5), and (6) of the Act.

The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of notice thereof in order to ensure a continuous market for PSE options.

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[1] Market Maker firms who are member organizations of the PSE and a host exchange will be able to use the individual market makers they select to make markets in PSE options, even though those persons are not members of the PSE.

[2] In this regard, both the PSE and the temporary host exchanges will have the authority to surveil trading in PSE options on other exchanges and to take any disciplinary action necessary against their members for violations of their rules.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organizations. All submissions should refer to the file numbers in the caption above and should be submitted by November 15, 1989.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[3] that the proposed rule changes (SR-Amex-89-26; SR-CBOE-89-21; SR-Phlx-89-52; and SR-PSE-89-28) be, and hereby are, approved through October 20 or when the PSE options market is operational whichever is later.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Dated: October 19, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-25069 Filed 10-24-89; 8:45 am]

BILLING CODE 8010-01-M

[3] 15 U.S.C. 78s(b)(2) (1982).

[4] 17 CFR 200.30-3(a)(12) (1988).

[Rel. No. 34-27362; File No. SR-BSE-89-4]

Self-Regulatory Organization; Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Crosses, Fictitious Transactions and Transactions in Privileges

On July 10, 1989, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change (1) eliminating the requirement that all crosses be executed in the presence of a Floor Governor; (2) eliminating the specific intent requirement for fictitious transactions; and (3) abrogating an antiquated prohibition concerning offers to buy or sell privileges.

The proposed rule change was noticed in Securities Exchange Act Release No. 27113 (August 9, 1989), 54 FR 33991 (August 17, 1989). No comments were received on the proposal.

The proposed rule change would affect sections 18, 21, and 22 of chapter 11 of the Exchange's Rules of the Board of Governors. First, the BSE proposes elimination of the requirement in Section 19 that where a member has an order to buy and an order to sell the same security (a cross transaction), the transaction must be executed in the presence of a Floor Governor.[3] The BSE states that an increase in the level of activity occurring throughout the industry has led to an increase in the number of crosses executed on the Exchange Floor on a daily basis. The Exchange believes this increased activity will render the existing provision requiring a Governor to be present for all crosses impractical and that it would be disruptive to Governors to have to witness each of these trades. Moreover, the Exchange asserts that the extra time involved in having a Governor oversee each cross would discourage the execution of crosses on its Floor and would be disadvantageous to its customers.

Second, section 21 currently contains a specific intent requirements: *i.e.*, a transaction must be made for the purpose of creating a false or misleading appearance of active trading in a security or a false or misleading appearance with respect to the market for any security, in order to constitute a fictitious transaction. The Exchange seeks to delete certain language containing the specific intent requirement, thereby providing a broader prohibition against fictitious transactions.

Finally, the Exchange proposes abrogation of an antiquated prohibition against offers to buy or sell privileges contained in section 22.

The Commission finds the proposed rule changes consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) of the Act.[4] Specifically, the Commission finds the proposal consistent with the section 6(b)(5) requirement that the rules of an exchange promote just and equitable principles of trade and remove impediments to and perfect the mechanism of free and open market system. To these ends, the Commission believes that implementation of the BSE's proposal regarding sections 18, 21, and 22 of chapter 11 of its Rules would protect investors and further ensure against inequitable and unfair practices on the Exchange.

The Commission further believes that, in light of the increased volume of activity in the industry and the resultant increase in the number of crosses executed daily, section 18's requirement that all crosses be performed in the presence of a Floor Governor would be impractical.[5] Requiring a Governor to oversee each cross requires extra time and may serve to discourage execution of these trades. In addition, the Commission believes that elimination of the requirement of specific intent from the definition of a fictitious transaction would broaden the prohibition of these transactions and make it easier for the Exchange to prosecute such transactions. Finally, the Commission believes that elimination of the antiquated and obsolete provision at section 22 prohibiting certain offers to buy or sell privileges will remove confusing language from the BSE rules.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Dated: October 18, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-25133 Filed 10-24-89; 8:45 am]

BILLING CODE 8010-01-M

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] The BSE also proposes elimination of the right of other floor members to object to a cross under certain circumstances.

[4] 15 U.S.C. 78f (1982).

[5] Other regional exchanges also do not have this requirement. *See, e.g.*, Midwest Stock Exchange, Article XX, Rule 24.

[6] 15 U.S.C. 78s(b)(2) (1982).

[7] 17 CFR 200.30-3(a)(12) (1989).

[Rel. No. 34-27366; File No. SR-PHLX-89-39]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Tape Indications and Pre-Opening Procedures

On June 26, 1989, the Philadelphia Stock Exchange, Inc. ("Phlx" or

"Exchange") filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder [1], a proposed rule change that would provide procedures governing the commencement of trading on Phlx when an opening is arranged in an Intermarket Trading System ("ITS") stock ahead of another market center.[2]

The proposal would provide what is called a "three by three" requirement because it generally provides for two separate waiting periods, each consisting of a minimum of three minutes. First, the floor member seeking to open the stock before the primary market must initiate a tape indication specifying the stock to be opened, its previous night's close, and the price range in which it is anticipated to open. After a minimum of three minutes, an ITS pre-opening administrative message must be sent. The issue may be opened after another three-minute period has elapsed.

The only exception to these requirements is when a stock is to be opened within a specified range from the previous close (generally, ⅜ point for stocks trading above $15, and ¼ point stocks below $15), and ITS administrative message need not be sent and only the first three-minute waiting period must be observed.

The Commission has reviewed the proposed rule change and believes that it is consistent with the requirements of the Act and, in particular, with section 6(b)(5) in that it is designed to promote the mechanism of a free and open market and, in general, serves to protect investors and the public interst.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-PHLX-89-39) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: October 19, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-25134 Filed 10-24-89; 8:45 am]

BILLING CODE 8010-01-M

[1] 15 U.S.C. section 78s(b)(1) and 17 CFR 240.19b-4.

[2] The proposed rule change was noticed in Securities Exchange Act Release No. 27149, August 18, 1989, 54 FR 35423, August 25, 1989. No comments were received on this proposal.

[Rel. No. IC-17176; 811-4542]

Elk Ridge Fund, Inc.; Application for Deregistration

October 18, 1989.

Agency: Securities and Exchange Commission ("SEC").

Action: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Elk Ridge Fund, Inc. ("Applicant").

Relevant 1940 Act Section: Section 8(f).

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

Filing Dates: The application on Form N-8F was filed on July 26, 1989.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personnally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 13, 1989, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

Addresses: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 11 Greenway Plaza, Suite 1919 Houston, Texas 77046.

For Further Information Contact: Patricia Copeland, Legal Technician, (202) 272-3009, or Max Berueffy, Branch Chief, (202) 272-3016 (Office of Investment Company Regulation).

Supplementary Information: Following is a summary of the application; the complete application if available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations:

1. Applicant is an open-end diversified management investment company incorporated under the laws of the state of Maryland. On December 30, 1985, Applicant filed a Notification of Registration pursuant to section 8(a) of the 1940 Act on Form N-8A. On that same date, Applicant filed a registration statement on Form N-1A (33-2359) with respect to Applicant's common stock. According to records at the SEC, Applicant's registration statement was never declared effective and was ordered abandoned on October 13, 1987. However, Applicant has never made a public offering of its securities.

2. Applicant has no shareholders, assets or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not engaged nor does it propose to engage in any business activities other than those necessary to wind up its affairs.

For the Commission, by the Division of Investment, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-25135 Filed 10-24-89; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; Big O Tires, Inc., Common Stock, $0.02 Par Value (File No. 1-8633)

October 18, 1989.

Big O Tires, Inc. ("Company"), has filed an application with the Securities and Exchange Commission ("Commission") pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the Boston Stock Exchange ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

To reduce administrative costs by eliminating the cost of registering additional shares upon each stock issuance, and the Company currently is registered with the National Market System of NASDAQ and believes that the benefits derived therefrom are adequate and it is no longer necessary to have its securities registered with the Boston Stock Exchange.

Any interested person may, on or before November 8, 1989, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-25068 Filed 10-24-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/1319]

Overseas Security Advisory Council; Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on Wednesday, November 8, 1989 at 8:30 a.m. at the Department of State, Washington, D.C. Pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(4), it has been determined the meeting will be closed to the public. Matters relative to privileged commercial information will be discussed. The agenda calls for the discussion of private sector physical security policies, bomb threat statistics, and security programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Mrs. Marsha J. Thurman, Overseas Security Advisory Council, Department of State, Washington, D.C. 20522-1003, phone: 202/663-0002.

Date: October 12, 1989.

Clark Dittmer

Director of the Diplomatic Security Service

[FR Doc. 89-25131 Filed 10-24-89; 8:45 am]

BILLING CODE 4710-24-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD9-89-28]

Vessel Certificates and Exemptions Under the Inland Navigational Rules Act of 1980

AGENCY: Coast Guard, DOT.

ACTION: Notice of granting of certificate of alternative compliance of vessels.

SUMMARY: This notice lists a commercial vessel granted Certificate of Alternative Compliance by the Commander, Ninth Coast Guard District on 25 August 1989. This notice lists a vessel which, due to its special construction and purpose, can not comply fully with certain provisions of the Inland Navigational Rules Act of 1980 without interfering with the vessel's special functions. The intent of this notice is to advise the mariner of this vessel that has been granted a Certificate of Alternative Compliance.

FOR FURTHER INFORMATION CONTACT: Commander Robert D. Arnett, USCG Commander, Ninth Coast Guard District (mvs), 1240 East Ninth Street, Cleveland, OH 44199-2060; Telephone (216) 522-3907.

SUPPLEMENTARY INFORMATION: Under the provisions of subsection 1605(c) of Title 33 United States Code, the Coast Guard publishes, in the **Federal Register**, a listing of vessels granted Certificates of Alternative Compliance. Certificates of Alternative Compliance are based on a determination that a vessel can not comply fully with either the International or Inland Rules for light(s), shape(s), and/or sound signal provisions without interference with the vessel's special functions. The alternative that has been allowed results in the closest possible compliance with the existing rules. The Ninth Coast Guard District has on record one Certificate of Alternate Compliance which it granted on 25 August 1989.

This vessel is incapable of complying with the light provisions of the Inland Navigational Rules Act of 1980 and has been issued a Certificate of Alternate Compliance. The following vessel carries its forward masthead light more than one half of the length of the vessel from the stem:

Vessel	Official No.	Masthead light carried at designated horizontal distance (in feet) aft from the bow of the vessel
SOUTH BASS.	949048	64.0 ft.

Dated: October 11, 1989.

D.H. Ramsden,

Captain, U.S. Coast Guard, Acting Commander, Ninth Coast Guard District.

[FR Doc. 89-25075 Filed 10-24-89; 8:45 am]

BILLING CODE 491-014-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 89-91]

Accreditation of Consolidated Sciences Inc., as a Commercial Laboratory

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

ACTION: Notice of Accreditation of Consolidated Sciences, Inc., as a commercial laboratory.

SUMMARY: Consolidated Sciences, Inc., of Pasadena, Texas, recently applied to Customs under § 151.13 of the Customs Regulations (19 CFR 151.13) for accreditation to perform certain analyses on organic chemicals in bulk and in liquid form, and on petroleum and petroleum products. Customs has determined that Consolidated Sciences meets the requirements to perform those analyses on organic chemicals in bulk and liquid form and petroleum and petroleum products listed in the Customs Regulations, § 151.13(a)(2), but excluding the analysis for anti-knock index.

Therefore, in accordance with § 151.13(f) of the Customs Regulations, Consolidated Sciences, Inc., 809 Tatar Street, Pasadena, Texas 77506, is accredited to perform the analyses on the products named above in all Customs districts.

EFFECTIVE DATE: October 27, 1989.

FOR FURTHER INFORMATION CONTACT: Donald A. Cousins, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-2446).

Dated: October 19, 1989.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 89-25049 Filed 10-24-89; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-89-40]

Petition for Exemption; Summary and Disposition

AGENCY: Federal Aviation Administration (FA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or

omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: November 14, 1989.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on October 17, 1989.

Denise Donohue Hall,

Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 22996.

Petitioner: Amerada Hess Corporation.

Sections of the FAR Affected: 14 CFR 25.1321(b)(3).

Description of Relief Sought: To amend Exemption No. 3550 that permits type certification of an Intercontinental Dynamics Corporation vertical scale, vertical speed indicator between the altimeter and the attitude indicator on the pilot's (left) instrument panel only, on Gulfstream III (G1159A) airplanes. The amendment would make the exemption an indefinite exemption with no further time limitations.

Docket No.: 25966.

Petitioner: Greater Pittsburgh International Airport.

Regulations Affected: 14 CFR 107.14.

Description of Relief Sought: To allow a 1-year delay in installing an automated access system at the Greater Pittsburgh International Airport.

Docket No.: 23392.

Petitioner: Beaver Aviation.

Sections of the FAR Affected: 14 CFR 141.91(a).

Description of Relief Sought/Disposition: To extend Exemption No. 3682 that allows petitioner to conduct training at a satellite base in Venice, Florida. The satellite base is not a wholly-owned subsidiary and is more than 25 nautical miles from the main base of operations.

Grant, October 6, 1989, Exemption No. 3682D

Docket No.: 25788.

Petitioner: Source Air Corporation.

Sections of the FAR Affected: 14 CFR 135.169.

Description of Relief Sought/Disposition: To allow petitioner to operate certain Cessna Citation III aircraft to perform proving and demonstration flights and for compensation even though the aircraft do not meet the fire blocking requirements of § 25.853(c).

Denial, September 29, 1989, Exemption No. 5104

[FR Doc. 89-25087 Filed 10-24-89; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 166—User Requirements for Future Airport and Terminal Area Communication, Navigation, and Surveillance Systems; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given for the fifth meeting of RTCA Special Committee 166 on User Requirements for Future Airport and Terminal Area Communication, Navigation, and Surveillance Systems on November 15, 1989, in the RTCA Conference Room, One McPherson Square, 1425 K Street NW., Suite 500, Washington, DC 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) approval of minutes of the fourth meeting held on September 14-15, 1989, RTCA Paper No. XXX-89/SC166-XX (enclosed); (3) working group activities reports: (a) Operations Working Group and (b) Technology Working Group; (4) briefing on airport technology issues—progress to date; (5) report on action items from last meeting; (6) discussion on future committee work schedule; (7) other business; (8) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 17, 1989.

Geoffrey R. McIntyre,

Designated Officer.

[FR Doc. 89-25088 Filed 10-24-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

October 19, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0026.

Form Number: 926.

Type of Review: Extension.

Title: Return by a Transferor of Property to a Foreign Corporation, Foreign Estate or Trust, or Foreign Partnership.

Description: U.S. persons file Form 926 to report the transfer of property to a foreign entity. An excise tax is imposed unless the transfer is not taxable. The form is also used to report section 6038B information. IRS uses Form 926 to determine if the correct excise tax has been paid and if any of the exceptions to the imposition of tax are correctly applied.

Respondents: Individuals or households, Businesses or other for-profit.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Response/Recordkeeping:

Recordkeeping, 5 hours, 44 minutes.

Learning about the law or the form, 2 hours, 59 minutes.

Preparing, copying, assembling, and sending the form to IRS, 3 hours, 12 minutes.

Frequency of Response: On occasion.

Estimated Total Recordkeeping/Reporting Burden: 11,920 hours.

OMB Number: 1545–0200.
Form Number: 5307.
Type of Review: Revision.
Title: Application for Determination for Adopters of Master or Prototype, Regional Prototype or Volume Submitter Plans.
Description: This form is filed by employers of plan administrators who have adopted a master or prototype plan approved by the IRS National Office or a regional prototype plan approved by an IRS District Director to obtain a ruling that the plan adopted is qualified under Internal Revenue Code sections 401(a) and 501(a). It may not be used to request a letter for a multiple employer plan.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 39,000.
Estimated Burden Hours Per Response/Recordkeeping:
Recordkeeping, 4 hours, 21 minutes.
Learning about the law or the form, 15 hours, 53 minutes.
Preparing the form, 9 hours, 10 minutes.
Copying, assembling, and sending the form to IRS, 48 minutes.
Frequency of Response: On occasion.
Estimated Total Recordkeeping/Reporting Burden: 1,177,410 hours.
OMB Number: 1545–0212.
Form Number: 5558.
Type of Review: Revision.
Title: Application for Extension of Time to File Certain Employee Plan Returns.
Description: This form is used by employers to request an extension of time to file employee plan annual information returns and the employee plan excise tax return (Form 5330). The data supplied on this form is used to determine if such extension of time is warranted.
Respondents: Farms, Businesses or other for-profit.
Estimated Number of Respondents: 75,000.
Estimated Burden Hours Per Response: 36 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 44,525 hours.
OMB Number: 1545–0416.
Form Number: 5302.
Type of Review: Revision.
Title: Employee Census.
Description: This form is used in conjunction with Forms 5300 and 5307 when applying to IRS for a determination letter stating the pension or profit-sharing plan of the employer meets the requirements of section 401(a) of the Internal Revenue Code. The data submitted allows the IRS to determine that the plan does not discriminate in favor of the prohibited group.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 52,000.
Estimated Burden Hours Per Response/Recordkeeping:
Recordkeeping, 10 hours, 31 minutes.
Learning about the law or the form, 42 minutes.
Preparing and sending the form to IRS, 54 minutes.
Frequency of Response: On occasion.
Estimated Total Recordkeeping/Reporting Burden: 629,720 hours.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.

[FR Doc. 89–25073 Filed 10–24–89; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

[Department Circ.; Public Debt Series No. 29-89]

Treasury Notes of October 31, 1991, Series AF-1991

Washington, October 19, 1989.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Capter 31 of Title 31, United States Code, invites tenders for approximately $10,000,000,000 of United States securities, designated Treasury Notes of October 31, 1991, Series AF–1991 (CUSIP No. 912827 YC 0), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated October 31, 1989, and will accrue interest from that date, payable on a semiannual basis on April 30, 1990, and each subsequent 6 months on October 31 and April 30 through the date that the principal becomes payable. They will mature October 31, 1991, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the Treasury Direct Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, prior to 1:00 p.m., Eastern Daylight Saving time, Tuesday, October 24, 1989. Non-competitive tenders as defined below will be considered timely if postmarked no later than Monday, October 23, 1989, and received no later than Tuesday, October 31, 1989.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used.

Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are premitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders wil be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and the lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7 Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Tuesday, October 31, 1989. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, October 27, 1989. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public anouncement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Marcus W. Page,
Acting Fiscal Assistant Secretary.

[FR Doc. 89-25224 Filed 10-23-89; 11:16 am]
BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 205
Wednesday, October 25, 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).

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 54 FR 41563.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., Tuesday, October 24, 1989.

CHANGE IN THE MEETING: The Commission has postponed the closed meeting to discuss a rule enforcement review until 11:00 a.m., Tuesday, October 31, 1989.

CONTACT PERSON FOR MORE INFORMATION: Jean A Webb, Secretary of the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-25283 Filed 10-23-89; 2:59 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 54 FR 41563.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m., Tuesday, October 24, 1989.

CHANGE IN MEETING: The Commission has cancelled the closed meeting to discuss enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, Secretary of the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-25284 Filed 10-23-89; 8:45 am]

BILLING CODE 6351-01-M

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Monday, October 30, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed 1990 Private Sector Adjustment Factor for priced services.
2. Proposed annual report to Congress, under the Expedited Funds Availablity Act, regarding the processing of deposits at automated teller machines.

Discussion Agenda.

3. Proposed 1990 Fee Schedules for Federal Reserve priced services.
4. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: October 23, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

FR Doc. 89-25215 Filed 10-23-89; 10:03 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 10:30 a.m., Monday, October 30, 1989, following a recess at the conclusion of the open meeting.

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. Federal Reserve Bank and Branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. 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: October 23, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-25216 Filed 10-23-89; 8:45 am]

BILLING CODE 6210-01-M

INTERNATIONAL TRADE COMMISSION

[USITC SE-89-36]

TIME AND DATE: Monday, October 30, 1989 at 3:00 p.m.

PLACE: Room 101, 500 E Street, S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and Complaints.
5. Inv. No. 731-TA-439-445 (P) (Industrial Nitrocellulose from Brazil, Japan, People's Republic of China, Republic of Korea, United Kingdom, West Germany, and Yugoslavia)—briefing and vote.
6. Any time left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252-1000.

Kenneth R. Mason,

Secretary.

Dated: October 19, 1989.

[FR Doc. 89-25229 Filed 10-23-89; 8:45 am]

BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

[USITC SE-89-37]

TIME AND DATE: Wednesday, November 1, 1989 at 2:00 p.m.

PLACE: Room 101, 500 E Street, S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: .

1. Petitions and Complaints:
Certain Catalyst Components and Catalysts for the Polymerization of Olefins (D/N 1531)

2. Inv. No. 731-TA-446-447 (P) (Polychloroprene from France and the Federal Republic of Germany)—briefing and vote.

3. Inv. No. 731-TA-488-450 (P) (Sweaters Wholly or in Chief Weight of Man-Made Fibers from Hong Kong, The Republic of Korea, and Taiwan)—briefing and vote.

4. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252-1000.

Kenneth R. Mason,
Secretary.

Dated: October 19, 1989.

[FR Doc. 89-25230 Filed 10-23-89; 8:45 am]

BILLING CODE 7020-02-M

Corrections

Federal Register
Vol. 54, No. 205
Wednesday, October 25, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3652-9]

Approval and Promulgation of State Implementation Plans; North Dakota

Correction

In proposed rule document 89-23020 beginning on page 40133 in the issue of Friday, September 29, 1989, make the following corrections:

1. On page 40134, in the third column, under **Determination of Adequacy of SIP Revisions**, under *A.Regulation Revisions*, in the second line, insert "raised" between "comments" and "by", and replace "this" with "the".

2. On page 40135, in the second column, under "4. Chapter 33-15-07—Control of Organic Compounds", in the third line, remove "not".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3656-1]

Proposed General Demonstration NPDES Permit for Oil and Gas Operations in Portions of the Gulf of Mexico; Fact Sheet

Correction

In notice document 89-23722 beginning on page 42335 in the issue of Monday, October 16, 1989, make the following correction:On page 42335, in the second column, under **Public Comments**, in the sixth line, after "permit", insert a period and the following words: "The Region is not seeking comment on the provisions of permit".

BILLING CODE 1505-01-D

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 312

RIN 3064-AA99

Assessment of Fees Upon Entrance to or Exit From the Bank Insurance Fund or the Savings Association Insurance Fund

Correction

In rule document 89-23118 beginning on page 40377 in the issue of Monday, October 2, 1989, make the following corrections:

1. On page 40377, in the third column, under **Background and Discussion**, in the 13th line, insert "to" between "pay" and "the".

§ 312.1 [Corrected]

2. On page 40380, in the third column, in the seventh line, "1121" should read "1821".

3. On the same page and in the same column, in § 312.1(c), in the third line, "is" should read "in".

§ 312.4 [Corrected]

4. On the same page and in the same column, the section number for **Entrance fees assessed in connection with conversion transactions** should read as set forth above.

BILLING CODE 1505-01-D

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101-44 and 101-45

[FPMR Amendment H-173]

Utilization and Disposal of Personal Property

Correction

In rule document 89-21983 beginning on page 38676 in the issue of Wednesday, September 20, 1989, make the following corrections:

1. On page 38676, in the first column, under **SUMMARY:**, in the 21st line, "$30,000,000" should read "$3,000,000".

2. On the same page, in the second column, in amendatory instruction 1., beginning in the first line, "100-44" should read "101-44".

BILLING CODE 1505-01-D

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 302-6 and 302-12

[FTR Amendment 2]

Federal Travel Regulation

Correction

In rule document 89-21479 beginning on page 37811 in the issue of Wednesday, September 13, 1989, make the following corrections:

§ 302-6.1 [Corrected]

1. On page 37812, in the first column, in § 302-6.1(g)(2), in the 15th line, "station" should read "stations".

2. On the same page, in the second column, in § 302-6.1(g)(5), in the third line, "§ 302.1.5" should read "§ 302-1.5".

§ 302-12.4 [Corrected]

3. On the same page, in the same column, in § 302-12.4(b)(3), in the fifth line, "§ 302.6.1(g)" should read "§ 302-6.1(g)".

BILLING CODE 1505-01-D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Community Planning and Development

[Docket No. N-89-2070]

Submission of Proposed Information Collection to OMB

Correction

In notice document 89-24891 beginning on page 43140 in the issue of Friday, October 20, 1989, make the following correction:

On page 43141, in the first column, the first line should read "*Estimated Burden Hours*:939.25."

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Realty Action; Exchange of Public Lands in Lassen, Modoc, and Siskiyou Counties, CA

Correction

In notice document 89-22907 beginning on page 39816 in the issue of Thursday,

September 28, 1989, make the following corrections:

1. On page 39816, in the third column, under **Mount Diablo Meridian, California**, the description for **T.41 N., R.13 E.**, should read "Sec. 28: E½SW¼, W½SE¼."

2. On page 39817, in the first column, in the fifth line, "for" should read "far".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8259]

RIN 1545-AM99

Real Estate Mortgage Investment Conduits; Reporting Requirements and Other Administrative Matters

Correction

In rule document 89-20916 beginning on page 37098 in the issue of Thursday, September 7, 1989, make the following correction:

§ 1.860F-4T [Corrected]

On page 37102, in the first column, in § 1.860F-4T(b)(2) introductory text, in the third line, "section 601(a)" should read "section 6011(a)".

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

FEDERAL DEPOSIT INSURANCE CORPORATION

[OTS No. 89-239]

Allocation of Regulations and Orders Pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989

Correction

In notice document 89-23864 beginning on page 41359 in the issue of Friday, October 6, 1989, make the following corrections:

1. On page 41359, in the second column, the document heading should read as set forth above.

2. On page 41360, in the second column, in the fifth line, "or" should read "of".

3. On the same page, in the table, in the first column, in the third entry, "594" should read "549".

4. On page 41361, in the 12th line, "resolution" should read "Resolution."

5. On the same page and in the same column, in the 14th line, "order" should read "orders".

6. On the same page and in the same column, the line above the first signature should read "Office of Thrift Supervision".

BILLING CODE 1505-01-D

federal register

Wednesday
October 25, 1989

Part II

Department of Justice

Office of Justice Programs

Report to the Attorney General on Systems for Identifying Felons Who Attempt to Purchase Firearms; Notice

DEPARTMENT OF JUSTICE

Office of Justice Programs

Report to the Attorney General on Systems for Identifying Felons Who Attempt to Purchase Firearms

ACTION: Notice.

SUMMARY: The Office of Justice programs is publishing a Report to the Attorney General on Systems for Identifying Felons Who Attempt to Purchase Firearms. This report was prepared by the interagency Task Force on Felon Identification in Firearm Sales. A draft report requesting public comment was published earlier by the Task Force at 54 FR 26902 (June 26, 1989). The following report does not necessarily represent the views of the Attorney General or the Department of Justice.

The Anti-Drug Abuse Act of 1988 (Pub. L. 100–690, section 6213, 102 Stat. 4360) directs the Attorney General to develop a system for immediate and accurate identification of felons who attempt to purchase one or more firearms but are ineligible to purchase firearms by reason of section 922(g)(1) of title 18, United States Code. The Attorney General is directed to begin implementation of the system 30 days after a report to the Congress which is due no later than Nov. 18, 1989. For further details, including requirements of the Attorney General by the legislation, see Public Law 100–690, section 6213, 102 Stat 4360.

The following report of the Task Force is advisory to the Attorney General and does not constitute the report to the Congress from the Attorney General, statutorily mandated to be submitted no later than November 18, 1989.

FOR FURTHER INFORMATION CONTACT: Walter W. Barbee, Esq., Room 1268F, 633 Indiana Avenue NW., Washington, DC 20531. Phone (202) 724–6235.

REPORT TO THE ATTORNEY GENERAL ON SYSTEMS FOR IDENTIFYING FELONS WHO ATTEMPT TO PURCHASE FIREARMS

October 1989

Task Force on Felon Identification in Firearm Sales

Assistant Attorney General
Office of Justice Programs
Chairman
Bureau of Alcohol, Tobacco and Firearms
Bureau of Justice Assistance
Bureau of Justice Statistics
Federal Bureau of Investigation
Immigration and Naturalization Service
National Institute of Justice
U.S. Marshals Service

Foreword

The Attorney General is required under section 6213 of the Anti-Drug Abuse Act of 1988 to report to Congress by 18 November 1989 on a system for the immediate and accurate identification of felons who attempt to purchase firearms. Pursuant to this mandate, the Attorney General requested that the Assistant Attorney General for the Office of Justice Programs (OJP) establish a Task Force on Felon Identification in Firearm Sales to develop a range of options that would comport with the statute.

After preliminary research by components of the Departments of Justice and Treasury, the Task Force held its first meeting on 14 March. I cannot overstate my appreciation for the superlative efforts of all of the Task Force representatives, especially the staff of OJP's Bureau of Justice Statistics (BJS), which coordinated production of this Report. Under the direction of Dr. Joseph M. Bessette, BJS staff invested considerable talent and expertise, and many evenings and weekends, to produce this document.

The goal of the Task Force was to identify the entire range of issues that ought to be considered before implementing a felon identification system. The Task Force published its draft report on 26 June 1989 in the **Federal Register** for a thirty-day public comment period. We were pleased to receive more than one hundred comments from members of Congress, State and local officials, public interest groups, and private citizens. A broad range of views was presented. One law enforcement group, the Police Executive Research Forum, conducted a survey of its members on the options. The comments not only assisted the Task Force in improving the draft report, but will also be of great value to decisionmakers in assessing the strengths and weaknesses of the various options presented. The Task Force was most gratified by the general consensus among commenters that the draft report presented a thorough and objective review of a most complex subject.

President Bush has said that loopholes that "allow deadly weapons to fall into deadly hands" must be closed. The biggest obstacle to achieving this goal is that so many of the guns used in the commission of crimes are obtained on the streets and not through licensed dealers. To deal with the problem of guns used in the commission of crimes, the President has proposed a comprehensive approach, including enhanced penalties for criminals using firearms. The President has also recognized that one barrier to an immediate and accurate felon identification system is incompleteness in criminal history reporting. The President has called upon the Federal, State, and local governments to provide timely and accurate reporting of arrest and disposition records. Such a reform would have a wide range of beneficial criminal justice applications.

Several commentators on the draft report recognized that improved criminal history records are essential to a viable felon identification system. The National Organization of Black Law Enforcement Executives noted that "the incompleteness of criminal history records is a critical hindrance." The Citizens Committee for the Right to Keep and Bear Arms commented that "the greatest * * * value of this report is the bright light it sheds on the primitive state of the criminal history reporting in the United States."

In section 6213 of the Anti-Drug Abuse Act, known as the "McCollum Amendment," Congress has recognized the need to develop improved mechanisms to enforce current laws that prohibit felons from obtaining firearms. The goal of immediately identifying felons in the gun shop will be increasingly feasible as the advance of technology continues at its remarkable pace. Developments in computerized criminal history information systems and improvements in Automated Fingerprint Identification Systems (AFIS) have been impressive. It is not the existence of the technology, but rather its costs, the need for trained personnel, and the incompleteness of criminal history records that present the greatest impediments to implementing such systems.

Representative Bill McCollum, a primary author of section 6213, concluded after reading the Task Force report: "Fingerprint identification by gun dealers is a goal we can achieve * * * [W]e are capable of having an immediate and accurate identification system without interfering with the activities of those Americans who are eligible to purchase firearms."

In this Report the Task Force does not make recommendations or reach conclusions. We are keenly aware of the significant concerns about protecting the privacy interests of all citizens, as well as enhancing the ability of law enforcement authorities to protect society from the criminal element. In addition, we recognize that those who select among the options must be mindful of preserving what Attorney General Dick Thornburgh has called the

"historic and honorable firearms tradition in this country."

Although the report focuses on the practical impediments to felon identification, it is in no way intended to minimize the significant legal issues that must be vigorously considered before adoption of any system would be warranted. The Task Force is indebted to several commenters, including the American Civil Liberties Union (ACLU), the Lincoln Legal Foundation, and the National Rifle Association (NRA) for their legal analyses. First, Second, Fourth, and Fifth Amendment and other constitutional and statutory concerns have been elucidated in the comments received. Several other organizations and individuals expressed particular concern about establishment of any list of firearm owners and the dissemination of arrest information to non-law enforcement personnel.

The options contained in this Report fall into two basic categories: those where identification of felons is made at the point of sale versus those involving a preapproval procedure. In both cases, verification of identification would be made in the gun shop. In neither case would a waiting period be required for each purchase of a firearm. We recognize the several thoughtful comments that the Report was either under- or over-inclusive. The Task Force believes, however, that it has taken a broad approach that is consistent with section 6213 and that provides an appropriately wide array of options for policymakers to consider.

Reliability would be enhanced with prior approval if fingerprint checks are conducted requiring 4–6 weeks. The basic prior approval system, however, is considerably more expensive than the basic point-of-sale system—perhaps two or three times as costly—and raises other significant policy issues as well. It is clear to the Task Force, however, that considerably shorter waiting periods (7 days has been commonly suggested) do not significantly enhance reliability over the point-of-sale systems described herein.

The Report contains options that range from lower-cost systems that minimize the burden placed on firearm purchasers to extremely costly systems that rely upon technology just now becoming available and that raise issues of the type involved in a national identification system. The most elaborate options presented in this report may cost up to $10 billion or more. But less exotic schemes, albeit less than perfect alternatives, are also presented for consideration. They could be implemented in the near term at substantially less cost.

In assessing this Report, it is important to note that there would be shortcomings in any felon identification system. One major effect of a felon identification system may be to discourage felons from direct purchase and to encourage their use of alternative means to obtain prohibited weapons. In a 1986 study for the Department of Justice, it was determined that about five-sixths (84%) of convicted offenders in State prisons who admitted to ownership of firearms claimed to have acquired their weapons from sources other than a retail outlet. Through the use of "straw men" who lack a criminal record, and therefore may be eligible to purchase firearms, some felons may be able to obtain the tools of their deadly trade. In addition, there is an active "black market" in firearms.

Although many of the options may be subject to intense public policy debate, the Task Force has attempted to remain assiduously neutral in preparing a complete and fair description of various alternatives. Each option presented is meant to be flexible and adaptable to numerous modifications. If this objective has been achieved, then the Report can serve as a skeleton onto which decisionmakers may add the details necessary to produce a viable felon identification system. Such a system must preserve legitimate rights to privacy and firearms ownership, while at the same time enhancing the ability of law enforcement to carry out its responsibility to maintain the domestic peace.

Richard B. Abell,

(Task Force Chairman), Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice.

Acknowledgments

The following individuals served as Task Force members for their agencies: Richard B. Abell, Joseph M. Bessette, Joseph P. Briggs, Edward D. Conroy, Jack D. Kravitz, John B. Pickett, Charles P. Smith, Clifford J. White, and Lawrence York.

The Task Force gratefully acknowledges the following staff for their vital contribution to its deliberations and to the preparation of this report: Bureau of Justice Statistics—S.S. Ashton, Jr., Allen Beck, Lawrence Greenfeld, John Jones, Carol Kaplan, Norma Mancini, Brian Reaves, Benjamin Renshaw, and Bernard Shipley; Bureau of Alcohol, Tobacco and Firearms—Richard Cook and Charles R. Demski; Federal Bureau of Investigation—William H. Garvie, Walter F. Johanningsmeier, James Hoffman, and David T. Mitchell.

The Task Force would also like to thank the members of the "working group" established by the Department of Justice Research and Development Review Board and chaired by the Bureau of Alcohol, Tobacco and Firearms for their preliminary study of this issue prior to the establishment of the Task Force.

The Task Force expresses appreciation to the numerous State and local officials who provided information on current State practices regarding firearm sales in their States, especially William C. Corley, North Carolina; Paul E. Leuba, Maryland; and Lt. R.L. Vass, Virginia. Appreciation is also extended to Robert Belair and Robert Marx of SEARCH Group, Inc. and Thomas Orsagh of Fisher-Orsagh Associates, Inc. for their studies which provided technical and policy-relevant information critical to the work of the Task Force.

Finally, the Task Force would like to express appreciation for the assistance provided by the publications unit of the Bureau of Justice Statistics—Marilyn Marbrook, Yvonne Boston, Marianne Zawitz, and Jeanne Harris—and the following additional personnel of the Office of Justice Programs for their work in reviewing the comments on the draft report and preparing the Appendix to the final report: Walter W. Barbee, Randall Davis, Karen L. Wilson, Bulbul Howard, Tamara Bagley, Eric Wiener, and Sharon Coffee.

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Part I. Introduction and Summary of Findings

The Anti-Drug Abuse Act of 1988 (section 6213(a) of Public Law 100–690, November 18, 1988) requires the Attorney General, in consultation with the Secretary of the Treasury and other Federal, State, and local law enforcement officials, to "develop a system for immediate and accurate identification of felons who attempt to purchase one or more firearms but are ineligible to purchase firearms by reason of section 922(g)(1) of title 18, United States Code." The Attorney General is further required to make a report to Congress describing such a system no later than 1 year after passage of the Act (November 18, 1989) and to begin implementation of the system 30 days later (December 18, 1989). Finally, the Attorney General is required to conduct a study to determine whether an effective method can be designed to identify other persons prohibited by Federal law from purchasing firearms (Section 6213(c)). Such persons include: fugitives from justice, those who use or are addicted to illegal drugs, those who have been adjudicated as mentally defective or have been committed to any mental institution, illegal aliens, those dishonorably discharged from the Armed Forces, and those who have renounced their American citizenship. This second study must be submitted to Congress by May 18, 1990.

This report represents the completion of the first phase of the task to design a system for identifying felons who attempt to purchase firearms. Its purpose is to describe a variety of possible options for such a system. It details the essential elements of each option; cost estimates; the impact of the system on firearm dealers and on local, State, and Federal law enforcement agencies; the strengths and weaknesses of each option; and associated legal and policy issues. The options are organized into two basic types: those that involve some kind of immediate verification at the gun shop of the prospective purchaser's eligibility, and those that document an individual's eligibility to purchase firearms for some specified period of time, such as three years. Although the latter type requires a "waiting period" for the initial background check, it allows for immediate verification that the purchaser is not a convicted felon at the time of subsequent gun purchases. Within each of these categories the options are arrayed from the lower-cost alternatives to higher-technology, more expensive options.

This report does not address the issue of identifying other persons, besides felons, who are ineligible under Federal law from purchasing firearms. The Task Force decided that this parallel activity ought to be initiated by a private contractor with expertise in criminal justice and information systems. In July of this year the Bureau of Justice Statistics contracted with Enforth Corporation of Cambridge, Massachusetts, to carry out this work.

Scope of the Problem

The Bureau of Alcohol, Tobacco and Firearms (BATF) of the Department of the Treasury estimates that approximately 7.5 million new and used firearms are sold at the retail level each year in the United States through 270,000 Federally licensed firearm dealers. Currently, those who purchase firearms are required to fill out BATF form 4473 at the dealership attesting that they do not fit into any of the categories of persons ineligible to purchase firearms. These forms include identifying information for the purchaser as well as the type and serial number of any firearms purchased. The forms are kept by the dealer and are subject to inspection later by BATF officials. They may be examined, for example, to try to track down the purchaser of a firearm left at the scene of a crime.

At this time there is no Federal requirement for any checking of the eligibility of the purchaser, either before or after the purchase. The dealer relies primarily on the purchaser's signature attesting to his eligibility. False statements by the purchaser on the BATF form are a Federal felony punishable by a prison term of up to 5 years.

Although the Federal government does not require a criminal history or any other kind of check of firearm purchasers, the States are free to impose their own requirements. Currently, 20 States and the District of Columbia (covering 55% of the Nation's population) stipulate that a pre-purchase criminal history check be made of anyone who wishes to buy a handgun. Four of these States and D.C. include the purchase of long guns in this requirement. These checks are done during a waiting period that ranges from 2 days to 6 months. Two States without waiting periods do a criminal history check only after the purchase is made. Twenty-eight States currently require no criminal history check for firearm purchases.

Any system for identifying felons who attempt to purchase firearms must confront two distinct issues of scope. One is the large number of firearm sales in this country. The estimated annual total of 7.5 million retail sales is equivalent to a daily average of more than 20,000 sales, assuming a 7-day business week. Since many stores are likely to be closed on Sundays and to be busier on Saturdays than midweek, it is likely that on peak days as many as 30,000 or more firearms are sold. During hunting season peak-day sales may reach 50,000 firearms. Any new system for identifying felons must be capable of handling this heavy volume. Second, such a system must involve either the participation or cooperation (depending on the system) of 270,000 licensed firearms dealers. Although precise figures do not exist, it is estimated by the BATF that 60–70% of these dealers are not gun stores as such, but rather individuals who collect and deal in guns on a small scale (hobbyists, collectors, etc.). These small-scale dealers account for an estimated 20–25% of all firearm sales. Any system that placed special demands on gun dealers in terms of capital expenditures, training, or

personnel resources would pose a particular problem for these small-scale operations. Other problems may arise in attempting to identify felons who purchase firearms during gun shows or in other ways outside of normal retail outlets.

Key Elements of a Felon Identification System

There are three key elements of the felon identification system mandated in section 6213 of the Anti-Drug Abuse Act of 1988: (1) the definition of felon, (2) the meaning of "immediate," and (3) the level of accuracy required.

Definition of Felon

Section 6213(a) relies on the definition of felon previously specified in the Gun Control Act of 1968 (with subsequent amendments). This definition includes those convicted of a "crime punishable by imprisonment for a term exceeding one year," but excludes (1) certain specified Federal or State offenses relating to the regulation of business practices and (2) any offense classified by the State as a misdemeanor and punishable by a term of imprisonment not exceeding 2 years. Also excluded are those whose conviction has been expunged or set aside and those who have been pardoned or who had their civil rights restored.

This definition presents certain problems for any system that would access automated criminal history records as part of a clearance process:

First, automated conviction records do not show how long a person could have been sentenced. Approximately one-third of those convicted of felonies in State courts receive no incarceration sentence. Another fifth receive a sentence to a local jail, usually for less than 1 year. In these cases the automated conviction and sentencing records often will not show whether the conviction could have resulted in a sentence of more than 1 year and therefore whether the offense met the Federal definition of a felony.

Second, the offense identifiers contained in automated conviction records may not precisely show whether the offense is one of the business related crimes exempted from the Gun Control Act.

Third, automated criminal history records may not accurately show whether a conviction offense is a misdemeanor punishable by no more than 2 years of incarceration, also exempted from the Gun Control Act.

Finally, automated criminal history records often do not show whether a conviction has been set aside or led to an eventual pardon or the restoration of civil rights.

Immediate

The Anti-Drug Abuse Act does not define "immediate" with relation to the mandated felon identification system. In the absence of such a definition the Task Force has considered options that would meet the immediacy test in two distinct ways. One is a system that would involve on-site inquiries by gun dealers (by telephone, for example) to determine eligibility at the time of purchase with response times of one to several minutes. The other is a system involving a preapproval mechanism whereby a prospective gun purchaser would apply for documentation (such as a license, permit, or identification card) authorizing him to purchase firearms and then use that documentation each time he makes a purchase. In such a system the application process would take approximately 4-6 weeks. Once the documentation was issued, however, the purchaser could buy a firearm without additional delay at the time of sale.

Accurate

Although the Anti-Drug Abuse Act mandates the "accurate identification of felons," it does not specify the level of accuracy that would be acceptable. Accurately determining who is a convicted felon involves two issues. First is the identification of the person attempting to purchase a firearm. Although standard identification documents such as driver's licenses and credit cards are regularly used in commercial and banking transactions, these are not definitive evidence of the identity of the bearer. Such documents may be altered or counterfeited or may be originally obtained with false information. Because identification documents cannot absolutely prove identity, "biometric" information (physical evidence such as fingerprints, retinal scans, DNA, etc.) is often used to establish positive identity for various purposes. New technologies, such as automated fingerprint identification systems (AFIS), have dramatically increased the speed and efficiency of using biometric information to establish identity. This report explores the possibility of using biometric information and biometric technologies to identify accurately convicted felons who attempt to purchase firearms.

The second issue regarding the accurate identification of convicted felons is the quality of the criminal history data bases that would have to be accessed to verify that a firearm purchaser was not a felon. A perfectly accurate criminal history data base would be up-to-date (new arrests, convictions, etc., would be entered promptly), complete (all official transactions would be entered), and devoid of any inaccurate data that might, for example, show a conviction in a case that resulted in acquittal or dismissal. The issue of accuracy and completeness of criminal history data bases is addressed in greater detail below.

The Quality of Felony Conviction Data

As discussed above, the congressional mandate to establish a felon identification system for firearm sales requires identifying those who have been convicted of a Federal or State offense punishable by imprisonment for more than 1 year (with certain exceptions). How accurate and complete are conviction records? To answer this question requires an examination of where and how criminal history records are maintained.

Criminal history data are maintained in either manual or automated form at three different levels of government: (1) Operational law enforcement or criminal justice agencies such as police, prosecutors, and courts; (2) centralized State criminal history repositories (often run by the State police); and (3) the Federal Bureau of Investigation (FBI).

Within the States the criminal history repositories are responsible for maintaining complete and accurate information of official criminal justice transactions. Such transactions include arrests for serious crimes, decisions not to prosecute, court dismissals, convictions and acquittals, admissions to and releases from local jails and State prisons, and entries to and exits from probation and parole. A 1984 survey of State criminal history repositories conducted for the Bureau of Justice Statistics revealed that more than 35 million criminal history records were maintained in the States (*State Criminal Records Repositories*, Technical Report, Bureau of Justice Statistics, October 1985). In 11 States the records were not automated, and in most of the others automation was only partial. Half the States reported that they had a fully automated *name index* to their criminal history records, even when the records themselves were manual. Only seven States reported that they did not have at least a partially automated name index. A telephone survey of 20 States conducted for the Task Force in April of this year showed that only 3 of the 20 States had fully automated criminal history records, and half the States had less than 65% of their records automated (*A Survey of Twenty State Criminal*

History Repositories, Fisher-Orsagh Associates, June 1989). On the other hand, 14 of the 20 States had fully automated name indexes to their criminal history records.

Currently, two telecommunications networks link law enforcement agencies to State repositories: the National Law Enforcement Telecommunications System (NLETS) and the network supported by the National Crime Information Center (NCIC). The NCIC network links law enforcement agencies with the Interstate Identification Index (III) maintained by the FBI. Law enforcement agencies use computer terminals to inquire whether a criminal history record exists for a named individual. If such a record exists in the repository of 1 or more of the 20 States that participate fully in the III system, the inquirer is notified and can request the criminal history record through NCIC. In addition to pointing to State data for the 20 fully participating States, the NCIC system makes directly available any other criminal history information from the FBI's own automated records maintained in its Identification Division. These records include information from the other 30 States as well as Federal criminal justice transactions.

The FBI's Identification Division is responsible for conducting fingerprint checks on individuals processed through the criminal justice system and on those who must pass a criminal history check for specified jobs or positions (such as Federal Government employees, child care workers in some States, etc.). These fingerprint-based criminal justice transactions form the basis for substantial criminal history information. This information is maintained in three basic categories at the FBI. The largest is the group of automated criminal history records for 12.5 million persons arrested for a fingerprintable offense (a felony or serious misdemeanor) for the first time on or after July 1, 1974. Next largest is the group of manual records for 8.8 million persons born in or after 1929 and arrested for a fingerprintable offense for the first time before July 1, 1974. The smallest is the group of manual records for 3.6 million persons born before 1929 and arrested for a fingerprintable offense for the first time before July 1, 1974. The FBI maintains an automated name index both to the 12.5 million automated files and to the 8.8 million manual files of those born in or after 1929. There is no automated name index for the final group. Currently, the automated name index and the automated files for the 12.5 million persons arrested for the first time on or after July 1, 1974, are linked to the NCIC system. Thus, those who make inquiries through NCIC will access these automated records but not any of the manual records maintained by the Identification Division.

Given these data systems, the law enforcement official who wants immediate access to felony conviction data has two basic options: to access directly the automated records maintained by his own or another State or to access interstate and Federal records through the NCIC system. He may, of course, do both. The problem, however, is that the conviction records accessed through these computerized methods are not complete.

These conviction records are incomplete for two distinct reasons. First, as noted above, many records at both the State and Federal levels are not automated. Among States recently surveyed, an average of about one-third of criminal history records were not automated; at the FBI the proportion is about one-half. (It should be noted, however, that the automation of the records of young, active offenders is much more extensive than the records of older, less active offenders.) Second, and equally important, convictions, as well as other final dispositions, are often not reported to the State central repository or to the FBI even when an automated record exists of the individual's arrest. The FBI, for example, estimates that approximately one-half of the arrest charges in their records do not show a final disposition. Data from the 1984 survey of State repositories cited above show that about 34% fewer final dispositions than arrests were reported to the repositories in 1983. (Ideally each arrest should eventually be matched by a final disposition.) In several States the proportion of underreporting was as high as 70–80%. Moreover, the April 1989 survey of 20 States revealed that 8 of the 17 States able to supply a figure estimated that at least 20% of convictions within the State were not reported to the repository.

Based on the combination of partial automation of criminal history records and underreporting of convictions, it is reasonable to estimate that nationwide the records of approximately 40–60% or more of felony convictions are not currently available in automated form and thus not immediately accessible by law enforcement authorities. Such a high level of undercoverage renders impracticable a felon identification system that relies principally on immediate access to automated conviction records. It should be pointed out, however, that because many felons have more than one felony conviction, there are likely to be automated conviction records covering more than 40–60% of felons.

This problem of undercoverage, however, can be significantly mitigated if the manual records maintained by the State repositories and the FBI are accessed. There are two ways to access these manual records. One is to use the automated name index to the manual records, if one exists, to identify a record and then manually retrieve and examine it. The other, more common, method is to do a fingerprint search based on a full 10-print fingerprint card. If a fingerprint match is found, then the manual file can be retrieved and examined. This method is by far the more reliable since it establishes a positive identification. Because both of these methods require direct human intervention at some stage, they are not as immediate as a computer-based search of automated files. For example, the FBI currently requires 14 business days to process a fingerprint card, and, depending on the location of the requesting agency, an additional 4–10 days may be required for mail handling. (For the sake of simplicity the rest of the report assumes an average of 7 days for mail handling.) A new automation system at the FBI holds the promise of reducing fingerprint processing time to somewhere between 2 and 10 business days, depending on a proposed expansion of computer resources.

While accessing manual records reduces the undercoverage that exists in a search of only automated files, it does not eliminate the problem. As indicated above, a significant proportion of final dispositions are not reported to the State repositories or to the FBI for inclusion in either automated or manual records. In these cases the law enforcement official may be able to get the missing disposition information directly from the court or prosecutor's office for the jurisdiction where an arrest took place, but not through an on-line computer-based search.

Impediments to Creating a Perfect System

A perfect system for immediately and accurately identifying convicted felons who attempt to purchase firearms would have three key elements: (1) A complete and accurate automated data base showing every conviction for a State or Federal offense punishable by more than 1 year in prison and clearly showing the specified exceptions (such as business related offenses, misdemeanors punishable by 2 years or less in prison, convictions set aside or

pardoned, and cases where civil rights were restored); (2) a means for positively verifying the identity of a prospective purchaser at the time of the sale of the firearm; and (3) a mechanism for immediately linking identifying information about the purchaser with the information in the data base.

Such a perfect system may eventually be implemented. However, it is not feasible or practical at this time. There are several reasons for this conclusion.

First, as the above discussion has shown, automated conviction records are too incomplete to rely on to identify convicted felons. Moreover, even when conviction information is available it will not necessarily show whether that offense meets the Federal definition of a felony or whether the conviction was subsequently set aside or the offender had his civil rights restored.

Second, positive verification of identity at the time of the gun sale would necessarily require the collection of biometric information by the gun dealer. Based on the Task Force's review of state-of-the-art identification technology and its survey of the capabilities of the State repositories, it appears that the only feasible way to do this is with a 10-finger live scan that digitizes the prints and then transmits the digital representation over telephone lines to repositories capable of receiving this information and automatically searching their data bases for a match. Machines capable of collecting and digitizing a full set of prints currently cost approximately $35,000–100,000 each. This is prohibitively expensive to require of all gun dealers. If purchased by the government for use by 270,000 gun dealers, current prices would require an investment of approximately $9–27 billion. If restricted to the estimated 35% of federal firearm licensees who are actual commercial dealers, the cost would be approximately $3–9 billion. No doubt, mass production would reduce the cost; nonetheless, the sophisticated optics and computer hardware used in these machines would limit the cost reductions. In addition, it takes a substantial amount of training to operate one of these machines, thus raising questions about the logistics of training 270,000 firearm licensees, or even the estimated 95,000 commercial dealers. Moreover, because it takes about 6 minutes to get each set of 10 prints, gun dealers that average 10 sales an hour would have such a machine running constantly and would require an additional full-time trained employee just to operate it. This would further raise the cost to the dealer.

(Note that machines that take and digitize a single print for communication to an external data base are much less expensive—approximately $3,000–6,000—but these are not suitable for matching a single individual to a data base of millions of offenders. Such single-print searches are extremely computer-intensive, often requiring hours to complete, and are unreliable for proving identity in a search of a massive data base. Currently, such single-print searches are used as an investigative tool in serious crimes to produce a list of possible identities or are used for security purposes to compare one individual's prints against those already on file.)

Finally, even if sophisticated AFIS technology were made available to gun dealers, it would be necessary to convert and/or upgrade the technology in most of the State repositories and the FBI so that digitized fingerprint information could be received and compared to fingerprint-based data bases. This would be a massive and expensive operation.

Practical Alternatives

What, then, are the practical alternatives for establishing a reasonably effective system for identifying convicted felons who attempt to purchase firearms? The Task Force has identified two different kinds of systems that would meet the Congressional mandate and allow for the beginning of implementation by December of 1989. Both types of systems would rely on currently available identification techniques and technologies but would be open to improvements in identification documents and methods, including those involving biometric information. The two basic options are identified here as Option A and Option B. The body of the report includes a sample of possible modifications of these two basic options.

Option A: Point-of-Sale Approval Through a Telephone Check

Option A provides for on-site, immediate access to automated name indexes maintained by State repositories and the FBI through telephone calls to the repository of the State in which the sale takes place. State officials would use computer terminals tied into their State records and into the NCIC and NLETS networks to determine whether there was an arrest record either within or out of State for someone with the name, race, sex, and date of birth of the prospective gun purchaser. If there was no "hit" during this immediate verification process, the gun dealer would be notified over the phone and the sale would be made. If there was a "hit," the sale would not be allowed at that time. If the prospective purchaser wished to pursue the sale, he would seek clearance through a secondary verification process. Under this procedure fingerprints would be taken at a local law enforcement agency and sent to the State repository. A fingerprint search would be conducted by the State and then by the FBI. Any criminal history records obtained through the fingerprint check would be examined by State officials for an indication of a conviction for a disqualifying offense. Incomplete information would be supplemented by inquiries to courts or prosecutors' offices. If no evidence of a conviction for a disqualifying offense was found, a Certificate to Purchase would be issued to the prospective buyer (valid for up to 1 year). The purchaser would present this documentation to the gun dealer certifying his eligibility.

The entire secondary verification process could take as long as 4–6 weeks. It is estimated, however, that approximately 84–88% of prospective gun purchasers would successfully pass the initial verification and thus would not have to go through the secondary verification. Reasonable modifications of this system might reduce some of the burdens placed on the eligible purchaser.

Option B: Firearm Owner's Identification Card

Option B is essentially the same as the secondary verification of Option A. The difference is that everyone who wanted to purchase a firearm would go through a fingerprint-based clearance process. If there was no evidence of a felony conviction, as defined by Federal law, the State would issue a Firearm Owner's Identification (FOID) Card valid for up to 3 years. This card would be presented whenever the bearer wished to purchase a firearm. The chief advantage of Option B over Option A is that it eliminates the problem of the false "hits" that occur in a name-based automated criminal history check because of mistaken identity. This option also has several disadvantages. The chief disadvantage is that it puts every prospective gun purchaser through a 4–6-week clearance procedure every several years. It also places much greater demands than Option A on existing criminal justice identification systems and is thus considerably more expensive.

The Task Force has also identified a variety of higher-technology variants of these two basic options. They are summarized here.

Option A1: Computer Terminal Access by Gun Dealer to Disqualifying Information

This option would replace the telephone calls of Option A with direct computer terminal access to an intermediary computer that would review the State and Federal criminal history indexes and transmit notices of approval or denial to the dealer. This would be considerably more expensive than Option A in the short run and would present no particular operational advantages over it.

Option A2: Touch-Tone Telephone Access by Gun Dealer to Disqualifying Information

This option is similar to Option A1 but substitutes a touch-tone telephone for computer access. Like Option A1 it is more complicated and expensive than Option A, at least in the short run, without any corresponding advantages. It is possible that in the long run Options A1 and A2 would be less expensive than Option A by reducing the need for computer operators at the State repository to respond to the calls from the gun dealers.

Option A3: Live Scan of Fingerprints by Gun Dealer

This option, requiring that fingerprints be taken directly at the point of sale and digitized for transmission to the record repository, is similar to the biometrically-based system described previously in the discussion of a perfect felon identification system. While it would provide the greatest assurance of a positive identification, it would be the most difficult and expensive to implement.

Option A4: Biometric Identification Card

This option is not so much an alternative to the basic Option A as an additional feature that could be added to it. Under this option positive identification would be enhanced at the gun dealership by the comparison of a single fingerprint of the prospective purchaser with digitized information from a biometrically-based identification card issued by the State.

Option B1: Live Scan of Fingerprints by Local Law Enforcement and Biometric Check by Gun Dealer

This option combines elements of both prior approval and immediate check. Prospective gun purchasers would go to a designated law enforcement agency for a criminal history clearance. The agency would conduct a live 10-print fingerprint scan using AFIS equipment (as in Option A3). The digitized fingerprint information would be transmitted to the State repository and the FBI to check for arrest and conviction records. Applicants who passed this clearance would be issued a FOID card. Those wishing to purchase a firearm would present the FOID card to the gun dealer. Equipment at the dealership would allow a comparison of a single fingerprint from the purchaser to digitized information on the card (as in Option A4).

Option B2: Smart Card Containing Disqualifying Information

Under this option every adult would carry an identification card issued by the State of residence, such as a driver's license, that would have electronically imprinted identifying information, including biometric data and information such as felony convictions that would legally bar someone from purchasing a firearm. At the gun dealership such a card would be placed into a reader to verify identification (by comparison with a single fingerprint) and to determine whether the bearer was prohibited from purchasing a firearm.

Creating a Data Base of Ineligible Persons

Several of the organizations that commented on the earlier draft of this report (June 1989) proposed that a national data base be created of convicted felons and possibly others prohibited by Federal law from purchasing firearms. This data base would include such personal identifiers as name, date of birth, sex, race, and possibly such descriptive features as height, hair color, eye color, etc. It could also include a digitized representation of the fingerprints of the ineligible person, allowing for remote positive verification that an individual desiring to purchase a firearm was not prohibited because of a criminal conviction.

Because existing criminal history records are arrest-based, they include many individuals who are not ineligible to purchase firearms either because the arrest did not result in a conviction or because the conviction was not for a disabling offense (as specified in the Gun Control Act). For example, the FBI maintains records for some 25 million persons who have been arrested for a felony or serious misdemeanor. An unknown fraction of these 25 million have been convicted of an offense making them ineligible to purchase firearms. If this fraction is somewhere between 20% and 50%, then a data base limited to those with disabling convictions would contain records on 5–12.5 million persons. If this data base were automated and made accessible to law enforcement authorities through the NCIC or NLETS telecommunications systems, it could facilitate both point-of-sale checks (Option A and its variants) and preapproval checks (Option B and its variants). It would also eliminate one type of false positive in the on-site telephone check by gun dealers (Option A): Cases where someone has an arrest record but no disabling conviction. Although it would not eliminate the other type of false positive—cases where the prospective buyer has the same personal identifiers as a prohibited person—there would be fewer of these since the data base to be checked would be considerably smaller than existing arrest-based records. In addition, if a new data base were established, it could include more identifying information than existing automated records, further reducing the likelihood of false "hits."

Another advantage of establishing such a data base is that lists of other persons ineligible to purchase firearms, such as those who have been dishonorably discharged from the Armed Forces, could be added to it.

Whatever the merits of creating a data base of those who have been convicted of an offense disqualifying them from purchasing firearms, the Task Force did not explore this option systematically for the simple reason that automated conviction records throughout the United States are currently too incomplete—both in terms of coverage and of the information necessary to determine whether a conviction offense meets the criteria established by the Gun Control Act—to consider this a viable short-term option. This in no way precludes consideration of such an option as a longer term possibility, especially if disposition reporting improves within the States.

Cost Estimates

All of the options detailed here would place substantial new demands on Federal and State criminal history repositories and law enforcement agencies. In the few months that the Task Force has been operating it has not been possible to develop precise estimates of the cost implications of each of the options. Nonetheless, some broad estimates have been derived. These should be taken only as a general indication of the cost implications of a felon identification system. They are

conservative estimates that may have to be revised upward as the implications for local, State, and Federal practice are more fully explored.

Option A, which is judged to be the least expensive of the various possibilities, would have projected combined local, State, and Federal start-up costs of $36–44 million. Annual operating expenses would be an estimated $53–70 million. Other variants of Option A would cost some additional amount over the base system. (There is the possibility, however, that a more fully automated system that electronically connected gun dealers to the necessary disabling information would in the long run prove less expensive than Option A by reducing ongoing personnel costs.)

Option B, the basic preapproval system, would have total estimated start-up costs of $148–153 million, and additional annual operating costs of $136–161 million. The two other variants of Option B would likely cost considerably more.

Note that if existing criminal history checks for gun purchasers are taken into account, the actual new cost would be somewhat lower than these estimates—perhaps 8–12% less for operational costs.

Part, or all, of these costs might be recouped by charging the gun purchaser a special fee. Assuming 7.5 million gun purchases per year, a fee in the range of $7–9 per firearm might cover the annual operating costs of Option A (although not the start-up costs). Assuming 6 million FOID cards issued in the first year under Option B and 5 million issued each subsequent year, a fee in the range of $27–32 per application would be necessary to cover annual operating costs. (Some may consider such fees an unfair burden on innocent purchasers. An alternative approach may be to impose special fines on those convicted of firearms violations.)

The following summarizes cost information for the two basic options and those higher-technology variants for which enough information was available to approximate at least partial system costs:

Options	Start-up costs (millions)	Annual operating costs (millions)
A: Telephone check by gun dealer	$36–44	$53–70
A3: Live scan of fingerprints:		
By all gun dealers	9,590–27,144	3,047–8,347
By commercial dealers only	3,457–9,636	1,172–3,063
A4: Biometric identification card checked:		
By all gun dealers	198–368	102–168
By commercial dealers only	93–158	70–105
B: FOID card	148–153	136–161
B1: Live scan by law enforcement and biometric check:		
By all gun dealers	344–572	203–295
By commercial dealers only	239–362	171–232

Implementation Issues

There are four broad possibilities for implementing a felon identification system: (1) to create a self-standing Federal system that is run entirely by Federal officials; (2) to mandate a cooperative Federal-State system in which State officials carry out a substantial portion of the criminal history checks; (3) to establish a mandatory Federal standard that States could meet in a variety of different ways; and (4) to offer the States several models for a cooperative Federal-State system and make Federal resources and leadership available to assist the States.

(1) The Task Force did not focus its research efforts on the creation of an independent Federal system because 90% or more of arrests and convictions in the United States are handled by State and local officials. Because of the variety of State laws, practices, and data systems, only State officials are in a position to properly interpret criminal history record information for their State and to determine whether a conviction meets the Federal standard for disallowing a firearm purchase. Moreover, State officials are in the best position to track down missing or incomplete information with local courts or prosecutors. Thus, the active involvement of State officials in the criminal history checks would seem essential to an effective felon identification system.

(2) Given the necessity for active State involvement, the Federal government could create a felon identification system by mandating that the States adopt a particular system, such as one of those detailed here or a modification thereof. Under this implementation strategy, the Federal Government would select a felon identification system and each State would be required to work with Federal officials to implement it. The result would be a uniform system in each of the 50 States.

(3) Another possible implementation plan is to allow variation across the States in the kind of system established as long as each State's system met certain minimum Federal standards. As noted above, 20 States and the District of Columbia (covering more than half of the Nation's population) currently conduct some kind of criminal history check for those who wish to purchase handguns. There is, however, substantial variation among these systems. In some States checks are conducted by local authorities; in others by State authorities. Some States access only State records when conducting the check; others also access Federal records. A few States require fingerprints; most do not. Of these existing systems, some might be as effective as the options detailed in this report in keeping convicted felons from purchasing firearms through legitimate retail outlets. Others might be easily upgraded.

All of the options presented in this report meet at least two minimum standards: all firearm purchases from Federally licensed dealers are covered, and a name check of both State and Federal automated data bases is conducted for evidence of an arrest for a serious crime (such checks usually also include date of birth, race, and sex). It appears that only four States and the District of Columbia currently meet both standards.

(4) Finally, the Federal Government could take a leadership role in designing one or more felon identification systems and in encouraging, but not mandating, State cooperation. Under this strategy the Federal Government would expand its own resources at the FBI and BATF to make such a system(s) possible and would provide expertise and technical assistance to State and local officials.

Legal and Policy Issues

Whatever option is chosen, new legislation would be required to address a number of issues: (1) To mandate a specific system on the States, to establish minimum Federal standards, or to base a system on voluntary compliance by the States; (2) to establish the funding mechanism for carrying out the criminal history checks, possibly involving user fees by gun purchasers; (3) (under some options) to authorize the release of limited criminal history information to gun dealers (e.g., whether there is a "hit" on a name search of automated arrest records); (4) to specify penalties for gun dealers who improperly disclose criminal history information obtained as part of a felon identification system; (5) to determine

the minimum acceptable level of accuracy for the system; (6) to establish a statutory right of appeal for the prospective gun purchaser from any adverse decision, including the right to inspect records; and (7) to set forth policy regarding the use of information generated by a felon identification system, including any fingerprint data collected. (This is an illustrative, not an exhaustive, list.)

Solving the Problem of Felons Acquiring Firearms

In evaluating the various possibilities for identifying convicted felons who attempt to purchase firearms, it must be recognized that even a perfect felon identification system would not keep most felons from acquiring firearms. One study of convicted offenders in State prisons found that about five-sixths of those who admitted to ownership of a firearm claimed to have acquired the weapon through some means other than purchase through a retail outlet (*The Armed Criminal in America*, National Institute of Justice, November 1986). (A small proportion of felons, however, may translate into a large number of individuals.) These other means included the black market, thefts, and informal transactions with friends or associates such as a purchase or trade. An effective felon identification system will do little to eliminate or reduce these off-the-record transactions. Indeed, a particularly effective system may force even more felons to turn to the black market for their weapons or to use accomplices without a criminal record to purchase guns for them. Nonetheless, a system that keeps felons from purchasing weapons over the counter may at least increase the difficulty, and perhaps the costs, of acquiring weapons for use in crime and may, in fact, deny weapons to some number of less sophisticated criminals unable to access the black market or to find willing accomplices. Moreover, because black markets may not provide ready access to the high quality weapons available through retail outlets, an effective felon identification system may restrict the quality, if not the quantity, of weapons in the hands of felons.

Part II. Options for a Felon Identification System

Section 1. Schematic Overview

In considering the design of a system for identifying felons who attempt to purchase firearms, it is useful to begin with a general overview of the basic components. Any final system would be comprised of an approval procedure, a designated processing organization, access to data sources, a designated decision organization, final action, and an appeals process. Different systems are basically different combinations of options among these components. (See Exhibit 1.)

Approval Procedures

Approval to purchase a firearm may occur either prior to an individual's trip to a gun dealer or at the point of sale in the shop. Prior approval schemes include the issuance of: (1) an identification card, which establishes in advance that the individual is eligible to purchase a firearm, (2) a certificate to purchase, which permits an individual to purchase a firearm for a limited period, or (3) a smart card on which basic data are encoded that establish an individual's eligibility. Point-of-sale approval procedures may involve telephone checks by the gun dealer of criminal history records through local or State law enforcement agencies or a regional office of the Bureau of Alcohol, Tobacco and Firearms. Direct checks of data bases could also be made over touch-tone telephone lines: dealers would access data with a series of identifying numbers and receive approval or denial from a State or Federal computer system. Dealers could also make electronic checks through terminals or automated biometric devices with direct lines to the National Crime Information Center (NCIC) and State criminal history repositories.

Processing Organizations

Identification systems for firearm purchases may employ one or more organizations that process an application and search the criminal history data bases. For example, applicants may be required to appear in person at a local law enforcement agency, such as the police or sheriff's department, to obtain a permit or identification card. This agency would search local files and access State or Federal files through the NCIC and NLETS communication systems. Alternatively, the applicant could apply at the point of sale, and the gun dealer would call a local, State, or Federal agency to receive approval for the sale. A slightly different system could designate the regional offices of the Bureau of Alcohol, Tobacco and Firearms as processing agents for firearms applications and as conduits through which access is gained to State or Federal data bases.

Finally, a wholly separate agency could be established at the State or regional level to function as a Felon Identification Center.

Data Sources

Currently, two basic sources of criminal history data (State and Federal) can be accessed to determine if an applicant has a disqualifying conviction. Any system of identification for firearm purchases must specify which data bases are to be used and how they will be accessed.

Most States maintain a repository of criminal history record information (CHRI); in a few States the repository is maintained by a municipality or consortium of local law enforcement agencies. States also maintain "hot files," listing outstanding wants and warrants. The degree of automation of the CHRI files varies considerably from State to State: some repositories are completely automated, others partially automated, and a few States maintain only paper files.

Criminal history data and "hot files" are also maintained at the Federal level within NCIC and the Identification Division of the FBI. The Federal files contain records from the applicant's State of residence as well as Federal and out-of-State records. These records may be accessed through fingerprint searches (via the mail) or through electronic name and date-of-birth searches (via NCIC access to the Interstate Identification Index [III]).

Finally, a new data source could be created for the specific purpose of identifying individuals with disqualifying convictions and other individuals prohibited from buying firearms. A national center, for example, could create and maintain an index, which would merge indexes from current State and Federal data bases, mental health records, and records kept by the Immigration and Naturalization Service. This national index of individuals prohibited from purchasing firearms would be updated continuously. It would serve as the sole data source for Federal regulation of firearm purchases.

Decision Organizations

Once the processing organization has checked the data bases, the data must be interpreted and a decision made. The processing organization may not necessarily be the decision organization. Local law enforcement may evaluate the data or rely on the State police or identification bureau to do so. In response to problems of evaluating out-of-State and Federal records, other system designs may designate regional or Federal agencies as the decision organization.

Action

The designated decision organization must either approve or prohibit an individual from purchasing a firearm. Depending on the type of approval system, the organization would transmit the decision to the applicant directly or through the gun dealer. Potential options include issuance of a card, a certificate, a notice of denial, or an electronic message of approval or denial.

Appeals Process

Once an applicant receives final notice that the application has been denied, he may appeal the decision. The designated appeals organization may be the local police, a State agency, a regional office of BATF, or some other agency. Legislation may also establish a right to a judicial appeal once administrative appeals are exhausted.

Basic Options and Variants

Although there are numerous possible combinations among these components, the Task Force has detailed two basic options: Option A, which is a point-of-sale telephone check by gun dealers with secondary verification, and Option B, which is a preapproval system requiring a firearm owner's identification card. The descriptions presented here specify for each basic option the type of approval procedure, the processing organization, the data sources, and the final decision organization. There is additional discussion of specific characteristics, estimates of volume, cost figures, advantages and disadvantages, and potential modifications. Each basic option is followed by several higher-technology variants.

Section 2. Point-of-Sale Approval Systems

Option A: Telephone Check by Gun Dealer With Secondary Verification

A cooperative Federal and State system would be established requiring that gun dealers obtain clearance from a designated law enforcement agency at the time of sale of all firearms. This system would include both (1) an immediate telephone check of automated criminal history records by gun dealers through a designated law enforcement agency and (2) a secondary fingerprint-based verification procedure for all individuals rejected through the initial telephone check. Each system would have the following elements:

Telephone check (Exhibit 2). 1. At the time of purchase each gun dealer would require the buyer to fill out an application and show two pieces of identification, with at least one having a current photo.

2. The gun dealer would be required to telephone a State law enforcement agency for a criminal records check. Appropriate security procedures (such as a call-back procedure or password system combined with additional dealer identification and access codes) would be introduced to protect against unauthorized entry and dissemination.

3. The designated State law enforcement agency would access existing telecommunications networks to check the master name index within the State of purchase and the FBI's Automated Identification System—Phase III (AIS–III). The AIS–III index contains pointers to the Interstate Identification Index (III) for out-of-State arrests. Both State and Federal "hot" files would also be checked.

4. Initial checks would be made of the State and Federal master name indexes. These indexes contain identifying information on persons previously arrested for "printable" offenses (felonies and serious misdemeanors). Since these are arrest-based indexes, some of the applicants found on these indexes (e.g., those arrested for a felony but not convicted, those convicted of misdemeanors only, and those who were pardoned) will be qualified to purchase firearms. In those States in which criminal history files are automated, it may be possible to access and evaluate individual files while the gun dealer remains on the phone. It may also be possible to access and evaluate some out-of-State records. (Note that currently several hours are often required through the NCIC system to obtain records for individuals arrested in the 20 III States).

5. The gun dealer would immediately (i.e., within a few minutes) receive notice of permission or denial of sale from the designated law enforcement agency. The dealer would receive a transaction number for each inquiry and be required to record the number on each application. Regardless of whether or not the sale was made, the dealer would be required to retain a copy of the application and a record of the telephone inquiry. The designated law enforcement agency would retain records of all inquiries for use in audits of gun dealers. Names of applicants would not be retained on the inquiry data base.

6. If the sale was denied, the gun dealer would instruct the applicant that a Certificate to Purchase may be obtained from a local law enforcement agency.

Secondary verification (Exhibit 3). 1. An applicant who previously failed a telephone check would be required to appear in person, with two pieces of identification, at a law enforcement agency in the State of the applicant's legal residence. (Special procedures would have to be established for the sale of firearms to out-of-State residents.)

2. Each applicant would be fingerprinted, and the fingerprint cards would be mailed to the State criminal history repository.

3. The State agency would access in-State automated and manual criminal history records and also send the fingerprint cards to the FBI for a check of out-of-State records.

4. If an FBI rap sheet was found for the applicant, the State agency would receive by mail a copy of the records maintained by the FBI's Identification Division. These records would include Federal criminal justice transactions as well as transactions in the 30 States that do not participate in the Interstate Identification Index (III). Additional information from non-III participating States could be sought directly from these States through NLETS. If the applicant had been arrested in a III participating State, as indicated by the FBI records, the State agency would request via NCIC additional records from such a State. If the records so obtained were insufficiently complete to make a final determination of eligibility (e.g., lacking disposition data), additional information could be sought by telephone or mail inquiry to the relevant courts or prosecutors' offices.

5. Based on all the available information, the State agency would make a determination whether there was evidence of a disqualifying conviction and would issue either a Certificate to Purchase or a Notice of Denial. The Certificate to Purchase would be valid for no more than 1 year. The designated State agency would maintain a data base of all certificates issued. Individuals could renew their certificates by submitting a written application—no fingerprints would be required. Names of individuals not renewing their certificates would be purged from the data base at the end of 1 year.

6. Copies of the Certificate to Purchase or Notice of Denial would be sent to the applicant and to the local law enforcement agency submitting the fingerprint card.

7. If a Notice of Denial was issued, the applicant would be informed of his right to appeal (see Part II, Section 4.)

8. If the applicant possessed a Certificate to Purchase and decided to purchase a firearm, the gun dealer

would be required to verify, prior to sale, the identity of the purchaser—through two pieces of identification—and the validity of the certificate—by calling the designated State agency to check the validity of the Certificate to Purchase against the certificate data base.

Data sources. The initial telephone check would scan the State and Federal automated name indexes and would access whatever automated rap sheet data could be immediately retrieved. Access to this information would be through a designated law enforcement agency only. (See Part IV, Section 3, and Exhibit 4 for an overview of national access to criminal history files.)

Obtaining a complete check of out-of-State records would require expanding the FBI's Automated Identification System-Phase III (AIS–III), which is accessed through the NCIC telecommunications network. Currently, only those individuals first arrested on or after July 1, 1974, are listed in the AIS-III master name index (approximately 12.5 million persons). The records of approximately 8.8 million individuals born in or after 1929 but arrested before July 1, 1974, are *not* currently accessible through the NCIC network.

In general, the current name indexes to criminal history data at the State and Federal level are arrest-based data sets only, containing identifying information on individuals arrested for felonies and serious misdemeanors. In some instances, for example, if the charges are dropped or if the individual is acquitted or pardoned, States may purge the indexes of these names. With few exceptions, these indexes do not contain information on convictions. These indexes also exclude information on juvenile records. In general, criminal history records on juveniles are only retained in State and Federal files if an arrest results in a charge or trial as an adult.

The secondary verification procedure utilizes all criminal history data bases at the State and Federal levels, including automated and manual records. In addition these may be supplemented by direct queries to courts and prosecutors' offices. State law enforcement officials, who are in the best position to interpret criminal history records, will determine whether there is sufficient evidence of a conviction that meets the Federal standard for disqualification.

An inquiry data base would be created and maintained by the designated State agency. This data base would record basic information on all inquiries from the gun dealers. For each inquiry, a dealer's license number, a transaction number and date, and an outcome code (i.e., approval or denial) would be recorded. This information would be used by BATF for subsequent audits of gun dealers. Names of applicants would not be retained in this data base.

A data base containing a list of the Certificates to Purchase and Notices of Denial would also be created and maintained by the designated State agency. This data base would contain basic information on individual applicants who had previously received a Certificate to Purchase or Notice of Denial. It would contain an applicant's name, date of birth, race, sex, a flag indicating approval or denial, and (when appropriate) a number assigned to the Certificate to Purchase. The data base could be updated continuously for subsequent disqualifying convictions if fingerprint data or State identification numbers were retained for all persons receiving a certificate. After 1 year the Certificate to Purchase would expire. A new certificate would be issued if the applicant submitted a renewal form and passed subsequent State and NCIC checks. Renewal would not require resubmission of an applicant's fingerprints. Identifying information on all other holders would be removed from the data base after 1 year. This data base would be used by the State agency to verify the validity of certificates at time of purchase. The data base would also be used to detect those individuals who were issued a Certificate to Purchase but who were subsequently convicted of a disqualifying offense.

This data base would also contain names of individuals issued a Notice of Denial. Such a data base could detect repeated attempts by disqualified applicants to purchase a firearm. Criminal penalties could then be levied against those individuals who attempted to purchase a firearm after receiving a Notice of Denial.

Verification and controls. Gun dealers would be required to maintain copies of approved applications and logs of inquiries. However, gun dealers would not keep copies of rejected applications, which would be sent to the State. Dealers would receive a transaction number for each inquiry and be required to retain this number for subsequent audits. No sale could be made without this number. The designated State law enforcement agency would be required to maintain records on all inquiries.

Gun dealers would be subject to criminal penalties for any false inquiry or disclosure of any information received from a telephone check. False inquiries by gun dealers could be quickly detected if computer-generated notices were sent to subjects of every inquiry. Postcards could be mailed to all persons whose files were accessed.

Procedures would be adopted to verify the identity of gun dealers to the State agency. A call-back procedure could be used; for example, the gun dealer would call the State agency, provide the dealer codes (including dealer identifiers from State or Federal licenses), hang up the phone, and wait for a return call from the State agency. An alternative procedure is a single-call method, with a variable password system and dealer codes linked to a data base maintained by the State agency.

Positive identification. Positive identification of applicants by gun dealers prior to the initial telephone check will be limited by the quality of identification documents presented and by the range of data elements accessible on the State and Federal master name indexes. Currently, searches of the automated indexes are limited primarily to the applicant's name, date of birth, race, and sex. The use of additional data elements, such as place of birth, scars and marks, height, weight, eye and hair color, and miscellaneous numbers (for example, Social Security number or driver's license number), depends on whether they appear on existing master name indexes and on their use and accuracy on identification documents. Despite problems of identifying individuals based on name and date of birth, numerous States currently conduct name-based checks on gun applicants. (See Part IV, Section 2, for a description of current State practices in conducting criminal history checks of prospective firearm purchasers.)

Additional efforts to ensure positive identification by the dealer at the time of purchase could include placement of the applicant's fingerprint on the application form (BATF form 4473, Exhibit 5). The dealer could roll the print of the applicant's right index finger at time of application. Though this print would not be submitted to the State identification bureau, it may serve as a deterrent to those possessing fraudulent identification cards. In the future the print on the application could be used in combination with an identification card containing a similar print. (See Option A3 for further elaboration of fingerprint checks by dealers.)

Positive identification of applicants by dealers at the time of purchase may also be enhanced by continued efforts by States to provide more secure and tamperproof identification documents. In addition, if an applicant provided a drivers' license as identification to the

gun dealer, its validity could be checked against files maintained by the State department of motor vehicles. This check could be conducted by the same State agency accessing State criminal history records.

Even if positive identification could be established by the dealers, the State agency would face problems of "multiple hits" (more than one person on the name index with a similar name, date of birth, sex, and race) and "false hits" (a person on the name index other than the applicant with a name and date of birth similar to the applicant's). Estimates obtained from the FBI, detailed below, indicate that approximately 50% of the cases where persons appear to have a criminal history record based upon an initial name search are eventually found to be false hits.

Estimates of volume. Figures obtained from the Bureau of Alcohol, Tobacco and Firearms indicate that approximately 7.5 million new and used firearms are sold annually. This figure represents a 10-year average of domestic firearms production (adjusting for imports and exports) plus used gun sales (estimated at about 50% of all sales of new firearms). The 7.5 million annual purchases is equivalent to a daily average of more than 20,000 sales. Since many stores are likely to be closed on Sundays and to be busier on Saturdays than mid-week and since firearm sales increase during hunting season, the number of sales may reach as high as 50,000 on peak days.

Assuming that a name check will be conducted prior to every purchase, the number of inquiries into the Interstate Identification Index (AIS–III) would increase by approximately 70% from the current level of 10.7 million inquiries a year. However, relative to all inquiries received daily by NCIC, including "hot" files as well as AIS–III inquiries, name checks of gun applicants would increase the total number of inquiries by about 5% at the peak time during hunting season. The 50,000 additional inquiries resulting from gun applicants are small relative to the recent 1-day record of 1.1 million inquiries into NCIC.

The number of additional fingerprint cards would vary depending on the hit rate from the name check. This rate can only be estimated indirectly. Assuming that the final hit rate on gun applicants will resemble the rate for fingerprint-based checks currently conducted by the FBI on applicant cards, an estimated 6–8% of all applicants will be rejected. (There are currently no national data on ultimate rejection rates for gun applicants.) Further, if half of all initial hits in a name and date-of-birth check of gun applicants are false hits (based on FBI estimates for all applicants), then the expected initial hit rate should be between 12% and 16% for all gun applicants. Finally, not all of the initially rejected applicants may submit fingerprints for the secondary verification—perhaps 10–14% of all applicants will submit fingerprint cards.

The number of applicants for a Certificate to Purchase will be less than the number of purchases, since applicants may buy more than one firearm a year. Precise counts of the annual number of purchases per buyer do not exist. However, if we assume that the majority of applicants will buy only one firearm and a relatively small number will buy many firearms, the estimate of 1.25 firearms per buyer may be a reasonable expectation. Such an estimate suggests that an estimated 6 million individuals buy the 7.5 million firearms sold annually.

As a result of the above assumptions, we may expect approximately 725,000 fingerprint cards on gun applicants as a result of a rejection from the telephone inquiry by the dealer. Assuming the current 5-day week at the FBI's Identification Division, this represents an additional 3,000 fingerprint cards per day—an increase of nearly 10% in the number of cards received daily.

Additional system flows. The estimate of 7.5 million new name searches of automated records and 725,000 new fingerprint checks that would be generated by this option ignores the fact that many States currently conduct criminal history checks of gun purchasers. Twenty-two States and the District of Columbia (covering more than half of the Nation's population) now conduct a pre- or post-purchase criminal history check. Thirteen States and DC access Federal and interstate records through NCIC. Six States and DC take fingerprints. Four States and DC include the purchase of all types of firearms; the others, only handguns.

Presumably, if Option A were adopted, the new criminal history checks would not be conducted on top of existing checks, for this would create an unnecessary redundancy. Either (1) States would modify their existing systems and criminal history checks to conform to the elements of Option A, or (2) the Federal mandate would accept current preapproval systems as effectively accomplishing the goals of Option A if certain minimum standards were met. In either case if current practice is taken into account, the net new impact on Federal and State repositories would be somewhat less than the estimate of 7.5 million new name searches of automated records and 725,000 new fingerprint checks.

Criminal history checks of gun purchasers currently conducted by the States account for approximately 15% of the projected 7.5 million annual inquiries into NCIC under Option A and 8% of the 725,000 fingerprint checks at the FBI. As a result, the additional impact of Option A on NCIC and the FBI Identification Division is estimated at 6.4 million inquiries and 664,000 additional fingerprint cards. At the State level current practices account for a somewhat greater proportion of the inquiries required by this option. An estimated 20% of the total 7.5 million name and date-of-birth searches projected for State identification bureaus under Option A are currently conducted. Consequently, 6.0 million additional inquiries would be required at the State level under Option A.

Finally, as a result of the proposed expansion of the AIS-III index, the FBI's Identification Division would also need to respond to requests for records on the 8.8 million individuals who were born in or after 1929 but arrested for the first time before July 1, 1974. Expansion of this index would necessitate the assembly, retrieval, and mailing of an estimated 4,000 manual files daily (including 3,000 files to meet anticipated criminal justice requests plus 1,000 files for firearm applicants).

Identifying convicted felons. In many, perhaps most, cases the actual criminal history record of an applicant would be examined only when a fingerprint card is submitted. For an estimated 80–90% of all prospective purchasers, a check would only be made for the existence of a criminal record. For the applicants who were identified by a name and date-of-birth search and who subsequently submitted fingerprints, a more complete assessment of the record would be required.

The difficulty of accurately identifying a convicted felon varies from State to State. In some States felony identification is *automated:* a felony conviction flag exists in the record. In other States felony identification is obtained from the State statutory code listed for each conviction offense. Interpretation of this code is typically achieved *manually*, unless a computer program exists to automatically classify statutory codes as either felony or non-felony offenses. In other States felony identification is only *sometimes possible*. In these States a felony may be determined when a conviction is unambiguously a felony (such as murder or rape) or when a free text field exists and the word felony appears in the field.

The issue is further complicated by the fact that the State definition of a felony may not correspond with the definition in the Gun Control Act (an act punishable by imprisonment for more than 1 year.)

The task of accurately interpreting criminal history records is even more difficult when an applicant has been arrested in States other than the current State of residence. *FBI records do not contain sufficient information to identify felons or those convicted of crimes punishable by imprisonment for more than 1 year.* FBI offense codes are typically recorded as literals (free text) or as numeric NCIC codes. State statutes and text containing the word "felony" are only infrequently reported.

Faced with these difficulties, States currently conducting criminal history searches on gun applicants employ three strategies: (1) infer a felony conviction based on sentencing data (e.g., if the record contains a sentence to incarceration of greater than 1 year, the applicant is identified as a felon); (2) obtain more detailed out-of-State records via NCIC or NLETS, which may designate conviction offenses as felonies; and (3) infer a felony conviction from a literal description.

Response times. The initial telephone check would be immediate, within minutes, assuming sufficient resources. Electronic searches of State and Federal master name indexes could be conducted while the gun dealer remained on the line. Among the 20 State identification bureaus surveyed for the Task Force by Fisher-Orsagh Associates, the average in-house response time for a non-fingerprint search utilizing a terminal is about 20 seconds (*A Survey of Twenty State Criminal History Repositories,* Fisher-Orsagh Associates, June 1989). Additional minutes would be needed if the State agency attempted to reduce the number of false hits by requesting additional information from the gun dealer. An additional 30 seconds would be required for an NCIC check of the AIS-III index.

The secondary verification procedure would require approximately 4–6 weeks to complete. Existing searches based on fingerprint cards at the FBI's Identification Division are processed within 14 working days. An estimated 7 days would also be required for submission of fingerprint cards via the mail and return of FBI rap sheets to the State agency. Some additional time would be necessary for evaluating criminal history records by the designated State agency, including, if necessary, calls to courts or prosecutors' offices.

The response time for secondary verification may be reduced once current automation procedures at the FBI are fully in place. The FBI anticipates that response times will be reduced to somewhere between 2 and 10 days, depending on a proposed expansion of their computer system.

Estimates for fingerprint searches conducted by State criminal history repositories, which would be simultaneous with the FBI checks, indicate a total response time for a criminal justice inquiry of 3 to 23 working days, including mail turnaround time. In the 20 States examined by Fisher-Orsagh Associates, the average response time for a fingerprint search was 5 days, assuming the search was for a criminal justice purpose. For non-criminal-justice searches the average increased to a total of 9 days. No significant reduction in this response time is expected in the near future.

Costs. Of all options, the telephone check with a secondary verification may be the least expensive to implement and operate. Costs are kept down by using existing technologies, telecommunication systems, and data sources. Costs are further reduced by limiting fingerprint checks only to those individuals appearing on the master name indexes and by creating a State-level data base of Certificates to Purchase and Notices of Denial.

For the telephone checks only, the total estimated cost at the State and local level includes a start-up cost of $14.3–17.7 million and an additional annual operating cost of $30.0–39.4 million. The estimated cost of the secondary verification would include a start-up cost of $8.6 million and an annual operating cost of $10.4-13.3 million. The combined cost for the telephone checks and secondary verification at the State and local level would be between $22.8 and $26.2 million in start-up costs and between $40.3 and $52.6 million in annual operating costs. (For more detailed cost figures, see Exhibit 6 and *Estimates of Start-up and Operational Costs of Systems for Identifying Felons Who Attempt to Purchase Firearms,* Fisher-Orsagh Associates, June 1989.)

At the Federal level the combined cost for the telephone check and secondary verification is estimated at $12.7–17.8 million a year. The start-up cost is estimated at $13.1–17.3 million.

When local, State, and Federal costs are added together, the total estimated annual operating cost for Option A ranges from $53 million to $70 million and the total estimated start-up cost ranges from $36 million to $44 million. Note that if existing criminal history checks for gun purchasers are taken into account, the actual new cost may be somewhat lower than these estimates, perhaps 11–13% lower for operating and start-up costs. On the other hand, these estimates do not include any costs to dealers for new phone lines or staff or to local police for their part in the secondary verification.

A substantial portion of the operating costs could be transferred to the individual applicant through fees for all gun purchases, whether or not a fingerprint search is performed. Given the total annual cost estimates, a fee of $7.07–9.39 per applicant per purchase would be required to cover local, State, and Federal costs.

Impact—1. *Purchasers:* The vast majority of individuals without criminal records would have the immediate ability to purchase a firearm. Except for individuals falsely rejected by the search of the master name indexes, those without criminal records would not be burdened by preapproval procedures.

2. *Dealers:* In addition to current application procedures, dealers would be required to make a telephone call prior to every purchase and to create and maintain a log of all inquiries. The time necessary to make the checks is expected to average about 3 minutes per sale. An additional telephone line may be required for some dealers. Among high-volume dealers, additional staff may be required to handle multiple checks simultaneously without generating long waiting lines at the gun shop.

3. *Local law enforcement:* Local law enforcement agencies would process an estimated 725,000 applications and fingerprint cards a year as a result of the secondary verification procedures. This work load may require some additional staff and funds for agencies currently working at peak levels.

4. *State law enforcement:* The State identification agency or other designated agency for applicant checks would experience a large increase in its work load. To process the estimated 7.5 million telephone inquiries, States would need new communications lines, staff to respond to inquiries, additional office space, computer terminals to access the State master name indexes, and software to build the inquiry data base. State identification bureaus would also require a 7-day work week with longer hours (or 6 days if gun sales were prohibited on Sundays).

To process the estimated 10% increase in fingerprint cards, States would require funds, staff, space, and software to maintain a data base on the

Certificates to Purchase. (See *A Survey of Twenty State Criminal History Repositories*, Fisher-Orsagh Associates, June 1989, for the ability of specific States to handle a 10% increase in in-house searches of their criminal history files.) States may also be required to establish an administrative appeals procedure for challenging adverse decisions.

5. *NCIC and FBI Identification Division:* The NCIC communications system would experience a minor increase in volume—an increase of 5% on a peak day during hunting season. To process this increase in volume, 16 additional lines plus an enhancement to the front-end capacity on the NCIC computers will be required. The number of additional inquiries into the AIS–III computer, however, would increase by approximately 70%. To handle this increase, the AIS–III computer must be significantly enhanced. The telephone search would also require additional staff at the FBI's Identification Division to process requests for the 8.8 million manual records of offenders arrested for the first time before July 1, 1974, and born in or after 1929. The manual records would be requested through NCIC for all criminal justice purposes and mailed to the requesting agency by the FBI Identification Division.

Based on the estimated 725,000 fingerprint cards submitted annually and the 4,000 daily requests for manual files through NCIC, approximately 395 additional employees may be needed by the Identification Division as a result of Option A. An estimated 126 of these employees would be technical (e.g., fingerprint technicians, classifiers, and verifiers) and 212 would be typists; all of these would require 3–6 months of training. The FBI would require 12–18 months to recruit and clear these 395 new employees. These new employees would require nearly 8,000 square feet of additional office space.

Impact of AFIS technology on secondary verification. At the present time the FBI and more than half of the States either have an automated fingerprint identification system (AFIS) or are in the process of procuring such a system. These systems, as currently utilized, require technicians to classify the prints according to pattern type; the prints are then scanned, digitized, and matched against prints from an AFIS data base. (Note that new AFIS equipment has recently been introduced that automates the classification process, but this is not yet a proven technology.) At the end of the matching process, a list of all potential identification candidates is produced, and a technician visually compares the print to the corresponding list and makes the identification decision. (See "Appendix" to *Legal and Policy Issues Relating to Biometric Identification Technologies*, SEARCH Group, Inc., June 1989.)

Despite the automation of the search process, further implementation of AFIS technologies will have little impact in the near future on the estimated response times and costs of processing the additional fingerprint cards generated by the secondary verification procedure. The AFIS matching process is time consuming and both labor and machine intensive.

Advantages. 1. Access to criminal history records would be limited to law enforcement agencies, except that gun dealers would receive notice of approval or denial. (However, dissemination of any information to gun dealers indicating evidence of an arrest may violate existing policies and statutes of some States.)

2. With the exception of the addition of 8.8 million records to the AIS–III index, the system would utilize existing State and Federal criminal history data bases. The additional inquiry data base and Certificate data base would be easily established and maintained at a low cost.

3. Access through NCIC to the 8.8 million manual records maintained by the FBI's Identification Division would have added benefit to law enforcement. Currently, checks are limited to younger offenders and those first arrested after 1974. Addition of these records would enhance the level of service that the FBI could provide to law enforcement agencies nationwide.

4. Compared to other options, the initial telephone check would reduce the burden on State and Federal identification systems. Only an estimated 10–14% of all purchases would require a fingerprint search.

5. No list of applicants or purchasers would be created. Only those individuals issued a Certificate to Purchase or Notice of Denial could be identified in a data base. The identity of individuals holding certificates would be regularly expunged from the data set within a year of the date of issuance.

Disadvantages. 1. The validity of the telephone check is only as reliable as the purchaser's identification documents. It does not provide unique identification as do the more expensive fingerprint or other biometric systems. Consequently, prohibited individuals intent on obtaining a firearm with false identification documents would be able to pass the telephone check.

2. A major burden would be placed on the State agency accessing the repository data and on local law enforcement agencies that issue the fingerprint cards. The extent of the burden would depend on the volume of requests and degree of record automation. Further automation of State master name indexes and criminal history files would be encouraged.

3. The system would not be immediate for individuals rejected by the search of the master name indexes. In addition, some individuals may be falsely identified because their name and date of birth match those of another individual. Extensive false hits could generate considerable adverse reaction.

4. Rejection of prospective buyers as a result of telephone checks may be perceived by gun dealers as a cause for lost revenue. Buyers who ultimately qualify for purchase may not always return to the original dealer and make the purchase.

5. Occasionally the State or NCIC computer systems may not be operating at the time of purchase, resulting in delays and possibly loss of revenue to the gun dealer. (See modification 8 for procedures in the event of system failure.)

Potential modifications. 1. The secondary verification procedure could be modified so that applicants would only be required to appear at a law enforcement agency to be fingerprinted if the State repository was unable to make a positive determination of eligibility after receiving all automated criminal history records. This could take up to a day or two. If the State repository could not determine an applicant's identity or resolve questions of eligibility, the applicant would then be fingerprinted at a local law enforcement agency, and the fingerprint cards would be submitted to the State identification bureau and the FBI for evaluation.

This modification could reduce the burden on applicants eligible to purchase firearms. Applicants with prior arrests but qualified to purchase firearms (e.g., those not convicted of any offense, those convicted only of crimes not meeting the Federal definition of a felony, or those pardoned) would not automatically be fingerprinted or required to wait the projected 4–6 weeks for a complete fingerprint check and evaluation of records.

This modification would also reduce the volume of additional fingerprint cards submitted to the State identification bureaus and the FBI.

2. A fingerprint could be placed on the BATF application (form 4473). Once

given approval for purchase, the gun dealer would roll a print of the applicant's right index finger, for example. Although this print would not be submitted to the State identification bureau, it could greatly enhance BATF's ability to prosecute applicants who provide false information. In addition, requiring an applicant to provide a fingerprint on the application form may serve as a deterrent to those who possess fraudulent indentification cards but who are reluctant to submit fingerprints.

3. An applicant data base could be created and maintained by the State identification bureau. This data base would be queried first when a purchaser check was conducted. It would contain basic information on individual applicants who had been previously approved through a point-of-sale name check or a secondary verification procedure. The data base would include an applicant's name, date of birth, race, sex, and a flag indicating approval for purchase. The data base could be updated continuously for subsequent disqualifying convictions. Once individuals received approval, no additional searches of their criminal history files would be conducted for subsequent purchases. This option could eliminate the need for a Certificate to Purchase.

If States constructed this data base, the number of name searches and print searches could be significantly reduced. Fears that such a data base would create a list of gun purchasers could be allayed by requiring States to systematically purge records after a 2 or 3 year period. Moreover, such a data base could be limited to those who failed the telephone check and then passed the secondary verification; thus, only a small portion of all gun purchasers would be included.

4. Point-of-sale approval requirements could be relaxed for certain types of dealers. Low-volume dealers and those selling at gun shows could be exempted from the telephone checks. However, to regulate purchases of firearms from these dealers, State law enforcement agencies could be required to perform random criminal history checks on those who have purchased firearms from these low-volume dealers.

5. Fingerprint searches in the secondary verification process could be limited to the repository within the applicant's State of residence. Federal data bases would be searched only on name, date of birth, race, and sex. Applicants found to have out-of-State rap sheets would be required to appeal to the State repositories maintaining the disqualifying records. This modification would have two good effects: (a) a reduction of response time for secondary verification, and (b) no need to evaluate out-of-State records. However, a major disadvantage is that once a hit is made through NCIC, the burden of certifying qualification to purchase would be shifted to the applicant.

6. To increase reliability, applicants for specific types of guns could be required to be fingerprinted and would not be eligible for a telephone check.

7. To ensure that excess delay in making an eligibility decision did not unduly interfere with the rights of qualified purchasers, the system could include firm deadlines for governmental action at various stages. Failure to meet a deadline would allow the sale to proceed. Ineligible purchasers would still be subject to subsequent prosecution.

8. In the event of a computer system failure or interruption in telecommunications, gun dealers could be permitted to proceed with the sale. Once system functions were resumed, dealers would be required to conduct the telephone checks. If an illegal purchase had been made, the State agency accessing the repository data would notify law enforcement agencies. Alternatively, firearm sales could be postponed until the computer and telecommunications systems were again operational or until a specified period of time had elapsed.

See also the discussion of establishing a data base of ineligible persons in Part I.

OPTION A1: TERMINAL ACCESS BY GUN DEALER TO DISQUALIFYING INFORMATION

This option is a variant of Option A, described above, but instead of the gun dealer calling a law enforcement agency, which would access criminal history records electronically, the dealer would directly access an intermediary computer that would review the indexes and transmit "accept" or "reject" notices to the dealer. The system would work as follows:

1. The applicant would present the same identification documents to the dealer as required under Option A.

2. The dealer would use a terminal in the shop to access an intermediary computer that would review criminal history indexes and transmit authorization or denial notices to the gun dealer's terminal. (Special passwords would be required to prevent unauthorized access. Transaction logs would be maintained by the State or NCIC to monitor inquiries.)

3. If the notice was to "accept," the sale could be completed immediately. If the notice was to "reject" (indicating the existence of a printable offense), the applicant would be directed to a local police department to initiate the secondary verification process.

4. Subsequent procedures follow Option A.

Advantages and disadvantages. All advantages and disadvantages noted in Option A apply to this option except as follows:

1. The costs for installation of a terminal in each dealership would be substantial. Training would also be required in the use and maintenance of the terminals. Procedures for passwords and logs would also be required.

2. Access through an intermediary computer would require a new computer capability at the Federal level and in each of the 50 States. Such a capability could be costly.

3. There would be no noticeable reduction in response times, since telephone checks under Option A would also be completed on a real-time basis.

Estimated cost. See discussion under Option A2.

Option A2: Touch-Tone Telephone Access by Gun Dealer to Disqualifying Information

This option is the same as Option A1 above, but substitutes a touch-tone telephone for terminal access. The system would work as follows:

1. The applicant would provide identification to the dealer as required under Option A.

2. Using a touch-tone telephone and a toll-free number, the dealer would access an intermediary computer, as in Option A1, and would enter his license number to prove eligibility. The communications system would establish a log of the transaction. The dealer would then enter the applicant's digitized name and other identifiers.

3. The message would be received by the State repository or NCIC and checked against a master name index.

4. The dealer would be advised of the "accept" or "reject" status only.

5. If rejected, the applicant would be advised to seek secondary verification through a local police department. Subsequent procedures would follow Option A.

Advantages and disadvantages. The advantages and disadvantages would also be similar to those for Options A and A1; however, the costs may be lower than Option A1 since terminals would not have to be installed at all dealers.

Estimated cost. Although Options A1 and A2 do not present any particular operational advantages over the simpler Option A, they would be more complicated and costly to set up. Thus, in the short term they do not have any benefits over Option A. Nonetheless, it is possible that by directly and electronically connecting gun dealers to disqualifying information, Options A1 and A2, or others like them, would prove less expensive in the long run than Option A with its need for numerous new personnel in the State repositories to field the calls from gun dealers.

Option A3: Live Scan of Fingerprints by Gun Dealer

This option differs from other variants of Option A in that fingerprints would be taken directly at the point of sale and digitized for transmission to the record repository. Records would be scanned on the basis of fingerprints. The system would work as follows:

1. The applicant would place his hands into a fingerprint scanner, which would be maintained and operated by the dealer.

2. Digitized fingerprint data on all 10 fingers would be transmitted to the State repository.

3. At the State repository, a fingerprint technician would calculate the pattern types of the 10 fingers and then select a subfile of the data base for a subsequent automated search. Fingerprints would be checked against a criminal history data base, a fingerprint index, or a specially created data base of disqualified persons.

4. If the search resulted in a list of potential candidates, a fingerprint technician would examine the candidate prints and make a determination of identification.

5. Based on the search, an "accept" or "reject" message would be sent to the gun shop. Fingerprints of accepted applicants would not be retained by the State identification bureau.

6. If a rejection was based on a check against a fingerprint index only, the applicant would be advised to initiate secondary verification. If a rejection was based on a full record check or check against a special disqualification data base, the denial would be final, but the applicant would be advised of appeal procedures.

Additional characteristics. 1. Dealers would be required to install 10-finger scanning equipment including a capability to transmit the scan data to the State repository and the ability to receive "accept" or "reject" messages from the repository.

2. States would need: (a) the capability of receiving the 10-finger scan data, (b) fingerprint technicians to determine pattern types and subfiles to be searched, (c) the ability to search files based on pattern type and digitized minutiae, (d) the ability to compare applicant prints to candidate file-prints and determine identification, and (e) the ability to transmit results to the dealer.

3. In order to check for out-of-State arrests, the system would require the FBI to set up a mechanism for receiving digitized fingerprint data from State repositories, which currently use several incompatible AFIS systems.

4. Response times would include an estimated 6 minutes to scan 10 fingers at the shop, 1–6 minutes for a technician to classify the prints, and 1 minute to verify a match from the search file. An additional 5–15 minutes would likely be required to search the fingerprint file (depending on the search procedures, the size of the data base, and the availability of computer equipment). This is an estimated total of 13–28 minutes.

Advantages and disadvantages. 1. Use of fingerprints ensures accuracy of identification at the gun shop. In a properly functioning system, no one who had previously been fingerprinted for a crime would escape detection.

2. There would be a substantial reduction in the number of secondary verifications, perhaps as much as 50–80% over Option A.

3. A major disadvantage is the extremely high cost of developing, installing, and maintaining on-site equipment and transmission lines. Training for dealers would also be required to obtain properly scanned fingerprints. High-volume dealers would require multiple scanners and additional staff.

4. Indexes to Federal and State criminal history files would have to be upgraded and made compatible with fingerprint data transmitted from the on-site scanners. At a minimum, indexes to current criminal history files would require upgrading.

5. Response times (13–28 minutes) would be longer than the telephone check of the basic Option A.

Estimated cost. Because of the novel and complicated nature of this option and its use of technologies still under development, it has been possible to estimate only part of the costs of setting up such a system. Consequently, the following estimates should be viewed as only a rough measure of system costs.

For a system involving live fingerprint scan at all dealers, total start-up costs are estimated at $9.6–27.1 billion and annual operating costs (assuming equipment depreciation and maintenance) at $3.0–8.3 billion. For a system restricting live scan to commercial dealers (an estimated 35% of all dealers), total start-up costs would be an estimated $3.5–9.6 billion and annual operating costs would be $1.2–3.1 billion.

Option A4: Biometric Identification Card

This option is not so much an alternative to the basic Option A as a distinct feature that could be added to it. The system requires that the applicant obtain a State-issued identification card that incorporates biometric information, name, date of birth, and other standard identifiers. This card could be a general-purpose card, such as a driver's license, or a special-purpose card for gun purchases. The biometric information could be an actual fingerprint on the card, or it could be a digitized representation of biometric information magnetically encoded on the card. This option also requires that dealers have equipment able to read the applicant's fingerprints, or other biometric information, and compare them against characteristics on the card. The system would work as follows:

1. The applicant would obtain a card from the State with biometric identifiers.

2. The applicant would present the card to the dealer. The dealer would then use equipment to compare the biometric data from the applicant with the information on the card.

3. If there was a match, the dealer would proceed with an inquiry to the State repository either (a) by telephone, as in Option A, or (b) if the card was in a digitized format, through a device that could communicate with an external database over telephone lines (as is used in approving credit card purchases).

4. The remaining procedures follow Option A.

Advantages and disadvantages. 1. The use of biometric information on the ID card and the subsequent biometric check at the gun shop would enhance the reliability of the identification check by making it substantially more difficult for such an identification document to be counterfeited or altered. However, other technologies also exist, such as holograms, to enhance the security of identification documents. Moreover, the biometric card does not solve the problem of individuals using fraudulent "breeder" documents, such as birth certificates, to obtain the biometric ID card.

2. Prior recording of biometric identification data on the card eliminates the need for transmission of biometric data from the dealer to the central facility.

3. On-site equipment to check biometric data at the point of sale would be expensive to install, maintain, and operate. Dealers would have to be trained.

4. Interstate coordination, perhaps requiring the collection and maintenance of fingerprints for all applicants, would be necessary to prevent applicants from obtaining separate ID cards in different States using different names. This would be important since subsequent inquiries to State or NCIC data bases would be based on name rather than fingerprints.

5. Biometrically supported identification could be used to link the dealer with data bases of other ineligible firearm purchasers, such as those dishonorably discharged from the Armed Forces.

6. Regulations would have to be issued to govern action by dealers if applicants were discovered to be using false identification (for example, where an applicant's fingerprints did not match data on the card).

Estimated cost. The following cost estimates do not include any costs associated with producing and distributing a biometric identification card.

For a system involving a biometric check at all dealers, total start-up costs are estimated at $198–368 million and annual operating costs at $102–168 million. For a system restricting the biometric check to commercial dealers (an estimated 35% of all dealers), total start-up costs would be an estimated $93–158 million and annual operating costs would be $70–105 million.

Section 3. Prior Approval Systems

Option B: Firearm Owner's Identification (FOID) Card

Each State would develop a system for issuing a Firearms Owner's Identification (FOID) Card, which would be required for purchasing any firearm and would be valid for up to 3 years from the date of issue. This system, which would be quite similar to the secondary verification of Option A, would have the following requirements:

System description (Exhibit 3). 1. Prior to purchase of a firearm, each applicant would be required to appear at a law enforcement agency within the jurisdiction of the applicant's legal residence.

2. Each applicant would be fingerprinted and photographed, and the fingerprint cards and photograph would be submitted to the State criminal history repository and to the FBI's Identification Division for a fingerprint check.

3. Results from the FBI fingerprint check would be returned to the designated State agency for evaluation.

4. Additional records could be obtained directly from other State repositories or from courts or prosecutors' offices, as described in the discussion of the secondary verification procedures of Option A.

5. State officials would evaluate the records from all sources to determine whether the applicant was eligible to purchase a firearm. The designated State agency would issue a FOID card or Notice of Denial. The State agency would maintain a data base on all FOID cards.

6. If a Notice of Denial was issued, the applicant would be informed of the right to appeal.

7. The State agency would periodically issue to all gun dealers a listing of all invalid FOID cards.

8. If the applicant possessed a FOID card and wished to purchase a firearm, the gun dealer would be required to verify, prior to sale, the identity of the purchaser and the validity of the card. The applicant would fill out an application for purchase, which would require an additional piece of identification. The gun dealer would check the listing of invalid FOID cards.

9. If the sale was denied, the gun dealer would instruct the applicant on the procedures for an appeal. The gun dealer would send a copy of the application to the appeals agency.

Data sources. Fingerprint searches would utilize all existing criminal history data bases at the State and Federal levels. Manual as well as automated files would be searched. Approval of an application for a FOID card would not require an immediate search for out-of-State records; consequently, the AIS–III index would not have to be modified (as in Option A). Searches of records on individuals who were arrested before 1974 would utilize the current procedures of the FBI's Identification Division.

A FOID card data base would be maintained by the State identification bureau or designated State agency. This data base would contain basic information on applicants who had previously received a card. It would contain the applicant's name, date of birth, race, sex, other identifying information, and the FOID card number and expiration date. The data base could be regularly updated by the State identification bureau for subsequent disqualifying convictions if fingerprint data or State identification numbers were retained for all persons receiving a FOID card. The State agency would issue on a regular basis lists of invalid FOID cards. Unless the applicant elected to renew the FOID card, the data base would be purged of all applicant information after the expiration date.

Verification and controls. Gun dealers would be required to maintain copies of all applications and the purchaser's FOID card number. Gun dealers would be subject to State or Federal audits. Dealers would be subject to criminal penalties for false records of sale and to loss of license for incomplete records.

Access to criminal history records would be restricted to law enforcement agencies.

If a card holder became prohibited from purchasing firearms after the FOID card had been issued, a Letter of Revocation would be sent by the State agency to the individual. The State agency would be required to send all gun dealers a listing of invalid FOID cards. No attempt would be made to recall invalid cards or firearms.

Positive identification. Positive identification of applicants by gun dealers could be enhanced by placing the applicant's picture and fingerprint on the FOID card. Requiring the applicant to provide at least one additional document with a picture identification would provide further confirmation of identity by the gun dealer.

Security provisions could be introduced to the FOID card, which would increase the difficulty and costs of counterfeiting. States could also be encouraged to develop better procedures for issuing breeder documents and securing existing cards (such as driver's licenses) from counterfeiting.

An applicant's fingerprint could also be placed on the BATF application (form 4473, Exhibit 5) at the time of purchase. This requirement would not only enhance BATF's ability to prosecute applicants who provide false information but also serve as a deterrent to individuals with false documents who may be reluctant to provide a fingerprint.

Out-of-State sales. The sales of firearms to out-of-State residents either at a gun shop or through the mail is currently restricted by Federal law to long guns (e.g., rifles and shotguns). With few exceptions, interstate sales of handguns are prohibited. Under Option B applicants possessing a FOID card issued in one State would be permitted to purchase a long gun in another State; however, *applicants could only obtain FOID cards in their State of residence.*

Three procedures may be adopted to check qualifications of out-of-State purchasers: (a) dealers may be required to call a national toll-free number for a check of NCIC files or a national list of

invalid FOID cards; (b) dealers may be required to call the State agency that issued the FOID card; or (c) out-of-State residents may be required to obtain a Certificate to Purchase from a local law enforcement agency.

The first procedure would require the nonresident applicant to fill out the BATF application and present the out-of-State FOID card plus another photo-identification card to the dealer. The dealer would be required to call a national center, which would conduct a name and date-of-birth search of State and Federal files through NCIC. The dealer would receive a message of acceptance or denial. If the sale was denied, the applicant would be advised of the right to appeal; however, all appeals would be conducted within the applicant's State of residence.

The second procedure for sales to nonresidents would require the dealer to call the State agency that issued the FOID card. All dealers would receive a listing of phone numbers of State agencies that issue FOID cards. Special security provisions (such as call-back procedures, dealer codes, and variable passwords) would be established in each State to verify the identity of the out-of-State dealers.

The third procedure would require that nonresident applicants obtain a Certificate to Purchase from a local law enforcement agency within the State of purchase. Prior to purchase of a long gun, the applicant would submit the out-of-State FOID card and other identification documents to a local law enforcement agency; a name and date-of-birth check of NCIC files would be conducted; if the applicant had no prior disqualifying record, the applicant would be issued a Certificate to Purchase. The certificate would be valid for 1 month.

Identifying felons. The problems of interpreting criminal history records are the same as those discussed in Option A. Accurate interpretation of in-State, out-of-State, and Federal records, though difficult, could be achieved given sufficient resources and time.

Response times. The fingerprint search procedures (including mail handling) and evaluation of records would require under current practice an estimated 4–6 weeks. (See Option A for details on how response times are estimated for the equivalent secondary verification procedure.)

Some reduction in the average response time could be achieved if State fingerprint searches produced evidence of disqualifying convictions or yielded an FBI number before the results of the FBI fingerprint check were received. In the former case the applicant would be disqualified on the basis of the State records alone; in the latter case the FBI number could be used to do an immediate query of Federal and out-of-State records through NCIC.

Expected number of cards issued annually. The proposed FOID card would be required of all purchasers of firearms. Unlike the current system in Illinois (see part IV, section 2), FOID cards would not be required of current owners or those wishing to buy ammunition. Start-up of the proposed FOID card system would begin with new buyers only.

Data on FOID card applications in the State of Illinois provide some basis for estimating the number of cards to be issued nationwide under Option B. Nearly 200,000 FOID cards are issued annually in Illinois. Relative to the resident population age 18 or older in Illinois (8.5 million), this figure represents a rate of 2.4 cards per 100 adult residents. If this rate were applied to all adult residents in the United States, the expected number of cards issued annually would exceed 4.2 million in 1990. A FOID card valid for only 3 years, instead of 5 years in Illinois, would generate a larger estimate—nearly 6 million cards issued yearly.

Because the proposed FOID card system for the Nation is restricted to firearm purchases only (and excludes requirements for possession of a firearm or purchase of ammunition), the annual number of cards issued should be somewhat less than the 6 million, based on projections from the Illinois system. However, based on figures from Option A, an estimated 6 million individuals buy the 7.5 million firearms sold annually. Consequently, in the first year of start-up, the estimated number of FOID cards issued cannot be less than 6 million. Once the system has been implemented, the number of cards issued annually should diminish. Though no data exist on the number of repeat buyers from year to year, if we estimate that about a sixth of buyers in any one year purchased a firearm in the previous year, then the estimated number of cards issued annually should approach 5 million in the long run.

Current practices of the District of Columbia and the 22 States that conduct a pre- or post-purchase criminal history check would reduce the net impact of Option B by approximately 8%. As a result, the total projected increase in fingerprint cards at the State and Federal levels would be approximately 5.5 million in the first year and 4.6 million in subsequent years.

The resultant number of fingerprint checks at the FBI would represent more than a doubling of civil (applicant) fingerprint cards (from the current figure of 4 million cards). Overall, the FOID card procedure would increase the total number of fingerprint cards submitted to the FBI's Identification Division from 8.4 million to 13.0 million—an increase of approximately 55%.

Impact—1. *Purchasers:* Individuals without criminal records would not have the immediate ability to purchase a firearm. Those without criminal records would be required to have fingerprints taken by a law enforcement agency and be required to wait an estimated 4-6 weeks to obtain a FOID card. Once a purchaser possessed a card, there would be no additional waiting period during the time the card was valid.

2. *Dealers:* Little additional burden would be placed on gun dealers. Gun dealers would not be required to place any calls to law enforcement agencies for clearance prior to a sale. Dealers would be required to enter the FOID card number on each application form and review the lists of invalid FOID cards prior to each sale. Dealers would not perceive a loss of sales as a result of buyers being rejected in the shop at time of sale.

3. *State law enforcement:* States would experience a substantial increase in work load. Local law enforcement agencies would process additional paperwork and fingerprint cards. In the long run, the number of fingerprint cards would increase on average by 55% in each of the State identification bureaus. States would also need to establish an administrative staff to coordinate processing of appeals, to conduct system audits, and to coordinate audits of gun dealers.

4. *FBI Identification Division:* The FBI's work load would dramatically increase. Based on the long-term projection of 5 million fingerprint cards submitted annually, as many as 1,700 additional employees may be needed by the Identification Division. Approximately 550 of these employees would hold technical positions (e.g., fingerprint technicians, classifiers, and verifiers) and 520 would be typists; all of these would require an estimated 3–6 months of training. The FBI would need several years to recruit and clear these 1,700 new employees, assuming this is even possible. Moreover, it would require an additional 31,000 square feet of office space.

Costs. The annual operating cost at the State and local level is estimated to be between $71 million and $91 million. (For detailed cost estimates, see Exhibit 6 and Estimates of Start-up and Operational Costs of Systems for

Identifying Felons Who Attempt to Purchase Firearms, Fisher-Orsagh Associates, June 1989.) State and local law enforcement agencies would also require an estimated $72 million for start-up costs.

At the Federal level the estimated cost for processing the anticipated 5 million fingerprint cards a year is $65–70 million, and the cost for start-up is $77–81 million.

Overall, when local, State, and Federal costs are combined, the estimated annual operating cost for Option B is $136–161 million, and the estimated start-up cost is $148–153 million.

If the annual operating costs were transferred to applicants through user fees, a fee of $27.28–32.39 per FOID card application would be required to cover local, State, and Federal costs.

Note that if current fingerprint checks for gun purchasers are taken into account, the actual new costs may be slightly lower than these estimates—perhaps 5% lower for start-up costs and 8% lower for annual operating costs.

Advantages. 1. The system would utilize existing data sources, communications systems, and search procedures.

2. Access to criminal history records would be limited to law enforcement agencies. Gun dealers would receive only a listing of invalid card numbers.

3. Positive identification for those with a criminal history record could be established at the time of application for the FOID card. Unlike Option A, an estimated 6–8% of the individual applicants would not be falsely rejected and suffer potential embarrassment at the gun shop because they had a name and date of birth similar to that of someone with a criminal record.

4. Use of the FOID card would make purchase of firearms more convenient by eliminating point-of-sale criminal history checks. Only one criminal history check would be required in a 3-year period regardless of the number of firearms purchased.

5. This system would be much less burdensome to the gun dealer than the point-of-sale options.

6. FOID cards would be State based, and their use could be restricted to the purchase of firearms only. Individuals would be required to possess a FOID card at the time of purchase but not for subsequent transport, possession, or use of firearms.

See also the discussion in Part I of establishing a data base of ineligible persons.

Disadvantages. 1. Individuals without criminal records would not have the immediate ability to purchase a firearm and would be required to have fingerprints taken by a law enforcement agency. The processing of applications for FOID cards could take approximately 4–6 weeks. There may also be public resistance to systematic fingerprinting of all firearm purchasers.

2. Fingerprint searches are slow and costly and place heavy demands on State and Federal repositories, which are having difficulties with current work loads.

3. A State FOID card system would create a list of all persons with valid cards. Though essential to verification and prevention of forgery and fraud, the creation of such a list may be controversial. (Strict limitations could be placed on access to the FOID card data bases in each of the States. Uses of the data bases for any purpose other than verifying the validity of FOID cards could be restricted by State or Federal statute. Establishment of a national data base of FOID cards or out-of-State access to State-level data bases could be prohibited.)

Potential modifications—1. Fingerprint searches may be limited to the repository within the applicant's State of residence. Federal data bases would be searched only on name, date of birth, race, and sex. In order to accomplish this, the AIS-III index would have to be expanded to include individuals arrested before 1974. State repositories would assemble Federal and out-of-State records from automated and manual FBI files plus additional records obtained from NCIC. This modification would substantially reduce the FBI's burden in conducting fingerprint checks while increasing its burden in providing manual records in response to NCIC inquiries. The net effect could be a reduction in burden to the FBI. This modification in Option B would also potentially reduce response times and system costs. A major disadvantage would be decreased reliability in searches of Federal and out-of-State records since name searches of automated records are less reliable than fingerprint-based searches.

2. A notarized statement of eligibility from an applicant could be substituted for fingerprint checks (similar to procedures in Illinois). Fingerprint checks would not be performed. Verification and control procedures could be introduced through random criminal history checks conducted by State identification bureaus. Criminal sanctions could be imposed on individuals who falsify information on the application form. State repositories and Federal officials would be given authority to conduct audits, to revoke FOID cards, and to impose criminal sanctions on fraudulent applicants.

Major advantages of this modification would include: (a) the burdens on State and Federal repositories would be reduced; (b) the burden on applicants would be limited to obtaining a notarized statement; and (c) response time from application to issuance of card could be reduced from the 4–6 weeks in Option B. The major disadvantage would be an increased potential for fraud by disqualified applicants.

3. Fingerprints could be required only for the initial issuance of the FOID card. Renewals could be based on a name and date-of-birth search only. As a result of this modification, the annual number of fingerprint searches could be reduced by about a third.

4. The FBI Identification Division could build a "stop file." Applicant print cards could be added to the existing criminal files or to a special FOID card file. State identification bureaus could then be notified by the FBI when a FOID card holder was subsequently convicted of a disqualifying offense. As a result of this modification, FOID cards would not have to be restricted to a 3-year term; consequently, the number of fingerprint cards sent to the State and the FBI would be reduced. Major disadvantages of this procedure would include: (a) a substantial increase in the number of non-criminal fingerprint cards retained by the FBI and (b) increased fears that such a data base would create a Federal list of gun owners and that it could be used for other criminal justice or investigative purposes.

5. The proposed system could be modified so that FOID cards would be required only of purchasers of specific types of guns.

Option B1: Live Scan of Fingerprints by Local Law Enforcement and Biometric Check by Gun Dealer

This option is a variant of the preapproval system described in Option B. In this variation gun buyers would be fingerprinted by local law enforcement; State and Federal criminal history files would be electronically checked by the local law enforcement agency; individuals would be notified of the results while at the law enforcement agency; if approved, individuals would be issued a FOID card; if rejected, individuals would be advised of appeal procedures. The system would work as follows:

1. The applicant would go to a designated law enforcement agency to obtain a FOID card.

2. The applicant would place all 10 fingers into a fingerprint scanner, which would be maintained and operated by the local law enforcement agency.

3. Digitized fingerprint data would be transmitted to the State identification bureau.

4. At the State identification bureau, a fingerprint technician would calculate the pattern type, which would identify the subfile of the State fingerprint data base. The subfile would then be searched for potential matches.

5. If the search resulted in a list of potential matches, a fingerprint technician would examine the prints and determine identity.

6. If a match was found, a technician at the State identification bureau would inspect the criminal record for disqualifying convictions. If the applicant was disqualified, the local law enforcement agency would be immediately notified and the applicant would receive a Notice of Denial.

7. If a match was not found in the State files (or if the applicant had no disqualifying convictions), the digitized fingerprints, pattern types, and other identifying information would be transmitted by the State identification bureau to the FBI. The FBI would subsequently conduct an electronic search of the national fingerprint files, master name index, and criminal history files.

8. If a match was found in the FBI files, the State identification bureau would receive (by NLETS) copies of the automated records and (by mail) copies of the manual records. If automated, the State would evaluate the records and transmit results to local law enforcement. If manual, the State would notify the law enforcement agency that a record was found and that the applicant could return within 7 work days to receive a FOID card or Notice of Denial.

9. If an applicant was issued a FOID card, the State identification bureau would retain a copy of the applicant's fingerprints. A print of either the thumb or index finger would be imprinted on the FOID card.

10. At the gun shop, purchasers would present the card to the dealer. The dealer would then use equipment to scan the applicant's fingerprint (one print). The equipment would compare the applicant's print to the print on the FOID card.

11. The dealer would call the State identification bureau. The FOID card data base would be examined to determine whether the person in the gun shop was the same person who applied for the card, whether the card had been reported lost or stolen or had expired, or whether the person had been subsequently convicted of a felony.

12. The dealer would receive notice of approval or denial of sale from the State identification bureau. As a result of a denial, applicants would be advised of appeal procedures.

Advantages and disadvantages. 1. Advantages include: (a) Shorter response time to obtain a permit—a majority of applicants could, within an hour, receive a valid FOID card from local law enforcement; (b) the ability to increase the reliability of identification at the gun shop; (c) the ability to identify FOID cards as lost, stolen, lapsed, or disqualified; and (d) the enhancement of automated fingerprint processing for all law enforcement purposes.

2. Disadvantages include: (a) The high costs of start-up and operations; (b) the requirement for equipment and software that are currently being tested or yet to be developed; (c) the need for modifying existing State and Federal data bases to interface with digitized fingerprint information; (d) the incompatibility of the existing AFIS systems, currently produced by four different vendors, with each other and with the FBI; (e) additional automation of State indexes and criminal history files; (f) public resistance to a data base that identified all FOID card holders; (g) significant increased burden on local law enforcement agencies; and (h) the need for additional fingerprint technicians and record evaluators at State identification bureaus.

Estimated costs. Because of the novel and complicated nature of this option and its use of technologies still under development, it has been possible to estimate only part of the costs of setting up such a system. Consequently, the following estimates should be viewed as only a rough measure of system costs.

For a system involving a biometric check at all dealers, total start-up costs are estimated at $344–572 million and annual operating costs at $203–295 million. For a system restricting the biometric check to commercial dealers (an estimated 35% of all dealers), total start-up costs could be an estimated $239–362 million and annual operating costs would be $171–232 million.

Option B2: Smart Card Containing Disqualifying Information

In this variation of a preapproval system, everyone would carry a card (e.g., a driver's license) that would have electronically imprinted identification information, including biometric data such as fingerprints. Whenever someone became legally disqualified to purchase a firearm (for example, by being convicted of a felony), the card would be updated to contain this information. Anyone attempting to buy a firearm would have to produce the card. The card would be put into a reader that would indicate whether the carrier was prohibited from purchasing firearms.

Advantages and disadvantages. 1. The major advantage is that this procedure would not require a communications system—the disqualifying information would be on the card itself.

2. A major disadvantage is the cost of implementing such a radically new identification system and providing criminal justice agencies with the facilities to update these cards.

3. There may be substantial public resistance to the requirement to carry such a card, especially since the need for interstate coordination may require the creation of biometric data bases for the Nation's adult population.

Estimated costs. Sufficient information does not currently exist to make reliable cost estimates of this novel and far-reaching option.

Section 4. Appeal Procedures

The appeals process commences at the point that the applicant receives final notice that the sale has been denied and has been notified of the reasons for denial. This may occur after "secondary verification" (Option A) or after denial of a firearm owner's identification (FOID) card (Option B). As described in both options, fingerprint checks against State and Federal data bases would have been completed prior to final denial and initiation of the appeal period.

During the appeal, the applicant may challenge the denial on grounds that the data are inaccurate (e.g., an acquittal was recorded as a conviction); that the record is incomplete (e.g., a subsequent pardon was not recorded in the data base); or that the offense does not represent a disqualifying offense under the Federal or State standards. Challenges based on inaccurate identification would not occur at the appeals stage since fingerprint checks prior to denial would, presumably, catch errors of this type. The appeals process would proceed as follows:

1. Following final denial, the applicant is advised of rights to appeal and given a document to initiate the appeal.

2. The applicant would go to the agency designated to handle appeals (or would submit documents to a nonlocal appeals agency).

3. The applicant would be provided a copy of the criminal history record that was used as the basis for disqualification.

4. The applicant would indicate the basis for the appeal. The appeals agency would assist the applicant either directly or indirectly by providing names, addresses, or telephone numbers for inquiries to in-State or out-of-State agencies.

5. If errors could not be corrected on the spot or by telephone, the applicant would obtain and submit to the appeals agency documents supporting eligibility (for example, court records of acquittal, pardon, or restoration of rights).

6. The appeals agency would then review the documentation and rule on the appeal. If eligibility was established, the individual would receive a FOID card or Certificate to Purchase.

7. If eligibility was denied, the applicant would be advised of rights to a court challenge.

Additional considerations. 1. The agency (or agencies) assigned responsibility for appeals must be determined. The agency could be the decision agency (State or Federal), a local agency, or a separate entity (State or Federal). Although the latter option would provide an independent review, the decision agency would probably be more familiar with the criminal history records. Local agencies would best serve as a conduit to the official appeals agency rather than as the agency responsible to rule on the appeal.

2. The degree of formality for the appeal must be determined. For example, a separate "Board" could be established, or alternatively, an existing unit within an agency could be designated.

3. Procedures for applicant assistance must be developed. In particular, procedures regarding challenges based on out-of-State records should be developed and coordinated on a national basis.

4. The time for the appeal and decisions may have to be limited.

5. Some States may consider their existing procedures for correcting or updating criminal history records as adequate for a felon identification system.

Part III. Legal and Policy Issues

Statutory and constitutional challenges may be expected to arise regarding the creation of any of the felon identification systems described in this report. (See *Legal and Policy Issues Relating to Biometric Identification Technologies,* SEARCH Group, Inc., June 1989.) Issues related to the First, Second, Fourth, Fifth, Ninth, and Fourteenth amendments to the Constitution, perhaps among others, must be carefully considered. In particular, some organizations take the position that certain types of felon identification systems may, to some degree, unconstitutionally infringe upon the "right of the people to keep and bear arms." This position relies primarily on (1) the imposition that presale checks would impose on non-criminals, (2) the limited deterrence value of any system given the small proportion of felons purchasing firearms through retail outlets, (3) the potential infringement of rights arising from the maintenance of a gun owner register, and (4) the requirements of some systems that prospective purchasers provide fingerprints prior to purchase. In light of the significance of constitutional issues, a final selection of any particular identification system ought to be preceded by a rigorous legal review by appropriate divisions within the U.S. Department of Justice.

The legal review conducted for the Task Force found that criminal history checks, including those based on fingerprints, are currently required by State and Federal law for a variety of non-criminal-justice purposes such as job applications and security clearances. Depending on the jurisdiction, such checks are conducted for those desiring to be lawyers, child care workers, State or Federal employees, bartenders, etc. Although the courts have generally upheld these requirements as rationally related to legitimate governmental purposes, a felon identification system involving the screening, and possibly fingerprinting, of all gun purchasers may raise unresolved constitutional issues.

In addition to constitutional issues, the use of felon identification systems in firearm sales raises a variety of important legal and policy issues that may have to be addressed in State and Federal legislation. Some of the major issues are outlined here.

A Federal or State System; Mandatory or Voluntary?

There are four broad possibilities for implementing a felon identification system: (1) To create a self-standing Federal system that is run entirely by Federal officials; (2) to mandate a cooperative Federal-State system in which State officials carry out a substantial portion of the criminal history checks; (3) to establish a mandatory Federal standard that States could meet in a variety of different ways; and (4) to offer the States several models for a voluntary cooperative Federal-State system and make Federal resources and leadership available to assist the States.

(1) The Task Force did not focus its research efforts on the creation of an independent Federal system for the simple reason that 90% or more of arrests and convictions in the United States are handled by State and local officials. Because of the variety of State laws, practices, and data systems, only State officials are in a position to properly interpret criminal history record information for their State and to determine whether a conviction meets the Federal standard for disallowing a firearm purchase. Moreover, State officials are in the best position to track down missing or incomplete information with local courts or prosecutors. Thus, the active involvement of State officials in the criminal history checks would seem essential for an effective felon identification system.

(2) Given the necessity for active State involvement, the Federal Government could create a felon identification system by mandating that the States adopt a particular system, such as one of those detailed here or a modification thereof. Under this implementation strategy, the Federal Government would select a felon identification system and each State would be required to work with Federal officials to implement it. The result would be a uniform system in each of the 50 States. Such a mandate could be enforced by making State cooperation a condition for the receipt of specified Federal funds or, more directly, for the sale of firearms within the State (under the Federal authority over interstate commerce).

(3) Another possible implementation plan is to allow variation across the States in the kind of system established as long as each State's system met certain minimum Federal standards. As noted above, 20 States and the District of Columbia currently conduct a prepurchase criminal history check for those who wish to buy handguns. There is, however, substantial variation among these systems. In some States checks are conducted by local authorities; in others by State authorities. Some States access only State records when conducting the check; others also access Federal records. A few States require fingerprints; most do not. Of these existing systems, some might be as effective as the options detailed in this report in keeping convicted felons from purchasing firearms through legitimate retail outlets. Others might be easily upgraded.

All of the options presented in this report meet at least two minimum standards: all firearm purchases from federally licensed dealers are covered; and a name check of both State and Federal automated data bases is

conducted for evidence of an arrest for a serious crime (such checks usually also include date of birth, race, and sex). It appears that only four States and the District of Columbia currently meet both standards.

(4) Finally, the Federal Government could take a leadership role in designing one or more felon identification systems and in encouraging, but not mandating, State cooperation. Under this strategy the Federal Government would expand its own resources at the FBI and BATF to make such a system(s) possible and would provide expertise and technical assistance to State and local officials.

Sources of Funding for Criminal History Checks

The Federal Government will be required to invest substantial resources in national data bases, including both personnel and equipment, in order to handle the increase in workload that would result from a felon identification system for firearm sales. State repositories also will require substantial additional resources to handle the work load increase and to continue to improve data quality. Given these resource needs, policymakers will have to determine the appropriate funding mechanism for carrying out the required criminal history checks. Such funding mechanisms could include one or more of the following: (1) direct appropriations by the Federal and State governments, (2) user fees by gun purchasers, (3) increases in firearm dealers' licensing fees through the Bureau of Alcohol, Tobacco and Firearms, and (4) special fines imposed on those convicted of firearms violations. In addition, legislation would have to address whether the State and Federal governments would share any revenue generated by a felon identification system and in what proportion.

Release of Criminal History Information to Gun Dealers

The Task Force has not proposed any options that would give gun dealers direct access to criminal history record information. Such access would violate established standards of privacy and confidentiality as well as numerous State statutes that preclude access to criminal history records by non-law enforcement personnel. Nonetheless, several of the options do require notification to the dealer that a criminal history check has turned up evidence of an arrest for a felony or serious misdemeanor. Even this limited provision of information may violate some State statutes or regulations.

Under Option A and its variants, for example, the dealer would learn whether there was evidence that the prospective purchaser had a criminal history record, but the dealer would not learn the substance of the record itself. This may be viewed by some as a release of criminal history information to non-law enforcement personnel in a way that would embarrass or stigmatize the prospective purchaser. Indeed, in many (perhaps most) cases an initial indication of a criminal record would eventually be shown to be untrue because it resulted from a misidentification with someone else with a common name and date of birth. Yet a "hit" on the initial telephone check will be known to personnel at the gun store and perhaps to customers or others who are present. As a result, the purchaser's reputation within his community may be harmed through no fault of his own. This issue indicates the need for legislative prohibitions on the release by gun dealers and others of anything learned during the telephone check of purchasers, although it may be difficult to enforce such prohibitions against customers or others who may overhear or observe the results of a "hit" during the telephone check.

An important privacy consideration is whether gun dealers in a point-of-sale system would keep the records or lists of those who failed the initial check. Operationally, as in the options described in this report, such recordkeeping is not necessary and could be prohibited by law.

Note that under Option B and its variants the prospective purchaser has already completed a full-fledged criminal history check before going to the gun dealer. Thus, the gun dealer only sees those who have previously qualified to purchase a firearm. He does not learn about those who failed the pre-approval procedure. Only in the few cases where the purchaser had been arrested between issuance of the FOID card and his attempt to purchase a firearm would any disqualifying information become known to the gun dealer.

Another issue of relevance to gun dealers is whether or to what extent their liability ought to be limited by law for providing firearms to disqualified persons on the basis of inaccurate information they received from law enforcement authorities.

The Issue of Accuracy

The Congressional mandate under Section 6213 of the Anti-Drug Abuse Act calls for the "accurate identification of felons" who attempt to purchase firearms. The statute, however, does not specify the level of accuracy that would be acceptable. Since, for the reasons elaborated earlier in this report, a perfectly accurate system is not feasible in the foreseeable future. policymakers will have to decide how much accuracy is required for an effective felon identification system. Generally speaking, the most accurate systems are those that are the most expensive and that create the greatest inconvenience for the gun purchaser.

The issue of accuracy has two sides: (1) to correctly identify felons who attempt to purchase firearms and (2) not to reject eligible persons who attempt to purchase firearms. Deficiencies in identification documents for positively establishing identity, incomplete criminal history records, and the prevalence of common names and dates of birth complicate these two tasks and make it that much more difficult to achieve both simultaneously. A system, for example, that focused primarily on not rejecting eligible persons might prove incapable of correctly identifying a large number of felons. On the other hand, a system that single-mindedly sought to keep convicted felons from purchasing firearms might catch in its nets numerous law-abiding individuals who have a right to purchase firearms. How the balance is to be struck between these two goals—to correctly identify felons and not to reject eligible persons—is a policy, not a technical, judgment. The options outlined in this report present a variety of schemes for meeting the two sides of the accuracy mandate.

Because criminal history records are subject to error, the dictate for an accurate system points to the need for mechanisms through which prospective gun purchasers can update and correct criminal history information. Fortunately, such procedures currently exist in all the States. Any felon identification system for firearm sales ought to have a linkage to these procedures so that corrections to criminal history records can be made in a timely fashion. Other-wise, persons eligible to purchase firearms may be improperly prohibited from doing so.

The requirements for establishing an accurate felon identification system highlight the need for complete and up-to-date criminal history records, preferably in an automated format. Improvements in the accuracy of criminal history records would generate benefits in a wide range of criminal justice applications.

Creating a Data Base of Firearm Purchasers

None of the options outlined in this report provide for or require the creation of a national data base of firearm purchasers. Since all the options are essentially State run, any recordkeeping, whether manual or automated, regarding the application to purchase, or the actual purchase of, firearms would be maintained at the State level, as is currently the case in the States that now require a written application and criminal history check for firearm purchases.

Operationally, the maintenance of computer inquiry logs—transaction records that do not necessarily require the applicant's name—is necessary to measure system traffic and cost and to ensure that inquiries are made only by legitimate dealers for legitimate purposes. In addition, any preapproval system (such as Option B and its variants and the secondary verification of Option A) must maintain records of successful applicants if the system is to have the capability of revoking permits (or FOID cards) if a holder is convicted of a disqualifying felony. This could apply under systems that require the return of a revoked permit and under those in which dealers check the validity of a permit prior to sale.

The development of a data base of gun purchase applicants raises the possibility that such records might be used for other purposes. For example, individuals included in such a data base might be treated as possible suspects in crimes involving firearms. If fingerprint data were included in the file, latent fingerprints might be routinely run against the data base.

Policymakers, of course, could prohibit such use of applicant records through law. Moreover, strict limits could be placed on the time during which records of firearm applicants were maintained and on the extent to which applicant names would appear on transaction logs. In point-of-sale systems, time limits could be placed on the retention of initial inquiry records which do not result in a "hit." Preapproval systems, however, have greater recordkeeping requirements if the possibility of revoking permits is to be maintained. It may be advisable to enact new statutory provisions to ensure that record retention restrictions are enforced.

Potential "Tracking" of Firearm Purchasers

Any system that requires a criminal history record check prior to purchase of a firearm creates the potential for the automated tracking of individuals who seek to purchase firearms. It would be possible, for example, for authorities to "flag" the names of specific individuals, perhaps suspects in criminal cases, who might seek approval to purchase a firearm. If an automated criminal history check was conducted on such a flagged individual as part of an application to purchase a firearm, an electronic message to this effect could be sent to the interested law enforcement agency without the knowledge of the applicant. In this way authorities could learn about the potential purchase of a firearm by someone under investigation or surveillance as well as the geographic location of the purchaser.

Policymakers will have to decide whether to prohibit all such tracking activity or to permit it in some circumstances (for example, notifying the Secret Service when a person suspected of being a threat to the President purchases a firearm). If some tracking is to be permitted, then clear rules and conditions for such activity will have to be established.

Issuing Documents Authorizing Firearm Purchases

The pre-approval options outlined here (Option B and its variants) require the issuance of some kind of documentation (FOID card, certificate to purchase, permit, etc.) for the prospective gun purchaser to present to the gun dealer certifying that the purchaser is not a convicted felon. Moreover, the point-of-sale options (Option A and its variants) have a similar requirement for those who fail on the original telephone check.

Such a requirement, especially if mandated by Federal law, raises policy issues regarding whether the firearm purchaser ought to be singled out and forced to prove through documentation that he is not a convicted felon before he can engage in an otherwise lawful commercial activity. In addition to the inconvenience that such a requirement creates, it may be viewed as demeaning by some.

The other policy issue that such a requirement for documentation presents is that this may be interpreted as an initial step toward a national identification card, something that members of Congress and others have strongly opposed in the past. It should be noted, however, that there are several important differences between a national ID card system and the kinds of documentation required in the options in this report. As usually conceived, a national ID card would be an identification document that was issued to all adult Americans and which had to be carried at all times; yet neither of these conditions would apply to the kind of documentation discussed in this report. FOID cards or firearm purchase permits would be required only for those who wish to purchase firearms and would have to be carried only at the time of purchase. Legislation could prohibit the use of such cards for unrelated identification purposes.

The Use of Biometric Data

Many of the options detailed in this report require the collection of biometric data in the form of fingerprints at some stage in the approval process. Given the traditional association of fingerprints with law enforcement, there may be public resistance to the requirement to provide fingerprints at a law enforcement agency or at a gun dealership in order to purchase a firearm. Such concern may be heightened if the fingerprints are kept on file, manually or electronically, and are subsequently used for unrelated investigative purposes, criminal or otherwise. As noted earlier, such use of the fingerprints provided in a felon identification system could be prohibited by law.

Other biometric technologies, such as retinal scans, could be introduced into felon identification systems, especially to verify identity against a biometrically-based identification card. Because some of these technologies might be perceived as physically more intrusive than fingerprints, public opposition to their use may be greater than to the use of fingerprints. On the other hand, this may be counterbalanced by the fact that these newer technologies are not as closely associated with law enforcement activities as fingerprints.

Section 1. Relevant Federal Statutes

Anti-Drug Abuse Act of 1988, P.L. 100–690, Sec. 6213, 102 Stat. 4360 (1988), as codified in 18 U.S.C. Sec. 922 note (1989)

Identification of Felons and Other Persons Ineligible to Purchase Handguns

(a) *Identification of felons ineligible to purchase handguns.*—The Attorney General shall develop a system for immediate and accurate identification of felons who attempt to purchase 1 or more firearms but are ineligible to purchase firearms by reason of section 922(g)(1) of title 18, United States Code. The system shall be accessible to dealers but only for the purpose of determining whether a potential purchaser is a convicted felon. The Attorney General shall establish a plan (including a cost analysis of the

proposed system) for implementation of the system. In developing the system, the Attorney General shall consult with the Secretary of the Treasury, other Federal, State, and local law enforcement officials with expertise in the area, and other experts. The Attorney General shall begin implementation of the system 30 days after the report to the Congress as provided in subsection (b).

(b) *Report to Congress.*—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall report to the Congress a description of the system referred to in subsection (a) and a plan (including a cost analysis of the proposed system) for implementation of the system. Such report may include, if appropriate, recommendations for modifications of the system and legislation necessary in order to fully implement such system.

(c) *Additional study of other persons ineligible to purchase firearms.*— The Attorney General in consultation with the Secretary of the Treasury shall conduct a study to determine if an effective method for immediate and accurate identification of other persons who attempt to purchase 1 or more firearms but are ineligible to purchase firearms by reason of section 922(g) of title 18, United States Code. In conducting the study, the Attorney General shall consult with the Secretary of the Treasury, other Federal, State, and local law enforcement officials with expertise in the area, and other experts. Such study shall be completed within 18 months after the date of the enactment of this Act and shall be submitted to the Congress and made available to the public. Such study may include, if appropriate, recommendations for legislation.

(d) *Definitions.*—As used in this section, the terms "firearm" and "dealer" shall have the meanings given such terms in section 921(a) of title 18, United States Code.

Gun Control Act of 1968, 18 U.S.C. Sec. 921 et. seq., as amended by the Firearms Owners Protection Act, Pub. L. 99–308, 100 Stat. 449 (1986).

921 (20) The term "crime punishable by imprisonment for a term exceeding one year" does not include—

(A) Any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or

(B) Any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

922 (d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

(1) Is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substance Act (21 U.S.C. 802));

(4) Has been adjudicated as a mental defective or has been committed to any mental institution;

(5) Who, being an alien, is illegally or unlawfully in the United States;

(6) Who has been discharged from the Armed Forces under dishonorable conditions; or

(7) Who, having been a citizen of the United States, has renounced his citizenship. This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.

922 (g) It shall be unlawful for any person—

(1) Who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(2) Who is a fugitive from justice;

(3) [Who] is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) Who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) Who, being an alien, is illegally or unlawfully in the United States;

(6) Who has been discharged from the Armed Forces under dishonorable conditions; or

(7) Who, having been a citizen of the United States, has renounced his citizenship; to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

Section 2. Current Practices

Federal Control of Firearms

The Federal role in the control of firearms is derived primarily from the Gun Control Act of 1968 as amended and is overseen at the National level by the Bureau of Alcohol, Tobacco and Firearms (BATF) of the Department of the Treasury. BATF has over 40 field offices and 500 field agents used for the control of firearms, alcohol, and tobacco; over half of the agents are devoted to firearms control. There are approximately 270,000 federally licensed firearm dealers. It is estimated that 60–70% are noncommercial dealers (hobbyists, collectors, etc.) and account for 20–25% of all sales of firearms. Primary control is maintained through the licensing of dealers and the recording of sales.

Prospective dealers apply for a license through BATF. Ordinary dealers pay a fee of $10 a year; pawnbrokers pay $25 a year; and gun dealers who sell "destructive devices" may be required to pay a fee of up to $1,000 a year. Licenses are issued for 3 years after inquiry and investigation has determined that the applicant is legally qualified. Disqualification can be made if the applicant is under 21 years of age, has previously violated the laws and regulations governing firearms, or is ineligible to possess a firearm under Federal law. This license may be renewed, but may not be transferred if the business is sold. There are a variety of regulations that affect licensees; and licenses may be suspended or revoked for cause.

Retail firearm sales require the completion of BATF form 4473 (Exhibit 5) for each over-the-counter sale or transfer to an end user. This form requires the prospective owner's name, address, date and place of birth, height, weight, and race. It also requires a certification that the prospective buyer is not prohibited from owning a firearm because of a prior felony conviction or because he is in one of the several other categories of persons who are precluded from ownership by Federal law—including, among others, those dishonorably discharged from the Armed Forces, habitual drug users, and

those who have been committed to a mental institution. The type and serial numbers of any weapons purchased are also recorded. The dealer is required to see appropriate identification from the prospective owner, such as a State driver's license, and must make a note of the method of identification on the BATF form 4473. There are stiff criminal penalties for false statements on the form—up to 5 years in prison.

Records relating to firearm transactions must be retained on the premises of the dealer for a period of 20 years. If the dealership is sold, the records must be transferred upon issuance of a new license. If the dealer goes out of business without a successor, the records of transactions must be shipped to BATF's long-term storage facility in Landover, MD. BATF agents may enter gun dealers' facilities and inspect any or all of the records that are required to be maintained by Federal law. These examinations are constrained by the law, which spells out in some detail the conditions (frequency and purpose) under which such investigations may be made. As an example, in the event of a crime involving a firearm, BATF secures a description of the weapon, including the serial number, and traces it from the manufacturer or importer through the distributor to the retail dealer where the records of sale are examined in an effort to trace the weapon to the owner of record.

Because of limitations in manpower, BATF agents concentrate their examination of records on high-volume retail stores, dealers who are suspected of illegal gun sales, and other individuals who come to the attention of the agents through other sources. In their examination of these records, the agents are especially alert to the sale of two or more handguns to the same purchaser within 3 days. Other causes for suspicion include sales to suspected gang members or sales of high-powered weapons to suspected "straw purchasers," those buying guns for others who are ineligible. If an inspection is not satisfactory, BATF (1) may note the problem and reinspect in about 3 months, (2) notify the dealer that his license is in jeopardy if corrective actions are not taken, (3) take other administrative action, or (4) initiate criminal proceedings.

State Practices Regarding Firearms Sales

Currently, 20 States and the District of Columbia, covering 55% of the Nation's population, conduct a criminal history check of persons desiring to purchase a handgun prior to allowing that person to take possession of the weapon (Exhibit 7). Four of these States and D.C. include the purchase of long guns in this requirement. In 10 States and D.C. the burden of responsibility for prepurchase criminal history checks falls solely on local law enforcement agencies (either the police or sheriffs' department); in five States this responsibility is solely that of a State agency; and in another five States agencies at both State and local levels conduct criminal history checks prior to purchase.

The levels of criminal history information accessed in these checks vary among the States. Eight States access files no higher than those maintained at the State level; 12 States and D.C. access national criminal history records.

In most States this criminal history check is done using name, date of birth, and other identifying characteristics such as race and sex, but excluding fingerprints. In six States and D.C. fingerprints are taken from the applicant for use in the criminal history check. In one of these States only a thumbprint is obtained.

The criminal history check is conducted as part of an application process involving a mandatory waiting period. In 15 States this application process and waiting period are required for each handgun purchase (a permit is obtained through this process in four of these States). In six States a successful application for purchase of handguns results in a permit or identification card which allows purchases for a specified or indefinite time period. In the four States and D.C. that require criminal history checks for the purchase of long guns, a successful application results in an identification card, permit, or registration certificate.

In some instances, a criminal history check is conducted after the purchaser of a handgun has taken possession of the weapon. In Pennsylvania, a postpurchase check is conducted by the State agency (in addition to a prepurchase check conducted locally). Two States (Michigan and South Carolina) conduct a criminal history check on handgun purchasers only after the buyer has taken possession of the weapon. In Michigan this check is done by the local agency, and in South Carolina it is done by the State agency.

State residents making their initial purchase of a handgun in the 20 States and D.C. conducting a pre-purchase criminal history check are subject to waiting periods ranging from 2 days to 6 months (Exhibit 8). The two States that conduct only a postpurchase criminal history check on handgun purchasers have no waiting period. One State (Wisconsin) requires a 2-day waiting period for handguns, but does not conduct a criminal history check on the purchasers of handguns. The waiting periods for the purchase of long guns in the four States and D.C. that require a criminal history check for such purchases range from 15 to 60 days. Local jurisdictions in many States may have additional restrictions or requirements for the purchase of handguns and long guns.

Application Requirements for Firearm Purchases in the 10 Largest States

(As of April 1989)

California (pop. 28,074,000)

A written application is required to purchase a handgun. This is submitted by the firearm dealer to the State Department of Justice. Purchaser must wait 15 days before taking possession. Within this 15-day period, the application may be rejected based on the results of name check done against State criminal history files. Eventually, but not necessarily during the 15-day waiting period, the State DOJ conducts a name check against NCIC.

New York (pop. 17,755,000)

A written application is required for the purchase of handguns. This is made to the city or county licensing officer (usually the Police Commissioner or Sheriff). Purchaser pays for gun, then takes receipt and application for permit to local law enforcement agency where fingerprints are taken. Application materials are forwarded to the State Division of Justice Services for State records check and FBI check. Approval must be granted for purchaser to take possession of gun. Processing of application takes up to 6 months. The applicant must complete firearms safety and training course during this time. When the processing is complete, the local law enforcement agency informs the Superior Court Judge who issues the permit. If the application is denied, applicant receives a refund from the dealer. An application for permit is required for possession and purchase of all firearms in New York City.

Texas (pop. 17,192,000)

No written application process is mandated by State law.

Florida (pop. 12,249,000)

No written application process is mandated by State law.

Pennsylvania (pop 11,860,000)

A written application is required for handguns. Within 6 hours, the firearms dealer forwards this application to local Chief of Police or Sheriff. There is a 48-hour waiting period. The local law enforcement official may block the sale during this time. A copy of the application is forwarded to the State Police within 7 days. The State Police conduct a name check against their criminal history files, but generally this is done after the purchaser has taken possession of the

weapon. If they get a "hit," a field investigation is initiated.

Illinois (pop. 11,584,000)

A written application must be submitted to the State Police to obtain a Firearm Owner's Identification Card which is required for purchase of firearms. Application is checked against State and Federal criminal history files. If ID card is issued, it is valid for 5 years or until owner becomes prohibited from firearms possession. Waiting periods of 72 hours for handguns and 24 hours for long guns are in effect. Only pre-registered handguns are allowed in Chicago; no new handguns may be brought into the city.

Ohio (pop. 10,779,000)

The written application mandated by State law pertains only to firearms designed for military use; however, some local jurisdictions have enacted stricter legislation. Among major cities, a permit to purchase is required for any firearm in Cleveland, Columbus, Dayton, and Toledo, and a Handgun Identification Card is required for the purchase of handguns in Cleveland, Dayton, and Toledo.

Michigan (pop. 9,231,000)

The Michigan License to Purchase is required for all handgun purchases. This is obtained at the local police agency. Upon purchase, the seller documents the sale on the application and forwards copies to the local police agency and the Department of State Police. The local police are responsible for conducting State and Federal criminal history checks. No waiting period has been established. In Detroit a permit is required for all firearms purchases.

New Jersey (pop. 7,756,000)

A firearm identification card is required to purchase rifles, shotguns, and handguns. This card is valid until holder becomes prohibited from possessing firearms. A written application to the local Chief of Police is required. Fingerprints must be submitted with the application. Applications are sent to State Police for NCIC check and additional investigation. In reality, the processing time for applications is 6–10 weeks (somewhat longer than the time stated in the law). The local law enforcement agency receives the results and issues or denies the card or permit. An applicant may appeal a denial to the Superior Court of the County in which he resides.

North Carolina (pop. 6,512,000)

A permit is required for the purchase of a handgun. Written application is made to the local Sheriff. There is up to a 30-day waiting period for approval. The Sheriff conducts a name check against the State criminal history files. The Sheriff decides on the basis of this check (and any of his own information) whether to accept or reject the application.

Note: All population figures are for 1988.

Illinois Firearm Owner's Identification Card

In 1968, the Illinois legislature enacted the Firearm Owner's Identification Act which provides "a system of identifying persons who are not qualified to acquire or possess firearms and firearm ammunition within the State of Illinois." The Act provides for the issuance of Firearms Owner's Identification (FOID) cards to persons authorized to acquire or possess firearms or ammunition.

The provisions of the Act are administered by the Illinois State Police. An applicant submits a notarized card application form (with photo) to the Illinois State Police. The applicant must indicate whether he:

(1) Has previously been convicted of a felony;

(2) Has been a patient in a mental institution within the preceding 5 years;

(3) Is addicted to narcotics; or

(4) Is mentally retarded.

Rejection of the application may occur for affirmative responses to any of the above or for perjured responses.

Upon receipt of an application, a criminal history check is conducted utilizing a name index search through both the Illinois and Federal criminal history records systems. An additional check is conducted with the Illinois Department of Mental Health and Disabilities. After determination that the applicant is not an ineligible person, a FOID card is issued with a 5-year expiration date.

Applicants who are rejected may appeal to the Chief of the Identification Bureau of the Illinois State Police for an administrative hearing for reconsideration and must, by personal appearance, present relevant documentation to support a reconsideration. Subsequent appeals must be made through the State Court.

If State authorities learn that a FOID cardholder has become ineligible (for example, by a felony conviction), the card is revoked and a voluntary return of the card is requested. The revocation is noted in the State criminal history files. If the card is not returned voluntarily, it may be retrieved by the local police.

Illinois authorities report that approximately 200,000 FOID cards are issued annually. An estimated 78% of all cards are issued with the first application; the final rejection rate is about 5%. Illinois officials also report that 2,470 individuals were denied a FOID card in 1988 as a consequence of their felony convictions. During the same year, 779 FOID cardholders had their cards revoked as a result of felony convictions.

The Illinois State Police have noted three problem areas for administration of the program:

1. The identification procedures used do not insure a positive identification;

2. Court notification of disposition of felony charges for inclusion in criminal history records has not been accurate or timely; and,

3. Private mental health institutions are not required to share information for the record check.

Virginia's New Point-of-Sale Approval System

The following is a summary of procedures being established to implement the recently enacted Virginia statute requiring felony checks for persons wanting to purchase firearms within the State. The legislation was enacted by both houses of the Virginia legislature in February 1989 and was signed by the Governor in April 1989. The system is to be implemented by November 1, 1989. All information was obtained from the Virginia Department of State Police.

The statute applies to:

1. Handguns with a barrel of less than 5 inches, and

2. Semiautomatic center fire rifles or pistols that expel projectiles by action of an explosion, have a magazine that holds more than 20 rounds of ammunition, and are designed by the manufacturer to accommodate silencers, bayonets, bipods, flash suppressors, or folding stock.

Procedures for implementation. 1. The purchaser presents two pieces of ID to the dealer.

2. The dealer calls the State Police using a toll-free telephone number. (The system will operate 7 days a week from 8 a.m. to 10 p.m. The Records Management Division estimates that they will receive 250,000 inquiries a year.)

3. The dealer identifies himself by giving his firearm dealer ID number and the control number from the State firearm purchaser's application form.

4. The State checks the validity of the ID number and confirms that the control number has been assigned to that dealer. (This is designed to prevent invalid inquiries. A microcomputer system is being developed that will contain dealer identification information and list the control numbers assigned to each dealer.)

5. The dealer provides the State Police with the applicant's name, sex, race, date of birth, and Social Security number.

6. While the dealer remains on the phone, the State Police make a name check against the State index to criminal history records and the State and Federal "wanted persons" lists. A name, sex, race, and date-of-birth match will be required to make a "hit." Virginia

estimated that 16–20% of the telephone inquiries will result in a "hit." The total time for a phone call is expected to be about 3 minutes.

7. If there is a hit against the State index, the dealer is advised that the sale cannot be completed. State Police then have until the dealer's next close of business day to determine if the applicant was actually convicted of a disqualifying felony. During this time, checks will be made against the State criminal history records, and the Interstate Identification Index (III). If no record is found within this time, the dealer is advised that the sale may proceed. If a disqualifying felony is found, the dealer is advised that the sale may not proceed. The dealer then forwards a copy of the State application form to the State Police to permit cross checking of the control number and an appeal by the applicant.

8. If the sale is approved, the application form (with the dealer's control number) is completed and forwarded to the State Police. A check is then made to verify the data.

9. If there is no "hit" against the State index in the initial inquiry, the dealer is advised that the sale may proceed immediately. The State application form containing the control number is then forwarded to the State Police. The form will have been signed by the applicant attesting to the absence of any disqualifying felonies and providing consent for a criminal history records check. Upon receipt of the application form, a check is initiated against State and Federal criminal history records. If a disqualifying felony record is found, this information and a copy of the application form is forwarded to the dealer and to the chief law enforcement official in the jurisdiction in which the sale was made. It is anticipated that the law enforcement official will issue an arrest warrant and initiate efforts to retrieve the firearm.

10. Appeals are based on the applicant's general right to inspect and correct his record. In general, applicants will be directed to the local police department who may take fingerprints to support the record check. (The State does not require a fingerprint check.) The applicant would also be advised of any out-of-State records and would be assisted in contacting out-of-State officials.

11. The system described above applies to Virginia residents only. Out-of-State residents will undergo a similar process, including a criminal history records check, which may take up to 10 days to complete.

Maintenance of records. If the applicant is approved, a record of the inquiry transaction (including the applicant's name) will be maintained in an active file for 30 days.

If the applicant is disapproved, a log of the inquiry will be maintained for a 2-year period. The applicant has 30 days to appeal the denial under existing State law (Virginia Code 9–192) regarding completeness of criminal history records.

Estimated cost. Virginia officials estimate that this system will require 16 new full-time personnel and will cost $481,000 for 12 months operation ($90,000 for start-up costs and $391,000 for annual operating costs). This will cover staff, space, forms, communications, and equipment.

*Differences between the Virginia system and Option A.*1. The Virginia system applies only to specific categories of firearms and may be further limited to selected categories of dealers.

2. In the Virginia system Federal and interstate criminal history records are not checked prior to sale unless there is a "hit" against the State index. Under Option A, a check is automatically made against State and Federal records.

3. Virginia checks do not require a personal appearance at a law enforcement agency until the final appeal. Under Option A, the secondary verification on which a disapproval is based is supported by a fingerprint check.

4. The Virginia system has strict deadlines for government action, which are not included in the basic Option A.

Section 3. Access to Federal Criminal History Records

Through both its Identification Division and the National Crime Information Center (NCIC), the FBI serves as a central access point for Federal and State criminal history record information. The Identification Division maintains fingerprint-based criminal history records on approximately 25 million individuals who have been arrested at some time in their lives for a serious offense (felony or serious misdemeanor). These records are described below. In addition, the FBI operates the Interstate Identification Index (III), accessed through the NCIC telecommunications network, which notifies law enforcement agencies requesting criminal history information whether a record exists in one of the 20 States (listed below) that currently participate in III. The III is a cooperative Federal-State program for the interstate exchange of criminal history record information that makes available in a timely manner criminal history information to the law enforcement community.

III participating States maintain their own computerized criminal history (CCH) files at the State level and provide information from these files when a request comes either through the NCIC network or directly to the State through the National Law Enforcement Telecommunications System (NLETS). Most States that do not participate in III also maintain automated CCH systems, but these are not directly tied into the NCIC system. These data, if automated, can be accessed by a direct request through NLETS. In addition, when a request comes in to the FBI through NCIC, it provides whatever automated data it has in its Identification Division from nonparticipating States.

In order to provide rapid access to these State and Federal criminal history files, the FBI maintains an automated master name index (MNI) of over 12.5 million records, with over 70,000 new records being added each month. An index record contains an individual's name, aliases, physical description, identifying numbers, fingerprint classification, and the location(s) of the criminal history record(s).

Criminal history records, sometimes call "rap sheets," are cumulative, name-indexed histories of an individual's involvement in the criminal justice system for serious offenses (felonies and serious misdemeanors). Excluded are records on arrests and subsequent dispositions for such offenses as drunkenness, vagrancy, disturbing the peace, and traffic violations (except manslaughter, driving under the influence of alcohol or drugs, and hit-and-run). Offenses committed by juvenile offenders are excluded unless a juvenile is tried as an adult.

Access to these Federal data bases and indexes is through the NCIC system. The NCIC computer equipment is located at FBI headquarters in Washington, DC. Connecting terminals are located throughout the United States, Canada, Puerto Rico, and the U.S. Virgin Islands in police departments, sheriff's offices, State police facilities, Federal law enforcement agencies, and other criminal justice agencies. The system includes 37,000 terminals in 17,000 locations and provides uninterrupted service 24 hours a day, 7 days a week. Over 130 dedicated telecommunications lines link Federal and State agencies together. Each State maintains a central Control Terminal Agency (CTA), which is directly connected to NCIC. Telecommunications lines and equipment within the State provide

State and local criminal justice agencies access to the control terminal.

The NCIC system provides direct, electronic access to the Interstate Identification Index of records maintained in the 20 participating States and to the Identification Division's automated records. This combined index is now known as the Automated Information System-Phase III (AIS–III). Moreover, NCIC maintains several national "hot files." These hot files contain identifying information concerning wanted and missing persons, stolen vehicles, and identifiable stolen property of several types.

In addition to the computerized AIS–III MNI, the Identification Division maintains three criminal history files designed for use by Federal and State agencies:

1. An automated criminal history file which contains rap sheet information on 12.5 million persons arrested for the first time and reported to the FBI since July 1, 1974, or known to the FBI with a year of birth 1956 or later.

2. Manual criminal history records on approximately 8.8 million individuals born in or after 1929 but arrested at some time before July 1, 1974. There is an automated master name index to these data, but it is available only for in-house use and not through the NCIC network. The manual rap sheet jackets are maintained at various locations in the Washington, DC area. Several of the options detailed above require merging the index for these records into the AIS–III index.

3. Manual criminal history records on about 3.6 million offenders born before 1929 whose files are maintained by the Identification Division. There is no automated index to this older information.

In general, indexes at the Federal level are arrest-based files containing only identifying information on individuals arrested for "fingerprintable" offenses. See Exhibit 4 for an overview of these indexes and data bases.

An authorized criminal justice agency can make an inquiry (a QH message) on name, sex, race, date of birth, and numeric identifiers such as Social Security Number, State Identification Number (SID), or FBI number. Most initial searches are on name, sex, race, and date of birth, if known. In response to a QH inquiry, the requester will be provided one of the following responses:

1. A single matching record response—a "hit."

2. A multiple matching response, up to a maximum of 15 records—a "hit."

3. A "no record" response—a "no hit."

A "no hit" response does not necessarily mean that there is no criminal history record on the individual being investigated. The FBI Identification Division maintains fingerprints on approximately 25 million persons (21 million automated). Of these, about half, 12.5 million, are contained in the AIS–III MNI, discussed above. In order to access the information in the additional records maintained by the FBI, a law enforcement agency can submit a fingerprint card, usually through the mail, to the Identification Division for a more detailed search. Additionally, there may be criminal history information at the local or State level for which the arrest fingerprint card was never forwarded to the FBI.

As indicated above, a positive response to an NCIC inquiry (called a QH response) can result in either a single record response (one individual) or a multiple record response (up to 15 individuals). The response provides the requester with three types of information:

1. The person's name, including aliases, physical descriptors, and numerical identifiers.

2. The identity of the data base(s) containing the criminal history record information.

3. The means to be used to obtain the record(s).

In order to retrieve a specific criminal history, a criminal history record request (QR message) containing the person's FBI or SID number must be used. The identifiers are obtained from the name-based QH inquiry or from other sources such as State CCH records or investigative files. The QR message will result in an automatic notification to all data bases identified as having information on the subject being investigated. The CCH systems of the States participating in III will be queried and the individual's rap sheet from one or more III States will automatically be forwarded via NLETS. FBI records on Federal offenders and nonparticipating III States will be sent on-line using NCIC telecommunications.

If the automated name index for the records of the 8.8 million persons born in or after 1929 and arrested before July 1, 1974, is integrated into the AIS–III index, then under the initial verification procedure proposed in Option A (telephone check by the gun dealer), an NCIC inquiry could be conducted within a matter of minutes on approximately 21.3 million individuals who have been arrested for a felony or serious misdemeanor.

The 20 States participating in III as of June 1989:

California	New Jersey
Colorado	New York
Connecticut	North Carolina
Delaware	Ohio
Florida	Oregon
Georgia	Pennsylvania
Idaho	South Carolina
Michigan	Texas
Minnesota	Virginia
Missouri	Wyoming

Section 4. Study of Other Persons Ineligible to Purchase Firearms

Section 6213(c) of the Anti-Drug Abuse Act of 1988 requires the Attorney General to conduct a feasibility study to determine whether an effective method can be established for identifying "other persons" ineligible to purchase firearms (that is, other than convicted felons). Such persons include: fugitives from justice, those who use or are addicted to illegal drugs, those who have been adjudicated as mentally defective or have been committed to a mental institution, illegal aliens, those dishonorably discharged from the Armed Forces, and those who have renounced their American citizenship. This study must be submitted to Congress by May 18, 1990.

The Task Force decided that this parallel activity ought to be initiated by a private contractor with expertise in criminal justice and information systems. In July of this year the Bureau of Justice Statistics contracted with Enforth Corporation of Cambridge, Massachusetts to carry out this work. The Enforth study will include the following elements:

- The availability of existing data bases that can be utilized to identify ineligible individuals;
- The quality of these data bases in terms of completeness and accuracy of records;
- The remote accessibility of the data bases through a telecommunications system, particularly, the method and cost of access;
- Legal restrictions on the use of the data and an analysis of the relevant privacy and confidentiality considerations of accessing such data; and
- The feasibility of linking these data bases with a felon identification system.

Part V. Exhibits

1. Felon identification system for firearm sales Schematic overview
2. Option A: Telephone check by gun dealer Immediate verification
3. Option A: Secondary verification Option B: Prior approval
4. National access to criminal history data
5. Firearms transaction record, BATF form 4473

6. Estimated costs for felon identification options
7. States requiring criminal history checks for firearm sales
8. Maximum waiting periods required for initial firearm purchase by a State resident

BILLING CODE 4410-18-M

Felon identification system for firearm sales

Schematic overview

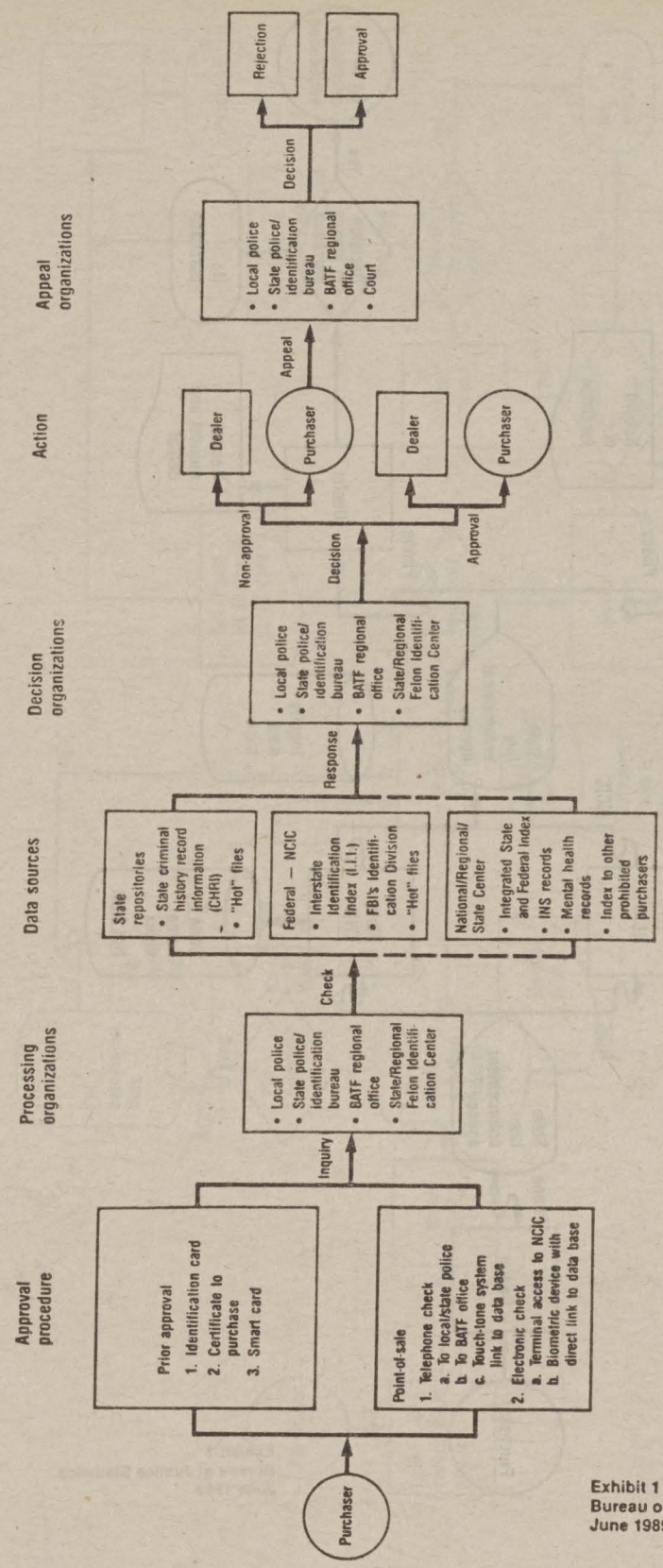

Exhibit 1
Bureau of Justice Statistics
June 1989

Option A: Telephone check by gun dealer
Immediate verification

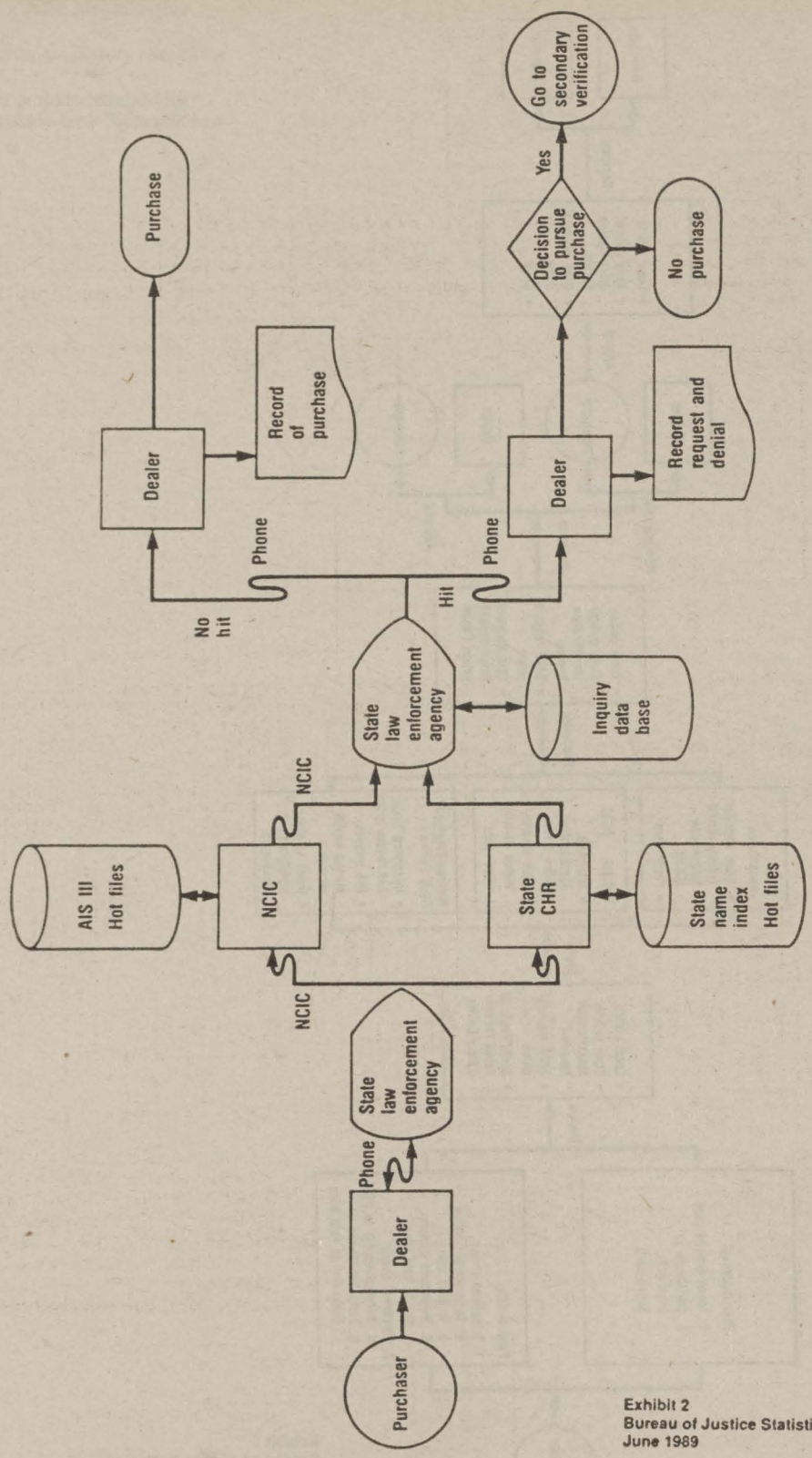

Exhibit 2
Bureau of Justice Statistics
June 1989

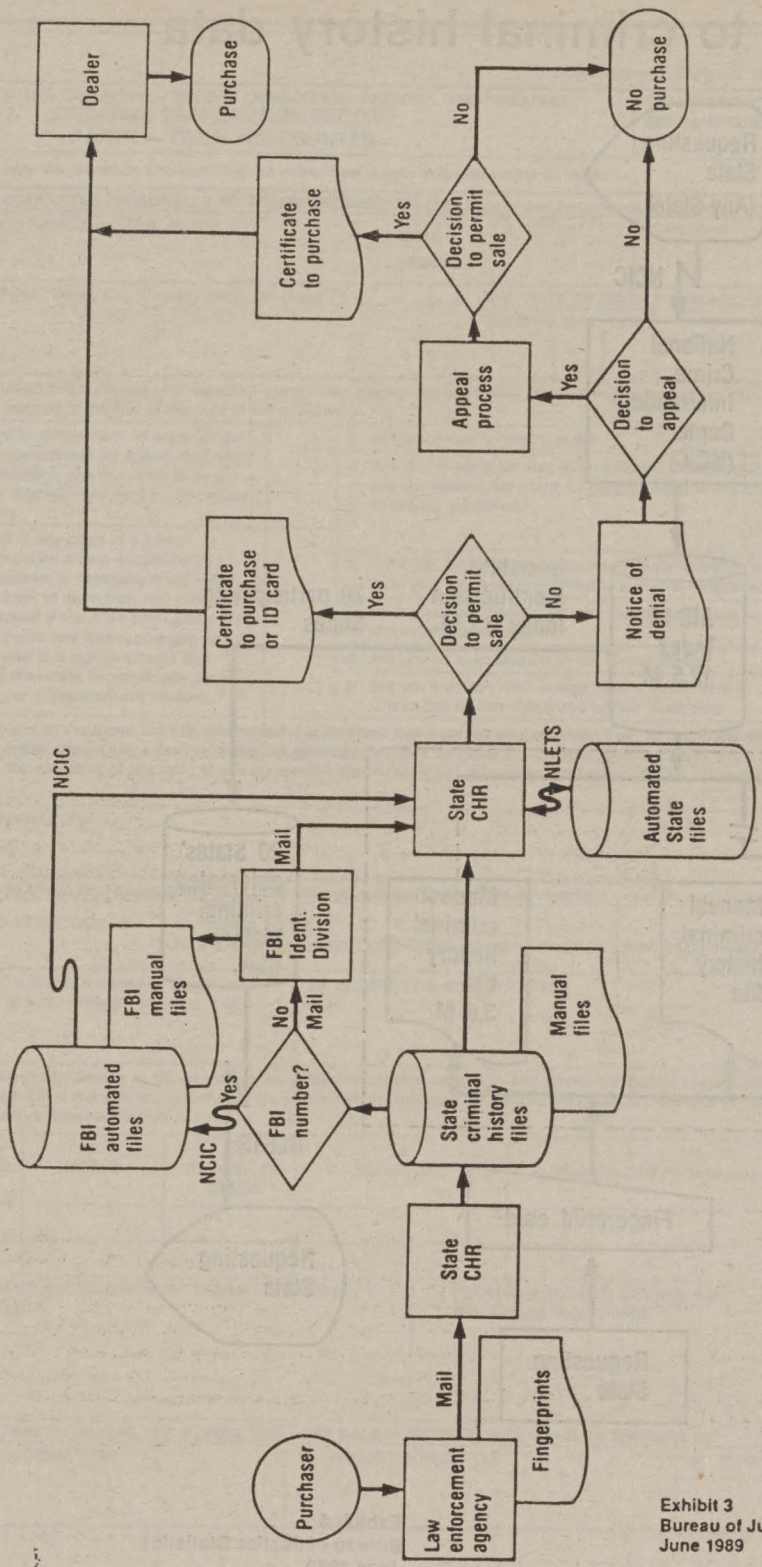

Exhibit 3
Bureau of Justice Statistics
June 1989

National access to criminal history data

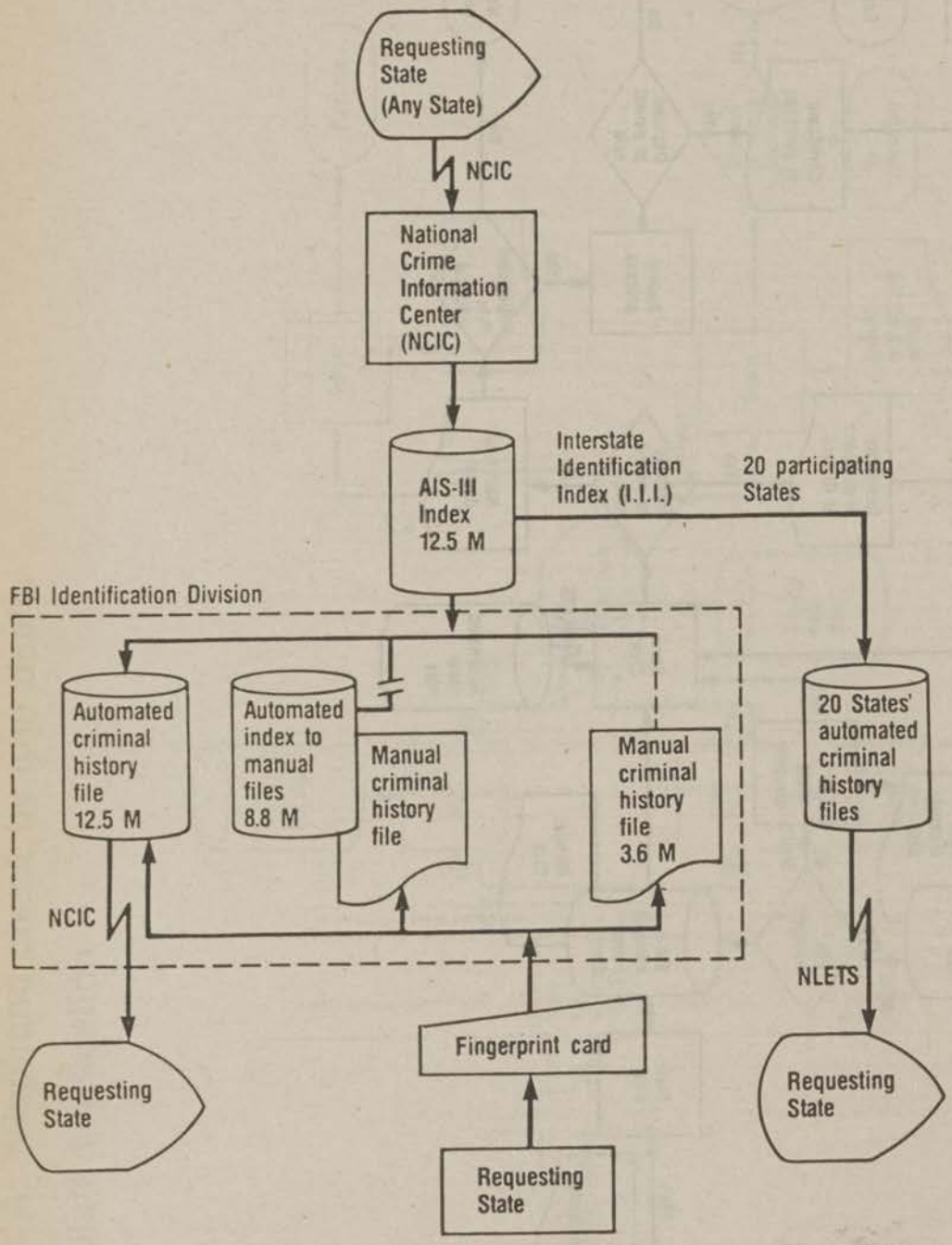

Exhibit 4
Bureau of Justice Statistics
June 1989

Form Approved: OMB No. 1512-0129, (3/31/91)

DEPARTMENT OF THE TREASURY — BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

FIREARMS TRANSACTION RECORD

PART I — OVER-THE-COUNTER

TRANSFEROR'S TRANSACTION SERIAL NUMBER

NOTE: Prepare in original only. All entries on this form must be in ink. See Notices and Instructions on back.

SECTION A — MUST BE COMPLETED PERSONALLY BY TRANSFEREE *(BUYER) (See Notices and Instructions on reverse)*

1. TRANSFEREE'S *(Buyer's)* NAME *(Last, First, Middle)*	[ ] MALE [ ] FEMALE	2. HEIGHT	3. WEIGHT	4. RACE
5. RESIDENCE ADDRESS *(No., Street, City, County, State, ZIP Code)*	6. DATE OF BIRTH MONTH / DAY / YEAR		7. PLACE OF BIRTH *(City and State or City and Foreign Country)*	

8. CERTIFICATION OF TRANSFEREE *(Buyer)*—An untruthful answer may subject you to criminal prosecution. Each question must be answered with a "yes" or a "no" inserted in the box at the right of the question:

a. Are you under indictment or information* in any court for a crime punishable by imprisonment for a term exceeding one year? **A formal accusation of a crime made by a prosecuting attorney, as distinguished from an indictment presented by a grand jury.*		c. Are you a fugitive from justice?	
		d. Are you an unlawful user of, or addicted to, marihuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance?	
b. Have you been convicted in any court of a crime punishable by imprisonment for a term exceeding one year? (NOTE: A "yes" answer is necessary if the judge could have given a sentence of more than one year. A "yes" answer is *not* required if you have been pardoned for the crime or the conviction has been expunged or set aside, or you have had your civil rights restored and, under the law where the conviction occurred, you are not prohibited from receiving or possessing any firearm).		e. Have you even been adjudicated mentally defective or have you ever been committed to a mental institution?	
		f. Have you been discharged from the Armed Forces under **dishonorable** conditions?	
		g. Are you an alien **illegally** in the United States?	
		h. Are you a person who, having been a citizen of the United States, has renounced his/her citizenship.	

I hereby certify that the answers to the above are true and correct. I understand that a person who answers "Yes" to any of the above questions is prohibited from purchasing and/or possessing a firearm, except as otherwise provided by Federal law. I also understand that the making of any false oral or written statement or the exhibiting of any false or misrepresented identification with respect to this transactioh is a crime punishable as a felony.

TRANSFEREE'S *(Buyer's)* SIGNATURE	DATE

SECTION B — TO BE COMPLETED BY TRANSFEROR (SELLER) *(See Notices and Instructions on reverse)*

THIS PERSON DESCRIBED IN SECTION A: [ ] IS KNOWN TO ME
[ ] HAS IDENTIFIED HIMSELF/HERSELF TO ME IN THE FOLLOWING MANNER

9. TYPE OF IDENTIFICATION *(Driver's license or identification which shows name, date of birth, place of residence, and signature.)*	10. NUMBER ON IDENTIFICATION

On the basis of (1) the statements in Section A; (2) the verification of identity noted in Section B; and (3) the information in the current list of Published Ordinances, it is my belief that it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s) described below and on the back to the person identified in Section A.

11. TYPE *(Pistol, Revolver, Rifle, Shotgun, etc.)*	12. MODEL	13. CALIBER OR GAUGE	14. SERIAL NO.	15 MANUFACTURER *(and importer, if any)*
1.				
2.				

16. TRADE/CORPORATE NAME AND ADDRESS OF TRANSFEROR *(Seller) (Hand stamp may be used)*	17. FEDERAL FIREARMS LICENSE NO. *(Hand stamp may be used)*

THE PERSON MAKING THE ACTUAL FIREARMS SALE MUST COMPLETE ITEMS 18 THROUGH 20

18. TRANSFEROR'S *(Seller's)* SIGNATURE	19. TRANSFEROR'S TITLE	20. TRANSACTION DATE

ATF F 4473 (5300.9) PART I (1-88)

Exhibit 5

11. TYPE *(Pistol, Revolver, Rifle, Shotgun, etc.)*	12. MODEL	13. CALIBER OR GAUGE	14 SERIAL NO.	15 MANUFACTURER *(and importer, if any)*
3.				
4.				
5.				
6.				
Complete ATF F 3310.4 for multiple purchases of handguns (See item 10 below)				

NOTICES AND INSTRUCTIONS

PAPERWORK REDUCTION ACT NOTICE

The information required on this form is in accordance with the Paperwork Reduction Act of 1980. The purpose of the information is to determine the eligibility of the buyer (transferee) to receive firearms under Federal law. The information is subject to inspection by ATF officers. The information on this form is required by 18 U.S.C. 922 and 923.

IMPORTANT NOTICES TO TRANSFEROR (SELLER) AND TRANSFEREE (BUYER)

1. Under 18 U.S.C. 921-929 firearms may not be sold to or received by certain persons. The information and certification on this form are designed so that a person licensed under 18 U.S.C. 921-929 may determine if he may lawfully sell or deliver a firearm to the person identified in Section A, and to alert the transferee (buyer) of certain restrictions on the receipt and possession of firearms. This form should not be used for sales or transfers where neither person is licensed under 18 U.S.C. 921-929.

2. WARNING—The sale or delivery of a firearm by a licensee to an eligible purchaser who is acting as an agent, intermediary or 'straw purchaser' for someone whom the licensee knows or has reasonable cause to believe is ineligible to purchase a firearm directly, may result in a violation of the Federal firearms laws.

3. The transferee (buyer) of a firearm should be familiar with the provisions of law. Generally, 18 U.S.C. 921-929 prohibit the shipment, transportation, receipt, or possession in or affecting interstate commerce of a firearm by one who is under indictment or information for, or who has been convicted of, a crime punishable by imprisonment for a term exceeding one year, by one who is a fugitive from justice, by one who is an unlawful user of, or addicted to, marihuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance, by one who has been adjudicated mentally defective or has been committed to a mental institution, by one who has been discharged from the Armed Forces under dishonorable conditions, by one who, having been a citizen of the United States, has renounced his citizenship, or by one who is an alien illegally in the United States.

EXCEPTION: For one who has been convicted of a crime punishable by imprisonment for a term exceeding one year, the prohibition does not apply *if that individual has received a pardon for the crime or the conviction has been expunged or set aside or under the law where the conviction occurred that individual has had his/her civil rights restored and as a result of the civil rights restoration is not prohibited from receiving or possessing firearms.*

KNOW YOUR CUSTOMER—Before a licensee may sell or deliver a firearm to a nonlicensee, the licensee must establish the identity, place of residence, and age of the buyer. Satisfactory identification should verify the buyer's name, date of birth, address, and signature. Thus, a driver's license or identification card issued by a State in place of a license is particularly appropriate. Social Security cards are not acceptable because no address or date of birth is shown on the card. Also, alien registration receipt cards and military identification cards are not acceptable by themselves because the State of residence is not shown on the cards. However, although a particular document may not be sufficient to meet the statutory requirement for identifying the buyer, any combination of documents which together disclose the required information concerning the buyer is acceptable.

INSTRUCTIONS TO TRANSFEREE (BUYER)

4. The buyer (transferee) of a firearm will, in every instance, personally complete Section A of the form and certify (sign) that the answers are true and correct. However, if the buyer is unable to read and/or write, the answers may be written by other persons, excluding the dealer. Two persons (other than the dealer) will then sign as witnessess to the buyer's answers and signature.

5. When the transferee (buyer) of a firearm is a corporation, company, association, partnership or other such business entity, an officer authorized to act on behalf of the business will complete and sign Section A of the form and attach a written statement, executed under penalties of perjury, stating

(a) that the firearm is being acquired for the use of and will be the property of that business entity, and

(b) the name and address of that business entity.

INSTRUCTIONS TO TRANSFEROR (SELLER)

6. Should the buyer's name be illegible the seller shall print the buyer's name above the name printed by the buyer.

7. The transferor (seller) of a firearm will, in every instance, complete Section B of the form.

8. Additional firearms purchases made by the same buyer may not be added to this form after the seller has signed and dated it.

9. If more than six firearms are involved, the identification required by Section B, Items 11 through 15, must be provided for each firearm. The identification of the firearms transferred in a transaction which covers more than six weapons may be on a separate sheet of paper which must be attached to the form covering the transaction.

10. In addition to completing this record, you must report any multiple sale or other disposition of pistols or revolvers on ATF F 3310.4 in accordance with 27 CFR 178.126a.

11. The transferor (seller) of a firearm is responsible for determining the lawfulness of the transaction and for keeping proper records of the transaction. Consequently, the transferor should be familiar with the provisions of 18 U.S.C. 921-929 and the Federal firearms regulations, Title 27, Code of Federal Regulations, Part 178. In determining the lawfulness of the sale or delivery of a rifle or shotgun to a non-resident, the transferor is presumed to know applicable State laws and published ordinances in both States.

12. After you have completed the firearm transaction, you must make the completed, original copy of the ATF F 4473, Part I part of your permanent firearms records including any supporting documents. Filing may be chronological (by date), alphabetical (by name), or numerical (by transaction serial number), so long as all of your completed Forms 4473, Part I are filed in the same manner.

DEFINITIONS

1. Over-the-counter Transaction—The sale or other disposition of a firearm by the transferor (seller) to a transferee (buyer), occurring on the transferor's licensed premises. This includes the sale or other disposition of a rifle or a shotgun to a non-resident transferee (buyer) occurring on such premises.

2. Published Ordinances—The publication (ATF P 5300.5) containing State firearms laws and local ordinances which is annually distributed to Federal firearms licensees by the Bureau of Alcohol, Tobacco and Firearms.

3. Under indictment or convicted in any court—An indictment or conviction in any Federal, State or Foreign court.

*U.S. GPO: 1988-202-929/85728

Form Approved: OMB No. 1512-0490 (3/31/91)

DEPARTMENT OF THE TREASURY — BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

FIREARMS TRANSACTION RECORD

PART I — LOW VOLUME — OVER-THE-COUNTER

TRANSFEROR'S TRANSACTION SERIAL NUMBER

THIS FORM MAY BE USED ONLY BY DEALERS SELLING OR DISPOSING OF 50 OR LESS FIREARMS PER YEAR (See Instructions On Reverse)

NOTE Prepare in original only All entries on this form must be in ink. See Notices and Instructions on back.

1 TRADE/CORPORATE NAME AND ADDRESS OF TRANSFEROR (Seller) (Hand stamp may be used)

2. FEDERAL FIREARMS LICENSE NO. (Hand stamp may be used)

3 FIREARM RECEIVED FROM:
a NON LICENSEE (Name & address)
OR
b LICENSEE (Name & License Number)

4. DATE RECEIVED

5 DESCRIPTION OF FIREARM	MANUFACTURER (and importer, if any)	TYPE (Pistol, Revolver, Rifle, shotgun, etc.)	MODEL	CALIBER OR GAUGE	SERIAL NUMBER

SECTION A — MUST BE COMPLETED PERSONALLY BY NONLICENSED TRANSFEREE (BUYER) (See NOTICE, Instructions on Reverse)

6 TRANSFEREE'S (Buyer's) NAME (Last, First, Middle) ☐ MALE ☐ FEMALE

7 HEIGHT

8. WEIGHT

9 RACE

10 RESIDENCE ADDRESS (No., Street, City, State, ZIP Code)

11. DATE OF BIRTH

MONTH	DAY	YEAR

12. PLACE OF BIRTH (City and State or City and Foreign Country)

13. CERTIFICATION OF TRANSFEREE (Buyer) — An untruthful answer may subject you to criminal prosecution. Each question must be answered with a "yes" or a "no" inserted in the box at the right of the question:

a. Are you under indictment or information* in any court for a Crime punishable by imprisonment for a term exceeding one year? *A formal accusation of a crime made by a prosecuting attorney, as distinguished from an indictment presented by a grand jury.		c. Are you a fugitive from justice?	
		d. Are you an unlawful user of, or addicted to, marijuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance.	
b. Have you been convicted in any court of a crime punishable by imprisonment for a term exceeding one year? (NOTE: A "yes" answer is necessary if the judge could have given a sentence of more than one year. A "yes" answer is not required if you have been pardoned for the crime or the conviction has been expunged or set aside, or you have had your civil rights restored and, under the law where the conviction occurred, you are not prohibited from receiving or possessing any firearm).		e. Have you ever been adjudicated mentally defective or have you ever been committed to a mental institution?	
		f. Have you been discharged from the Armed Forces under dishonorable conditions?	
		g. Are you an alien illegally in the United States?	
		h. Are you a person who, having been a citizen of the United States, has renounced his/her citizenship?	

I hereby certify that the answers to the above are true and correct. I understand that a person who answers "Yes" to any of the above questions is prohibited from purchasing and/or possessing a firearm, except as otherwise provided by Federal law. I also understand that the making of any false oral or written statement or the exhibiting of any false or misrepresented identification with respect to this transaction is a felony.

14. TRANSFEREE'S (Buyer's) SIGNATURE

15. DATE

SECTION B — TO BE COMPLETED BY TRANSFEROR (SELLER) (See Notices and instructions on reverse)

THIS PERSON DESCRIBED IN SECTION A
☐ IS KNOWN TO ME
☐ HAS IDENTIFIED HIMSELF/HERSELF TO ME IN THE FOLLOWING MANNER

16. TYPE OF IDENTIFICATION (Driver's license or identification which shows name, date of birth, place of residence, and signature)

17 NUMBER ON IDENTIFICATION

On the basis of (1) the statements in Section A, (2) the verification of identity noted in Section B; and (3) the information in the current list of Published Ordinances, it is my belief that it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s) described to the person identifed in Section A.

18 TRANSFEROR'S (Seller's) SIGNATURE

19. DATE

SECTION C — TO BE COMPLETED WHEN THE TRANSFEREE (BUYER) IS A FEDERAL FIREARMS LICENSEE (INCLUDES NON OVER THE COUNTER)

20 ENTER FFL'S NAME AND LICENSE NUMBER	21 TRANSFEROR'S (Seller's) SIGNATURE	22. DATE

ATF F 4473 (5300.24) PART I (LV) (6-88)

Exhibit 5

NOTICES AND INSTRUCTIONS

PAPERWORK REDUCTION ACT NOTICE

The information required on this form is in accordance with the Paperwork Reduction Act of 1980. The purpose of the information is to determine the eligibility of the buyer (transferee) to receive firearms under Federal law. The information is subject to inspection by ATF officers. The information on this form is required by 18 U.S.C. 922, 923, and 926.

IMPORTANT NOTICES TO TRANSFEROR (SELLER) AND TRANSFEREE (BUYER)

1. Under 18 U.S.C. 921-929 firearms may not be sold to or received by certain persons. The information and certification on this form are designed so that a person licensed under 18 U.S.C. 921-929 may determine if he/she may lawfully sell or deliver a firearm to the person identified in Section A, and to alert the transferee (buyer) of certain restrictions on the receipt and possession of firearms. This form should not be used for sales or transfers where neither person is licensed under 18 U.S.C. 921-929.

2. WARNING—the sale or delivery of a firearm by a licensee to an eligible purchaser who is acting as an agent, intermediary or "straw purchaser" for someone whom the licensee knows or has reasonable cause to believe is ineligible to purchase a firearm directly, may result in a violation of the Federal firearm laws.

3. The transferee (buyer) of a firearm should be familiar with the provisions of the law. Generally, 18 U.S.C. 921-929 prohibits the shipment, transportation, receipt, or possession in or affecting interstate commerce of a firearm by one who is under indictment or information for, or who has been convicted of, a crime punishable by imprisonment for a term exceeding one year, by one who is a fugitive from justice, by one who is an unlawful user of, or addicted to, marijuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance, by one who has been adjudicated mentally defective or has been committed to a mental institution, by one who has been discharged from the Armed Forces under dishonorable conditions, by one who, having been a citizen of the United States, has renounced his/her citizenship, or by one who is an alien illegally in the United States.

   EXCEPTION: For one who has been convicted of a crime punishable by imprisonment for a term exceeding one year, the prohibition does not apply if that individual has received a pardon for the crime or the conviction has been expunged or set aside or under the law where the conviction occurred that individual has had his/her civil rights restored and as a result of the civil rights restoration is not prohibited from receiving or possessing firearms.

   KNOW YOUR CUSTOMER—Before a licensee may sell or deliver a firearm to a nonlicensee, the licensee must establish the identity, place of residence, and age of the buyer. Satisfactory identification should verify the buyer's name, date of birth, address, and signature. Thus, a driver's license or an identification card issued by a State instead of a license is particularly appropriate. Social Security cards are not acceptable because no address or date of birth is shown on the card. Also, alien registration receipt cards and military identification cards are not acceptable by themselves because the State of residence is not shown on the cards. However, although a particular document may not be sufficient to meet the statutory requirement for identifying the buyer, any combination of documents which together disclose the required information concerning the buyer is acceptable.

INSTRUCTIONS TO TRANSFEREE (BUYER)

4. The nonlicensed transferee (buyer) of a firearm will, in every instance, personally complete Section A of the form and certify (sign) that the answers are true and correct. However, if the buyer is unable to read and/or write, the answers may be written by other persons, excluding the dealer. Two persons (other than the dealer) will then sign as witnesses to the buyer's answers and signature.

5. When the transferee (buyer) of a firearm is a corporation, company, association, partnership or other such business entity, an officer authorized to act on behalf of the business will complete and sign Section A of the form and attach a written statement, executed under penalties of perjury, stating:

   (a) that the firearm is being acquired for the use of and will be the property of that business entity, and

   (b) the name and address of that business entity.

INSTRUCTIONS TO TRANSFEROR (SELLER)

6. Should the buyer's name be illegible the seller shall print the buyer's name above the name printed by the buyer.

7. The transferor (seller) of a firearm will, in every instance where Section A is completed, complete Section B of the form.

8. The transferor (seller) of a firearm will, in every instance, complete Section C of the form if disposing of a firearm to a transferee (buyer) who is a Federal Firearms Licensee. (Applies to both over the counter and non over the counter transactions between licensed dealers.)

9. In addition to completing this record, you must report any multiple sale or other disposition of pistols or revolvers on ATF F 3310.4 in accordance with 27 CFR 178.126a.

10. The transferor (seller) of a firearm is responsible for determining the lawfulness of the transaction and for keeping proper records of the transaction. Consequently, the transferor should be familiar with the provisions of 18 U.S.C. 921-929 and the Federal firearms regulations, Title 27, Code of Federal Regulations, Part 178. In determining the lawfulness of the sale or delivery of a rifle or shotgun to a non-resident, the transferor is presumed to know applicable State laws and published ordinances in both States.

11. Each transferor (seller) maintaining firearms acquisition and disposition records pursuant to 27 CFR 178.124a (Low Volume Dealers) shall retain form 4473-LV, Part I and II, reflecting firearms possessed by such business in chronological (by date of receipt) or numerical (by transaction serial number) order. Forms 4473-LV, Part I and II, reflecting the transferor's sale or disposition of firearms shall be retained in alphabetical (by name of purchaser), chronological (by date of disposition) or numerical (by transaction serial number) order.

DEFINITIONS

1. Low volume dealer—A licensed dealer contemplating the disposition of not more than 50 firearms within the succeeding 12-month period. Such 12-month period commences from the date the licensed dealer first records the purchase or acquisition of a firearm on the reverse side of this form. If during the course of the 12 month period, dispositions exceed the 50 firearm limitation, the licensed dealer should begin keeping standard records required in 27 CFR 178 for non low volume dealers.

2. Over-the-counter Transaction—The sale or other disposition of a firearm by the transferor (seller) to a transferee (buyer), occurring on the transferor's licensed premises. This includes the sale or other disposition of a rifle or a shotgun to a non-resident transferee (buyer) occurring on such premises.

3. Published Ordinances—The publication (ATF P 5300.5) containing State firearms laws and local ordinances which is annually distributed to Federal firearms licensees by the Bureau of Alcohol, Tobacco and Firearms.

4. Under indictment or convicted in any court—An indictment or conviction in any Federal, State or Foreign court.

*U.S.GPO 1988-0-202-929-85721

Form Approved. OMB No. 1512-0130 (02/29/91)

DEPARTMENT OF THE TREASURY—BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

FIREARMS TRANSACTION RECORD
PART II—NON-OVER-THE-COUNTER

TRANSFEROR'S TRANSACTION SERIAL NUMBER

NOTE: Prepare in duplicate. All entries on this form must be in ink. See Notices and Instructions on back.

SECTION A—MUST BE COMPLETED PERSONALLY BY TRANSFEREE *(BUYER) (See Notices and Instructions on reverse)*

1. TRANSFEREE'S *(Buyer's)* NAME *(Last, First, Middle)* ☐ MALE ☐ FEMALE	2. HEIGHT	3. WEIGHT	4. RACE
5. RESIDENCE ADDRESS *(No., Street, City, County State, ZIP Code)*	6. DATE OF BIRTH: MONTH / DAY / YEAR	7. PLACE OF BIRTH *(City and State or City and Foreign Country)*	

8. CERTIFICATION OF TRANSFEREE *(Buyer)*—An Untruthful answer may subject you to criminal prosecution. Each question must be answered with a "yes" or a "no" inserted in the box at the right of the question.

a. Are you under indictment or information* in any court for a crime punishable by imprisonment for a term exceeding one year? **A formal accusation of a crime made by a prosecuting attorney, as distinguished from an indictment presented by a grand jury.*		c. Are you a fugitive from justice?	
		d. Are you an unlawful user of, or addicted to, marihuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance?	
b. Have you been convicted in any court of a crime punishable by imprisonment for a term exceeding one year? (NOTE: A "yes" answer is necessary if the judge could have given a sentence of more than one year. A "yes" answer is *not* required if you have been pardoned for the crime or the conviction has been expunged or set aside, or you have had your civil rights restored and, under the law where the conviction occurred, you are not prohibited from receiving or possessing any firearm).		e. Have you ever been adjudicated mentally defective or have you ever been committed to a mental institution?	
		f. Have you been discharged from the Armed Forces under dishonorable conditions?	
		g. Are you an alien illegally in the United States?	
		h. Are you a person who, having been a citizen of the United States, has renounced his/her citizenship?	

Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am 21 years or more of age, or that, in the case of a shotgun or rifle, I am 18 years or more of age; that I am not prohibited by the provisions of Chapter 44 of Title 18, United States Code, from receiving a firearm in interstate or foreign commerce, and that my receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are:

TITLE	NAME

ADDRESS

I also hereby certify that the answers to the above are true and correct. I understand that a person who answers "Yes" to any of the above questions is prohibited from purchasing and/or possessing a firearm, except as otherwise provided by Federal law. I also understand that the making of any false oral or written statement or the exhibiting of any false or misrepresented identification with respect to this transaction is a crime punishable as a felony.

TRANSFEREE'S *(Buyer's)* SIGNATURE	DATE

SECTION B—MUST BE COMPLETED BY TRANSFEROR *(SELLER) (See Notices and Instructions on reverse)*

On the basis of (1) the statements in Section A; (2) my notification of the chief law enforcement officer designated above; and (3) the information in the current list of Published Ordinances, it is my belief that it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm described below to the person identified in Section A.

9. TYPE *(Pistol, Revolver, Rifle, Shotgun, etc.)*	10. MODEL	11. CALIBER OR GAUGE	12. SERIAL NO.

13. MANUFACTURER *(and importer, if any)*

14. TRADE/CORPORATE NAME AND ADDRESS OF TRANSFEROR *(Seller)* *(Hand stamp may be used)*	15. FEDERAL FIREARMS LICENSE NO. *(Hand stamp may be used)*

16. TRANSFEROR'S *(Seller's)* SIGNATURE	17. TRANSFEROR'S TITLE	18. TRANSACTION DATE

ATF F 4473 (5300.9) PART II (1-88)

Exhibit 5

PAPERWORK REDUCTION ACT NOTICE

The information required on this form is in accordance with the Paperwork Reduction Act of 1980. The purpose of the information is to determine the eligibility of the buyer (transferee) to receive firearms under Federal law. The information is subject to inspection by ATF officers. The information on this form is required by 18 U.S.C. 922.

IMPORTANT NOTICES TO TRANSFEROR (SELLER) AND TRANSFEREE (BUYER)

1. Under 18 U.S.C. 921-929 , firearms may not be sold to or received by certain persons. The information and certification on this form are designed so that a person licensed under 18 U.S.C. 921-929 may determine if he may lawfully sell or deliver a firearm to the person identified in Section A, and to alert the transferee (buyer) of certain restrictions on the receipt and possession of firearms. This form should not be used for sales or transfers where neither person is licensed under 18 U.S.C. 921-929.

2. **Warning**—The sale or delivery of a firearm by a licensee to an eligible purchaser who is acting as an agent, intermediary or 'straw purchaser' for someone whom the licensee knows or has reasonable cause to believe is ineligible to purchase a firearm directly, may result in a violation of the Federal firearm laws.

3. The transferee (buyer) of a firearm should be familiar with the provisions of the law. Generally, 18 U.S.C. 921-929 prohibit the shipment, transportation, receipt, or possession in or affecting interstate commerce of a firearm by one who is under indictment or information for, or who has been convicted of, a crime punishable by imprisonment for a term exceeding one year, by one who is a fugitive from justice, by one who is an unlawful user of, or addicted to, marihuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance, by one who has been adjudicated mentally defective or has been committed to a mental institution, by one who has been discharged from the Armed Forces under dishonorable conditions, by one who, having been a citizen of the United States, has renounced his citizenship, or by one who is an alien illegally in the United States.

EXCEPTION: For one who has been convicted of a crime punishable by imprisonment for a term exceeding one year, the prohibition does not apply *if that individual has received a pardon for the crime or the conviction has been expunged or set aside or under the law where the conviction occurred that individual has had his/her civil rights restored and as a result of the civil rights restoration is not prohibited from receiving or possessing firearms.*

KNOW YOUR CUSTOMER—Before a licensee may sell or deliver a firearm to a nonlicensee, the licensee must establish the identity, place of residence, and age of the buyer. Satisfactory identification should verify the buyer's name, date of birth, address, and signature. Thus, a driver's license or an identification card issued by a State in place of a license is particularly appropriate. Social Security cards are not acceptable because no address or date of birth is shown on the card. Also, alien registration receipt cards and military identification cards are not acceptable by themselves because the State of residence is not shown on the cards. However, although a particular document may not be sufficient to meet the statutory requirement for identifying the buyer, any combination of documents which together disclose the required information concerning the buyer is acceptable.

INSTRUCTIONS TO TRANSFEREE (BUYER)

1. The buyer (transferee) of a firearm will, in every instance, personally complete Section A of the form and certify (sign) that the answers are true and correct. However, if the buyer is unable to read and/or write, the answers may be written by other persons, excluding the dealer. Two persons (other than the dealer) will then sign as witnessess to the buyer's answers and signature.

2. When the transferee (buyer) of a firearm is a corporation, company, association, partnership or other such business entity, an officer authorized to act on behalf of the business will complete and sign Section A of the form and attach a written statement, executed under penalties of perjury, stating

(a) that the firearm is being acquired for the use of and will be the property of that business entity, and
(b) the name and address of that business entity.

INSTRUCTIONS TO TRANSFEROR (SELLER)

1. Should the buyer's name be illegible the seller shall print the buyer's name above the name printed by the buyer.

2. The transferor (seller) of a firearm will, in every instance, complete Section B of the form.

3. If more than one firearm is involved, the identification required by Section B, Items 9 through 13, must be provided for each firearm. The identification of the firearms transferred in a transaction which covers more than one weapon may be on a separate sheet of paper which must be attached to the form covering the transaction.

4. The transferor (seller) of a firearm in a intrastate non-over-the-counter transaction must forward by registered or certified mail (return receipt requested) the copy of the form to the chief law enforcement officer of the transferee's (buyer's) locality of residence. The transferor must delay shipment or delivery of the firearm for a period of at least 7 days following receipt of the post office notification on the acceptance or non-acceptance of the envelope. The transferor will retain as a part of the records required to be kept by 18 U.S.C. 921-929 the original form with evidence of the receipt or rejection of the notification forwarded to the chief law enforcement officer of the transferee's locality of residence.

5. The transferor (seller) of the firearm is responsible for determining the lawfulness of the transaction and for keeping proper records of the transaction. Consequently, the transferor should be familiar with the provisions of 18 U.S.C. 921-929, and the Federal firearms regulations, Title 27, Code of Federal Regulations, Part 178.

6. After you have completed the firearm transaction, you must make the completed, original copy of the ATF F 4473, Part II part of your permanent firearms records including any supporting documents. Filing may be chronological (by date), alphabetical (by name), or numerical (by transaction serial number), so long as all of your completed Forms 4473, Part II are filed in the same manner.

NOTICE TO LAW ENFORCEMENT OFFICIALS

This copy of ATF Form 4473, Part II, is to advise you of a firearms transaction involving a resident in your jurisdictional area. The firearm described in Section B will not be shipped or delivered to the transferee (buyer) identified in Section A for a period of at least seven days following receipt of the notification of your acceptance or refusal of delivery, by registered or certified mail, of the form.

DEFINITIONS

1. *Non-over-the-Counter Transaction*—A mail-order transaction, or other transaction, where the transferee (buyer) does not appear in person at the transferor's (seller's) premises.

2. Published Ordinances—The publication (ATF P 5300.5) containing State firearms laws and local ordinances which is annually distributed to Federal firearms licensees by the Bureau of Alcohol, Tobacco and Firearms.

☆U.S. GPO 1988-0-202-929/85709

ATF F 4473 (5300.9) PART II (1-88)

Exhibit 5

Part V. Exhibits

Estimated costs for felon identification options (in millions of dollars)

Options	Total	Federal Government	State and local government	Gun dealer
Startup costs				
Options				
A. Telephone check by gun dealer and secondary verification	$ 36-44	$ 13-17	$ 23-26	---
A3. Live scan of fingerprints by dealer [a]				
(1) All dealers	9,590-27,144	47-51	93	9,450-27,000
(2) Commercial dealers only [b]	3,457-9,636	40-44	92	3,325-9,500
A4. Biometric identification card [c]				
(1) All dealers	198-368	13-17	23-26	162-324
(2) Commercial dealers only [b]	93-158	13-17	23-26	57-114
B. Prior approval — FOID card	148-153	77-81	72	*
B1. Live scan by law enforcement and biometric check by dealer [a]				
(1) All dealers	344-572	77-81	105-167	162-324
(2) Commercial dealers only [d]	239-362	77-81	105-167	57-114
Annual operating costs				
Options				
A. Telephone check by gun dealer and secondary verification	$ 53-70	$ 13-18	$ 40-53	---
A3. Live scan of fingerprints by dealer [a]				
(1) All dealers	3,047-8,347	104-109	108-138	2,835-8,100
(2) Commercial dealers only [b]	1,172-3,063	86-91	98-122	988-2,850
A4. Biometric identification card [c]				
(1) All dealers	102-168	13-18	40-53	49-97
(2) Commercial dealers only [b]	70-105	13-18	40-53	17-34
B. Prior approval — FOID card	136-161	65-70	71-91	*
B1. Live scan by law enforcement and biometric check by dealer [a]				
(1) All dealers	203-295	65-70	89-128	49-97
(2) Commercial dealers only [d]	171-232	65-70	89-128	17-34

Note: Detail may not add to total because of rounding.
--- Unknown.
* Negligible.
[a] Partial estimates only.
[b] Assumes that the non-commercial dealers (an estimated 65% of all dealers) would use the basic option A.
[c] Excludes all costs of producing and distributing the biometric cards.
[d] Assumes that the non-commercial dealers (65% of all dealers) would use basic option B.

Exhibit 6
Bureau of Justice Statistics
June 1989

Part V. Exhibits

States requiring criminal history checks for firearm sales as of June 1989

States requiring criminal history checks	Type of firearm	Application required for--	Special requirements	Agency conducting checks	Highest level files examined
Prior to sale:					
Alabama	handguns	purchase		local	State
California	handguns	purchase		State	national
Connecticut	handguns	purchase		local, State	State
District of Columbia	all guns[a]	registration certificate	fingerprints gun law exam	local	national
Hawaii	long guns, handguns	permit (1 year) permit (each sale)	fingerprints	local	national
Illinois	all guns	ID card (5 years)		State	national
Indiana	handguns	license (4 years)	fingerprints	local, State	State
Iowa	handguns	permit (1 year)	fingerprints	local, State	national
Maryland	handguns	purchase		State	national
Massachusetts	all guns	ID card		local, State	national
Minnesota	handguns	permit (1 year)		local	national
Missouri	handguns	permit (each sale)		local	State
New Jersey	long guns handguns	ID card permit (each sale)	fingerprints	State	national
New York	handguns	permit	fingerprints safety course	State	national
North Carolina	handguns	permit (each sale)		local	State
Oregon	handguns	purchase		local	national
Pennsylvania	handguns	purchase		local, State[b]	State
Rhode Island	handguns	purchase	safety course	local, State	State
South Dakota	handguns	purchase		local	State
Tennessee	handguns	purchase	thumbprint	local	national
Washington	handguns	purchase		local	national
Only after sale:					
Michigan	handguns	license (each sale)	safety inspection	local	national
South Carolina	handguns	purchase		State	State

[a] Only preregistered handguns are allowed in the District of Columbia. No new handguns may be brought into the city.

[b] Criminal history check conducted by the local agency before the sale and by the State agency after the sale.

Exhibit 7
Bureau of Justice Statistics
June 1989

Part V. Exhibits

Maximum waiting periods required for initial firearm purchase by a State resident

Handguns		Long guns	
180 days	New York	60 days	District of Columbia
60 days	Indiana	40 days	Massachusetts
40 days	Massachusetts	30 days	Illinois
30 days	Illinois		New Jersey
	New Jersey	15 days	Hawaii
	North Carolina		
15 days	California		
	Hawaii		
	Tennessee		
14 days	Connecticut		
9 days	Missouri		
7 days	Maryland		
	Minnesota		
5 days	Oregon		
	Washington		
3 days	Iowa		
	Rhode Island		
	South Dakota		
2 days	Alabama		
	Pennsylvania		
	Wisconsin		

Exhibit 8
Bureau of Justice Statistics
June 1989

BILLING CODE 4410-18-C

Part VI. Appendix

Summary of comments on the Draft Report

Background

Section 6213 of the Anti-Drug Abuse Act of 1988, Public Law 100–690, 102 Stat. 4360, directed the Attorney General to develop a system for immediate and accurate identification of felons who attempt to purchase firearms and to report to the Congress a description of that system by 18 November 1989. Pursuant to that mandate, the Attorney General requested the Assistant Attorney General of the Office of Justice Programs to establish a Task Force to develop a range of options that would comport with the statute.

On June 26, 1989, the *Draft Report of the Task Force for Identifying Felons Who Attempt to Purchase Firearms* was published in the **Federal Register** (54 FR 26,902 (1989)). This publication solicited comments from interested persons for a 30-day period, though the Task Force group was able to receive, process and analyze a number of comments received thereafter.

Some 114 comments were received in all, including those from Governors and other representatives of 20 State governments plus the District of Columbia and the Territory of Guam (all hereafter referred to as States), from 26 organizations (plus supplemental comments from 2 of them), and from 64 persons, including 4 Members of Congress.

Of the 26 organizations responding other than the State governments, 12 were classified as law enforcement organizations (including 2 municipal police departments), 5 as civil liberties organizations (including 3 firearms rights advocacy groups), 4 as firearms organizations (both sporting and general), 2 as gun control organizations, and 3 as consultants. The following is a section-by-section summary of the 114 comments received on the June 26, 1989, **Federal Register** publication entitled *Draft Report on Systems for Identifying Felons Who Attempt To Purchase Firearms.* Some reader comments resulted in changes that have been incorporated in the Final Report.

The reader should keep in mind that this is, after all, intended to be a general summary, not a summary of each individual comment. An effort has been made to include representative comments from the entire spectrum of opinion.

Just as the Task Force attempted to remain assiduously neutral in preparing a complete and fair description of various alternatives in the *Draft Report*, so too, the compilers of this summary have done their best to employ the same standard of neutrality in preparing this analysis of the comments received.

The Task Force is grateful to all who have submitted comments and is cognizant of the thousands of hours involved in preparing them. As a whole the quality of the comments was outstanding, obviously representing much careful and thoughtful consideration of this difficult problem in American society.

Summary of comments on—

Foreword
Part I. Introduction and summary of findings
Part II. Options for a felon identification system
- Section 1. Schematic overview
- Section 2. Point-of-sale approval systems
  - Option A: Telephone check by gun dealer with secondary verification
  - Option A1: Terminal access by gun dealer to disqualifying information
  - Option A2: Touch-tone telephone access by gun dealer to disqualifying information
  - Option A3: Live scan of fingerprints by gun dealer
  - Option A4: Biometric identification card
- Section 3. Prior approval systems
  - Option B: Firearm Owner's Identification (FOID) card
  - Option B1: Live scan of fingerprints by local law enforcement and biometric check by gun dealer
  - Option B2: Smart card containing disqualifying information
- Section 4. Appeal procedures

Part III. Legal and policy issues
Part IV. Supplementary materials
General comments

Comments

Foreword

A number of comments, from both groups and individuals, suggested the first step in a project of this nature should be an ambitious, thorough effort to make criminal record histories accurate and complete. Several writers noted this would produce many benefits to the criminal justice system beyond felon identification of firearm purchasers.

One firearms organization felt that the discussion of the point-of-sale vs. pre-approval systems failed to consider developing and enhancing a system to identify and punish felons who traffic in stolen firearms, as well as a dealer notification program.

One of the Congressional parameters set forth in the Anti-Drug Abuse Act of 1988 governing the report of the Task Force was that any system must be "immediate." The Task Force did not report on any system involving a waiting period, or cooling off period as it is sometimes called.

Some groups and individuals, including a Member of Congress, commented that there should be no waiting period. Others favored a waiting period. Times suggested were 5 days, 7 days, 7 or more days, 7 to 10 days, 2 weeks, and 15 days. One individual, a Member of Congress, advocated the immediate implementation of a 7-day national waiting period. One gun control group favored the 15-day waiting period on handguns, but made no waiting period recommendation as to long guns. One Governor, whose State has had a 7-day waiting period of long standing noted that despite the legislative immediacy requirement governing the Task Force Report, he felt that ultimately Congress should provide some type of waiting period to curtail firearms purchases, especially handguns, during the "heat of passion." Another State response (from the State public safety commissioner) preferred Option B, but would add a waiting period.

At the same time, a firearms group asserted that a statement in the Foreword of the *Draft Report* puts the waiting-period myth to rest: Waiting periods considerably shorter than the 4 to 6 weeks required for a fingerprint-based, prior-approval system (such as 7 days) would not significantly enhance the reliability of point-of-sale systems.

Other comments on statements mentioned in the Foreword included an objection raised by a firearms organization to the *Draft Report* observation that felons may obtain the tools of their deadly trade through straw men who lack a criminal record, and therefore may be eligible to purchase firearms for the felon. Rather, the organization said, felons typically obtained weapons through their own crimes or from a fence or other illicit source.

A civil liberties group believed that the options in the *Draft Report* do not further the goals of the Task Force to "preserve legitimate rights to privacy and firearms ownership, while at the same time enhancing the ability of law enforcement to carry out its responsibility to maintain the domestic peace."

Part I.

Introduction and summary of findings

One of the State comments suggested that the degree of danger generated by categories of prohibited purchasers in addition to felons (drug users, mental incompetents, illegal aliens, etc.) is of equal importance and it may be premature to consider systems to prevent firearms from being sold to prohibited purchasers until the May 1990 report on the other groups is published.

Scope of the problem

Several writers noted that elsewhere (in Sec. II) the *Draft Report* cites a study stating that five out of six felons have acquired firearms elsewhere than by retail purchase. They were concerned because the *Draft* Report addresses only retail sales. Typical of these comments was one from a State patrol chief, writing for his State at the request of his Governor, who thought that because so many felons obtained weapons elsewhere, it did not appear to him that the tremendous costs of implementing any system would be cost-effective.

One law enforcement organization wondered what percentage of the completed BATF (Bureau of Alcohol, Tobacco and Firearms) Forms 4473 has been shown to be falsified. A Governor reported that in his State, officials have not identified a problem of felons purchasing firearms from dealers. And one individual writer questioned whether felons ever actually try to buy weapons from licensed gun dealers.

A consulting company whose president is a former Federal official familiar with firearms issues suggested that project cost estimates are greatly inflated by the 60–70% of BATF-licensed dealers who do not in fact depend on the sale of firearms for a significant portion of their income. This writer suggested that BATF remove these pseudo-dealers from the dealer category by using substantially

higher license fees or qualifications based on volume of business or by establishing a nondealer license category. This would allow BATF to concentrate its resources more effectively, and thus sharply drop costs related to identification systems. Another individual suggested that BATF recall all licenses that are not being used in a State-, county-, or city-licensed business. And a firearms group suggested it might be possible to exempt entirely or apply a special system to low-volume dealers such as hobbyists.One individual noted that computer systems based on the use of telephone lines would not work at gun shows, where many dealers do much of their business.

Key elements of a felon identification system

On the topic of felon definition, one civil liberties group noted that it is not easy to find a uniform definition of the term felon and that this difficulty should be addressed before either general or specific proposals are considered. Another civil liberties group felt that a major impairment existed because data bases do not show for how long a person convicted of a crime could have been imprisoned, and thus it cannot be determined if the statutory definition of felon (1 year imprisonment or longer) had been met.

A law enforcement group believed that BATF should strongly urge the States to improve their reporting, since it is the responsibility of the States to report felony convictions accurately.

On the issue of immediacy, a firearms organization felt that term meant 1 to several minutes and that a 4- to 6-week application waiting period was not immediate and beyond the congressional mandate.

As to accuracy, this same group felt that any system that denied 725,000 persons yearly the right to buy firearms was clearly not accurate and that if the Task Force found an accurate system impossible to devise, it should simply say so.

A Member of Congress felt the immediacy requirement precluded implementation of any of the prior-approval options.

The quality of felony conviction data

Numerous comments, from both individuals and groups, addressed the issue of the quality of felony conviction data. Some felt that nothing should be done until this problem was solved. Views expressed included the following:

Criminal records should be made current before any new laws are enacted.

Since data on noneligible purchasers are incomplete, the systems proposed would be ineffectual. The easy availability of guns through other sources would create contempt for the law.

Innocent people could be prevented from purchasing firearms, and felons could slip through a system based on these records.

Congress should focus on the real problem of improving the quality of criminal records systems at all levels of government.

Getting a national criminal history record system operational is imperative. Checking firearms purchasers without one is ludicrous and a mockery of justice.

The incompleteness of felony records is amazing.

The *Draft Report* is to be commended for discovering the appalling condition of criminal records. Law enforcement must be supported by upgrading criminal records systems with automation and with accurate, current, and uniform information.

Although it may be possible to create a computer file of felons, it will take not less than 10 years to do so. Better recordkeeping at local levels will be required.

A Member of Congress wrote that there was a desperate need for updating our data bases by including those not now automated (such as for persons born prior to 1929), identifying whether a conviction disqualifies one from a firearms purchase, and by systemizing State criminal reporting.

One State commented that incomplete criminal history data may pose problems for States with limited resources.

A civil liberties organization felt the Nation's criminal justice records are in a woefully inadequate state and strongly recommended the updating and organizing of all such records prior to implementing any of the *Draft Report*'s recommendations. Another civil liberties group stated that an individual's privacy rights are compromised by release of inaccurate criminal history records or arrest records without dispositions. And another civil liberties organization said that the greatest and most surprising value of the *Draft Report* is the light it sheds on the state of the U.S. criminal justice reporting system, and that these difficulties should be remedied before any proposal to identify felons who attempt to purchase firearms is considered.

A law enforcement group said that criminal records data bases must be improved—all of the options in the *Draft Report* depend on good data. Another said that the incompleteness of criminal history records is a critical hindrance. And another said that such incompleteness is a critical impediment and point-of-sale systems are subject to all the weaknesses of diverse and limited criminal history data bases.

One firearms group asserted that the poor quality of the criminal history data base would result in many false hits; that the quality of felony conviction data must be improved; and that it would support legislation to further this goal. Another firearms group suggested that of all criminal history records, only final disposition—conviction, acquittal, or restoration of rights—is pertinent.

Impediments to creating a perfect system

The three key elements recited in the *Draft Report* (a complete and accurate automated criminal history data base, positive identification, and an immediate linkage mechanism) were recognized by a number of comments. Some of the numerous citations of the problems of the first key element are recited in the previous section and will not be repeated here. One individual writer suggested that photographic identification (which, he said, was adequate for access to classified material) should be sufficient proof of identity for firearms purchasers. Biometric identification should not be required for firearms purchasers when it is not required in other sensitive situations, and photographic identification (such as drivers' licenses) are far less expensive.

A civil liberties group reiterated the Task Force's conclusion that a perfect system for immediately and accurately identifying felons who attempt to purchase firearms is not feasible or practical in the near future. And a firearms group, likewise repeating this conclusion of the Task Force, noted that even so, a perfect system should be restricted to identification of felons, not nonfelon buyers.

Practical alternatives

One law enforcement organization, apparently the only responding group to do so, polled its members as to whether they favored a point-of-sale system or a prior-approval system. This poll found 49% favoring Option A, while 46% favored Option B. At the same time, 16% opposed Option A, and 20% opposed Option B.

A number of commenters suggested modifications to the various models presented, indicating that the original options, as modified, would be satisfactory to them.

Specific comments on Options A and B and their variations will be set forth under the following sections that deal with those options. Writers felt some of the following to be other practical alternatives, some of which are additional variations of Options A and B:

A law enforcement organization advocated a purchase certificate system for all buyers which would directly involve local police in preapproving firearms purchases. This would require the purchaser to apply for a certificate from local police, presenting valid and positive identification and paying an appropriate fee. If no disqualifying information were found, a firearms purchase certificate of limited duration would be issued, which would be presented along with supporting identification to a gun seller.

An individual writer suggested a system of bar coding on drivers' licenses, pilots' licenses, and boat licenses following a background check by police or the Coast Guard on location.

A State suggested that when a person was arrested for a felony, such information would be recorded on a FOID card, just as the data of a motor vehicle violation is recorded and recalled when a driver's license is renewed.

One firearms group proposed an instant ID where at the time of receiving a driver's license or State identification card, records would be checked by State police and an approval or disapproval for firearms purchases would be encoded on the license, visible only under ultraviolet light. At the point of sale, the dealer would simply read the license under a special light. Since the designation would not generally be visible, confidentiality would be preserved.

In several separate comments, individual writers suggested that no new Federal felon identification program be implemented. Some thought that the public funds that would have been used for this instead be employed for such things as building more prisons, sending lists of convicted felons to each gun dealer, or spending more on law enforcement and the judiciary.

As mentioned in the comments to the *Draft Report* Foreword, several writers asserted that a waiting or cooling-off period would be an appropriate control, either in lieu of or in combination with the *Draft Report* options.

Cost estimates

Several writers asserted that the costs of the proposed systems were too high. Many seemed concerned about the cost-effectiveness. Some seemed to feel that the benefits of a Federal program probably would be outweighed by the high costs to the public. One individual felt further research should be conducted. Another suggested that cost effectiveness estimates be addressed, such as whether background checks are an effective means of reducing violent crime compared to other approaches such as increased sentencing.

A Member of Congress, citing OMB Circular A–76 as well as these times of huge Federal deficits, stressed that any system be as cost-effective as possible.

Considering the state of the criminal justice identification system, it would be unreasonable to expect American taxpayers to pay the high costs estimated in the *Draft Report*, said a civil liberties organization.

A gun control group noted that felon identification systems in Florida and Virginia include user fees. It suggested that start-up costs could come from a portion of the current tax on firearms.

A State patrol commissioner was concerned with the fact the *Draft Report* addressed only retail sales when elsewhere it cited a study stating that five out of six felons have acquired firearms other than from a retail outlet.

A Governor had serious concerns about initiating any of the options with the reported cost projections, adding that additional expenditures of State funds for new systems must be weighed against the existing cost of a viable and tested system long in place in his State.

One State public safety commissioner noted that costs would vary among States depending on their level of automation, their present gun control legislation, their demographics, and the ability of their personnel to absorb additional work. He also noted that the cost may pose problems for States with limited resources.

A Governor reported that due to the budget reductions in the Department of Public Safety in his State, it would be difficult to maintain criminal histories as thoroughly as would be necessary to process firearms applications.

A firearms organization noted that user fees of $7–$9 for Option A and $27–$32 for Option B would deter the purchase of inexpensive shotguns and rifles for young people and prevent the elderly living on fixed incomes from purchasing handguns for self-protection. These costs, it said, utterly lacked any acceptable cost-benefit ratio.

One writer noted that the cost estimates for the Virginia system are considerably lower than those suggested for Option A, as is the fee. Another questioned why the cost for setting up a Federal FOID card system was five to six times higher than the Illinois system, which he understood makes a small profit.

A consulting group comment and a gun control group comment both felt cost estimates were overstated because of the many hobbyist or other small volume BATF-licensed dealers.

Implementation issues

Of the four implementation issues spoken of in the *Draft Report*, no writer favored a self-standing Federal system, run entirely by Federal officials.

One individual writer believed that a federally mandated cooperative Federal-State system would require a minimum transition period of 2 years in States that have their own system. Another felt that if a system were to be federally mandated, the State would likely demand that the Congress pay for its full cost.

A gun control organization felt that a handgun purchase-certificate system should be a minimum Federal standard, which the States would be required to adopt if the *Draft Report's* third implementation method were followed (a mandatory Federal standard which States could meet in different ways).

One individual, opting for the fourth plan (offering the States several different models for a cooperative Federal-State system, while making Federal resources and leadership available to assist the States), said it is best to let systems vary from State to State, since each State will know best what will work for it, and also since the States will apparently bear most of the cost.

In establishing minimum standards for the States, a State criminal justice division director urged that State and local efforts not be restricted where they provide greater protection to the public than that minimally required by Congress.

One of the responding Governors said he was in favor of the fourth method. And one of the firearms groups also favored this method, but suggested that input should be obtained from gun owners, licensees, and law enforcement personnel. This group said that the first plan was not viable since records are based on State laws and stored in State institutions; that the second method fails to take account of particular State needs; and that the third method was contrary to the spirit of federalism.

One civil liberties group contended that none of the methods should be implemented as they will undermine individual civil liberties and thwart the goals of the McCollum amendment. It recommended that the Attorney General report that it is presently impossible to implement the McCollum amendment. The group felt that the floor debate on the McCollum amendment indicated that Congress recognized this possibility.

Legal and policy issues

Most of the comments on the seven illustrative legal and policy issues enumerated by the Task Force are presented elsewhere in this summary.

A civil liberties group cited a 1989 U.S. Supreme Court case, *U.S. Department of Justice* v. *Reporter's Committee for Freedom of the Press*, 109 S.Ct. 1468, 1485, for the proposition that an individual has a right to privacy regarding his or her criminal history records and the release of those records to a third party (such as a gun dealer) can reasonably be expected to invade that person's privacy.

A firearms group felt that any new legislation should include criminal penalties for "lawless government bureaucrats who prevent and impede legitimate firearm sales, misuse or disclose privacy information, use records to set up a de facto registration system, or otherwise infringe on the second amendment right to bear arms." It also suggested that retention of names should be made a violation of law with civil penalties for negligent retention and criminal penalties for willful retention.

A State Governor observed that Congress would need to enact a statute to motivate the States to provide for BATF terminal access to State criminal history files as a requisite for continued on-line access by the States to NCIC.

Solving the problem of felons acquiring firearms

One individual writer, repeating the *Draft Report's* quotation of the study finding that about five-sixths of felons admitting ownership of firearms acquired them elsewhere than at retail, suggests that research should be conducted to determine the number of nonincarcerated felons, the percentage or number of these felons who are still active, and the percentage or number of them who are known to use firearms or who may desire a firearm for criminal purposes.

Another writer suggested that data be compiled on the illegal firearms market, while still another suggested a study on BATF effectiveness.

A civil liberties organization, reiterating the *Draft Report's* observation that a particularly effective system may force even more felons to turn to the black market or to accomplices without criminal records for their weapons, felt that the potentially small gain of developing a system does not justify sweeping changes.

Another writer, citing the same study, believed that while an attempt to prevent retail sales of firearms to criminals and other ineligible person should be made, a system must take into account the inconvenience, expense and the burden to firearms retailers, legitimate purchasers, law enforcement agencies and other government functions.

Other individual writers expressed essentially the same concern. One said that even if a system were implemented, most felons would continue to acquire firearms through illegal means. Another expressed his view that the biggest fault with the entire idea (of identifying felons who attempt to purchase firearms) is that it will not reduce crime with firearms one iota.

Part II.

Options for a felon identification system

Section 1. Schematic overview

A Member of Congress asserted that the legislative intent of Sec. 6213 of the Act (the McCollum amendment) was for immediate (point-of-purchase) approval, and none of the preapproval options meets this congressional

mandate. Likewise, he said, Congress did not intend a national waiting period nor the issuance of identification cards.

A firearms organization likewise asserted that "prior approval schemes" are not immediate and fall outside the legislative intent.

The same group felt that a required appearance at a law enforcement agency to receive a FOID card is a nonauthorized alternative for the surveillance of law abiding citizens. A toll-free number could be considered, but only when criminal records are accurate and up to date.

The same organization strongly believed that data sources could be used by law enforcement agencies to notify dealers of likely prohibited persons attempting to buy guns and also to identify felons buying on the black market. And in the area of decision organizations, it suggested that trained persons should interpret conviction data under the laws of each State.

Any appeal, it said, should be a de novo review by State or Federal courts with attorney fees awarded for the prevailing plaintiff.

Section 2. Point-of-sale approval systems

Option A: Telephone check by gun dealer with secondary verification

Of the many comments on Option A, some dealt with the specific topics covered by the *Draft Report*. Others introduced new topics or were more general in nature. This analysis will deal with the former first.

A firearms organization said that in a telephone check, only conviction-based indexes, not arrest-based indexes, can be used. It also noted that there is a danger of creating of a registration system resulting in a loss of privacy if the law enforcement agency retains the records of inquiries for the purpose of auditing dealers. Retention of names should be made a violation of law with civil penalties for negligent retention and criminal penalties for willful retention.

On the issue of secondary verification, the same organization felt that requiring a citizen with no known convictions to go to the police station and give his fingerprints would be a gross violation of privacy and civil liberties. It also observed that a certificate of purchase for no more than 1 year would require the purchaser to undergo the same degrading process year after year. Further, the data base would become a registry of gun owners.

On the topic of data sources, a State response observed that since a separate data base would apparently be used at the State level to maintain an applicant's certificate of purchase, there is a concern about subsequent arrests and convictions. Systematic purging would be required every 2 or 3 years.

A civil liberties organization was concerned over a link-up with the NCIC without providing protection for the privacy interests of prospective purchasers.

If gun dealers are to be subject to criminal penalties for false inquiries or unauthorized disclosures, a firearms group felt, then willfulness should be a required element of the offense.

Requiring fingerprints on BATF form 4473 is a violation of privacy and civil liberty, asserted a firearms group and the exercise of a constitutional right cannot be conditioned on making fingerprints available to police. Further, it said, any system where 50% of the cases receive false hits does not meet the congressional mandates of accuracy and immediacy.

As to the *Draft Report's* suggestion that additional efforts to ensure positive identification could include the dealer rolling the print of the applicant's right index finger on the BATF form, one individual writer noted that it takes training to roll a fingerprint correctly and that a photograph of the instant-developing, forgery-resistant type (such as used on driver's licenses) taken at the point of sale would be superior. A firearms group also felt adding a fingerprint to the BATF form was a bad idea, suggesting that handwriting analysis would be sufficient.

Another individual writer felt that most point-of-sale telephone checks will result in felons escaping identification and the occurrence of false hits on eligible purchasers.

A Governor observed that if Option A were adopted, his State's identification division would have to enter several thousand names in the index to update the system and that considerably more manpower would be needed for the name index file as well as the AIS-III index. Still, he preferred Option A over a prior-approval system.

A municipal police department felt a point-of-sale approval system would result in an estimated 33% increase in volume for that department.

A number of writers were concerned about cost. Cost was a major concern of the law enforcement organization that took the survey of its members (16% opposed Option A; 20% opposed Option B).

Commenting on some of the disadvantages mentioned in the *Draft Report*, several writers have reiterated the *Draft Report's* observation that the validity of a telephone check is only as reliable as the purchaser's identification documents. One individual, who felt Option A was at best a mediocre system, suggested that it would allow an unscrupulous dealer to sell firearms to a felon through use of false identification. One of the State respondents made the same observation.

At least two States have agreed with the *Draft Report's* observation that a major burden would be placed on the State repositories.

One individual stated that call-back security could be a problem for dealers at gun shows, for those with more than one store, or for those with call-back line breaks. He observed that call-back systems are sometimes not secure and a feature such as call forwarding could complicate security even more.

In response to the *Draft Report's* mention of the disadvantage of occasional technical failure, one individual understood that under the new Virginia system, the dealer may proceed with a sale if the State does not respond to a dealer inquiry within a specified time. He believed a similar provision should appear in any Federal statute.

Several comments expressed concerns that a high percentage of false hits is an invasion of privacy. One suggested that defamation may also be a concern.

Of the suggested potential modifications, the one concerning possible relaxed point-of-sale procedures in some situations (as at gun shows and for low-volume dealers) led one Governor to report that numerous indictments were recently obtained by prosecutors in his State for the sale of guns by dealers who allegedly failed to demand presentation of the required State FOID cards.

A firearms organization suggested several potential modifications including: (1) Required secondary verification only of persons whom the records show with disabling convictions, but who claim their identities are mistaken; (2) a mere hit on out-of-State records should never shift the burden on certifying qualifications to the applicant; limitation of secondary verification searches to the State repository of residence may be sufficiently effective and economical; (3) exemption of all .22 rimfire firearms; and (4) limited time period for verification, so that qualified purchasers be not unduly delayed, similar to the Virginia provision where a hit or computer breakdown allows delay for only 1 day.

In the category of general comments, a civil liberties group expressed its view that Option A seems the most cost-effective and would be acceptable to that organization if it can meet specified criteria: (1) Nonabridgement of any constitutional rights; (2) destruction of records so that there can in no way be a national registry of firearms owners; (3) accuracy, simplicity, and reasonable fees; (4) costs falling within realistic resources and budget limitation of local, State, and Federal governments; and (5) effectiveness in preventing felons from obtaining firearms.

A Member of Congress felt that law enforcement agencies, not gun dealers, should access criminal records because of privacy concerns and also because those who are about to commit crimes or are mentally unstable might be deterred from buying a firearm.

A firearms group suggested that because of its expertise and prospective involvement in point-of-sale options, the firearms industry should participate in any further work of the Task Force. This same group is committed to the development and implementation of a point-of-sale approval system.

A consulting firm preferred Option A over Option B because the former is quick and puts minimum burdens on firearms purchasers, and the information necessary to do a point-of-sale approval is already required by the BATF forms. The comment added that Option A is feasible, whereas Option B depends on undeveloped technology, is too costly, and it will take years to get the bugs out of such a system.

However a Member of Congress believed point-of-sale systems will not work because the technology to make accurate, instant checks at the purchase site simply does not exist.

A law enforcement organization noted that Option A provides a background check prior to purchase, though there is no waiting period. It provides immediate information to

the gun dealer and the least inconvenience to purchasers. However its reliability caused some members concern because of the responsibility it placed on gun dealers and the difficulty of verifying the identity of buyers.

Option A1: Terminal access by gun dealer to disqualifying information

Most comments on Option A1 felt it offered no particular advantages and would be far costlier. However, a consulting organization, which is in favor of point-of-sale approval concepts because they are quick and put minimum burdens on firearms purchasers, recommends a combination of Options A1 and A2. This company claims that it has already developed a system that incorporates both computer terminal access and touch-tone telephone access. The comment maintains this combination cuts the time for a check from 3 minutes using just a telephone to 30 seconds and that its system would be less expensive than the $36–$44 million estimate given by the *Draft Report.*

Option A2: Touch-tone telephone access by gun dealer to disqualifying information

As with Option A1, most of the concern was about the higher cost and relatively little additional advantage. However, see the comment of a consulting firm under the previous section for a differing view.

Option A3: Live scan of fingerprints by gun dealer

As with the previous two high-technology options, concern by those who commented was centered on the high cost.

However, a Member of Congress suggested that fingerprint identification by gun dealers is a goal we can achieve. The technology now exists, and this is a rapidly improving science, he said.

Some civil liberties and firearms group responses asserted that the required fingerprints violate privacy right concepts; that persons should not be required to give fingerprints to exercise a constitutional right.

Option A4: Biometric identification

Reaction to Option A4 was more positive than to the other variations of Option A.

One firearms group suggested having a card to be read at the point of sale in a manner similar to the present system of validating credit card purchases. This system would need to include a method to ensure security against unauthorized access, economic feasibility, a method for identifying prospective purchasers, an accurate data base of felony convictions and other disqualifying factors, and an appeals system. It cautioned, however, that Americans are legitimately concerned that a screening system not result in a de facto registration of all firearms complete with a data base of all firearms owners. Issuance of a card on the Federal level would raise concern regarding the infringement of second amendment rights; thus it would be more acceptable if cards—perhaps a "smart card"—were issued by States that could be used as a driver's license and for other purposes as well. Such issuance by the States would have to be federally mandated, and this group would support Federal legislation to this end.

A civil liberties group suggested that at the time of issuing a driver's license or State identification card, State police check records, and approval or disapproval for firearms purchases would be encoded, visible only under ultraviolet light. This card would be presented at the time of a firearms purchase and be read by the dealer. The costs would be low and privacy assured. No master list could be compiled. For a more positive identification check, a fingerprint could be placed on each State driver's license or identification card.

A law enforcement organization believed that Option A4 enhanced positive identification, but if implemented, the group suggested the biometric card should serve as a supplementary process rather than the primary and only means of identification.

As to fingerprints being required for the initial issuance of an owner's card with renewals based on name and date-of-birth search only, it was noted by a State Governor that such a system would work only if initial fingerprints were retained on file to ensure that any conviction data were properly identified to the card number assigned.

Section 3. Prior approval systems

Option B: Firearm Owner's Identification (FOID) card

One law enforcement group favored Option B as the most viable and least intrusive and burdensome for firearms purchasers and, it said, that option would offer the advantage of submitted fingerprints rather than the more inaccurate name check. Further, there would be adequate time to perform a complete record check and to interpret the criminal history record data. Also, it would afford the buyer who has encountered a false hit the opportunity to resolve the misinformation on a one-time basis as opposed to the time-consuming appeals system under Option A.

Another law enforcement group liked Option B because it offered fingerprint identification rather than the more problematic name check identification method. It also said that variations of Option B had been proven effective in several States, and it was compatible with possible future requirements for other disqualifications, such as illegal alien status.

One law enforcement group suggested that the Federal Government create from its existing resources a felon clearinghouse that would be charged with positively identifying felons from any jurisdiction and would also initiate a FOID system and actually issue the FOID cards. These would be "smart cards" but would be issued only to persons who are eligible to purchase firearms. They would be issued every 5 years, thus reducing the cost, which would be borne by the applicant.

One law enforcement group, preferring the more realistic fingerprint identification check, envisioned the process as taking 2 to 4 weeks, rather than 4 to 6 weeks as the *Draft Report* indicated.

A director of criminal justice of a State which has for many years had a prior-approval system analogous to Option B, strongly encouraged the Federal Government to follow this general model, but voiced a strenuous objection to any Federal requirement which would require the State to abandon its system to be replaced by one which would be more costly and at the same time afford an inadequate opportunity for State law enforcement agencies to conduct appropriate investigations into an applicant's overall fitness and eligibility to purchase a firearm under State law.

The Governor of Illinois, a State that has a preapproval system using a FOID card, reported that in 1988 2,470 individuals were denied a card as a consequence of felony convictions, and in the same year 779 cards were revoked as a result of felony convictions. He also noted that an advantage of a preapproval system is that it places the burden of operating costs on those who desire to purchase firearms by imposing on them appropriate fees for operating costs.

Another Governor, however, was concerned at the initial start-up costs of Option B, which he felt would be very expensive for the State's repository, and he estimates it would increase the data there by 55%. This, he feared, would be so costly as to be prohibitive.

One civil liberties group suggested that for a more positive identification check, a fingerprint be placed on each State driver's license or identification card.

Most civil liberties groups, however, expressed concern with Option B. One found it unacceptable because it requires a large monetary investment, creates a bureaucratic nightmare for local law enforcement, requires keeping records on those who legitimately own firearms, and creates complications such as a 4- to 6-week waiting period for legitimate gun buyers. It asserted that a claimed advantage of Option B over A—that B would prevent false rejection based on name similarity—is illusory, because B requires all applicants to be investigated, not just the 6–8% wrongly accused of having a criminal history.

And another civil liberties group opposed a system that would require all individuals to possess a document indicating eligibility to purchase firearms. It also feared that a centralized data base of information on prospective firearms purchasers would be created.

A firearms organization stated that the FOID card concept violates the statutory directive calling for immediacy; that it is nothing less than a national registration scheme for nonfelons that forces citizens who have never committed a crime to appear at police stations to be fingerprinted and photographed. It added that almost all States have rejected the FOID card concept and that the States have no constitutional duty to administer and enforce such a scheme.

A Member of Congress, reviewing the statutory history of section 6213, contended that the Congress in passing the amendment rejected any waiting period in favor of identifying felons attempting to purchase firearms at the location of gun dealers.

Another Member felt that prior approval systems are the correct approach and urges that such a system be recommended to the Congress.

A gun control group favored a variation of the prior approval system outlined in Option B for the purchase of handguns. It supported

a certificate-of-purchase system where a prospective handgun purchaser would appear before the local police, would present valid photographic identification, and would complete a Federal form asserting no impediment to handgun ownership. The applicant would pay a user fee, be checked through available data bases, and if no disqualifying conviction were found, would be issued the certificate of purchase. At the time of purchase, the buyer would present the certificate to the dealer, who would then be required to verify the purchaser's identity and the certificate's validity by telephoning the local law enforcement agency.

Option B1: Live scan of fingerprints by local law enforcement and biometric check by gun dealer

The State patrol chief of one State preferred Option B1 as being the most effective method of fulfilling the requirements and intent of the proposed goals. He does, however, list some concerns about this option, such as its cost-effectiveness and the financial impact on small dealers. This option would appear to require use of the applicant's fingerprints in conjunction with an AFIS system, which would then have to be linked to an automated records data base to comply with the immediacy requirement.

A law enforcement organization preferred this option above all others. The writer of this comment felt that any felon attempting to purchase firearms will be identified. He saw no loopholes and believed that although the cost was higher, the lives saved would make it worthwhile.

Other comments objected to implementation of this option because of the higher cost and the invasion of privacy and traditional notions of civil liberties.

Option B2: Smart card containing disqualifying information

A law enforcement organization suggested creating a felon clearinghouse which would issue a FOID card in the form of a smart card, but unlike Option B2 it would only be issued to qualified applicants after clearance by the clearinghouse.

A firearms group stated that the concept of a smart card with positive and possibly biometric identifiers is one which merits further investigation. Its chief advantage is the elimination of forgery.

A State Governor was concerned about the high start-up costs of this option to his State's repository.

An individual advocated a system of placing a bar code on drivers' licenses which he thought would be less costly.

A civil liberties group suggested that for more positive identification a fingerprint could be placed on each State driver's license or identification card.

However, another civil liberties group asserted that the smart card option failed to meet the "compelling interest" test as laid down by the U.S. Supreme Court.

Another individual was concerned about forgery. He said that in the case of cryptographically based smart card technology using public key algorithms, a compromise of the master encrypt key by any of the State centers could jeopardize the entire system's credibility, since forgeries would be as good as originals in every respect.

A Member of Congress suggested that the smart card system may be constitutionally at-risk and programmatically deficient in numerous respects. Also, he said, the costs seem prohibitive and the potential to expand this system into a nationalized identification card has serious problems. He also found troubling the lack of correct information held on the smart card.

A civil liberties group opposed universal smart cards as being overbroad and invasive.

Section 4. Appeals procedures

A firearms group stressed that administrative appeal procedures must be quick and inexpensive. Any necessary judicial review must be de novo with attorney's fees awarded to a prevailing plaintiff. Further, it contended, appeal time should not be limited.

One writer said his State's appeal system often results in high legal costs to an applicant who must go through what he felt was a secretive and lengthy appeals process.

An individual asserted that an appeal procedure must be in place before any preapproval system is initiated.

A firearms group stressed that the right to a judicial appeal is guaranteed by the Due-Process Clauses of the Fifth and Fourteenth amendments.

Part III.

Legal and policy issues

Several groups took exception to the conclusion of SEARCH Group's study that there appear to be no constitutional impediments to the creation of felon identification systems. One firearms group asserted that requiring Americans to be fingerprinted and interviewed by the police merely to exercise their Second Amendment right to keep (and thus acquire) and bear arms is a constitutional infringement. This group criticized the Department of Justice for failing to discuss or even mention the second amendment, which failure, the group said, exhibits insensitivity by a department supposedly dedicated to the protection of the Constitution. The group also objected to the reliance of the Task Force on the SEARCH study.

Another civil liberties group emphatically disagreed with the conclusion that there appeared to be no constitutional impediments. Specifically, it questioned the constitutionality of the required fingerprinting provisions of the options.

An individual saw a potential conflict between the right of privacy and an infringement on second amendment rights; however, he suggested that constitutional tests might be met if the concept were enlarged to include other areas requiring background checks such as police or government workers, so that mere possession of an identity card would not automatically identify a firearms owner.

A civil liberties group was wary of the Task Force proposals as infringing on a law-abiding citizen's right to privacy, the right to the absence of unreasonable searches and seizures, and the right to keep and bear arms.

Another civil liberties group expressed its view that firearms licensure, regulation, and law enforcement responsibilities should remain within the purview of the States.

A Federal or State system; mandatory or voluntary?

Two law enforcement groups feel the implementation approach should be a federally mandated cooperative Federal-State system. An individual asserted that the existence of 20,000 State and local gun laws is a disgrace and recommended Federal preemption of all State and local gun laws.

Another individual felt it is best to let systems vary from State to State since the States know what will work best and apparently will bear most of the cost. He believed that a federally mandated system would require a transition period of at least 2 years in States that have their own systems.

One State response suggested that a Federal standard be established with Federal dollars to assist States in the implementation phase.

And the Governor of another State (who supports and whose State has a preapproval system) was convinced the decision should be left to the States for implementation and operation. He noted that in his State all criterion arrests are State reported but 27% of these arrests are not further reported to the FBI Identification Center.

One Governor said he will not support drastic measures at the Federal level to further limit the ownership of firearms, nor would he support a Federal effort to encumber State criminal justice information agencies with the responsibility of acting as a clearinghouse for the criminal history data necessary to support a Federal felon identification system as proposed.

Another State respondent noted that the start-up and operating costs are that State's most immediate concerns. The range of costs given in the *Draft Report* suggest an unbearable financial burden on State and local law enforcement agencies. More consideration needs to be given both to the ultimate costs and the sources of funding, he said.

Sources of funding for criminal history checks

As demonstrated in the previous two paragraphs, several of the State comments dealt with concerns about funding. One Governor, noting that cost is a major question, felt that large sums of Federal funds would be required to assist the States and also local governments.

Another State concern was that problems would be posed for States with limited resources.

Another Governor observed that one of the advantages of a preapproval system, such as the one his State has, is that it more easily places the burden of operating costs on those who desire to purchase firearms by imposing on them appropriate fees and operating costs.

A firearms group suggested that any system adopted should be funded by Federal and State appropriations with funds coming from a general appropriation or a special felon tax, which would require felons to pay for the system by extra fines and costs. This would be a true user fee, the group felt.

An individual agreed with the latter approach, saying that the felon, not the public nor the lawful gun owner, is responsible for society's having to go to such lengths. He suggested that the cost of the system be averaged over the prison population and added to each criminal's bill, just as restitution is added at the present time. He stressed that under no circumstances should the cost be passed on to the legitimate gun purchaser.

A Member of Congress believed that a system that has the least cost or no cost to dealers and buyers is preferable.

However a State director of criminal justice suggested that a user fee structure imposing a processing fee should be explored for funding the system rather than the use of tax dollars.

A civil liberties organization suggested that manufacturers, dealers, and purchasers should share in the costs, though they should be spared excessive fees. It added that costs should fall within budget limitations of local, State, and Federal governments; otherwise any system would be short-lived and inadequately enforced.

Release of criminal history information to gun dealers

A civil liberties group asserted that an individual has a right to privacy regarding his or her criminal history records and cited as authority a 1989 U.S. Supreme Court decision, *U.S. Department of Justice* v. *Reporter's Committee for Freedom of the Press*, 109 S. Ct. 1468, 1485. This comment reiterated the *Draft Report's* observation that learning whether a prospective purchaser even had a criminal history record may be viewed as a release of criminal history records to non-law-enforcement personnel. Often, the group noted, the person would eventually be found not to have a criminal record, but merely the same name and date of birth as a felon, which could harm the person's reputation.

An individual noted that a possible solution to the potential for misuse of criminal history data would be a computer-generated postcard sent to prospective purchasers informing them that a check had been made. Dealers need a similar mechanism to ensure that an employee does not misuse the dealer's number for abusive purposes.

A Member of Congress said that law enforcement agencies, not gun dealers, should access criminal records, because of privacy concerns and also because those who are about to commit crimes or are mentally unstable might be deterred from purchasing firearms.

One firearms organization said it was not only in favor of, but committed to, an immediate point-of-purchase screening of prospective firearms purchasers. It recommended an electronic screening system in the form of a point-of-purchase computer terminal that could operate much like the current system for validation of credit cards. This would require a method such as an access code system to secure the system from being used for other than its intended purpose. The response to an inquiry should be only an approved or a disapproved notification without any further information about the reason.

Three individual commenters approved of this same system.

The issue of accuracy

The question of accuracy generated numerous comments, some of which are set forth above in part I (The quality of felony conviction data) and elsewhere. Accuracy was an important concern of many responding to the *Draft Report*.

A firearms organization contended that a system that turns down 725,000 citizens annually, most of whom are not felons, is not accurate. Accurate records would aid the criminal justice system in many ways and would allow distribution of felon lists to dealers, it noted.

Creating a data base of firearm purchasers

Creating a data base of firearm purchasers would be dangerous to civil and individual rights, said one individual. A firearms group said that average Americans are capable of recognizing the proposals in the *Draft Report* for what they are: attempts to identify the type and location of firearms with a view toward confiscating some of them.

A law enforcement group observed that the "radical element" will view the use of a FOID card as the first step towards confiscation of guns from all citizens if the democratic system is overthrown.

A firearms group said that while it may be correct "in the narrow view" that legal research indicates no apparent conflict between the *Draft Report's* options and State or Federal law, the data bases created could be expanded with abhorrent results. Such expansion coupled with potential creation of a data base of all firearms purchasers and the tracking of all firearms owners raises serious constitutional issues.

A civil liberties group asserted that no permanent records of firearms transactions should be kept, for such would be dangerous and subject to abuse.

An individual writer was concerned with the invasion of privacy involved in the *Draft Report's* proposals. He does not believe that eligible purchasers' names will be deleted from the data base and asserts that his interest in guns is nobody else's business.

Another civil liberties organization opposed a system that would cause the creation of a centralized data base of information on prospective firearms purchasers.

Another firearms organization felt the proposals create a serious danger of a central registration system of firearms. The records of any approved persons, it says, should be destroyed by the close of the next business day.

Potential "tracking" of firearm purchasers

A civil liberties group opposed any system that would allow tracking of individuals through a firearms owners data base.

A firearms group contended that under the *Draft Report's* proposals, a large data base of citizens who want to purchase firearms would be created and would be used, among other ways, to interface with other government data bases such as IRS and Social Security.

Issuing documents authorizing firearm purchases

A number of commenters, especially those from firearms groups and civil liberties groups, objected to the prior approval systems as well as to the point-of-sale systems insofar as the latter require those who fail the test initially to obtain subsequent documentation. These comments generally pointed out that the required documentation unfairly singles out firearm purchasers because they must prove that they are not felons before otherwise exercising their rights to acquire firearms.

Also some of these commenters expressed concern that the two systems are in fact a method of building data bases containing the names of firearm owners that may later be used for investigative purposes or even to confiscate weapons in the event of civil disorder or the like.

The horrors that are inherent in such a national identification card, said one firearms group, are many. The infringement of civil liberties implicit in such proposals must be considered, warned a civil liberties group. Americans are legitimately concerned that a screening system not result in a de facto registration of all firearms, complete with a data base of all firearms owners, said another civil liberties group.

The use of biometric data

One civil liberties group opposed the routine fingerprinting of all prospective firearm purchasers as an intrusion into their privacy that is not justified by the small benefit that may result from the systems in the *Draft Report*.

A firearms organization asserted simply that Americans should not be routinely fingerprinted.

Part IV. Supplementary materials

Section 1. Relevant Federal statutes

A Member of Congress expressed his strong concern that the scope of the *Draft Report* "far exceeds" the clear intentions of Congress. He asserted that the floor debate made it clear that the purpose of Sec. 6213 of the Anti-Drug Abuse Act of 1988 was to establish an identification system at the point of purchase. It was not intended that this section authorize development of a prior approval system of any kind, he said.

Another Member said that he was convinced that the only truly accurate and effective way to keep felons from buying firearms from licensed dealers is to require that comprehensive background checks be undertaken on gun buyers by the FBI and local police prior to the purchase. Although under such a system gun buyers would be required to wait a short time to purchase firearms, he said he didn't believe such a system would seriously inconvenience law-abiding sportsmen and it would curtail crimes of passion and act as an enforcement mechanism to current law.

Section 2. Current Practices: State practices regarding firearm sales

A firearms organization said it believed the new Virginia point-of-sale approval system is similar to Option A, but offered superior

safeguards. This organization understands the Virginia system includes the following: (1) State police must respond during the dealer's call or by return call without delay; (2) if a disqualifying criminal record appears, the State must notify the dealer by the end of the next day or the sale may be made; (3) the dealer may make a sale after the end of the next business day in the event of electronic failure; and (4) State police may not maintain records of qualified purchasers for more than 30 days.

The Governor of Illinois, pointing out the results of his State's prior-approval system, noted that though it is not based on fingerprint data, 2,470 individuals were denied a FOID card in 1988 as a consequence of felony convictions and in the same year 779 cards were revoked as a result of felony convictions.

Oregon recently adopted a preclearance identification system that resembles Option B. It is due to take effect Jan. 1, 1990.

Section 4. Study of other persons ineligible to purchase firearms

A Member of Congress urged that any felon identification system be compatible with the system used to identify other prohibited persons such as those with mental disabilities or illegal aliens.

One law enforcement organization, favoring Option B, noted that this option would be compatible with possible future requirements for identifying those with other disqualifications.

An individual thought it would be extremely difficult to obtain data on persons with mental deficiencies, as their physicians are rightfully very protective of their files.

General comments

There were numerous comments on the thorough study which the Task Force undertook. Some examples include:

• The Attorney General and the Task Force staff are to be congratulated for dealing extraordinarily well with this extremely sensitive subject, said one firearms group.

• A gun control group said that the *Draft Report* is a significant step forward in the development of a responsible, effective, and comprehensive national gun policy. It was impressed by the depth and range of the options it contained and congratulated the Task Force for the considerable research and careful thought that obviously went into this study.

• Another commenter congratulated the Attorney General for his leadership on this important issue.

• A Member of Congress, complimenting the Task Force on the comprehensive and thorough nature of the study, said he felt that never before have we had such a thorough analysis of the possible systems for preventing felons from purchasing firearms.

• A law enforcement organization commended the Task Force for an admirable job on a difficult assignment.

• Several State Governors made comments along the same lines.

Other general comments included:

A State criminal justice division director, writing at the request of the State's Governor, said that it was gratifying that the Congress has decided to establish a Federal system for controlling access to firearms by convicted felons. For many years his State has had a preapproval system roughly similar to Option B, and he commented that it seems entirely appropriate to discontinue the practice which exists in some States of relying upon a prospective firearm purchaser's unverified assertion that he or she has never been convicted of a crime.

A firearms group volunteered to help the Department reach the goal of keeping guns out of the hands of criminals without infringing on the right of law-abiding Americans to own firearms.

A number of writers asserted that gun ownership is a fundamental right that must not be infringed. One individual stated that the people have a right to rise up in arms and overthrow the government, and feared that the restriction of arms is an attempt to restrict the power of the people to change the government.

A State director of criminal justice observed that some of the options lack a mechanism to institute revocation proceedings upon a felony conviction.

One individual advocated giving military weapons to servicemen leaving their military service.

A civil liberties group suggested that the Attorney General should report to Congress that it is not possible to implement the McCollum amendment.

A writer believed the laws preventing felons from purchasing weapons are adequate, since they usually steal them.

A Governor commented that with sufficient resources, any of these options could be made operational.

A State director of law enforcement observed that it is obvious that some system should be put in place to aid society to keep guns out of the hands of criminals.

[FR Doc. 89-25021 Filed 10-24-89; 8:45 am]
BILLING CODE 4410-18-M

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H.R. 3385/Pub. L. 101-119

To provide assistance for free and fair elections in Nicaragua. (Oct. 21, 1989; 103 Stat. 699; 1 page) Price: $1.00

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