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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

SAN FRANCISCO, CA

WHEN: November 29; at 9:00 a.m.
WHERE: Room 15138,
450 Golden Gate Avenue,
San Francisco, CA.
RESERVATIONS: Call Mary Walters at the San Francisco Federal Information Center,
415–556–6600.

SEATTLE, WA

WHEN: November 30; at 1:00 p.m.
WHERE: South Auditorium, 4th Floor,
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Seattle, WA.
RESERVATIONS: Call Carmen Meler or Peggy Groff at the Portland Federal Information Center on the following numbers:
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WASHINGTON, DC

WHEN: December 7, at 9:00 a.m.
WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.

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

CFR PARTS AFFECTED IN THIS ISSUE

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

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Presidential Documents

Title 3—

The President

Proclamation 6059 of November 1, 1989

Gaucher's Disease Awareness Week, 1989

By the President of the United States of America

A Proclamation

Gaucher's disease is the most common of a group of inherited disorders known as lipid storage diseases, in which the body fails to produce a sufficient quantity of an enzyme crucial to the breakdown and removal of fatty substances. These substances, called lipids, are key structural components of living cells. However, their buildup in the body tissues of Gaucher's victims can lead to an enlarged spleen and liver, as well as bone pain and fractures. In rare cases, severe neurological complications may occur.

Gaucher's disease is usually diagnosed during childhood. It most commonly afflicts individuals of Eastern European Jewish descent—one in every 2,500 persons in this group has the disorder. Currently, no cure exists for the more than 20,000 Americans suffering from Gaucher's.

Scientists do know that Gaucher's disease results from a defective recessive gene. Children who inherit a defective gene from each parent develop Gaucher's; those who inherit only one defective gene do not develop the disease, but become carriers and threaten their offspring in turn.

Although a cure remains elusive, remarkable progress has been made in understanding the cause of Gaucher's disease. Investigators at the Federal Government's National Institute of Neurological Disorders and Stroke (NINDS) have discovered the enzyme that is absent in victims of Gaucher's disease. This finding has led the way to the development of diagnostic and carrier tests for the disease. Scientists working in the field of genetics have also gained valuable insight into the nature of Gaucher's disease.

While these advances offer great hope to the victims of Gaucher's disease, much work remains to be done. Cooperating with the NINDS are voluntary health agencies such as the National Gaucher Foundation. These agencies not only conduct valuable research but also provide helpful information and services to Gaucher's patients and their families. This week, as we call attention to this mysterious disease, we also recognize and salute the many dedicated men and women who are working to find a cure for it.

To enhance public awareness of Gaucher's disease, the Congress, by Senate Joint Resolution 73, has designated the week of October 29, 1989, as "Gaucher's Disease Awareness Week" and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning October 29, 1989, as Gaucher's Disease Awareness Week and call upon the people of the United States to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

[FR Doc. 89-26146
Filed 11-1-89; 3:07 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 6060 of November 1, 1989

To Amend the Generalized System of Preferences

By the President of the United States of America

A Proclamation

1. Pursuant to section 502 (a), (b), and (c) of the Trade Act of 1974, as amended (the 1974 Act) (19 U.S.C. 2462 (a), (b), and (c)), and having due regard for the eligibility criteria set forth therein, I have determined that it is appropriate to designate Hungary as a beneficiary developing country for purposes of the Generalized System of Preferences (GSP).

2. Section 604 of the 1974 Act (19 U.S.C. 2483) authorizes the President to embody in the Harmonized Tariff Schedule of the United States (the HTS) the substance of the provisions of that Act, and of other Acts affecting import treatment, and actions thereunder.

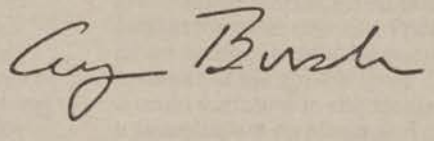
NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including but not limited to sections 502 and 604 of the 1974 Act, do proclaim that:

(1) General note 3(c)(ii)(A) to the HTS, listing those countries whose products are eligible for benefits of the GSP, is modified by inserting in alphabetical order in the list of independent countries "Hungary".

(2) Any provisions of previous proclamations and Executive orders inconsistent with the provisions of this Proclamation are hereby superseded to the extent of such inconsistency.

(3) The amendments made by this Proclamation shall be effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after the date of publication of this Proclamation in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.



[FR Doc. 89-26161
Filed 11-1-89; 4:27 pm]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 692]

Navel Oranges Grown in Arizona and Designated Parts of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona navel oranges that may be shipped to domestic markets during the period from November 3 through November 9, 1989. Consistent with program objectives, such action is needed to balance the supplies of fresh navel oranges with the demand for such oranges during the period specified. This action was recommended by the Navel Orange Administrative Committee (Committee), which is responsible for local administration of the navel orange marketing order.

DATES: Regulation 692 (7 CFR part 907) is effective for the period from November 3 through November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Jacquelyn R. Schlatter, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–8139.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 907 (7 CFR part 907) as amended, regulating the handling of navel oranges grown in Arizona and designated parts of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

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

There are approximately 123 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order and approximately 4,065 navel orange producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

The California-Arizona navel orange industry is characterized by a large number of growers located over a wide area. The production area is divided into four districts which span Arizona and part of California. The largest proportion of navel orange production is located in District 1, Central California, which represented 85 percent of the total production in 1988–89. District 2 is located in the southern coastal area of California and represented 13 percent of 1988–89 production; District 3 is the desert area of California and Arizona, and it represented approximately 1 percent; and District 4, which represented approximately 1 percent, is northern California. The Committee's estimate of 1989–90 production is 73,350 cars (one car equals 1,000 cartons at 37.5 pounds net weight each), as compared with 70,633 cars during the 1988–89 season.

The three basic outlets for California-Arizona navel oranges are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona navel oranges. The Committee estimates that about 68 percent of the 1989–90 crop of 73,350 cars will be utilized in fresh domestic channels (49,500 cars), with the remainder being exported fresh (10 percent) or processed (22 percent). This compares with the 1988–89 total of 45,581 cars shipped to fresh domestic markets, about 64 percent of the crop.

Volume regulations issued under the authority of the Act and Marketing Order No. 907 are intended to provide benefits to growers. Growers benefit from increased returns and improved market conditions. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of oranges in the market throughout the marketing season.

Although information available on the current season is limited, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the navel orange marketing order are incurred by handlers of navel oranges. However, handlers in turn may require individual growers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

Major reasons for the use of volume regulations under this marketing order are to foster market stability and enhance grower revenue. Prices for navel oranges tend to be relatively inelastic at the grower level. Thus, even a small variation in shipments can have a great impact on prices and grower revenue. Under these circumstances, strong arguments can be advanced as to the benefits to growers, particularly smaller growers. Therefore, if a "significant economic impact on a substantial number of small entities" would be present, this impact would be positive rather than adverse.

At the beginning of each marketing year, the Committee submits a

marketing policy to the U.S. Department of Agriculture (Department) which discusses, among other things, the potential use of volume and size regulations for the ensuing season. The Committee, in its 1989–90 season marketing policy, considered the use of volume regulation for the season. This marketing policy is available from the Committee or Ms. Schlatter. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate. A "Notice of Marketing Policy" (notice), which summarized the Committee's marketing policy was prepared by the Department and published in the October 19, 1989, issue of the **Federal Register** (54 FR 42966). The purpose of the notice was to allow public comment on the Committee's marketing policy and the impact of any regulations on small business activities.

The notice provides a 30-day period for the receipt of comments from interested persons. That comment period will end on November 20, 1989. The Department will analyze all comments received, and the analysis will be made available to interested persons. That analysis will assist the Department in evaluating the marketing policy and considering the issuance of weekly volume regulations.

This action is consistent with the 1989–90 marketing policy adopted by the Committee. The Committee met publicly on October 31, 1989, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by a vote of seven to two with two abstentions, that 1,100,000 cartons is the quantity of navel oranges deemed advisable to be shipped to fresh domestic markets during the specified week. This amount is 100,000 cartons less than estimated in the tentative shipping schedule adopted by the Committee on October 3, 1989. Of the 1,100,000 cartons, 1,056,000 are alloted for District 1, and 44,000 are allotted for District 3. Districts 2 and 4 are not regulated as they do not have a sufficient quantity of fruit available for current shipment.

During the week ending on October 26, 1989, shipments of navel oranges to fresh domestic markets, including Canada, totaled 323,000 cartons compared with 110,000 cartons shipped during the week ending on October 27, 1988. Export shipments totaled 26,000 cartons compared with 1,000 cartons shipped during the week ending on October 27, 1988, and processing and other uses accounted for 78,000 cartons compared with 35,000 cartons shipped during the week ending on October 27, 1988.

Fresh domestic shipments to date this season total 456,000 cartons compared with 146,000 cartons shipped by this time last season. Export shipments total 30,000 cartons compared with 1,000 cartons shipped by this time last season. Processing and other use shipments total 122,000 cartons compared with 47,000 cartons shipped by this time last season.

The average f.o.b. shipping point price for the week ending on October 26 was $9.88 per carton based on a reported sales volume of 205,000 cartons compared with last week's average of $11.77 per carton on 72,000 cartons. The season average f.o.b. shipping point price to date is $10.53 per carton. Average f.o.b. shipping point prices for comparable periods last season are not available.

The Committee reports that the market is good for larger sizes (72's and larger) and weak for smaller sizes (113's and smaller). Committee members also stated that there is a large amount of fruit available for shipment and that some price discounting is occurring.

According to the National Agricultural Statistics Service, the 1988–89 season average fresh equivalent on-tree price for California-Arizona navel oranges was $3.86 per carton, 65 percent of the season average parity equivalent price of $5.98 per carton.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the point estimate of the 1989–90 season average fresh on-tree price would be $4.30 per carton. This is equivalent to 66 percent of the projected season average fresh on-tree parity equivalent price of $6.54 per carton. It is currently estimated that there is less than a one percent probability that the 1989–90 season average fresh on-tree price will exceed the projected season average fresh on-tree parity equivalent price.

Limiting the quantity of navel oranges that may be shipped during the period from November 3 through November 9, 1989, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of navel oranges to market. By using provisions contained in the navel orange marketing order, handler shipments could exceed 1,320,000 cartons during the week.

Based on considerations of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

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

In addition, market information needed for the formulation of the basis for this action was not available until October 31, 1989, and this action needs to be effective for the regulatory week which begins on November 3, 1989. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers have been apprised of the provisions of this rule and the effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Arizona, California, Marketing agreements and orders, Oranges (navel).

For the reasons set forth in the preamble, 7 CFR part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR part 907 continues to read as follows:

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

2. Section 907.992 is added to read as follows:

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

§ 907.992 Navel Orange Regulation 692.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from November 3 through November 9, 1989, is established as follows:

(a) District 1: 1,056,000 cartons;

(b) District 2: unlimited cartons;

(c) District 3: 44,000 cartons;
(d) District 4: unlimited cartons.

Dated: November 1, 1989.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 89-26129 Filed 11-2-89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Regulation 690]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 690 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 293,088 cartons during the period from November 5 through November 11, 1989. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 690 (7 CFR part 910) is effective for the period from November 5 through November 11, 1989.

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

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

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

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

There are approximately 85 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601-674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the California-Arizona lemon marketing policy for 1989-90. The Committee met publicly on October 31, 1989, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that overall demand for lemons is moderate.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Arizona, California, Lemons, Marketing agreements and orders.

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

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

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

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

2. Section 910.990 is added to read as follows:

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

§ 910.990 Lemon Regulation 690.

The quantity of lemons grown in California and Arizona which may be handled during the period from November 5, 1989, through November 11, 1989, is established at 293,088 cartons.

Dated: November 1, 1989.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 89-26128 Filed 11-2-89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1036

[DA-89-036]

Milk in the Eastern Ohio-Western Pennsylvania Marketing Area; Temporary Revision of Supply Plant Shipping Percentages and Cooperative Association Delivery Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rules.

SUMMARY: This action increases temporarily the percentage of producer milk receipts that must be shipped by pool supply plants operated by both proprietary and cooperative association handlers under the Eastern Ohio-Western Pennsylvania milk order (Order 36). The action increases the percentage of milk that must be shipped by pool supply plants to fluid milk processing plants from 40 percent to 45 percent during the remaining portion of October and for November 1989, and from 30 percent to 35 percent in the months of December 1989-February 1990. The action also increases the percentage of producer milk marketed by a cooperative association that must be delivered to distributing plants to qualify plants operated by the cooperative association for pool status from 35 percent to 40 percent for the remaining portion of October through February 1990. Increases of 10 percentage points in the minimum performance standards for pool supply plants were requested by two proprietary handlers who need more

milk for their fluid milk processing plants that are pooled under Order 36. The more conservative increases of 5 percentage points for the remaining portion of October and for the months of November 1989 through February 1990 are deemed adequate to assure consumers in that area of an adequate supply of fluid milk products.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Temporary Revision of Shipping Percentages and Cooperative Association Delivery Requirements: Issued September 18, 1989; published September 22, 1989 (54 FR 38999).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action provides greater assurance that an adequate supply of fresh fluid milk will be available to consumers.

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

This revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the provisions of § 1036.7(f) of the order.

Notice of proposed rulemaking was published in the **Federal Register** (54 FR 38999) concerning a proposal to increase the shipping and delivery percentages for pool supply plants and pool plants operated by cooperative associations. An increase of 10 percentage points in shipping requirements was proposed to be effective for an indefinite period beginning with the month of October 1989. The public was afforded the opportunity to comment on the proposal by submitting written data, views and arguments by September 29, 1989. Comments were received from several interested parties and they are dealt with in the following statement of consideration.

Statement of Consideration

This action increases by 5 percentage points the shipping and delivery percentages for pool supply plants and pool plants operated by cooperative associations. The higher standards would apply for the remaining portion of the month of October 1989 and for the months of November 1989–February 1990. Specifically, the pool supply plant shipping percentages would be increased from 40 percent to 45 percent for the remaining portion of the month of October and for November 1989, and from 30 percent to 35 percent for the months of December 1989–February 1990. Similarly, for the remaining portion of October through February 1990, the percentage of a cooperative association's member producer milk that must be shipped to distributing pool plants or to nonpool plants for Class I purposes if the plants operated by such cooperative are to be considered pool plants would be increased from 35 percent to 40 percent. A cooperative would be permitted to meet the higher delivery requirement on the basis of its deliveries in the current month or during the immediately preceding 12-month period.

Section 1036.7(f) of the Eastern Ohio-Western Pennsylvania milk order allows the Director of the Dairy Division to increase the order's shipping and delivery requirements by up to 10 percentage points for any month for which he finds that such an adjustment is necessary to obtain needed shipments of milk.

United Dairy, Inc. and Hillside Dairy Company, Inc., two proprietary handlers who operate pool distributing plants under the Eastern Ohio-Western Pennsylvania order, requested that the shipping and delivery percentages for pool supply plants and pool plants operated by cooperative associations be increased by 10 percentage points as soon as possible to enable handlers to provide consumers with an adequate supply of fluid milk products. Proponents asked that the pooling standards be adjusted upward by the maximum allowable amount (10 percentage points). They also proposed that the upward revisions be effective as soon as possible. The request specified no ending date for such higher standards.

Proponents receive the majority of their milk supplies from Milk Marketing, Inc. (MMI), a cooperative association that markets about 40 percent of the milk pooled under Order 36. In mid-August, the cooperative informed proponents that MMI would be unable to supply all of the handlers' Class I fluid milk requirements beginning with the end of that month. Proponents estimated that their supply shortfalls would amount to approximately 10–20 percent of their total Grade A milk requirements. Since the handlers were unable to replace this milk on an economic basis with receipts from other sources, they requested this action.

Several interested parties responded to the notice which invited comments on the handlers' proposal to increase the minimum pooling standards for supply plants and plants operated by cooperative associations. There were wide differences of opinion as to whether the higher standards are warranted and, if so, for how long they should apply.

Three distributing plant operators, Dean Dairy Products Company, Reiter Dairy, Inc., (a subsidiary of Dean Foods) and Superior Dairy, Inc., supported the proposed revision. These handlers stated that they are short of milk now, either because of MMI's supply cutbacks or because the market's current supply/demand situation is unusually tight, and favor the higher performance standards. The handlers believe the temporary revision would make more milk available for their fluid processing operations. They argued that it is difficult, if not impossible, to replace or obtain additional milk at this time because area processors manufacturing Class II and III products are not willing to make local supplies available to fluid milk plants. The handlers stated that recently they have had to purchase supplemental milk from distant sources in Indiana, Michigan and Kentucky to meet their packaging needs. According to the handlers, such supplemental milk purchases have added considerably to their overall raw product costs.

Three supply plant operators (Brewster Dairy, Inc., Miceli Dairy Products Company and Middlefield Cheese), a distributing plant operator and a cooperative association opposed the upward revision of shipping standards. The supply plant operators generally opposed the higher standards because shipping more of their milk supplies to fluid processors would leave less milk available for their manufacturing operations. These handlers argued that since only slightly more than one-half of the market's milk is being used for Class I purposes, there is plenty of milk available for fluid processing.

The supply plant operators stated that the real issue in this particular situation is pricing, not pooling standards. In their comments, the supply plant operators took the position that fluid processors

could obtain adequate milk for their packaging operations if they were willing to pay competitive prices. Certain of these market suppliers indicated that they had offered to sell milk to proponents who refused to buy it, apparently because the price was too high.

Oberlin Farms, the distributing plant, stated that it had been able to satisfy all of its milk requirements and saw no reason to revise the order's shipping standards. North Shore Milk Producers, a cooperative association that qualifies its members' milk for pooling through Brewster Dairy, stated that the proposed temporary revision would reduce the volume of milk Brewster Dairy would be able to qualify for pooling, and result in financial harm to the cooperative's members.

The market's primary supplier of raw milk (MMI) supported the handlers' proposal to increase the percentage of milk that pool supply plants must deliver to distributing plants. In its comments, MMI stated that the cooperative has recently received numerous requests for additional milk from Order 36 distributing plants. MMI took the position that the proposed upward revisions in the performance standards are supported by the market's current supply/demand conditions. MMI delivered 62 percent of its Order 36 producer milk to pool distributing plants during August 1989. Such percentage exceeds the percentage of the market's producer milk used in Class I, and is considerably above the 35-percent minimum delivery requirement, which applies in each month for pool plants operated by cooperative associations. Also, it is considerably above the 30-percent minimum shipping standard for August, which applies to pool supply plants that have not qualified for automatic pool plant status on the basis of shipments in previous months. MMI expressed a belief that other supply plants are meeting only minimal shipping requirements.

The National Farmers Organization (NFO) took the position that current marketing conditions may warrant a temporary increase in the pooling standards for supply plants and plants operated by cooperative associations. The producer organization argued that the amount and duration of any increase in the shipping and delivery percentages must be carefully evaluated to avoid causing an adverse and depressing effect on prices paid for producer milk.

As MMI and NFO pointed out in their comments, supply-demand conditions for the Order 36 market have tightened considerably. For instance, receipts of milk from producers during the last four months for which data is available (May–August 1989) were 5.6 percent below the same four months of 1988 while Class I use by regulated handlers in such 4-month period was 5.1 percent above last year. In August 1989, 57.8 percent of the market's producer milk was used for Class I purposes compared with 53.5 percent in August 1988 and 51.7 percent in August 1987. It is also noteworthy that the foregoing comparisons of production and fluid sales reflect information for months when, generally, marketwide Class I sales are lowest and production is highest. If the current production and sales trends continue, it is reasonable to anticipate even tighter supply/demand relationships in the upcoming months when less milk is available and the need for milk for use in fluid products is greater. In view of the foregoing, an upward revision of the shipping percentages is justified. However, based on comments received and other available information, an increase of 5 rather than 10 percentage points in the shipping standards for pool supply plants and delivery standards for pool plants operated by cooperative associations is deemed adequate. These revisions should divide the delivery obligations to fluid processors among the market's suppliers more fairly and equitably than those obligations are divided at present, without requiring greater deliveries than needed.

NFO commented that the upward revisions in the pooling standards should not continue beyond February 1990, while MMI asked that they apply through March 1990. Superior Dairy, Inc., recommended that the higher standards apply until the Director is able to determine that the Class I needs of handlers can be serviced with the order's present pooling standards for supply plants and plants operated by cooperative associations. It is reasonable to limit the applicability of the higher shipping and delivery percentages through February 1990, as NFO suggested. During the months of March through August, supply plants are given automatic pool status if they have met the shipping requirements during the immediately preceding months of September through February. Accordingly, the pooling standards for supply plants and plants operated by cooperative associations are revised upward by 5 percentage points for the remaining portion of October 1989 through February 1990.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective upon publication of this document in the **Federal Register.**

List of Subjects in 7 CFR Part 1036

Dairy products, Milk, Milk marketing orders.

It is therefore ordered, that the following provisions of § 1036.7 (b) and (d) of the Eastern Ohio-Western Pennsylvania order are hereby revised for the remainder of the month of October 1989 through February 1990.

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

1. The authority for 7 CFR part 1036 continues to read as follows:

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

§ 1036.7 [Amended]

2. In § 1036.7(b), the provision "40 percent" is revised to "45 percent" and the provision "30 percent" is revised to "35 percent".

3. In § 1036.7(d), the provision "35 percent" is revised to "40 percent".

Signed at Washington, DC, on: October 30, 1989.

W. H. Blanchard,

Director, Dairy Division.

[FR Doc. 89–25896 Filed 11–2–89; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 309

RIN 3064–AA65

Disclosure of Information

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is amending part 309 of its regulations

regarding the disclosure of information to conform to changes required by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"). In the grant of new regulatory authority to the FDIC over savings associations formerly under the supervisory jurisdiction of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, FIRREA has amended the Federal Deposit Insurance Act to define banks and savings associations collectively as "depository institutions." *See* section 204(c)(1), Pub. L. No. 101–73, 103 Stat. 183 (1989). The changes in nomenclature that are being made are required to comply with the provisions of FIRREA.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: M. Jane Williamson, Assistant Executive Secretary (Operations), Office of the Executive Secretary, (202) 898–3713, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) are contained in this notice. Consequently, no information has been submitted to the Office of Management and Budget for review.

Reason for Adoption Without Prior Notice and Comment

Immediate adoption of this final rule is necessary to conform the existing rule to the provisions of FIRREA, which provides the FDIC with certain authority over savings associations. Because the changes in part 309 of the FDIC's regulations occasioned by the enactment of FIRREA merely involve changes of nomenclature, the notice and public participation provisions of the Administrative Procedure Act (5 U.S.C. 553) are not applicable. The FDIC finds, for the same reason, that it is in the public interest to dispense with the 30-day deferred effective date requirement.

Background

In the grant of new regulatory authority to the FDIC over savings associations formerly under the supervisory jurisdiction of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, FIRREA has amended the Federal Deposit Insurance Act to define banks and savings associations collectively as "depository institutions." *See* section 204(c)(1), Pub. L. No. 101–73, 103 Stat. 183 (1989). Thus, "depository institution" has been substituted in part 309 wherever the term "bank" appears, with a few technical exceptions.

Regulatory Flexibility Analysis

Because no notice of proposed rulemaking is required under section 553 of the Administrative Procedure Act or any other law, the Regulatory Flexibility Act (5 U.S.C. 601–602) does not apply.

List of Subjects in 12 CFR Part 309

Authority delegations (Government agencies), Disclosure requirements; Freedom of information, Privacy.

For the reasons set out above, 12 CFR part 309 is amended as set forth below.

PART 309—DISCLOSURE OF INFORMATION

1. The authority citation for Part 309 is revised to read as follows:

Authority: 12 U.S.C. 1819 "Seventh" and "Tenth"; 5 U.S.C. 552

2. In 12 CFR 309.2, paragraph (d) is revised to read as follows:

§ 309.2 Definitions.

* * * * *

(d) The term "examination" includes, but is not limited to, formal and informal investigations of irregularities involving suspected violations of Federal or State civil or criminal laws, or unsafe and unsound practices as well as such other investigations as may be conducted pursuant to law;

* * * * *

§§ 309.4 and 309.7 [Amended]

3. In 12 CFR 309.4(a) introductory text and § 309.7(a), remove "Office of Information" and add "Office of Corporate Communications". In § 309.4(a) introductory text remove "(202) 389–4221" and add "202–898–6996". In § 309.7(a) remove "202–389–4221" and add "202–898–6996".

4. In 12 CFR 309.4(f), remove the phrase "commercial and mutual savings banks" and add, in its place, the phrase "commercial banks and state savings banks".

5. In 12 CFR 309.6(c)(3), remove the phrase "the Federal Home Loan Bank Board, any Federal Home Loan Bank" and add, in its place, "the Office of Thrift Supervision, the Federal Housing Finance Board, any Federal Home Loan Bank".

6. In 12 CFR 309.6, the introductory text of paragraph (c)(7)(iii) is revised to read as follows:

§ 309.6 Disclosure of exempt records by FDIC personnel.

* * * * *

(c) * * *

(7) * * *

(iii) Any subsidiary depository institution of a bank holding company or a savings and loan holding company may reproduce and furnish a copy of any report of examination of the subsidiary depository institution to the parent holding company without prior approval of the Director of the Division of Supervision and any depository institution may reproduce and furnish a copy of any report of examination of the disclosing depository institution to a majority shareholder if the following conditions are met:

* * * * *

§§ 309.4 and 309.6 [Amended]

7. In 12 CFR part 309, remove the words "Division of the Bank Supervision" each place they appear and add, in their place, the words "Division of Supervision" in the following places:

(a) Section 309.4(c) introductory text; and

(b) Section 309.6(c) introductory text, (c)(1), (c)(2)(i), (c)(2)(ii), (c)(3), (c)(4)(ii), (c)(4)(iii), (c)(4)(iv), (c)(4)(iv)(B)(*1*), (c)(5) introductory text, (c)(6) introductory text, (c)(7)(i), (c)(7)(ii), (c)(7)(iii) introductory text, (c)(7)(iii)(B)(*3*), (c)(7)(iv), and (c)(11).

§§ 309.2, 309.4, 309.5, 309.6 [Amended]

8. Other than as amended above, in 12 CFR part 309, remove the term "bank" or "banks" each place such term appears (except where any such term is capitalized or preceded by "foreign" or "nonmember") and add, in its place, "depository institution" or "depository institutions" respectively in the following places:

(a) Section 309.2 (a), (f), and (h);

(b) Section 309.4 (a)(1), (d) introductory text (d)(2)(i), (e)(1), and (e)(2);

(c) Section 309.5(h); and

(d) Section 309.6(c)(1) title, (c)(1), (c)(2)(i), (c)(2)(ii), (c)(3), (c)(4)(i), (c)(4)(ii), (c)(4)(iii), (c)(4)(iv)(C), (c)(5) title, (c)(5) introductory text, (c)(6) introductory text, (c)(6)(ii), (c)(7) title (c)(7)(i), (c)(7)(iii) introductory text, (c)(7)(iii)(A), (c)(7)(iii)(B), (c)(7)(iii)(D), and (c)(7)(iv).

By order of the Board of Directors.

Dated at Washington, DC, this 24th day of October, 1989.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 89–25939 Filed 11–2–89; 8:45 am]

BILLING CODE 6714–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-CE-14-AD; Amendment 39-6381]

Airworthiness Directives; Beech Models 19A, B19, M19A, 23, A23, A23A, A23-19, A23-24, B23, C23, A24, A24R, and B24R Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Beech Models 19A, B19, M19A, 23, A23, A23A, A23-19, A23-24, B23, C23, A24, A24R, and B24R airplanes, which requires installation of provisions for lubrication and inspection of the aileron push rods. There have been several reports of failure of the aileron push rod forward bearings on Beech Models A23-19, B24R, and C23 airplanes. This action is necessary to prevent failures of these rod ends and possible loss of aileron control.

DATES: *Effective Date:* December 4, 1989.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Beech Service Bulletin No. 2198, dated April 1989, applicable to this AD may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085. This information may also be examined at the Rules Docket at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler, Federal Aviation Administration, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD requiring the cutting of an inspection hole in the wing skins and inspecting the aileron push rods for corrosion and freedom of movement on certain Beech Models 19A, B19, M19A, 23, A23, A23A, A23-19, A23-24, B23, C23, A24, A24R, and B24R airplanes was published in the Federal Register on July 31, 1989 (54 FR 31536). The proposal resulted from several reports of the forward aileron push rod bearings failing. An injury accident was caused by a rod end that failed either before or during take off when the aileron became locked down and lateral control could not be maintained with the remaining aileron. The probable cause of the rod end failure was the lack of adequate lubrication of the push rod bearings. Beech Service Bulletin 2198, dated April 1989, provides a kit to facilitate examination and lubrication of aileron push pull rod ends. The Service Bulletin also calls for a one-time inspection of the rod ends for corrosion with replacement as necessary, and lubrication of the rod end bearings.

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

The FAA has determined that this regulation involves 3500 airplanes at an approximate cost of $370 for each airplane. The total cost is estimated to be $1,295,000. The cost of this modification will not have a significant economic impact on affected owners and operators.

The regulations adopted herein do not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES"**.

List of Subjects in 14 CFR 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 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 AD:

Beech: Applies to the airplanes listed below, certificated in any category:

Models	Serial Numbers
A23-19, 19A, M19A, B19	MB-1 through MB-816, except MB-814
23, A23, A23A, B23, C23	M-1 through M-1879, except M-1675
A23-24, A24	MA-1 through MA-368
A24R	MC-2 through MC-150
B24R	MC-152 through MC-451, except MC-311 and MC-449

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent the possibility of separation of aileron push rods and possible loss of aileron control, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS), accomplish the following in accordance with Beech Service Bulletin No. 2198, dated April 1989:

(1) Install inspection openings in the wing lower skins.

(2) Inspect the aileron rod ends for corrosion and freedom of movement. If serviceable, lubricate the rod end bearings. If corrosion is evident, prior to further flight replace the rod end with a new P/N 169-380082-3 rod end as specified in the above service bulletin. Corrosion is evident by restriction of movement of the rod ends.

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

(c) An alternate method of compliance or adjustment of the compliance time which provides an equivalent level of safety, may be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; Telephone (316) 946-4400.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 24, 1989.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25923 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-226-AD; Amdt 39-6388]

Airworthiness Directives; Boeing Model 727-200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 727-200 series airplanes, which requires a one-time visual inspection to detect cracks and/or corrosion of the fuselage skin adjacent to stringer (S) 28L and S-28R from body station (BS) 700 to BS 720, and repair, if necessary. This amendment is prompted by a report of a 48-inch crack in the fuselage skin adjacent to S-28 and the failure of an adjacent frame. This condition, if not corrected, could result in rapid decompression of the airplane.

EFFECTIVE DATE: November 20, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Airframe Branch, ANM-120S; telephone (206) 431-1924. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Recently, an operator reported a 48-inch corrosion crack on a Boeing 727-200 airplane, line number 964, during a "C" check. The crack was detected adjacent to stringer (S) 28R from body station (BS) 690 to BS 700 and running under the wing to body fairing. Removal of the fairing disclosed that the crack ran an additional 40 inches to BS 720A. Further inspection revealed that the frame at BS 720 was broken.

The crack originated between BS 700 and BS 720, and S-28 and an intercostal. The crack resulted from extensive corrosion and fast fracture of the skin. The airplane had accumulated 46,843 hours and 32,654 cycles. This is the first report of a crack in this area. This condition, if not corrected, could result in rapid decompression of the airplane.

The design of this portion of the fuselage is unique to the Model 727-200 series airplanes.

Airworthiness Directive 76-13-01, Amendment 39-2666, currently requires inspection of this general area on airplanes, line numbers 001 through 765, for corrosion and cracking. The airplanes that have installed the terminating modification specified in that AD are not currently required to be inspected in this area, but are susceptible to this new corrosion and cracking problem.

The FAA has reviewed and approved Boeing Alert Service Bulletin 727-53A0203, dated October 20, 1989, which describes the procedures for a visual inspection to detect cracks and corrosion of the fuselage skin, and repair, if necessary.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires a one-time visual inspection of the fuselage skin adjacent to S-28L and S-28R from BS 700 to BS 720, and repair, if necessary, in accordance with the service bulletin previously described. This is considered to be interim action until final action has been identified, at which time the FAA may consider further rulemaking.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

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

The FAA has determined that this regulation is an emergency regulation 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 action 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 will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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:

Boeing: Applies to all Model 727-200 series airplanes, except line numbers 001 through 765 which are currently being subject to the inspection requirements of AD 76-13-01 inspection adjacent to stringer (S) 28L and S-28R from body station (BS) 700 to BS 720], certificated in any category. Compliance is required within the next 15 days after the effective date of this AD, unless previously accomplished within the last 6 months.

To prevent rapid decompression of the airplane, accomplish the following:

A. Conduct an external detailed visual inspection for cracks and corrosion of the fuselage skin adjacent to S-28L and S-28R from BS 700 to BS 720, in accordance with Boeing Alert Service Bulletin 727-53A0203, dated October 20, 1989. Any cracks or corrosion detected must be repaired prior to further flight, in accordance with the service bulletin.

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

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Seattle Aircraft Certification Office.

C. 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 information from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective November 20, 1989.

Issued in Seattle, Washington, on October 26, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25920 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-104-AD; Amdt. 39-6389]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which currently requires inspection for cracks of the fuselage between body station (BS) 940 and BS 1000 body crown crease beam and the intercostal structure, and repair, if necessary. Investigation has shown that the earlier-produced airplanes are designed differently in this area and are not subject to the addressed cracking. This amendment deletes airplanes, line number 001 through 065, from the applicability of the existing rule.

EFFECTIVE DATE: November 3, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Dan R. Bui, Airframe Branch, ANM-120S; telephone (206)431-1919. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by revising AD 89-08-03, Amendment 39-6183 (54 FR 13875; April 6, 1989), applicable to Boeing Model 747 series airplanes, to delete airplanes, line number 001 through 065, from the applicability of the existing rule, was published in the **Federal Register** on August 21, 1989 (54 FR 34527).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the one comment received.

The Air Transport Association (ATA) of America, commenting on behalf of its members, supported the proposed amendment.

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

Since this amendment relieves a restriction, it is made effective upon publication in the **Federal Register.**

There are approximately 65 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 48 airplanes of U.S. registry will be affected by this AD, that the actions required by the existing AD will take approximately 16 manhours per airplane to accomplish, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators will be reduced by $30,720.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and 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.

Adoption of the Amendment

PART 39—[AMENDED]

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

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 amending AD 89-08-03, Amendment 39-6183 (54 FR 13875; April 6, 1989), by revising the applicability statement to read as follows:

Boeing: Applies to Model 747 series airplanes, listed in Boeing Service Bulletin 747-53-2297, dated June 30, 1988, certificated in any category, except line number 001 through 065. Compliance required as indicated, unless previously accomplished.

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

This amendment amends Amendment 39-6183, AD 89-08-03.

This amendment becomes effective November 3, 1989.

Issued in Seattle, Washington, on October 26, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 89-25922 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-212-AD; Amdt. 39-6382]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires a one-time inspection and replacement, if necessary, of the horizontal stabilizer hinge fitting backup structure fasteners. This action is prompted by reports that airplanes may have been delivered with undersized fasteners in the horizontal stabilizer hinge fitting back up structure. This condition, if not corrected, could result in detachment of longitudinal braces from the backup fitting with resultant hinge fitting movement adversely affecting airplane controllability.

EFFECTIVE DATE: November 20, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Dan R. Bui, Airframe Branch, ANM-120S; telephone (206) 431-1919. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Certain Boeing Model 747 series airplanes may have been delivered with undersized fasteners in the horizontal stabilizer hinge fitting backup structure aft of the body station (BS) 2598 bulkhead. The affected fasteners attach the stabilizer backup fittings to support structure aft of the BS 2598 bulkhead. Undersized or missing fasteners could result in detachment of longitudinal braces from the backup fitting, with resultant hinge fitting movement adversely affecting airplane controllability.

The FAA has reviewed and approved Boeing Alert Service Bulletin 747-53A2314, dated July 31, 1989, which describes procedures for inspection of the fastener locations for undersized or missing fasteners, and replacement, if necessary.

Since this condition is likely to exist or develop on other airplanes of this same type design, this AD requires a one-time inspection to determine the presence and proper installation of the horizontal stabilizer hinge fitting backup structure fasteners and replacement, if necessary, in accordance with the service bulletin previously described. Undersized fasteners must be replaced with fasteners of the required diameter prior to further flight.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

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

The FAA has determined that this regulation is an emergency regulation 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 action involves an emergency resolution 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 will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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:

Boeing: Applies to Model 747 series airplanes, listed in Boeing Alert Service Bulletin 747-53A2314, dated July 31, 1989, certificated in any category. Compliance required within 60 days after the effective date of this AD, unless previously accomplished.

To ensure structural integrity of the horizontal stabilizer hinge fitting backup structure and to prevent possible detachment of longitudinal braces from the backup fitting with resultant hinge fitting movement adversely affecting airplane controllability, accomplish the following:

A. Conduct a one-time inspection for undersized and missing fasteners, in accordance with Boeing Alert Service Bulletin 747-53A2314, dated July 31, 1989. If any fastener is undersized or missing, prior to further flight, install a new fastener in accordance with that service bulletin.

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

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

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

This amendment becomes effective November 20, 1989.

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 89-25924 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-80-AD; Amdt. 39-6384]

Airworthiness Directives; Boeing of Canada, Ltd., de Havilland Division, Model DHC-8-100 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain de Havilland

Model DHC–8–100 series airplanes, which requires modification of the propeller alternate feather system. This amendment is prompted by a report of inadvertent operation of both alternate feather switches in lieu of the standby hydraulic pressure switches. This condition, if not corrected, could lead to unexpected loss of thrust and altitude in a critical flight regime.

EFFECTIVE DATE: December 11, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing of Canada, Ltd., de Havilland Division, Garratt Boulevard, Downsview, Ontario M3K IY5, Canada. 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. Pat Perrotta, Manager, Propulsion Branch, ANE–174, New York Aircraft Certification Office, Engine Propeller Directorate, Federal Aviation Administration, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791–7421.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to certain de Havilland Model DHC–8–100 series airplanes, which requires modification of the propeller alternate feather system, was published in the **Federal Register** on June 14, 1989 (54 FR 25284).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supported the intent of the rule, but suggested supplemental descriptive information be included in the Airplane Flight Manual (AFM) regarding the flight crew's operation of the airplane and the microswitches' purpose. The FAA does not concur. Upon further investigation, the FAA has determined that the modification will have no impact on the flight crew's operation of the airplane. The condition lever is to be pulled into feather before selecting alternate feather. The microswitches are solely to prevent inadvertent operation of the alternate feather system, and, therefore, this type of information is inappropriate to be included in the AFM. The system description is in the maintenance manual and pilots' operating handbook.

The commenter also suggested that information should be provided regarding procedures to determine if the microswitches are in operating condition. The FAA does not concur. Functional checks are part of routine maintenance "A" checks.

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

There are approximately 91 Model DHC–8–100 series airplanes of the affected design in the worldwide fleet. It is estimated that 44 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The modification kit will be provided by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,040.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and 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.

Adoption of the Amendment

PART 39—[AMENDED]

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

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:

Boeing of Canada, Ltd., de Havilland Division: Applies to Model DHC–8–100 series airplanes, Serial Numbers 1 through 91, certificated in any category. Compliance is required within the next 400 hours time-in-service after the effective date of this AD, unless previously accomplished.

To prevent unwanted propeller feathering due to inadvertent activation of the alternate feather switches, accomplish the following:

A. Modify the alternate feather system, in accordance with the Accomplishment Instructions of Boeing of Canada, Ltd., de Havilland Division, Service Bulletin No. 8–61–10, Revision A, dated August 5, 1988.

B. 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, New York Aircraft Certification Office, FAA, New England 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, New York Aircraft Certification Office.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing of Canada, Ltd., de Havilland Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or New York Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, FAA, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

This amendment becomes effective December 11, 1989.

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–25925 Filed 11–2–89; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 89-NM-10-AD; Amdt. 39-6395]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 727 series airplanes, which requires inspection of the Number 1 and 3 engine aft mount support fittings, and repair or replacement, if necessary. This amendment is prompted by reports of cracks in the aft engine mount support fittings. This condition, if not corrected, could result in an engine separating from the airplane.

EFFECTIVE DATE: December 11, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Kathi N. Ishimaru, Airframe Branch, ANM-120S; telephone (206) 431-1525. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 727 series airplanes, which requires inspection of the Number 1 and 3 engine aft mount support fittings, and repair or replacement, if necessary, was published in the **Federal Register** on July 24, 1989 (54 FR 30721).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Two commenters requested the use of an eddy current inspection combined with a visual inspection as an alternative to the proposed detailed visual inspection, in order to eliminate the need to remove the heat exchanger. Since specific inspection guidelines were not presented with the comment, the FAA does not concur with the request. However, as provided by paragraph E., operators may present alternate inspection guidelines to the FAA for consideration as an alternate means of compliance with the AD.

Five commenters requested the initial compliance threshold be extended beyond the proposed 1,000 flight cycles to as much as 3,000 flight cycles. These requests were based on the opinion that service history does not support the 1,000-flight cycle threshold and the proposed threshold does not fit into the normal inspection cycle. The FAA does not concur with the commenters' requests. The 1,000-flight cycle threshold is based on the service history of 18 cracked fittings, including one fitting which was almost completely severed. The commenters provided no technical justification to increase the threshold.

One commenter stated that, in the past, repair data and spare parts were inadequate. The FAA does not consider this to be a problem currently. The manufacturer has advised the FAA that it has increased its spare parts inventory to support this AD. Additionally, paragraph D. of the AD has been revised to identify specific FAA-approved repair drawings.

One commenter requested the proposal be revised to indicate that the repairs be made in accordance with the service bulletin. The FAA does not concur. The Boeing service bulletin specified in this AD does not contain repair procedures. However, as previously mentioned, a list of approved Boeing Repair Drawings has been added to paragraph D. of the AD to provide specific sources for repair information and procedures.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change noted above. This change will neither increase the scope of the rule nor increase the economic burden on any operator.

There are approximately 1,710 Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 1,143 airplanes of U.S. registry will be affected by this AD, that it will take approximately 12 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $548,640.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and 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.

Adoption of the Amendment

PART 39—[AMENDED]

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

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:

Boeing: Applies to all Model 727 series airplanes certificated in any category. Compliance is required as indicated, unless previously accomplished.

To detect cracking in the Number 1 or 3 engine aft mount support fitting, accomplish the following:

A. Conduct a detailed visual inspection for cracks of the Number 1 and Number 3 engine aft mount support fittings, in accordance with Section III.D and Figure 1 of Boeing Service Bulletin 727-54-0017, dated December 22, 1988, in accordance with the following schedule:

1. For airplanes with engine aft mount support fittings made of 7079-T6 material: within the next 1,000 flight cycles or 1 year, after the effective date of this AD, whichever occurs first, unless previously accomplished within the last 2,000 flight cycles.

Note: 7079-T6 material is used in the aft support fitting on the Number 1 engine strut on airplanes line numbers 001 through 883, and the Number 3 engine strut on airplanes line numbers 001 through 880.

2. For airplanes with engine aft support fittings made of 7075-T73 material: prior to the accumulation of 40,000 flight cycles, or within the next 1,000 flight cycles after the

effective date of this AD, whichever occurs later, unless previously accomplished within the last 2,000 flight cycles.

Note: 7075–T73 material is used in the aft support fitting on the Number 1 engine strut on airplanes line number 884 and all later airplanes, and the Number 3 engine strut on airplanes line number 881 and all later airplanes.

B. For the initial inspection required in paragraph A., above, as an option to the detailed visual inspection, perform an eddy current inspection of the support fittings outboard of the body skins, and a detailed visual inspection of the support fittings inboard of the body skins, in accordance with Section III.A and Figure 1 of Boeing Service Bulletin 727–54–0017, dated December 22, 1988.

C. Repeat the detailed visual inspection required in paragraph A., above, at intervals not to exceed 3,000 flight cycles.

D. If cracked fittings are found as a result of the inspections required by this AD, prior to further flight, accomplish one of the following:

1. Repair in accordance with Boeing Repair Drawings 65C34829, 65C34830, 65C34993, 65C34581, 65C35114, or 65C34998; or

2. Repair in accordance with a procedure approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region; or

3. Replace the cracked fittings.

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

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Seattle Aircraft Certification Office.

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

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

This amendment becomes effective December 11, 1989.

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–25926 Filed 11–2–89; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 89–NM–79–AD; Amdt. 39–6383]

Airworthiness Directives; McDonnell Douglas Model DC–10–30 and KC–10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects Airworthiness Directive (AD) 89–20–09, applicable to certain McDonnell Douglas Model DC–10–30 and KC–10A (Military) series airplanes, which requires an inspection of the auxiliary hydraulic pump electrical connector sockets to determine if the correct connector sockets are installed, and if not, they must be replaced with sockets of the correct part number. This action corrects the applicability statement published in the **Federal Register** to limit the AD to aircraft listed in McDonnell Douglas Service Bulletin A29–127.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (213) 988–5355.

SUPPLEMENTARY INFORMATION: On September 12, 1989, the FAA issued AD 89–20–09, Amendment 39–6328 (54 FR 39348; September 26, 1989), applicable to McDonnell Douglas Model DC–10–30 and KC–10A (Military) series airplanes, which requires an inspection and change, if necessary, of the auxiliary hydraulic pump electrical connector sockets. The applicability statement should have stated that the affected airplanes are listed in McDonnell Douglas Service Bulletin A29–127, dated March 3, 1989. However, the applicability statement, as published in the **Federal Register**, omitted this important qualifying statement. Therefore, this correction inserts a qualifying statement in the applicability portion of the final rule.

Since this action only corrects an error in the final rule, it has no adverse economic impact and imposes no additional economic burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration corrects § 39.19 of part 39 of the Federal Aviation Regulations as follows:

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.

2. By correcting the applicability statement of Amendment 39–6328 (54 FR 39438; September 26, 1989), AD 89–29–09 as follows:

McDonnell Douglas: Applies to Model DC–10–30 and KC–10A (Military) series airplanes, as listed in McDonnell Douglas Service Bulletin A29–127, dated March 3, 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

This amendment becomes effective November 3, 1989.

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 89–25921 Filed 11–2–89; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 89–ASO–36]

Revision of Transition Area, Lakeland, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the Lakeland, FL, Transition Area in the vicinity of the Plant City Airport. The notice of proposed rulemaking mistakenly referred to the Plant City Municipal Airport. The correct name is Plant City Airport. A new Standard Instrument Approach Procedure (SIAP) has been developed to serve Runway 9 based on the Plant City Nondirectional Radio Beacon (NDB). The radius of the existing transition area around the Plant City Airport is increased from 5 to 6.5 miles and an arrival area extension is added west of the airport. The additional controlled airspace is required for protection of Instrument Flight Rules (IFR) aircraft executing the NDB Runway 9 SIAP to the Plant City Airport. Also, minor corrections have been made to the geographic position

coordinates of the Bartow Municipal, Lakeland Municipal and Winter Haven's Gilbert Airports.

EFFECTIVE DATE: 0901 U.T.C., March 8, 1990.

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

SUPPLEMENTARY INFORMATION:

History

On August 22, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Lakeland, FL, Transition Area (54 FR 34788). The proposed action would enlarge the transition area in the vicinity of the Plant City Airport by increasing its radius from 5 to 6.5 miles and adding an arrival area extension west of the airport. This action was necessary to provide controlled airspace for IFR aircraft executing a recently developed NDB Runway 9 SIAP to the Plant City Airport. Also, minor corrections would be made to the geographic position coordinates of the Bartow Municipal, Lakeland Municipal and Winter Haven's Gilbert Airports. 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 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6E dated January 3, 1989.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revises the Lakeland, FL, Transition Area by enlarging the area around the Plant City Airport and adding an arrival area extension west of the airport. This action will provide required airspace protection for IFR aircraft executing a new NDB Runway 9 SIAP to the Plant City Airport. Also, minor changes are made in the geographic position coordinates of the Bartow Municipal, Lakeland Municipal and Winter Haven's Gilbert Airports.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

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

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

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

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

2. Section 71.181 is amended as follows:

Lakeland, FL [Revised]

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Lakeland Municipal Airport (Latitude 27°59'18" N./Longitude 82°00'56"); within a 7-mile radius of Bartow Municipal Airport (Latitude 27°56'36" N./Longitude 81°47'02" W.); within a 6.5-mile radius of Plant City Airport (Latitude 28°00'00" N./Longitude 82°09'40" W.); within three miles each side of the 266° bearing from the Plant City NDB (Latitude 28°00'08" N./Longitude 82°09'23" W.), extending from the 6.5-mile radius area to 8.5 miles west of the NDB; within a 6.5-mile radius of Winter Haven's Gilbert Airport (Latitude 28°03'25" N./Longitude 81°45'25" W.); within 2.5 miles each side of the Lakeland VORTAC 071° radial, extending from the 8.5-mile radius area to the Winter Haven's Gilbert Airport 6.5-mile radius area.

Issued in East Point, Georgia, on October 18, 1989.

Don Cass,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 89–25927 Filed 11–2–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 89–AEA–05]

Proposed Revocation of Transition Area; Rehoboth Beach, Delaware

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice cancels the 700 foot Transition Area at the Rehoboth Beach Airport, Rehoboth Beach, DE. As a result of the closure of the Rehoboth Beach Airport, Rehoboth Beach, DE, the Federal Aviation Administration no longer finds it necessary to retain that amount of controlled airspace which was required to accommodate Instrument Approach Procedures to the airport.

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 Transition Area at Rehoboth Beach, DE (54 FR 31704). The proposed action would return that controlled airspace which was necessary to contain procedures to that airport. In addition, this airport is closed and is no longer used as a charted reference.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments 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 700 foot Transition Area for Rehoboth Beach, DE. As a result of the closure of the Rehoboth Beach Airport and the removal of this airport from all charted references, the Federal Aviation Administration finds that the associated Transition Area 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:

Rehoboth Beach, Delaware [Removed]

By removing the description of the Rehoboth Beach, Delaware Transition Area in its entirety as follows:

"That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center (lat. 38°43'10" N., long. 75°07'35" W.) of Rehoboth Aircrafters Airport, Rehoboth Beach, DE, and within 2 miles each side of the Waterloo, DE, VORTAC 144° radial extending from the 5-mile radius area to the VORTAC. This transition area is effective from sunrise to sunset, daily."

Issued in Jamaica, New York, on September 26, 1989.

John D. Canoles,

Manager, Air Traffic Division.

[FR Doc. 89-25928 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 33-6846A; 34-27281A; 35-24954A; 39-2227A; IC-17146A; IA-1205A]

Organization, Functions and Authority Delegations

AGENCY: Securities and Exchange Commission.

ACTION: Technical amendment and correction.

SUMMARY: A technical amendment to § 200.312, specific exemptions, was inadvertently published in the **Federal Register** at p. 40862 on October 4, 1989. The correct version was published in the **Federal Register** at p. 24329 on June 7, 1989, and is hereby reinstated by this correction.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Carol K. Scott, Assistant General Counsel (202-272-2472), or Fran L. Paver (202-272-2453), Office of the General Counsel, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure.

Text of Amendments

1. The authority citation for part 200, subpart H, continues to read as follows:

Authority: Pub. L. 93-579, sec. (f), 5 U.S.C. 552a(f), unless otherwise noted.

Section 200.312 is also issued under Pub. L. 93-579, sec. k, 5 U.S.C. 552a(k).

2. Section 200.312 is amended by revising paragraph (a)(8) to read as follows:

§ 200.312 Specific exemptions.

* * * * *

(a) * * *

(8) Rule 2(e) of the Commission's Rules of Practice—Appearing or Practicing Before the Commission.

* * * * *

3. Amendatory paragraph 5 published on October 4, 1989, at p. 40863 in the first column is removed.

* * * * *

Dated: October 30, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-25956 Filed 11-2-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 38

RIN 1076-AB02

Education Personnel

July 21, 1989.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is publishing a final rule which amends existing regulations that establish requirements of employment, discharge, voluntary services and payment of teachers and other personnel in Bureau of Indian Affairs' operated schools and agency education positions. This action is taken by BIA to establish a basic compensation rate for teachers and counselors in BIA-operated schools in accordance with the Augustus F. Hawkins-Robert T. Stafford Elementary and School Improvement Amendments of 1988 (Pub. L. 100-297).

EFFECTIVE DATE: These regulations shall become effective December 4, 1989.

FOR FURTHER INFORMATION CONTACT: Larry D. Holman, Office of Indian Education Programs, Eastern Navajo Agency, Bureau of Indian Affairs, Department of the Interior, P.O. Box 328, Crownpoint, New Mexico 87313: Telephone (505) 786-6152.

SUPPLEMENTARY INFORMATION: The authority for issuing this rule is Public Law 95-561, the "Education Amendments of 1978" (25 U.S.C. 2011), as amended by Public Law 98-511, Public Law 99-89 and Public Law 100-297. This final rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. The BIA has inserted the amendments required by Public Law 100-297. Specifically, these amendments (1) redesignate 38.6 paragraphs (c) through (e) as paragraphs (d) through (f); (2) add a new paragraph (c); and (3) amend the first sentence in the newly-designated section (d)(1) to comply with section 5114(a) of Public Law 100-297.

Public Law 100-297 requires the Department of the Interior to adopt for teachers and counselors pay rates established under the Defense Department Overseas Teachers Pay and Personnel Practice Act. Therefore, the amendments to this rule, acknowledging the adoption of these pay rates, are mandated by law and to publish for public comment would be impractical and unnecessary. Therefore, the Department concludes under 5 U.S.C. 553(b) that prior publication and public comment are not required.

The Department of the Interior has determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The amendments in this rule contain no information collection or recordkeeping requirement under the Paperwork Reduction Act of 1980 (44

U.S.C. 3501 et seq.). The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The primary author of this document is Larry D. Holman, Agency Superintendent for Education, Eastern Navajo Agency.

List of Subjects in 25 CFR Part 38

Indians-education, Teachers.

For the reasons set forth in the preamble, part 38 of title 25, chapter I of the Code of Federal Regulations is amended as set forth below:

1. The authority citation for 25 CFR part 38 continues to read as follows:

Authority: Sec. 1131 and 1135 of the Act of November 1, 1987 (92 Stat. 2322 and 2327, 25 U.S.C. 2011 and 2015); Secs. 511 and 512 of Pub. L. 98-511; and Secs. 8 and 9 of Pub. L. 99-89 (Indian Education Technical Amendments Act of 1985) and Title V of Pub. L. 100-297 (Indian Education Amendments of 1988).

2. In § 38.6, paragraphs (c) through (e) are redesignated as paragraphs (d) through (f), a new paragraph (c) is added and newly redesignated paragraph (d)(1) introductory text is revised to read as follows:

§ 38.6 Basic compensation for educators and education positions.

* * * * *

(c) *Schedule of compensation rates for teachers and counselors.* The basic compensation for teachers and counselors, including dormitory counselors and homeliving counselors, shall be determined in accordance with rates set by the Defense Department Overseas Teachers Pay and Personnel Practices Act. The schedule used shall be the current published schedule for the school year beginning on or after July 1 of each year.

* * * * *

(d) *Adjusting employee basic compensation rates.* (1) Except for employees occupying positions of teachers and counselors, including dormitory counselors and homeliving counselors, adjustments in an employee's basic compensation made in connection with each contract renewal will be based on the following:

* * * * *

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 89-25974 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8269]

RIN 1545:AB47

Installment Method Reporting by Dealers in Personal Property; Change From Accrual to Installment Method Reporting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document supplements final regulations relating to installment method reporting by dealers in personal property published elsewhere in this issue. Changes to the applicable tax law were made by the Installment Sales Revision Act of 1980. These regulations affect dealers in personal property and provide them with the guidance necessary to comply with the law.

DATES: The regulations are effective for taxable years ending after October 19, 1980.

FOR FURTHER INFORMATION CONTACT: Benjamin P. Foster, Internal Revenue Service, Attn: CC:CORP:T:R (IA-146-81), Room 4429, Washington, DC 20224. Telephone 202-343-0328 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this final rule have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545-0963. The estimated annual burden associated with the collections of information in this final rule is 1 hour per recordkeeper.

This estimate is an approximation of the average time expected to be necessary for a collection of information. It is based on such information as is available to the Internal Revenue Service. Individual recordkeepers may require greater or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, TR:FP, Washington, DC 20224, and to the Office of Management and Budget, Paperwork Reduction Project (1545-0963), Washington, DC 20503.

Background

On July 28, 1986, proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 453A of the Internal Revenue Code and to the Table of OMB Control Numbers (26 CFR Part 602) were published in the **Federal Register** (51 FR 26909). The amendments, which related to the rules applicable to changes from the accrual method to the installment method of accounting by dealers in personal property, were proposed to reflect the modification of those rules by section 2 of the Installment Sales Revision Act of 1980 (Pub. L. No. 96-471, 94 Stat. 2251). No written comments or requests for a public hearing were received with respect to the proposed amendments. Accordingly, this Treasury Decision adopts the proposed amendments with minor revisions.

Availability of the Installment Method

Section 10202 of the Revenue Act of 1987 (Pub. L. No. 100-203, 101 Stat. 1330) amended the rules relating to installment sales by dealers. The amendment, which applies to obligations arising from dispositions made after December 31, 1987, provides that sections 453A and 453C shall not apply (with certain exceptions) to dealer dispositions of personal and real property. Accordingly, the final regulations provide that sales by a dealer may be treated as sales on the installment plan only for sales made on or before December 31, 1987.

Special Analyses

It has been determined that this final rule is not a major rule as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required.

Drafting Information

The principal author of these regulations is Paulette C. Galanko of the Office of the Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects

26 CFR 1.441–1 through 1.483–2

Income taxes, Accounting, Deferred compensation plans.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

For the reasons set out in the preamble, parts 1 and 602 of title 26 of the Code of Federal Regulations are amended as set forth below.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Section 1.453A–3 also issued under 26 U.S.C. 453A.

§§ 1.453–7 and 1.453–8 [Removed]

Par. 2. Sections 1.453–7 and 1.453–8 are removed.

Par. 3. New § 1.453A–3 is added at the appropriate place to read as follows:

§ 1.453A–3 Requirements for adoption of or change to installment method by dealers in personal property.

(a) *In general.* A dealer (within the meaning of § 1.453A–1(c)(1)) may adopt or change to the installment method for a type or types of sales on the installment plan (within the meaning of § 1.453A–1(c)(3) and (d)) in the manner prescribed in this section. This section applies only to dealers and only with respect to their sales on the installment plan.

(b) *Time and manner of electing installment method reporting*—(1) *Time for election.* An election to adopt or change to the installment method for a type or types of sales must be made on an income tax return for the taxable year of the election, filed on or before the time specified (including extensions thereof) for filing such return.

(2) *Adoption of installment method.* A taxpayer who adopts the installment method for the first taxable year in which sales are made on an installment plan of any kind must indicate in the income tax return for that taxable year that the installment method of accounting is being adopted and specify the type or types of sales included within the election. If a taxpayer in the year of the initial election made only one type of sale on the installment plan, but during a subsequent taxable year makes another type of sale on the installment plan and adopts the installment method for that other type of sale, the taxpayer must indicate in the income tax return for the subsequent year that an election is being made to adopt the installment method of accounting for the additional type of sale.

(3) *Change to installment method.* A taxpayer who changes to the installment method for a particular type or types of sales on the installment plan in accordance with this section must, for each type of sale on the installment plan for which the installment method is to be used, attach a separate statement to the income tax return for the taxable year with respect to which the change is made. Each statement must show the method of accounting used in computing taxable income before the change and the type of sale on the installment plan for which the installment method is being elected.

(4) *Deemed elections.* A dealer (including a person who is a dealer as a result of the recharacterization of transactions as sales) is deemed to have elected the installment method if the dealer treats a sale on the installment plan as a transaction other than a sale and fails to report the full amount of gain in the year of the sale. For example, if a transaction treated by a dealer as a lease is recharacterized by the Internal Revenue Service as a sale on the installment plan, the dealer will be deemed to have elected the installment method assuming the dealer failed to report the full amount of gain in the year of the transaction.

(c) *Consent.* A dealer may adopt or change to the installment method for sales on the installment plan without the consent of the Commissioner. However, a dealer may not change from the installment method to the accrual method of accounting or to any other method of accounting without the consent of the Commissioner.

(d) *Cut-off method for amounts previously accrued.* An election to change to the installment method for a type of sale applies only with respect to sales made on or after the first day of the taxable year of change. Thus, payments received in the taxable year of the change, or in subsequent years, in respect of an installment obligation which arose in a taxable year prior to the taxable year of change are not taken into account on the installment method, but rather must be accounted for under the taxpayer's method of accounting in use in the prior year.

(e) *Effective date.* This section applies to sales by dealers in taxable years ending after October 19, 1980, but generally does not apply to sales made after December 31, 1987. For sales made after December 31, 1987, sales by a dealer in personal or real property shall not be treated as sales on the installment plan. (However, see section 453(l)(2) for certain exceptions to this rule.) For rules relating to sales by dealers in taxable years ending before October 20, 1980, see 26 CFR 1.453–7 and 1.453–8 (rev. as of April 1, 1987).

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.10 [Amended]

Par. 5. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.453A–3 * * * 1545–0963".

Approved: August 31, 1989.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 89–25504 Filed 11–2–89; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Parts 1 and 602

[T.D. 8270]

RIN 1545:AF71

Installment Method Reporting by Dealers in Personal Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to installment method reporting by dealers in personal property. Changes to the applicable tax law were made by the Installment Sales Revision Act of 1980 and the Tax Reform Act of 1986. These regulations affect dealers in personal property and provide them with the guidance necessary to comply with the law.

DATES: The regulations are effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954.

FOR FURTHER INFORMATION CONTACT: Paulette C. Galanko, Internal Revenue Service, Attn: CC:CORP:T:R (IA–141–83), room 4429, Washington, DC 20224. Telephone 202–566–3802 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this final rule have been

reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545–1134. The estimated average burden associated with the collections of information in this final rule is 10 hours per recordkeeper.

This estimate is an approximation of the average time expected to be necessary for a collection of information. It is based on such information as is available to the Internal Revenue Service. Individual recordkeepers may require greater or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer TR:FP, Paperwork Reduction Project, Washington, DC 20224, and to the Office of Management and Budget, Paperwork Reduction Project (1545–1134), Washington, DC 20503.

Background

On July 28, 1986, proposed amendments to the Income Tax Regulations (26 CFR part 1) providing rules under section 453A of the Internal Revenue Code were published in the Federal Register (51 FR 26903). These amendments related to installment method reporting by dealers in personal property and were proposed to reflect the addition of section 453A to the Code by the Installment Sales Revision Act of 1980 (Pub. L. No. 96–471, 94 Stat. 2247). A public hearing was not held as no written requests for a public hearing were received with respect to the proposed amendments. Accordingly, this Treasury Decision adopts the proposed amendments with the two changes discussed below and certain other minor revisions.

Availability of the Installment Method

Section 10202 of the Revenue Act of 1987 (Pub. L. No. 100–203, 101 Stat. 1330) amended the rules relating to installment sales by dealers. The amendment, which applies to obligations arising from dispositions made after December 31, 1987, provides that sections 453A and 453C shall not apply (with certain exceptions) to dealer dispositions of personal and real property. Accordingly, the final regulations provide that sales by a dealer may be treated as sales on the installment plan only for sales made on or before December 31, 1987.

Revolving Credit Sales

Section 812 of the Tax Reform Act of 1986 (Pub. L. No. 99–514, 100 Stat. 2085) amended the rules relating to sales under a revolving credit plan. The amendment, which applies for taxable years beginning after December 31, 1986, provides that section 453A shall not apply to any disposition of personal property under a revolving credit plan and that all payments to be received with respect to such dispositions are to be treated as received in the year of disposition. Accordingly, the final regulations provide that sales under a revolving credit plan may be treated as sales on the installment plan only for taxable years beginning on or before December 31, 1986.

Income to be Reported

The proposed regulations inadvertently omitted portions of former § 1.453–3 that should have been included in the regulations under section 453A. The omitted paragraphs, relating to determinations of the amount of income to be reported, other permissible accounting methods, and recordkeeping requirements, have been included in § 1.453A–1 of the final regulations.

Special Analyses

It has been determined that this final rule is not a major rule as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553 (b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required.

Drafting Information

The principal author of these regulations is Paulette C. Galanko of the Office of the Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects

26 CFR 1.44–1 through 1.483–2

Income taxes, Accounting, Deferred compensation plans.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

For the reasons set forth in the preamble, parts 1 and 602 of title 26 of the Code of Federal Regulations are amended as set forth below.

PART 1—[AMENDED]

Paragraph 1. The authority for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Sections 1.453A–1 and 1.453A–2 also issued under 26 U.S.C. 453A.

Par. 2. Sections 1.453–1 and 1.453–2 are removed and the following new §§ 1.453A–0 through 1.453A–2 are added in the appropriate place:

§ 1.453A–0 Table of contents.

This section lists the paragraphs and subparagraphs contained in §§ 1.453A–1 through 1.453A–3.

§ 1.453A–1 Installment method of reporting income by dealers in personal property.

(a) In general.
(b) Effect of security.
(c) Definition of dealer, sale, and sale on the installment plan.
(d) Installment plans.
  (1) Traditional installment plans.
  (2) Revolving credit plans.
(e) Installment income of dealers in personal property.
  (1) In general.
  (2) Gross profit and total contract price.
  (3) Carrying changes not included in total contract price.
(f) Other accounting methods.
(g) Records.
(h) Effective date.

§ 1.453A–2 Treatment of revolving credit plans; taxable years beginning on or before December 31, 1986.

(a) In general.
(b) Coordination with traditional installment plan.
(c) Revolving credit plans.
(d) Effective date.

§ 1.453A–3 Requirements for adoption of or change to installment method by dealers in personal property.

(a) In general.
(b) Time and manner of electing installment method reporting.
  (1) Time for election.
  (2) Adoption of installation method.
  (3) Change to installment method.
  (4) Deemed elections.
(c) Consent.
(d) Cut-off method for amounts previously accrued.
(e) Effective date.

§ 1.453A–1 Installement method of reporting income by dealers on personal property.

(a) *In general.* A dealer (as defined in paragraph (c)(1) of this section) may elect to return the income from the sale of personal property on the installment method if such sale is a sale on the installment plan (as defined in paragraphs (c)(3) and (d) of this section). Under the installment method of accounting, a taxpayer may return as income from installment sales in any taxable year that proportion of the installment payments actually received in that year which the gross profit realized or to be realized when the property is paid for bears to the total contract price. For this purpose, gross profit means sales less cost of goods sold. See paragraph (d) of this section for additional rules relating to the computation of income under the installment method of accounting. In addition, see § 1.453A–2 for rules treating revolving credit plans as installment plans for taxable years beginning on or before December 31, 1986.

(b) *Effect of security.* A dealer may adopt (but is not required to do so) one of the following four ways of protecting against loss in case of default by the purchaser:

(1) An agreement that title is to remain in the vendor until performance of the purchaser's part of the transaction is completed;

(2) A form of contract in which title is conveyed to the purchaser immediately, but subject to a lien for the unpaid portion of the selling price;

(3) A present transfer of title to the purchaser, who at the same time executes a reconveyance in the form of a chattel mortgage to the vendor; or

(4) A conveyance to a trustee pending performance of the contract and subject to its provisions.

(c) *Definitions of dealer, sale, and sale on the installment plan.* For purposes of the regulations under section 453A—

(1) The term "dealer" means a person who regularly sells or otherwise disposes of personal property on the installment plan;

(2) The term "sale" includes sales and other dispositions; and

(3) Except as provided in paragraph (d)(2) of this section, the term "sale on the installment plan" means—

(i) A sale of personal property by the taxpayer under any plan for the sale of personal property, which plan, by its terms and conditions, contemplates that each sale under the plan will be paid for in two or more payments; or

(ii) A sale of personal property by the taxpayer under any plan for the sale of personal property—

(A) Which plan, by its terms and conditions, contemplates that such sale will be paid for in two or more payments; and

(B) Which sale is in fact paid for in two or more payments.

(d) *Installment plans*—(1) *Traditional installment plans.* A traditional installment plan usually has the following characteristics:

(i) The execution of a separate installment contract for each sale or disposition of personal property; and

(ii) The retention by the dealer of some type of security interest in such property.

Normally, a sale under a traditional installment plan meets the requirements of paragraph (c)(3)(i) of this section.

(2) *Revolving credit plans.* Sales under a revolving credit plan (within the meaning of § 1.453A–2(c)(1))—

(i) Are treated, for taxable years beginning on or before December 31, 1986, as sales on the installment plan to the extent provided in § 1.453A–2, which provides for the application of the requirements of paragraph (c)(3)(ii) of this section to sales under revolving credit plans; and

(ii) Are not treated as sales on the installment plan for taxable years beginning after December 31, 1986.

(e) *Installment income of dealers in personal property*—(1) *In general.* The income from sales on the installment plan of a dealer may be ascertained by treating as income that proportion of the total payments received in the taxable year from sales on the installment plan (such payments being allocated to the year against the sales of which they apply) which the gross profit realized or to be realized on the total sales on the installment plan made during each year bears to the total contract price of all such sales made during that respective year. However, if the dealer demonstrates to the satisfaction of the district director that income from sales on the installment plan is clearly reflected, the income from such sales may be ascertained by treating as income that proportion of the total payments received in the taxable year from sales on the installment plan (such payments being allocated to the year against the sales of which they apply) which either:

(i) The gross profit realized or to be realized on the total credit sales made during each year bears to the total contract price of all credit sales during that respective year, or

(ii) The gross profit realized or to be realized on all sales made during each year bears to the total contract price of all sales made during that respective year.

A dealer who desires to compute income by the installment method shall maintain accounting records in such a manner as to enable an accurate computation to be made by such method in accordance with the provisions of this section, section 446, and § 1.446–1.

(2) *Gross profit and total contract price.* For purposes of paragraph (e)(1) of this section, in computing the gross profit realized or to be realized on the total sales on the installment plan, there shall be included in the total selling price and, thus, in the total contract price of all such sales.

(i) The amount of carrying charges or interest which is determined at the time of each sale and is added to the established cash selling price of such property and is treated as part of the selling price for customer billing purposes, and

(ii) In the case of sales made in taxable years beginning on or after January 1, 1960, the amount of carrying charges or interest determined with respect to such sales which are added contemporaneously with the sale on the books of account of the seller but are treated as periodic service charges for customer billing purposes.

Any change in the amount of the carrying charges or interest in a year subsequent to the sale will not affect the computation of the gross profit for the year of sale but will be taken into account at the time the carrying charges or interest are adjusted. The application of this paragraph (e)(2) to carrying charges or interest described in paragraph (e)(2)(ii) of this section may be illustrated by the following example:

Example. X Corporation makes sales on the traditional installment plan. The customer's order specifies that the total price consists of a cash price plus a "time price differential" of 1½ percent per month on the outstanding balance in the customer's account, and the customer is billed in this manner. On its books and for purposes of reporting to stockholders, X Corporation consistently makes the following entries each month when it records its sales. A debit entry is make to accounts receivable (for the total price) and balancing credit entries are made to sales (for the established selling price) and to a reserve account for collection expense (for the amount of the time price differential). In computing the gross profit realized or to be realized on the total sales on the installment plan, the total selling price and, thus, the total contract price for purposes of this paragraph (e) would, with respect to sales made in taxable years beginning on or after January 1, 1960, include the time price differential.

(3) *Carrying charges not included in total contract price.* In the case of sales by dealers in personal property made during taxable years beginning after December 31, 1963, the income from which is returned on the installment method, if the carrying charges or interest with respect to such sales is not included in the total contract price, payments received with respect to such sales shall be treated as applying first against such carrying charges or interest.

(f) Other accounting methods. If the vendor chooses as a matter of consistent practice to return the income from installment sales on an accrual method (,) such a course is permissible.

(g) Records. In adopting the installment method of accounting the seller must maintain such records as are necessary to clearly reflect income in accordance with this section, section 446 and § 1.446–1.

(h) *Effective date.* This section applies for taxable years beginning after December 31, 1953, and ending after August 16, 1954, but generally does not apply to sales made after December 31, 1987, in taxable years ending after such date. For sales made after December 31, 1987, sales made by a dealer in personal or real property shall not be treated as sales on the installment plan. (However, see section 453(l)(2) for exceptions to this rule.)

§ 1.453A–2 Treatment of revolving credit plans; taxable years beginning on or before December 31, 1986.

(a) *In general.* If a dealer sells or otherwise disposes of personal property under a revolving credit plan—

(1) Such sales will be treated as sales on the installment plan to the extent provided in paragraph (c) of this section;

(2) Income from sales treated as sales on the installment plan under paragraph (c) of this section may be returned on the installment method; and

(3) Income returned on the installment method is computed in accordance with § 1.453A–1, except that—

(i) The gross profit on such sales is computed without regard to § 1.453A–1(e)(2);

(ii) Under the circumstances described in paragraph (c)(6)(vi) of this section, the taxpayer may, in computing income for a taxable year, treat all such sales as sales made in such taxable year for purposes of applying the gross profit percentage; and

(iii) The rule contained in § 1.453A–1(e)(3) is applied in accordance with paragraph (c)(6)(v) of this section.

(b) *Coordination with traditional installment plan.* A dealer who makes sales of personal property under both a revolving credit plan and a traditional installment plan (1) may elect to report only sales under the traditional installment plan on the installment method, (2) may elect to report only sales under the revolving credit plan on the installment method, or (3) may elect to report both sales under the revolving credit plan and the traditional installment plan on the installment method.

(c) *Revolving credit plans.* (1) To the extent provided in this paragraph (c) sales under a revolving credit plan will be treated as sales on the installment plan. The term "revolving credit plan" includes cycle budget accounts, flexible budget accounts, continuous budget accounts, and other similar plans or arrangements for the sale of personal property under which the customer agrees to pay each billing-month (as defined in paragraph (c)(6)(iii) of this section) a part of the outstanding balance of the customer's account. Sales under a revolving credit plan do not constitute sales on the installment plan merely by reason of the fact that the total debt at the end of a billing-month is paid in installments. The terms and conditions of a revolving credit plan do not contemplate that each sale under the plan will be paid for in two or more payments and thus do not meet the requirements of § 1.453A–1(c)(3)(i). In addition, since under a revolving credit plan payments are not generally applied to liquidate any particular sale, and since the terms and conditions of such plan contemplate that account balances may be paid in full or in installments, it is generally impossible to determine that a particular sale under a revolving credit plan is to be or is in fact paid for in installments so as to meet the requirements of § 1.453A–1 (c)(3)(ii). However, paragraphs (c) (2) and (3) of this section provides rules under which a certain percentage of charges under a revolving credit plan will be treated as sales on the installment plan. For purposes of arriving at this percentage, these rules, in general, treat as sales on the plan those sales under a revolving installment credit plan: (i) Which are of the type which the terms and conditions of the plan contemplate will be paid for in two or more installments and (ii) Which are charged to accounts on which subsequent payments indicate that such sales are being paid for in two or more installments.

(2)(i) The percentage of charges under a revolving credit plan which will be treated as sales on the installment plan shall be computed by making an actual segregation of charges in a probability sample of the revolving credit accounts and by applying the rules contained in paragraph (c)(3) of this section to determine what percentage of charges in the sample is to be treated as sales on the installment plan. (See paragraph (c)(5) of this section for rules to be used if some of the sales under a revolving credit plan are nonpersonal property sales (as defined in paragraph (c)(6)(iv) of this section).) Such segregation shall be made of charges which make up the balances in the sample accounts as of the end of each customer's last billing-month ending within the taxable year. (See paragraph (c)(6)(v) of this section for rules to be used in determining which charges make up the balance of an account.) However, in making such segregation, any account to which a sale is charged during the taxable year on which no payment is credited after the billing-month within which the sale is made (hereinafter called the "billing-month of sale") and on or before the end of the first billing-month ending in the taxpayer's next taxable year shall be disregarded and not taken into account in the determination of what percentage of charges in the sample is to be treated as sales on the installment plan. In order to obtain a probability sample, the accounts shall be selected in accordance with generally accepted probability sampling techniques. The appropriateness of the sampling technique and the accuracy and reliability of the results obtained must, if requested, be demonstrated to the satisfaction of the district director. If the district director is not satisfied that the taxpayer's sample is appropriate or that the results obtained are accurate and reliable, the taxpayer shall recompute the sample percentage or make appropriate adjustments to the original computations in a manner satisfactory to the district director. The taxpayer shall maintain records in sufficient detail to show the method of computing and applying the sample.

(ii) For taxable years ending before January 31, 1964, a taxpayer who has reported for income tax purposes all or a portion of sales under a revolving credit plan as sales on the installment method may apply the percentage obtained for the first taxable year ending on or after such date in determining the percentage of charges under a revolving credit plan for such prior taxable year (or years) which will be treated as sales on the installment plan. However, in computing the percentage to be applied in determining the percentage of charges under a revolving credit plan which will be treated as sales on the installment plan for such prior taxable year (or years), the rule stated in § 1.453A–1(e)(3) shall not apply. See paragraph (c)(6)(v)

of this section for rules relating to the application of payments to finance charges for such prior taxable years.

(3) For the purpose of determining the percentage described in paragraph (c)(2) of this section, a charge under a revolving credit plan will be treated as a sale on the installment plan only if such charge is a sale (as defined in paragraph (c)(6) of this section) and meets the following requirements:

(i) The sale must be of the type which the terms and conditions of the plan contemplate will be paid for in two or more installments. If the aggregate of sales charged during a billing-month to an account under a revolving credit plan exceeds the required monthly payment, then all sales during such billing-month shall be considered to be of the type which the terms and conditions of such plan contemplate will be paid for in two or more installments. The required monthly payment shall be the amount of the payment which the terms and conditions of the revolving credit contract require the customer to make with respect to a billing-month. If the amount of such payment is not fixed at the date the contract is entered into, but is dependent upon the balance of the account, then such amount shall be the amount that the customer is required to pay (but not including any past-due payments) as shown on the statement either:

(A) For the last billing-month ending within the taxpayer's taxable year or

(B) For the billing-month of sale, whichever method the taxpayer adopts for all accounts. A taxpayer shall not change such method of determining the required monthly payment based upon the balance of the account without obtaining the consent of the district director. In any case where the required monthly payment is not set in accordance with a consistent method used during the entire taxable year, the district director may determine the required monthly payment in accordance with the method used during the major portion of such taxable year if the use of such method is necessary in order to reflect properly the income from sales under a revolving credit plan. The requirements stated in this paragraph (c)(3)(i) may be illustrated by the following examples:

Example (1). Under the terms of a revolving credit plan the required monthly payment to be made by customer A is $20. During the billing-month ending in December, sales aggregating $80 are charged to customer A's account, and during the next billing-month, ending in January, sales aggregating $19.95 and finance charges of $.60 are charged to A's account. Since the aggregate of sales charged to customer A's account during the billing-month ending in December ($80) exceeds the required monthly payment ($20), the terms and conditions of the plan contemplate that the sales charged during such billing-month are of the type which will be paid for in two or more installments. Since the aggregate of sales charged to customer A's account during the billing-month ending in January ($19.95) does not exceed the required monthly payment, the sales making up the aggregate of sales in such billing-month are not of the type which the terms and conditions of the plan contemplate will be paid for in two or more installments.

Example (2). The terms of a revolving credit plan require a payment of 20 percent of the balance of the customer's account as of the end of the billing-month for which the statement is rendered. A customer makes purchases aggregating $25 in the customer's next to the last billing-month ending within the taxpayer's taxable year, and the balance at the end of that month is $150. At the end of the customer's last billing-month ending within the taxpayer's taxable year, the balance of the account has decreased to $110. If the taxpayer determines the required monthly payment by reference to the payment required on the statement for the last billing-month ending within the taxable year and applies such method consistently to all accounts, then the sales making up the $25 aggregate of sales are of the type which the terms and conditions of the plan contemplate will be paid for in two or more installments. Although such aggregate was less than the $30 payment (20%×$150) required on the statement rendered for the billing-month of sales. It was more than the $22 (20%×$110) that the customer was required to pay on the statement rendered for his last billing-month ending within the taxable year, and thus meets the requirements of this paragraph (c)(3)(i). If, however, the taxpayer determines the required monthly payment by reference to the payment required on the statement for the billing-month of sale, then the sales making up the aggregate of sales during such billing-month do not meet the requirements of this paragraph (c)(3)(i) because such aggregate was less than the $30 payment required on the statement rendered for such month.

(ii) The sale must be charged to an account on which the first payment after the billing-month of sale indicates that the sale is being paid in installments. The first payment after the billing-month of sale indicates that the sale is being paid in installments if, and only if, such payment is an amount which is less than the balance of the account as of the close of the billing-month of sale. For purposes of this paragraph (c)(3)(ii), such balance shall be reduced by any return or allowance credited to the account after the close of the billing-month of sale and before the close of the billing-month within which the first payment after the billing-month of sale is credited to the account, unless the taxpayer demonstrates that the return or allowance was attributable to a charge made in a month subsequent to the billing-month of sale. The requirements stated in this paragraph (c)(3)(ii) may be illustrated by the following examples, in which it is assumed that the taxpayer's annual accounting period ends on January 31.

Example (1). Customer A's revolving credit account shows the following sales and payments:

Month ending	Aggregate sales in month	Payments	Balance
December 20	$150	0	$150
January 20	75	$30	195
February 20	0	195	0

All sales made in the billing-month ending December 20 meet the requirements of this paragraph (c)(3)(ii) because the first payment on the account after such billing-month ($30) was less than the balance of the account as of the close of such billing-month ($150); and none of the sales made in the billing-month ending January 20 meets the requirements of this paragraph (c)(3)(ii) because the balance of the account as of the end of such billing-month was liquidated in one payment. By application of the rules of paragraph (c)(6)(v) of this section, the balance in the account as of the last billing-month ending in the taxable year ($195) consists of $120 of the $150 of sales made in the billing-month ending December 20 and all of the $75 of sales made in the billing-month ending January 20. Therefore, $120 of the account balance meets the requirements of this paragraph (c)(3)(ii) and $75 does not.

Example (2). Customer B's revolving credit account shows the following sales and payments:

Month ending	Aggregate sales in month	Payments	Balance
December 20	$ 50	0	$ 50
January 20	100	0	150

Month ending	Aggregate sales in month	Payments	Balance
February 20	0	$50	100

None of the sales made in the billing-month ending December 20 meets the requirements of this paragraph (c)(3)(ii) because the first payment credited to the account after such billing-month ($50) is not less than the balance of the account as of the close of such month ($50). All of the sales made in the billing-month ending January 20 meet the requirements of this paragraph (c)(3)(ii) because the first payment after such billing-month ($50) is less than the balance of the account as of the close of such month ($150).

Example (3). Customer C's revolving credit account shows the following purchases and credits:

Month ending	Item	Charges	Credits	Balance
January 20	Coat	$55		
	Dress	40		
	Shirt	5		$100
February 20	Return		$5	
	Payments		95	0

None of the sales made in the billing-month ending January 20 meets the requirements of this paragraph (c)(3)(ii) because the first payment credited to the account after such billing-month ($95) was equal to the balance of the account as of the end of such billing-month, $95. For this purpose, the balance of $100 is reduced by the $5 return which was credited to the account after the close of the billing-month of sale and before the close of the billing-month within which the first payment after the billing-month of sale is credited.

(4) The provisions of paragraphs (c)(2) and (3) of this section may be illustrated by the following examples in which it is assumed that the taxpayer is a dealer whose annual accounting period ends on January 31.

Example (1). Customer A's revolving credit ledger account shows the following:

Month ending	Aggregate sales in month [1]	Returns and allowances	Payments	Finance charges	Balance
January 20	$15.00	0	0	0	$15.00
February 20	0	0	0	$0.15	15.15

[1] Including sales of personal property and nonpersonal property sales.

For purposes of the segregation provided for in paragraph (c)(2)(i) of this section, customer A's account will be disregarded and not taken into account in the determination of what percentage of charges in the sample is to be treated as sales on the installment plan because no payment was credited to that account after the billing-month of sale and on or before February 20.

Example (2). This example is applicable with respect to sales made during taxable years beginning before January 1, 1964. Under the terms of corporation X's revolving credit plan, payments are required in accordance with the following schedule:

	Required monthly payment
Unpaid balance:	
0 to $99.99	$20
$100 to $199.99	40
$200 to $299.99	60

Customer B's revolving credit ledger account for the period beginning on September 21, 1963, and ending February 20, 1964, shows the following:

Month ending	Aggregate sales in month [1]	Returns and allowances	Payments	Finance charges	Balances
October 20	$55.00	0	0	0	$55.00
November 20	45.00	0	$20.00	$0.35	80.35
December 20	20.00	0	20.00	.60	80.95
January 20	26.00	$5.00	20.00	.61	82.56
February 20	0	10.00	72.56	0	0

[1] Including sales of personal property and nonpersonal property sales.

The three $20 payments and the $5 return or allowance made in the billing-months ending in the taxable year are applied under the rules in paragraph (c)(6)(v) of this section to liquidate the earliest outstanding charges, first to the $55 aggregate of sales in the billing-month ending October 20 and next to $10 of the aggregate of sales made in the billing-month ending November 20. Thus, the balance of the account as of the close of the billing-month ending January 20, $82.56, is made up as follows:

Remainder of sales in billing-month ending Nov. 20 ($45–$10)	$35.00
Finance charges for billing-month ending Nov. 20	0.35
Sales for billing-month ending Dec. 20	20.00
Finance charge for billing-month ending Dec. 20	0.60
Sales for billing-month ending Jan. 20	26.00
Finance charge for billing-month ending Jan. 20	0.61
Total	82.56

The sales of $35 remaining from the aggregate of sales for the billing-month ending November 20 meet the requirements of paragraph (c)(3)(i) of this section because the aggregate of sales charged during such billing-month ($45) exceeds the required monthly payment ($20), and such sales meet the requirements of paragraph (c)(3)(ii) of this section because the first payment after the billing-month of sale ($20) is an amount less than the balance of the account as of the close of such month ($80.35). Therefore, $35 of sales will be treated as sales on the installment plan. The $20 aggregate of sales charged during the billing-month ending December 20 does not meet the

requirements of paragraph (c)(3)(i) of this section because it is in an amount which does not exceed the required monthly payment ($20). (The finance charge of $0.60 added in the billing-month does not enter into the determination of the aggregate of sales for the month because the term "sales" (as defined in paragraph (c)(6)(i) of this section does not include finance charges). The $26 aggregate of sales for the billing-month ending January 20 does not meet the requirements of paragraph (c)(3)(ii) of this section because the first payment after such billing-month ($72.56) was equal to the balance of the account as of the close of such billing-month ($72.56). For this purpose, the balance of $82.56 is reduced by the $10 return or allowance which was credited after the billing-month of sale and before February 20. Thus, of the $82.56 balance of B's account as of the close of the last billing-month ending within corporation X's taxable year, $35 will be treated as sales on the installment plan for purposes of determining the percentage provided for paragraph (c)(2) of this section.

Example (3). This example is applicable with respect to sales made during taxable years beginning after December 31, 1963. Assume the facts in example (2), except that Customer B's revolving credit ledger account is for the period beginning on September 21, 1964 and ending February 20, 1965. Since payments received are first used to liquidate any outstanding finance charges under the rule in paragraph (c)(6)(v) of this section, the $20 payment in December liquidated the $0.35 finance charge accrued at the end of the November billing-month and the $20 payment in January liquidated the $0.60 finance charge accrued at the end of the December billing-month. The balance of the three $20 payments ($59.05) and the $5 return or allowance are applied (under the rules in paragraph (c)(6)(v) of this section) to liquidate the earliest outstanding sales, first to the $55 aggregate of sales in the billing-month ending October 20 and next to $9.05 of the aggregate of sales made in the billing-month ending November 20. Thus, the balance of the account as of the close of the billing-month ending January 20, $82.56, is made up as follows:

Remainder of sales in billing-month ending Nov. 20 ($45—$9.05)	$35.95
Sales for billing-month ending Dec. 20	20.00
Sales for billing-month ending Jan. 20	26.00
Finance charge for billing-month ending Jan. 20	0.61
Total	82.56

The sales of $35.95 remaining from the aggregate of sales for the billing-month ending November 20 meet the requirements of paragraph (c)(3)(i) of this section because the aggregate of sales charged during such billing-month ($45) exceeds the required monthly payment ($20), and such sales meet the requirements of paragraph (c)(3)(ii) of this section because the first payment after the billing-month of sale ($20) is an amount less than the balance of the account as of the close of such month ($80.35). Therefore, $35.95 of sales will be treated as sales on the installment plan. The $20 aggregate of sales charged during the billing-month ending December 20 does not meet the requirements of paragraph (c)(3)(i) of this section because it is in an amount which does not exceed the required monthly payment ($20). The $26 aggregate of sales for the billing-month ending January 20 does not meet the requirements of paragraph (c)(3)(ii) of this section because the first payment after such billing-month ($72.56) was equal to the balance of the account as of the close of such billing-month ($72.56). For this purpose, the balance of $82.56 is reduced by the $10 return or allowance which was credited after the billing-month of sale and before February 20. Thus, of the $82.56 balance of B's account as of the close of the last billing-month ending within corporation X's taxable year $35.95 will be treated as sales on the installment plan for purposes of determining the percentage provided for in paragraph (c)(2) of this section.

(5) Sales under a revolving credit plan which are nonpersonal property sales (as defined in paragraph (c)(6)(iv) of this section) do not constitute sales on the installment plan. Therefore, the charges under a revolving credit plan must be reduced by the nonpersonal property sales, if any, under such plan, before application of the sample percentage as provided for in paragraph (c)(2)(i) of this section. The taxpayer may treat as the nonpersonal property sales under the plan for the taxable year an amount which bears the same ratio to the total sales under the revolving credit plan made in the taxable year as the total nonpersonal property sales made in such year bears to the total sales made in such year.

(6) For purposes of this paragraph (c)—

(i) The term "sales" includes sales of services, such as a charge for watch repair, as well as sales of property, but does not include finance or service charges.

(ii) The term "charges" includes sales of services and property as well as finance or service charges.

(iii) A billing-month is that period of time for which a periodic statement of charges and credits is rendered to a customer.

(iv) The term "nonpersonal property sales" means all sales which are not sales of personal property made by the taxpayer. Thus, sales of a department leased by the taxpayer to another are nonpersonal property sales. Likewise, charges for services rendered by the taxpayer are nonpersonal property sales unless such services are incidental to and rendered contemporaneously with the sale of personal property, in which case such charges shall be considered as constituting part of the selling price of such property.

(v) Except as otherwise provided in this paragraph (c)(6)(v), each payment received from a customer under a revolving credit plan before the close of the last billing-month ending in the taxable year shall be applied to liquidate the earliest outstanding charges under such plan, notwithstanding any rule of law or contract provision to the contrary. For purposes of determining which charges remain in the balance of an account at the end of the last billing-month ending in the taxable year, the taxpayer may apply returns and allowances which are credited before the close of the last billing-month ending in the taxable year either (A) to liquidate or reduce the charge for the specific item so returned or for which an allowance is permitted, or (B) to liquidate or reduce the earliest outstanding charges. The method so selected for applying returns and allowances shall be followed on a consistent basis from year to year unless the district director consents to a change. Additionally, finance or service charges which are computed on the basis of the balance of the account at the end of the previous billing-month (usually reduced by payments during the current billing-month) are accrued at the end of the current billing-month and are therefore considered, for purposes of determining the earliest outstanding charges, as charged to the account after any sales made during the current billing month. However, for purposes of determining which charges remain in the balance of an account at the end of the last billing-month ending in a taxable year which began after December 31, 1963, payments received during such year shall be applied first against any finance or service charges which were outstanding at the time such payment was received. The preceding sentence

shall not apply with respect to a computation made for purposes of applying the rule described in paragraph (c)(2)(ii) of this section.

(vi) The taxpayer shall allocate those sales under a revolving credit plan which are treated as sales on the installment plan to the proper year of sale in order to apply the appropriate gross profit percentage as provided for in § 1.453A–1(e). This allocation shall be made on the basis of the percentages of charges treated as sales on the installment plan which are attributable to each taxable year as determined in the sample of accounts described in paragraph (c)(2) of this section. However, if the taxpayer demonstrates to the satisfaction of the district director that income from sales on the installment plan is clearly reflected, all sales may be considered as being made in the taxable year for purposes of applying the gross profit percentage.

(7) The provisions of this paragraph (c) may be illustrated by the following example:

Example. Corporation X is a dealer and has elected to report on the installment method those sales under its revolving credit plan which may be treated as sales on the installment plan. Corporation X's taxable year ends on January 31, and the total balance of all its revolving credit accounts as of January 31, 1964, is $2,000,000. The total sales made in the taxable year are $10,000,000 of which $500,000 are nonpersonal property sales. The gross profit percentage realized or to be realized on all sales made in the taxable year is 40 percent. The amount of the gross profit contained in the year-end balance of $2,000,000 which may be deferred to succeeding years is computed as follows:

(i) In order to reduce the charges appearing in the year-end balance of revolving credit accounts receivable by the nonpersonal property sales contained therein, corporation X determines the amount of such nonpersonal property sales under the method permitted in paragraph (c)(5) of this section. Corporation X first determines the ratio which total nonpersonal property sales made during the year ($500,000) bears to total sales made during the year ($10,000,000), and then applies the percentage (5 percent) thus obtained to the year-end balance of revolving credit accounts receivable ($2,000,000). The nonpersonal property sales thus determined ($100,000) is subtracted from such year-end balance to obtain the charges under the revolving credit plan appearing in the year-end balance ($1,900,000) to which the sample percentage is to be applied.

(ii) In accordance with generally accepted sampling techniques, the taxpayer selects a probability sample of all revolving credit accounts having balances for billing-months ending in January 1964. The technique employed results in a random selection of accounts with total balances of $100,000.

(iii) Analysis of these sample accounts discloses that of the $100,000 of balances, $10,000 of balances are in accounts on which no payment was credited after a billing-month of sale and on or before the end of the first billing-month ending in the taxable year beginning February 1, 1964. These balances are, therefore, disregarded and not taken into account in the determination of what percentage of sales in the sample is to be treated as sales on the installment plan. Of the remaining $90,000 of balances, the taxpayer determines, by analyzing the ledger cards in the sample, that $63,000 of balances are composed of sales which meet the requirements of paragraphs (c)(3) (i) and (ii) of this section and are thus treated as sales on the installment plan. The remaining $27,000 of balances either did not meet the requirements of paragraphs (c)(3) (i) and (ii) of this section or were not sales (as defined in paragraph (c)(6)(i) of this section). The percentage of charges in the sample treated as sales on the installment plan is, therefore, 70 percent ($63,000 ÷ $90,000).

(iv) The charges in the year-end balance which are to be treated as sales on the installment plan, $1,330,000, are computed by multiplying the charges to which the sample percentage is applied ($1,900,000) by the sample percentage (70 percent).

(v) The deferred gross profit attributable to sales under the revolving credit plan for the taxable year, $532,000, is determined by multiplying the amount treated as sales on the installment plan ($1,330,000), by the gross profit percentage (40 percent). (Corporation X will be able to demonstrate to the satisfaction of the district director that (A) since the gross profit percentage for all sales does not vary materially from the gross profit percentage for all sales made under the revolving credit plan, (B) since only an insubstantial amount of sales included in year-end account balances was made prior to the taxable year, and (C) since the prior year's gross profit percentage does not vary materially from the gross profit percentage for the taxable year, income from sales on the installment plan will be clearly reflected by applying the current year's gross profit percentage for all sales under the revolving credit plan treated as sales on the installment plan.)

(d) *Effective date.* This section applies for taxable years beginning after December 31, 1953, and ending after August 16, 1954, but does not apply for any taxable year beginning after December 31, 1986. For taxable years beginning after December 31, 1986, sales under a revolving credit plan shall not be treated as sales on the installment plan.

OMB Control Numbers Under the Paperwork Reduction Act (26 CFR Part 602)

PART 602—[AMENDED]

Par 3. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par 4. Section 602.101(c) is amended by inserting in the appropriate places in the table "§ 1.453A–1 * * * 1545–0152" and "§ 1.453A–2 * * * 1545–0152".

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: August 31, 1989.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 89–25505 Filed 11–2–89; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Part 301

[T.D. 8271]

RIN 1545–ANO1

Disclosure of Information

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations amending the Income Tax Regulations relating to the disclosure, under section 6103(n) of the Internal Revenue Code, of returns and return information, in connection with the procurement of property and services for purposes of tax administration. These amendments give to the Tax Division, Department of Justice, the authority to make these disclosures under section 6103(n) for Federal tax administration purposes. These amendments affect all disclosures by the Tax Division, Department of Justice, made to any person(s) described in section 6103(n). These amendments apply to all disclosures made after the effective date of this amended regulation.

EFFECTIVE DATE: These amendments to the regulations are effective November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Margo L. Stevens of the Disclosure Litigation Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington DC 20224 (Attention: CC:D:Executive Assistant, Room 3560) (202) 566–3074 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations amending the Income Tax Regulations relating to the disclosure of returns and return information under section 6103(n) of the Internal Revenue Code (26 CFR 301.6103(n)–1). The Internal Revenue Service published proposed amendments to the Income Tax Regulations relating to the disclosure of returns and return information on January 3, 1989 (54 FR

39). The Internal Revenue Service received one written comment and two telephone inquiries pertaining to the proposed amendments. All three commentators inquired into the type of litigation support that the Tax Division would utilize and about the safeguards to protect against redisclosure of the returns and return information. The Service explained that the Tax Division contemplated the use of outside contractors to process pleadings, correspondence, and the voluminous amounts of documentary evidence involved in large tax cases. These documents would be input into computers and would become part of a data base of case-related documents. This support would enhance the retrievability of the documents for use in the preparation and actual trial of these large tax cases. The Service acknowledged that the proposed amendments were drafted in a way that would allow the Tax Division to utilize outside contractors for other tax administration purposes authorized by 26 U.S.C. 6103(n), although no such other uses are currently contemplated. It was also explained that the proposed amendments included a conforming amendment to § 301.6103(n)–1(d) which already provided for the safeguarding of returns and return information disclosed under section 6103(n). Because no request for a public hearing was received, no hearing was scheduled.

Explanation of Provisions

Section 6103(n) of the Code authorizes the disclosure, pursuant to Treasury regulations, of returns and return information to the extent necessary and in connection with the processing, storage, transmission, and reproduction of returns and return information, and the programming, maintenance, repair, testing, and procurement of equipment, for purposes of tax administration. Section 6103(b)(4) of the Code defines "tax administration" to include litigation arising under the internal revenue laws.

Existing § 301.6103(n)–1 of the regulations authorizes disclosures to third parties under section 6103(n) only by officers or employees of the Treasury Department, a State tax agency, or the Social Security Administration, for tax administration purposes. Under the current regulations, the Tax Division, Department of Justice, cannot make disclosures to third parties. These amendments give disclosure authority to the Tax Division, Department of Justice, in order to allow the Tax Division to disclose tax returns and return information for purposes of obtaining litigation support services during the course of litigation arising under the Code. This authority is necessary to enable the Tax Division to procure services from outside contractors in connection with the Tax Division's tax litigation responsibilities.

Special Analyses

These rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. Although this Treasury decision was preceded by a notice of proposed rulemaking that solicited public comments, the notice was not required by 5 U.S.C. 553 since the regulations proposed in that notice and adopted by this Treasury decision are interpretative. Therefore, a final Regulatory Flexibility Act Analysis is not required by the Regulatory Flexibility Act (5 U.S.C. chapter 6) and the delayed effective date requirement of 5 U.S.C. 553(d) does not apply.

Drafting Information

The principal author of these amendments to the regulations is James N. Beyer of the Disclosure Litigation Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service, the Office of Chief Counsel, and the Treasury Department participated in developing these amendments to the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Disclosure of information, Employment taxes, Estate tax, Excise taxes, Filing requirements, Gift tax, Income taxes, Investigations, Law enforcement, penalties, Pensions, Statistics, Taxes.

Accordingly, title 26, part 301 of the Code of Federal Regulations, is amended as follows:

PART 301, PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority for part 301 is amended by adding the following citation:

Authority: 26 U.S.C. 7805; * * * section 301.6103(n)–1 also issued under 26 U.S.C. 6103(n).

§ 301.6103 [Amended]

Par. 2. Section 301.6103(n)–1 is amended as follows:

1. The first sentence of paragraph (a) is amended by removing the language "or" immediately following the phrase "State tax agency", and by adding, immediately following the phrase "the Social Security Administration", the language ", or the Tax Division, Department of Justice,".

2. The first full sentence of the flush language following paragraph (a)(2) is amended by removing the language "or" immediately following the phrase "State tax agency", and by adding, immediately following the phrase "the Social Security Administration", the language ", or the Tax Division, Department of Justice,".

Par. 3. Section 301.6103(n)–1 is amended as follows:

The second sentence for paragraph (d) is amended by removing the language "or" immediately following the phrase "State tax agency", and by adding, immediately following the phrase "the Social Security Administration", the language ", or the Tax Division, Department of Justice,".

Par. 4. Section 301.6103(n)–1 is further amended as follows:

Paragraph (d)(2) is amended by adding, immediately following the phrase "State tax agency,", the language "or to the Tax Division, Department of Justice,".

Dated: October 13, 1989.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

Approved:

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 89–25991 Filed 11–2–89; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Pennsylvania Regulatory Program; Reclamation in Lieu of Cash Payment for Civil Penalties

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval of an amendment to the Pennsylvania permanent regulatory program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment provides the Pennsylvania Department of Environmental Resources (DER) with the discretionary authority to accept reclamation in lieu of cash payment to satisfy civil penalty debts. The amendment is intended to give greater

discretion to the State regulatory authority while maintaining consistency with the corresponding Federal regulations.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Robert J. Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, Third Floor, Suite 3C, Harrisburg Transportation Center, 4th and Market Streets, Harrisburg, Pennsylvania 17101; Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program

The Secretary of the Interior conditionally approved the Pennsylvania program on July 31, 1982. Information on the background of the Pennsylvania program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval can be found in the July 30, 1982, **Federal Register** (47 FR 33050). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 938.11, 938.12, 938.15 and 938.16.

II. Submission of Amendment

By letter dated August 21, 1986 (Administrative Record No. PA 609), the Pennsylvania DER submitted to OSM a proposed amendment to revise the Pennsylvania program. The proposal would change the civil penalty program by providing DER with the option of accepting reclamation of lands affected by mining as legal tender from persons owing civil penalties in lieu of sum certain cash payments. OSM published a notice announcing receipt of this amendment and the opening of a public comment period in the October 3, 1986, **Federal Register** (51 FR 35370). OSM's review of this proposed amendment identified several problems that were communicated to the State in a February 6, 1987, letter (Administrative Record No. PA 633). The DER addressed these problems and submitted a revised proposed amendment on July 26, 1988 (Administrative Record No. PA 698). On October 7, 1988, OSM announced receipt of changes to the amendment and invited public comment on their adequacy (53 FR 39489).

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.17, are the Director's findings concerning the program amendment submitted on August 21, 1986, and revised on July 26, 1988.

The revised amendment consists of Pennsylvania DER Program Guidance Manual Section I:3:9, Reclamation in Lieu of Cash Payments for Civil Penalties. The amendment provides DER with authority and procedures for accepting reclamation of abandoned mine lands in place of cash payment of civil penalty debts. Specifically, the amendment sets forth qualifications for operator participation, criteria for abandoned mine site selection, methods for determining the value of proposed reclamation, contents of the operator's reclamation proposal, proposal review criteria, Consent Order and Agreement provisions and requirements for inspection and documentation of the work accomplished.

The revised amendment restricts participation to operators who do not own or control mining operations with a demonstrated pattern of willful violations as to indicate an intent not to comply with SMCRA or the approved State program. Although an operator who owes civil penalties is permitted to do reclamation work to pay those penalties, such reclamation does not relieve the original operator who abandoned the site of his liability. DER will continue to pursue enforcement actions against the operator who mined but failed to reclaim the site. These actions include the collection of civil penalties, repayment for reclamation work completed, and listing on DER's Violation Docket and in OSM's Applicant Violator System (Administrative Record No. PA–785).

In a January 29, 1987, letter to the Pennsylvania DER and other state regulatory authorities, OSM established minimum criteria for approval of state program amendments concerning reclamation in lieu of cash payments for civil penalties (Administrative Record No. PA 641). To be approved, a state program amendment must:

1. Identify categories of sites that qualify for reclamation under the program amendment,
2. Specify the criteria and procedures for determining the dollar value of reclamation work to be performed,
3. Contain a plan for evaluating the performance of the reclamation work,
4. Contain timeframes for completion of the reclamation work, and
5. Specify the recourse available to the state regulatory authority should the reclamation work not meet established standards or not be completed.

Paragraph C of the proposed amendment requires that reclamation sites be chosen from a list of reclaimable sites maintained by DER's Bureau of Mining and Reclamation (BMR).

DER will add sites to the list only when further enforcement action is not expected to achieve compliance. Operators may propose sites for approval by BMR's Division of Monitoring and Compliance which are not on the list. In no case will sites that are owned or controlled by the operator or in which the operator has a financial interest be considered for reclamation. Furthermore, enforcement action involving the site must have progressed through bond forfeiture and collection.

Paragraph D of the proposed amendment specifies how the value of the reclamation work will be determined. The calculated value of the reclamation work to be performed must be equal to or more than the amount of the assessed cash penalty. Value calculations must be based either on engineering cost estimates or the cost for bid as determined by DER's Bureau of Abandoned Mine Reclamation.

Paragraph I of the proposed amendment sets forth a plan for evaluating the performance of the reclamation work. Photographs of the reclamation area must be taken by DER personnel before and after the reclamation work is accomplished. Once work is started the site must be inspected on the same schedule as active mining sites. An inspection report must be used to document each inspection. The final inspection report must state that the project is completed and provide details on the work accomplished.

Paragraph G of the proposed amendment requires DER and the operator to execute a Consent Assessment that establishes a date when all parties agree that the reclamation work must be completed. Failure to accomplish specified reclamation by the date certain results in a formal order requiring cash payment of the civil penalty. In the event the operator fails to pay the civil penalty as ordered, DER will implement approved program provisions pertaining to collection of outstanding civil penalties.

The civil penalty provisions at section 518 of SMCRA and the Federal rules at 30 CFR 845.20 do not specify the method of payment for assessed penalties. The Act and Federal rules state that the penalty assessed shall become due and

payable upon expiration of the time allowed to request a hearing. The revised amendment provides the operator a 30-day timeframe for cash payment following a determination by DER that the specified reclamation has not been achieved. The Pennsylvania program provides a 30-day period to request a formal hearing on all DER actions. The 30-day timeframe to make payment is consistent with the Federal rule and Act which require payment upon expiration of time allowed to request a hearing.

The Director finds that the July 26, 1988, revised amendment satisfies the minimum criteria for approval set forth in his January 29, 1987, letter and incorporates civil penalties and sanctions consistent with section 518 of SMCRA and the requirements at 30 CFR 845.20.

IV. Disposition of Comments

OSM solicited public comment on the proposed amendment as originally submitted on August 21, 1986, and as revised on July 26, 1988. All substantive comments pertained to the amendment as originally submitted. One commenter who commented on the original submission also provided similar comment on the revised amendment. OSM's response to comments is based on the July 26, 1988, revised amendment.

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i), comments were solicited from Federal agencies with an actual or potential interest in the Pennsylvania program. The U.S. Department of Interior's Fish and Wildlife Service (FWS) and the Soil Conservation Service of the U.S. Department of Agriculture (SCS) responded.

The FWS recommended that criteria be included in the Pennsylvania program to ensure that procedures used to implement reclamation in lieu of cash payment are applied in a uniform manner and in such a way that they accomplish the objectives of the civil penalty program. No further explanation was provided by the commenter. OSM agrees that any process to collect payment of assessed penalties must provide the same deterrent value as cash payment. Paragraph D of the amendment requires that the calculated value of the reclamation must be equal to or exceed the assessed cash penalty. Thus, the broad objective of deterring future violations will be achieved. Furthermore, the amendment contains specific procedures which if followed should result in uniform implementation.

The SCS wanted to know how and who would determine the value of reclamation necessary to satisfy civil penalty payment. As previously stated, paragraph D of the revised amendment requires that reclamation value be based either on engineering cost estimates prepared by the Monitoring and Compliance Section in DER District Offices or the cost for bid as determined by the Bureau of Abandoned Mine Reclamation. OSM believes these methods of value determination will ensure compensation equal to or of higher value than the assessed penalty. The SCS also expressed concern that reclamation be conducted in accordance with an erosion and sedimentation control plan. OSM agrees that reclamation must be conducted in a manner that will not adversely impact the surrounding area. Paragraph E(4) of the revised amendment requires that each operator's reclamation proposal include a description of erosion and sedimentation controls. Under paragraph H, reclamation work must conform to the standards and contract specifications applicable to reclamation projects approved under Pennsylvania's Abandoned Mine Reclamation Program.

The SCS recommended that operators participating in the reclamation in lieu of cash payment for civil penalties program be required to sign a statement that they have no present or expected future financial interest in the site to be reclaimed. Paragraph (c) of the revised amendment prohibits the selection of any sites where the operator has a financial interest. Furthermore, the proposed amendment specifically disallows arrangements whereby an operator gains financially by reducing royalty payments to the landowner on different property being mined. OSM believes that these restrictions address the commenters concerns and that the use of a signed statement to enforce the provision is discretionary. This is a matter of State law because SMCRA does not prohibit such an arrangement between operators and landowners.

Several comments were received from organizations representing the coal industry and environmental groups. The Mining and Reclamation Council of America and the Pennsylvania Coal Mining Association (PCMA) supported Pennsylvania's proposal to allow reclamation as payment for assessed civil penalties. The PCMA urged OSM not to include the model Consent Order and Agreement (Exhibit II) as part of the amendment because such documents are subject to frequent change. Following consultation with OSM, DER revised the amendment to include the content and format requirements for Consent Order and Agreement documents. The Director agrees that the language of negotiated settlement documents required to implement reclamation as payment need not be part of the program submission.

The Environmental Policy Institute, National Wildlife Federation and Sierra Club (EPI, et al.) commented on the proposed amendment as a group. EPI, et al. believed the amendment should clearly prohibit the extraction of coal during the reclamation of abandoned mine sites. OSM agrees that there is no statutory authority to allow coal extraction during reclamation and that if it were allowed, such a practice would undermine title V of SMCRA. Paragraph H of the revised amendment specifically requires that the Consent Order and Agreement contain provisions to prohibit the extraction of coal or other marketable material from the reclamation site.

EPI, et al., commented that only those operators who have abated all outstanding violations should be eligible to substitute reclamation for cash payment of assessed penalties. OSM disagrees that eligibility must be contingent upon the abatement of outstanding violations. Federal rules at 30 CFR 845.20 do not require abatement of outstanding violations as a condition for payment of assessed penalties. Paragraph B of the revised amendment specifies operator eligibility based upon a history of timely compliance with previous consent orders and the satisfaction of backfilling obligations on permits held by the operator. Additionally, no qualified applicant can have a demonstrated pattern of willful violations indicating an intent or ability not to comply with the Federal act or State program requirements. OSM believes that these restrictive provisions in the amendment provide adequate assurance that reclamation will be completed and that the amendment is consistent with section 518 of SMCRA.

EPI, et al., stated that the Pennsylvania proposal did not provide a uniform measure of reclamation to be achieved when accepting reclamation work as payment for assessed penalties. OSM agrees that reclamation standards are needed. Paragraph H of the revised amendment states:"* * * reclamation work must conform to the standards and contract specifications applicable to reclamation projects approved under Pennsylvania's Abandoned Mine Land Reclamation Program." Thus Pennsylvania is adopting the same reclamation standards as applied to all other abandoned mine land reclamation projects done by the State.

EPI, et al., stated that the proposal did not specify enforcement sanctions for failure to comply with reclamation

specified in the agreement. Paragraph G(1) of the revised amendment specifies that failure to perform reclamation as contained in the agreement shall result in cash payment being due 30 days following DER notification. Failure to make payment subjects the operator to the enforcement provisions provided for all penalty debts. OSM finds these requirements consistent with section 518 of SMCRA.

EPI, et al., stated that Pennsylvania's proposal did not provide any meaningful participatory role for the public. OSM disagrees that there is a need for public participation in arranging payment of civil penalties beyond what is already provided under the Pennsylvania program. The Pennsylvania program provides public participation in the civil penalty assessment process by requiring the posting of the time and place of assessment conferences and providing any person the right to attend and speak on matters relative to violation correction, penalty amount and/or payment.

EPI, et al., stated there is potential for abuse when reclamation is allowed as a substitute for cash payment of civil penalties and recommended that OSM undertake a special study of the first twelve months of the program. The amendment under consideration must be evaluated on its merit. OSM believes there are sufficient safeguards to prevent abuse and will evaluate the amendments implementation through current oversight activities.

V. Director's Decision

For the reasons discussed in the finding above, the Director is approving the amendment as submitted to OSM on August 21, 1986, and revised on July 26, 1988.

The Federal rules at 30 CFR part 938 codifying decisions concerning the Pennsylvania program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process.

VI. Procedural Determinations

National Environmental Policy Act

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

Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action, OSM is exempt from the requirement to prepare a regulatory impact analysis, and this action does not require regulatory review by OMB.

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

Paperwork Reduction Act

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

List of Subjects in 30 CFR Part 938

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

Dated: October 26, 1989.

David G. Simpson,

Acting Assistant Director, Eastern Field Operations.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 938—PENNSYLVANIA

1. The authority citations for part 938 continues to read as follows:

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

2. In § 938.15, paragraph (r) is added to read as follows:

§ 938.15 Approval of regulatory program amendments.

* * * * *

(r) The following amendment to the Pennsylvania program as submitted on August 21, 1986, and revised on July 26, 1988, is approved effective November 3, 1989: Pennsylvania Policy Statement entitled Reclamation in Lieu of Cash Payment for Civil Penalties found in Department of Environmental Resources Program Guidance Manual at Section I:3:9, dated July 1, 1988.

[FR Doc. 89-25881 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-3657-2]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Reasonably Available Control Technology for Cranston Print Works Co., Webster, MA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision establishes and requires the use of reasonably available control technology (RACT) to control volatile organic compound (VOC) emissions from Cranston Print Work Company, Webster Division Facility located in Webster, Massachusetts. The intended effect of this action is to approve a source-specific RACT determination made by the Commonwealth of Massachusetts in accordance with commitments made in its ozone attainment plan approved by EPA on November 9, 1983 (48 FR 51480). This action is being taken under section 110 of the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on December 4, 1989.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Pesticides, and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building., Room 2313, Boston, MA 02203; and Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Lynne A. Hamjian, (617) 565-3250; FTS 835-3250.

SUPPLEMENTARY INFORMATION: On February 2, 1989 (54 FR 5247), EPA published a Notice of Proposed Rulemaking (NPR) for the Commonwealth of Massachusetts. Using parallel processing rulemaking procedures, EPA proposed approval of two conditional Plan Approvals issued by the Massachusetts Department of Environmental Protection (DEP) which imposed and defined VOC control methods as RACT for Cranston Print Works Company, Webster Division Facility (Cranston) located in Webster, Massachusetts. This final rulemaking action approves the final, formal SIP

revision submitted by the Massachusetts DEP on July 18, 1989. This notice is divided into four parts:

I. Background Information
II. Summary of SIP Revision Including the Changes Made to Secure Final EPA Approval
III. Public Comments
IV. Final Action

I. Background Information

On November 9, 1983 (48 FR 51480), EPA approved Massachusetts Regulation 310 CMR 7.18(17), "Reasonably Available Control Technology (RACT)," as part of the Commonwealth of Massachusetts 1982 ozone attainment plan. This regulation requires the Massachusetts DEP to determine and impose RACT on all facilities with the potential to emit one hundred tons per year (TPY) or more of VOC that are not already subject to Massachusetts' regulations developed pursuant to the EPA Control Techniques Guideline (CTG) documents.

On February 4, 1988 and February 29, 1988, the Massachusetts DEP submitted a SIP revision for Cranston to EPA for parallel processing. This SIP revision was composed of two Plan Approvals for Cranston which imposed VOC control requirements as RACT. On February 2, 1989 (54 FR 5247), EPA proposed approval of the two Plan Approvals with the understanding that the Massachusetts DEP would amend the Plan Approvals and submit additional documentation as outlined in the NPR prior to final rulemaking. On July 18, 1989, the Massachusetts DEP formally submitted an amended Plan Approval, dated and effective June 20, 1989, which supercedes the February 1988 Plan Approvals and incorporates all the provisions required by EPA's NPR.

II. Summary of the SIP Revision Including the Changes Made to Secure Final EPA Approval

Cranston is a fabric printing company. It prints fabrics which are used primarily in the high-fashion apparel industry. Its VOC emissions result from two processes, the acid ager process and the fabric printing process.

Acid Ager Process

The acid ager process is controlled by a scrubber which achieves 99% efficiency. The acid ager process and the details of the RACT plan were outlined in the NPR and will not be restated here. EPA's NPR required five changes to the Massachusetts DEP's SIP submittal prior to final rulemaking. How the Massachusetts DEP's July 18, 1989 submittal satisfies the requirements of the NPR for the acid ager process is summarized below:

1. The June 20, 1989 Plan Approval requires that Cranston maintain an overall scrubber efficiency greater than or equal to 99% at all times.
2. The June 20, 1989 Plan Approval requires that the acid ager emissions shall not exceed 0.6 lb/hr.
3. The June 20, 1989 Plan Approval contains additional operating limitations, monitoring provisions, and recordkeeping requirements to ensure that the 99% efficiency of the scrubber is maintained at all times.
4. The Massachusetts DEP formally submitted, and EPA has approved, a revision to the Massachusetts SIP requiring all non-CTG RACT sources subject to 310 CMR 7.18(17) to use EPA-approved test methods (54 FR 9212).
5. The Massachusetts DEP has certified that the inclusion of the acid ager line in the June 20, 1989, Plan Approval is a reasonable outgrowth of the RACT proposal which went to the public hearing on October 7, 1986.

For further details on these changes please refer to the Technical Support Document prepared for this revision which may be obtained from the EPA Regional Office listed in the **ADDRESSES** section of this notice.

Fabric Printing Process

The fabric printing process employs five roller and four rotary screen printing machines. The primary source of VOC emissions from this process was the mineral spirits print paste used on the roller printing machines. Cranston has reduced VOC emissions from its fabric printing operations by reformulation, changes in production schedules, and replacement of the roller printers with screen printers. The RACT emission limit imposed in the February 1988 Plan Approvals was 82.5 lb VOC/1000 lb fabric printed (averaged over 24 hours). The fabric printing process and the details of the RACT plan were outlined in the NPR and will not be restated here. EPA's NPR required that the Massachusetts DEP submit additional documentation prior to final rulemaking. The documentation was required to support that 82.5 lb VOC/1000 lb fabric printed was RACT for this process. The NPR required that the Massachusetts DEP justify why Cranston could not achieve a 65% reduction with add-on control technology, or could not use print pastes with equivalent formulations to those set forth in the Massachusetts SIP's Graphic Arts Regulation. Cranston now complies with limitations equivalent to the SIP's Graphic Arts RACT limitation by using low-solvent print paste formulations. The June 20, 1989, amended Plan Approval requires Cranston to use print pastes which comply at all times with the limits the Massachusetts SIP Graphic Arts Regulation. EPA's NPR required additional changes prior to final rulemaking. How the Massachusetts DEP's July 18, 1989, submittal satisfies the NPR's requirements for the Fabric Printing Process is briefly summarized below:

1. Cross-line averaging is not allowed.
2. The Massachusetts DEP has submitted, and EPA has approved, a SIP revision requiring non-CTG RACT sources subject to 310 CMR 7.18(17) to use EPA-approved test methods (54 FR 9212).
3. The Plan Approval requires Cranston to record the density of the mineral spirits on a daily basis.

For further details on these changes please refer to the Technical Support Document prepared for this revision which may be obtained from the EPA Regional Office listed in the **ADDRESSES** section of this notice.

III. Public Comments

EPA received a letter of public comment on its proposed approval of the Massachusetts DEP's SIP submittal. The comment letter was submitted by Cranston. The majority of the comments were on the feasibility of compliance with the Massachusetts Graphic Arts Regulation. These comments are no longer relevant because Cranston now complies with coating limits equivalent to Massachusetts Graphic Arts Regulation, and the June 20, 1989, imposes such limits. The two remaining comments are addressed below.

Comment: Cranston commented on EPA's statement that the reduction in VOC emissions from the fabric roller printers is 8% on a daily basis. Cranston claims that EPA compared a 1988 maximum daily emission rate (in the Plan Approval) of 82.5 lb VOC/1000 lb fabric printed with the yearly average emission rate in 1980 of 89.8 lb VOC/1000 lb fabric printed (8% reduction). Cranston states that the correct comparison is to compare the two averages of 89.8 lb VOC/1000 lb fabric printed in 1980 with the average of 38.6 lb VOC/1000 lb fabric printed in 1987. Cranston states that this comparison shows a decrease of 57%.

Response: The average emission rate of 38.6 lb VOC/1000 lb fabric printed was not included as an enforceable condition of the Massachusetts DEP's Plan Approvals. EPA agrees that the reduction (as averaged over a year) was 57%. However, this was not an

enforceable reduction achieved by Cranston on every day of operation. Cranston could have emitted up to 82.5 lb VOC/lb fabric printed under the previous Plan Approvals; there was no enforceable limit in the Plan Approvals to ensure compliance with a limit of 38.6 lb VOC/lb fabric printed. The Massachusetts DEP's June 20, 1989, revised Plan Approval requires Cranston to use print paste formulations equivalent to those set forth in the Massachusetts Graphic Arts Regulation. This meets the RACT requirements outlined in EPA's NPR and results in an enforceable 69% reduction in the VOC content of the volatile portion of the ink.

Comment: The Company asked for the use of 25% VOC print paste on the screen printers to ensure product quality and to remain competitive in the industry.

Response: The Massachusetts DEP's June 20, 1989, revised Plan Approval requires Cranston to comply with a limitation of 5.4% or less by volume VOC in the volatile portion of the print paste for each print paste formulation. Since the revised Plan Approval still requires a significant overall VOC reduction at the plant, the Massachusetts DEP believes that it is reasonable to allow Cranston to use low-solvent print pastes on the screen printers to give the Company some flexibility in its day-to-day printing operations. The Massachusetts DEP demonstrated that a 93% reduction is still achieved by installation of screen printers (which use low-solvent print pastes rather than no VOC print pastes). EPA concurs with this determination.

IV. Final Action

EPA is approving the Massachusetts DEP's June 20, 1989, Amended Plan Approval imposing RACT on Cranston Print Works Company as a revision to the Massachusetts SIP.

The NPR also required the Massachusetts DEP to submit additional documentation to support the proposed limit of 82.5 lb VOC/1000 lb fabric printed as RACT for the fabric printing process. The NPR stated that EPA would provide the opportunity for comment on the additional documentation submitted by the Massachusetts DEP prior to final approval of this revision. The Massachusetts DEP did not submit additional documentation; it imposed the more stringent Graphic Arts print paste limits on Cranston. Therefore, no additional opportunity for comment is necessary and this action will become effective 30 days from the date of publication.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from date of publication). This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

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

Dated: September 12, 1989.

Paul G. Keough,

Acting Regional Administrator, Region I.

Subpart W, part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart W—Massachusetts

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1120 is amended by adding paragraph (c)(81) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(81) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Quality Engineering on July 18, 1989.

(i) *Incorporation by reference.* (A) Letter from the Massachusetts Department of Environmental Quality Engineering dated July 18, 1989 submitting a revision to the Massachusetts State Implementation Plan.

(B) RACT Approval Addendum for Cranston Print Works Company, Webster Division Facility in Webster, Massachusetts dated and effective June 20, 1989.

(ii) *Additional materials.* Nonregulatory portions of the State submittal.

§ 52.1167 [Amended]

3. Table 52.1167 is amended by adding an additional entry to 310 CMR 7.18(17) to read as follows:

TABLE 52.1167—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/ subject	Date submitted by State	Date approved by EPA	FEDERAL REGISTER citation	52.1120(c)	Comments/unapproved sections
*	*	*	*	*	*	*
310 CMR 7.18(17)	RACT	6/20/89	11/3/89	[FR citation from published date]	81	RACT for Cranston Print Works Company dated June 20, 1989
*	*	*	*	*	*	*

[FR Doc. 89-25740 Filed 11-2-89; 8:45 am]
BILLING CODE 6560-50-M

INTERNATIONAL DEVELOPMENTAL COOPERATION AGENCY

Agency for International Development

48 CFR Parts 706, 714, 715, 716, 731, 732, 736, and 752

[AIDAR Notice 89-6]

Miscellaneous Amendments to Acquisition Regulations

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The AID Acquisition Regulation (AIDAR) is being amended to provide additional guidance and information on the use of AID's special noncompetitive authority (impairment of foreign assistance objectives); use of prior government or prior overseas experience as an evaluation factor; and application of oversees recruitment incentives. In addition, a new requirement for prior approval by the Procurement Executive for use of a cost-sharing contract with an educational institution has been added; and several editorial changes correcting terminology and references, updating office titles, clarifying application, consolidating similar versions of clauses, and insuring internal consistency have been made.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: M/SER/PPE, Mr. James M. Kelly, Room 1600I, SA-14, Agency for International Development, Washington, DC 20523-1435. Telephone: (703) 875-1534.

SUPPLEMENTARY INFORMATION: The new requirement for prior Procurement Executive approval for use of a cost-sharing contract with an educational institution responds to AID's concern that any cost-sharing requirement fully meet FAR standards and requirements, and not disadvantage those institutions which cannot undertake cost-sharing. The remaining amendments clarify existing policies or procedures based on operating experience over the last few years or make editorial changes correcting, consolidating and clarifying existing coverage; there is no change in basic policy or procedure.

The changes being made by this Notice are not considered significant rules subject to FAR 1.301 or subpart 1.5. This Notice will not have an impact on a substantial number of small entities, nor does it establish any information collection as contemplated by the Regulatory Flexibility Act and Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 706, 714, 715, 716, 731, 732, 736, and 752

Government procurement.

For the reasons set out in the Premable, chapter 7 of title 48 of the Code of Federal Regulations is amended as follows:

1. The authority citations in parts 706, 714, 715, 716, 731, 732, 736, and 752 continue to read as follows:

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR 1979 Comp., p. 435.

PART 706—COMPETITION REQUIREMENTS

Subpart 706.3—Other Than Full and Open Competition

2. Section 706.302-70 is amended by adding a new paragraph (c)(3) to read as follows:

706.302-70 Impairment of foreign aid programs.

* * * * *

(c) * * *

(3) The authority in 706.302-70(b)(3)(i) shall be used only when no other authority provided in FAR 6.302 or AIDAR 706.302 is suitable. The specific foreign assistance objective which would be impaired must be identified and explained in the written determination and finding. Prior consultation with the Agency Competition Advocate (see 706.501) is required before executing the written determination and finding, and this consultation must be reflected in the determination and finding.

Subpart 706.5—Competition Advocates

706.501 [Amended]

3. Section 706.501, requirement, is amended by removing all references to the "AID senior procurement executive" and replacing them with "AID Procurement Executive".

PART 714—SEALED BIDDING

Subpart 714.4—Opening of Bids and Award of Contract

714.406-3 [Amended]

4. Section 714.406-3, other mistakes disclosed before award, is amended by removing the reference to "Head of the Agency" and replacing it with "Procurement Executive".

PART 715—CONTRACTING BY NEGOTIATION

Subpart 715.6—Source Selection

5. Section 715.605-70 is revised to read as follows:

715.605-70 AID specific evaluation factors.

(a) Use of prior AID or other U.S. governmental experience as an evaluation factor is not usually appropriate. If such a criterion is proposed, its use must be approved by the Head of the Contracting Activity; no numerical value may be assigned, nor may such factor be listed as a significant evaluation factor or subfactor without the approval of the Head of the Contracting Activity.

(b) Prior overseas experience and experience in the region or country concerned is often a significant evaluation factor; when it is used, both organizational experience and experience of proposed personnel should be considered. When using prior overseas/regional/country experience as an evaluation factor, it is not to be a controlling factor and may not be assigned a value greater than 10% (e.g., 10 points in a 100 point matrix) without the approval of the cognizant Assistant Administrator or Mission Director.

PART 716—TYPES OF CONTRACTS

Subpart 716.3—Cost Reimbursement Contracts

6. Section 716.303 is added to read as follows:

716.303 Cost-sharing contracts.

(a) and (b) [Reserved]

(c) *Limitations.* In addition to the limitations specified in FAR 16.301–3, prior approval of the AID Procurement Executive (see 702.170–13) is required in order to use a cost-sharing contract with an educational institution.

PART 731—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 731.2—Contracts With Commercial Organizations

7. Section 731.205–6 is amended by revising paragraph (a)(3)(i) to read as follows:

731.205–6 Compensation for personal services.

(a) * * *

(3) * * *

(i) If a contractor employee serving overseas under a contract does not qualify for the exemption for overseas income provided under section 911 of the U.S. Internal Revenue Code (26 U.S.C. 911), such employee is eligible to receive an overseas recruitment incentive (ORI), to the extent the ORI: is authorized by the contractor's normal policy and practice; is deemed necessary by the contractor to recruit and retain qualified employees for overseas services; and does not exceed 10% of the base salary of the employee from date of arrival at overseas post to begin assignment to date of departure from post at the end of assignment. ORI is to be paid as a single payment at the end of the employee's tour of duty overseas. The Contractor shall take all reasonable and prudent steps to ensure that ORI is not paid to any employee who has received the IRS section 911 exemption.

* * * * *

Subpart 731.3—Contracts With Educational Institutions

8. Section 731.371 is amended by revising paragraph (a) and paragraph (c)(1) to read as follows:

731.371 Compensation for personal services.

(a) *Salary.* (1) Specific limitations on compensation for personal services are set forth in the contract clauses specified in subsection 752.7007. Contracting Officer approval of salaries in excess of the maximum payable annual or daily rate for a Foreign Service Officer Class FS–1, as set forth in the Uniform State/AID/USIA Regulation, as from time to time amended, will be based upon a memorandum from the technical office and approved by the Assistant Administrator or Mission Director having program responsibility for the project in support of which the contract is written. The technical office is responsible for evaluating the reasonableness of the proposed salary, taking into account such factors as the degree of technical competence required, the scope of supervisory responsibilities involved, the relationship of the proposed salary level to the contractor's customary salary level, and other pertinent information. Copies of all memoranda approved by the Assistant Administrator or Mission Director will be furnished to the Procurement Support Division, Office of Procurement.

(2) In considering consulting income as a factor when determining allowable salary for service under a contract:

(i) For faculty members working under annual appointments, salary for service under the contract may include the employee's on-campus salary plus "consulting income" (that is, income from employment other than the employee's regular on-campus appointment, excluding business or other activities not connected with the employee's profession) earned during the year preceding employment under the contract.

(ii) For faculty members working under academic year appointments, salary for service under the contract may include the employee's on-campus academic year salary plus "consulting income" as defined above earned during the year preceding employment under the contract, or salary for service under the contract may be derived by annualizing the academic year salary (in which case "consulting income" may not be included).

* * * * *

(c) * * *

(1) If a contractor employee serving overseas under a contract does not qualify for the exemption for overseas income provided under section 911 of the U.S. Internal Revenue Code (26 U.S.C. 911), such employee is eligible to receive an overseas recruitment incentive (ORI), to the extent the ORI: is authorized by the contractor's normal policy and practice; is deemed necessary by the contractor to recruit and retain qualified employees for overseas service; and does not exceed 10% of the base salary of the employee from date of arrival at overseas post to begin assignment to date of departure from post at the end of assignment. ORI is to be paid as a single payment at the end of the employee tour of duty overseas. The contractor shall take all reasonable and prudent steps to ensure that ORI is not paid to any employee who has received the IRS section 911 exemption.

* * * * *

Subpart 731.7—Contracts With Nonprofit Organizations

9. Section 731.772 is amended by revising paragraph (c)(1) to read as follows:

731.772 Compensation for personal services.

* * * * *

(c) * * *

(1) If a contractor employee serving overseas under a contract does not qualify for the exemption for overseas income provided under section 911 of the U.S. Internal Revenue Code (26 U.S.C. 911), such employee is eligible to receive an overseas recruitment incentive (ORI), to the extent the ORI: is authorized by the contractor's normal policy and practice; is deemed necessary by the contractor to recruit and retain qualified employees for overseas services; and does not exceed 10% of the base salary of the employee from date of arrival at overseas post to begin assignment to date of departure from post at the end of assignment. ORI is to be paid as a single payment at the end of the employee tour of duty overseas. The contractor shall take all reasonable and prudent steps to ensure that ORI is not paid to any employee who has received the IRS secion 911 exemption.

* * * * *

PART 732—CONTRACT FINANCING

Subpart 732.4—Advance Payments

732.406–70–2 [Amended]

10. Paragraph (c) of § 732.406–70–2, Circumstances for use of an LOC, is amended by removing the reference to "Program Accounting and Finance Division (M/FM/PAFD)", and replacing it with "Cash Management and Payment Division (PFM/FM/CMP)".

732.406–70–3 and 732.406–70–5 [Amended]

11. Paragraphs (a), (b) introductory text, (b)(7), (c) introductory text, (d),(e)(1) (ii) and (iii) and (e)(2) introductory text of § 732.406–70–3,

establishing an LOC; and § 732.406–70–5, Revocation of the LOC, are amended by removing all references to "M/FM/PAFD", and replacing them with "PFM/FM/CMP".

PART 736—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 736.6—Architect-Engineer Services

12. Section 736.602–2 is revised to read as follows:

736.602–2 Evaluation boards.

(a) and (b) [Reserved]

(c) each evaluation board will include a representative of the Contracting Officer and, as appropriate, the cognizant bureau.

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 752.2—Texts of Provisions and Clauses

752.232–70 [Amended]

13. The contract clause in § 752.232–70, Letter of Credit Advance Payment, is amended as follows:

a. The contract clause date is revised from "(AUG 1984)" to "(OCT 1989)";

b. The reference to "Program Accounting and Finance Division (M/FM/PAFD)" in paragraph (a) of the contract clause is removed and replaced with "Cash Management and Payment Division (PFM/FM/CMP)"; and

c. The references to "M/FM/PAFD" in paragraphs (b) and (d) of the contract clause are removed and replaced with "PFM/FM/CMP".

Subpart 752.70—Texts of AID Contract Clauses

14. Section 752.7013 is revised to read as follows:

752.7013 Contractor-Mission Relationships.

For use in all AID contracts involving performance overseas. Note that paragraph (f) of this clause is applicable only in contracts with an educational institution.

Contractor-Mission Relationships (Oct 1989)

(a) The Contractor acknowledges that this contract is an important part of the United States Foreign Assistance Program and agrees that its operations and those of its employees in the Cooperating Country will be carried out in such a manner as to be fully commensurate with the responsibility which this entails.

(b) The Mission Director is the chief representative of AID in the Cooperating Country. In this capacity, he/she is responsible for both the total AID program in the cooperating country including certain administrative responsibilities set forth in this contract, and for advising AID regarding the performance of the work under the contract and its effect on the United States Foreign Assistance Program. Although the Contractor will be responsible for all professional, technical, and administrative details of the work called for by the contract, it shall be under the guidance of the Mission Director in matters relating to foreign policy. The Chief of Party shall keep the Mission Director currently informed of the progress of the work under the contract.

(c) In the event the conduct of any Contractor employee is not in accordance with the preceding paragraphs, the Contractor's Chief of Party shall consult with the Mission Director and the employee involved and shall recommend to the Contractor a course of action with regard to such employee.

(d) The parties recognize the right of the U.S. Ambassador to direct the removal from a country of any U.S. citizen or the discharge from this contract of any third-country national or cooperating-country national when, at the discretion of the Ambassador, the interests of the United States so require. Under these circumstances termination of an employee and replacement by an acceptable substitute shall be at no cost to AID.

(e) If it is determined that the services of such employee shall be terminated, the Contractor shall use its best efforts to cause the return of such employee to the United States or point of origin as appropriate.

[The following paragraph (f) is applicable if the contract is with an educational institution:]

(f) It is understood by the parties that the Contractor's responsibilities shall not be restrictive of academic freedom. Notwithstanding these academic freedoms, the Contractor's employees, while in the Cooperating Country, are expected to show respect for its conventions, customs, and institutions, to abide by applicable laws and regulations, and not to interfere in its internal political affairs.

[End of clause]

752.7018 [Amended]

15. The contract clause in section 752.7018, Health and Accident Coverage for AID Participant Trainees, is amended as follows:

a. The contract clause date is revised from "(AUG 1984)" to "(OCT 1989)";

b. The reference to "M/FM/PAFD" in paragraph (d) introductory text of the contract clause is removed and replaced with "PFM/FM/CMP"; and

c. The reference to "Program Accounting and Finance Division" in paragraph (d)(1) of the clause is removed and replaced with "Cash Management and Payment Division".

16. Section 752.7019 is revised to read as follows:

752.7019 Participant Training.

For use in any AID direct contract involving training of AID participants. Note that paragraphs (d) through (g) of this clause are applicable only when the contract is with an educational institution.

Participant Training (Oct 1989)

(a) *Definitions.* (1) Participant training is the training of any foreign national outside of his or her home country, using AID funds.

(2) A Participant is any foreign national being trained under this contract outside of his or her country.

(b) *Applicable regulations.* Proposals for contracts involving training of AID participants, and participant training conducted under an AID contract shall follow the policies established in AID Handbook 10—"Participant Training," except to the extent that specific exceptions to AID Handbook 10 have been provided in this contract. (Handbook 10 may be obtained by submitting a request to the Office of International Training, at the address specified in paragraph (c) of this section.)

(c) *Reporting requirement.* Once each month the Contractor shall submit three copies of form AID 1381–4, "Participant Data Form" to the Office of International Training, AID, Washington, DC 20523.

[The following paragraphs (d) through (g) are applicable if this contract is with an educational institution.]

(d) To the extent foreign country national training is authorized in the schedule of this contract, the contractor shall be reimbursed for the following reasonable and allocable costs incurred in providing training and observation to participants in the United States or other approved location:

(1) Customary tuition and fees of the institution in which the training takes place, as published in catalogs and announcements.

(2) Typing of papers and allowances for required textbooks, the titles of which will be approved by the Contractor.

(3) Travel within the United States or other countries (other than the country of the participant), as approved by the Contractor, including the cost of travel from port of entry into the United States to Contractor's campus to port of embarkation from the United States.

(4) Subsistence while in the United States or in third countries not to exceed maximum AID rates established in AID Handbook 10, as from time to time amended.

(5) Other direct costs authorized in the operational plan or otherwise determined by the Contracting Officer to be allowable in accordance with the general provisions clause of this contract entitled "Allowable Cost and Payment".

(e) Health and accident coverage for foreign-country nationals is governed by the clause of this contract entitled "Health and Accident Coverage for AID Participant Trainees."

(f) For participants assigned to the Contractor for whom specifically-designed courses not otherwise covered in paragraph (d)(1) of this clause are authorized, the

Contractor shall be paid the following in lieu of the costs authorized in paragraph (d)(1) of this clause.

(1) For not exceeding 20 instructional days (days on which such courses are scheduled to meet and are actually conducted):

(i) One participant: $150 for the first day, and $50 per day for each additional day, up to 19 days.

(ii) Groups up to and including 10 participants: for the first day, $150 for the first participant, and $50 for each additional participant. For each additional day, up to 19 days, $50 for each participant.

(2) For more than 20 instructional days or more than 10 participants: The Contractor shall submit a proposal including supporting cost and pricing data to the Contracting Officer for approval.

(g) The Contractor shall prepare and submit to the Office of International Training a non-obligating Project Implementation Order/Participant, AID Form 1380-1, on all participants trained under this contract, in either the United States or a third country.

[End of clause]

17. Section 752.7026 is revised to read as follows:

752.7026 Reports.

For use in all AID contracts for technical or professional services.

Reports (Oct. 1989)

(a) *Reports required.* The Contractor shall prepare the following reports:

(1) A semi-annual, substantive report submitted within 45 days of the end of the period being covered, covering the status of the work under the contract, indicating progress, setting forth plans for the ensuing period, and including recommendations covering the current needs in the fields of activity covered under the terms of this contract.

(2) [This paragraph (a)(2) is applicable to cost reimbursement contracts only.] A semi-annual, administrative report submitted within 45 days of the end of the period being covered, covering expenditures by contract budget category, personnel employed under the contract, and foreign nationals being trained under the contract (if any).

(3) A final report which summarizes the accomplishments of the assignment, methods of work used, and recommendations regarding unfinished work and/or program continuation. The final report shall be submitted within 60 days after completion of the work hereunder unless required date of submission is extended by the Contracting Officer.

(4) Any other reports specified in the Schedule of this contract.

(b) *Distribution of reports.* Copies of reports required under paragraph (a) shall be distributed as follows:

(1) 3 copies to the Contracting Officer;

(2) 4 copies to the Project Officer; and

(3) 2 copies to the Bureau for Program and Policy Coordination, Center for Development Information and Evaluation, Development Information Division, addressed as follows: PPC/CDIE/DI, ACQUISITIONS, Room 209, SA-18, Agency for International Development, Washington, DC 20523.

(c) *General.* (1) The title page of all reports shall include a descriptive title, the author's name(s), contract number, project number and title, contractor's name, name of the AID project office, and the publication or issuance date of the report.

(2) When preparing reports, the contractor shall refrain from using elaborate art work, multicolor printing and expensive paper/binding, unless it is specifically authorized in the Contract Schedule. Wherever possible, pages should be printed on both sides using single spaced type.

[End of clause]

18. Section 752.7031 is revised to read as follows:

752.7031 Leave and Holidays.

For use in all AID cost-reimbursement contracts for technical or professional services.

Leave and Holidays (Oct. 1989)

(a) *Vacation leave.* (1) The Contractor may grant to its employees working under this contract vacations of reasonable duration in accordance with the Contractor's practice for its employees, but in no event shall such vacation leave be earned at a rate exceeding 26 work days per annum. Reimbursement for vacation leave is limited to the amount earned by employees while serving under this contract.

For regular employees during their tour of duty in the Cooperating Country, vacation leave is provided under this contract primarily for purposes of affording necessary rest and recreation. The Contractor's Chief of Party, the employee and the Cooperating Country institution associated with this project shall develop vacation leave schedules early in the employee's tour of duty taking into consideration project requirements, employee preference and other factors.

(2) Leave taken during the concluding weeks of an employee's tour shall be included in the established leave schedule and be limited to that amount of leave which can be earned during a twelve-month period unless approved in accordance with paragraph (a)(3) of this clause.

(3) Vacation leave earned but not taken by the end of the employee's tour pursuant to paragraphs (a) (1) and (2) of this clause will be forfeited unless the requirements of the project precluded the employee from taking such leave, and the Contracting Officer (with the endorsement of the Mission) approves one of the following as an alternative:

(i) Taking, during the concluding weeks of the employee's tour, leave not permitted under (a)(2) of this section, or

(ii) Lump-sum payment for leave not taken provided such leave does not exceed the number of days which can be earned by the employee during a twelve-month period.

(b) *Sick Leave.* Sick leave is earned by employees in accordance with the Contractor's usual practice but not to exceed 13 work days per annum or 4 hours every 2 weeks. Additional sick leave after use of accrued vacation leave may be advanced in accordance with Contractor's usual practice, if in the judgment of the Contractor's Chief of Party it is determined that such additional leave is in the best interest of the project. In no event shall such additional leave exceed 30 days. The Contractor agrees to reimburse AID for leave used in excess of the amount earned during the employee's assignment under this contract. Sick leave earned and unused at the end of a regular tour of duty may be carried over to an immediately-succeeding tour of duty under this contract. The use of home leave authorized under this clause shall not constitute a break in service for the purpose of sick leave carry-over. Contractor employees will not be compensated for unused sick leave at the completion of their duties under this contract.

(c) *Home leave.* (1) Home leave is leave earned for service abroad for use only in the United States, in the Commonwealth of Puerto Rico, or in the possessions of the United States.

(2) A regular employee who is a U.S. citizen or resident and has served at least 2 years overseas, as defined in paragraph (c)(4) of this clause, under this contract and has not taken more than 30 workdays leave (vacation, sick, or leave without pay) in the United States, may be granted home leave of not more than 15 calendar days for each such year of service overseas, provided that such regular employee agrees to return overseas upon completion of home leave under an additional 2 year appointment, or for a shorter period of not less than 1 year of overseas service under the contract if the Mission Director has approved in advance. Home leave must be taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States; any days spent elsewhere will be charged to vacation leave or leave without pay.

(3) Notwithstanding the requirement in paragraph (c)(2), of this clause, that the Contractor's regular employee must have served 2 years overseas under this contract to be eligible for home leave, Contractor may grant advance home leave to such regular employee subject to all of the following conditions:

(i) Granting of advance home leave would in each case serve to advance the attainment of the objectives of this contract;

(ii) The regular employee shall have served a minimum of 18 months in the Cooperating Country on his/her current tour of duty under this contract; and

(iii) The regular employee shall have agreed to return to the Cooperating Country to serve out the remainder of his/her current tour of duty and an additional 2 year appointment under this contract, or such other additional appointment of not less than 1 year of overseas service as the Mission Director may approve.

(4) The period of service overseas required under paragraph (c)(2) or paragraph (c)(3) of this clause shall include the actual days spent in orientation in the United States (less language training) and the actual days overseas beginning on the date of departure from the United States port of embarkation on international travel and continuing, inclusive of authorized delays en route, to the date of arrival at the United States port of

debarkation from international travel. Allowable vacation and sick leave taken while overseas, but not leave without pay, shall be included in the required period of service overseas. An amount equal to the number of days vacation and sick leave taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States will be added to the required period of service overseas.

(5) Salary during travel to and from the United States for home leave will be limited to the time required for travel by the most expeditious air route. The Contractor will be responsible for reimbursing AID for salary payments made during home leave if in spite of the undertaking of the new appointment the regular employee, except for reasons beyond his/her control as determined by the Contracting Officer, does not return overseas and complete the additional required service. Unused home leave is not reimbursable under this contract.

(6) To the extent deemed necessary by the Contractor, regular employees in the United States on home leave may be authorized to spend not more than 5 days in work status for consultation at home office/campus or at AID/Washington before returning to their post of duty. Consultation at locations other than AID/Washington or home office/campus, as well as any time in excess of 5 days spent for consultation, must be approved by the Mission Director or the Contracting Officer.

(7) Except as provided in the schedule or approved by the Mission Director or the Contracting Officer, home leave is not authorized for TCN or CCN employees.

(d) *Holidays.* Holidays for Contractor employees serving in the United States shall be in accordance with the Contractor's established policy and practice. Holidays for Contractor employees serving overseas should take into consideration local practices and shall be established in collaboration with the Mission Director.

(e) *Military leave.* Military leave of not more than 15 calendar days in any calendar year may be granted in accordance with the Contractor's usual practice to each regular employee whose appointment is not limited to 1 year or less and who is a reservist of the United States Armed Forces, provided that such military leave has been approved in advance by the cognizant Mission Director or Assistant Administrator. A copy of any such approval shall be provided to the Contracting Officer.

(f) *Leave Records.* The Contractor's leave records shall be preserved and made available as part of the contractor's records which are required to be preserved and made available by the Examination of Records by the Comptroller General and Audit clauses of this contract.

[End of Clause]

Dated: October 24, 1989.

John F. Owens,

Procurement Executive.

[FR Doc. 89-25963 Filed 11-2-89; 8:45 am]

BILLING CODE 6115-01-M

Proposed Rules

Federal Register
Vol. 54, No. 212
Friday, November 3, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter I

Issuance of Quarterly Report on the Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued the NRC Regulatory Agenda for the third quarter, July through September, of 1989. The agenda is issued to provide the public with information about NRC's rulemaking activities. Each issue of the agenda includes information for one quarter of the calendar year. The agenda briefly describes and gives the status for each rule that the NRC is considering, has proposed, or has published with an effective date. It also describes and gives the status of each petition for rulemaking that the NRC is considering.

ADDRESS: A copy of this report, designated NRC Regulatory Agenda (NUREG–0936) Vol. 8, No. 3, is available for inspection, and copying for a fee, at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

In addition, the U.S. Government Printing Office (GPO) sells the NRC Regulatory Agenda. To purchase it, a customer may call (202) 275–2060 or (202) 275–2171 or write to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–7758, toll-free number (800) 368–5642

Dated at Bethesda, Maryland, this 24th day of October 1989.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 89–25950 Filed 11–2–89; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 89–14]

Minimum Capital Ratio

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency ("OCC") is proposing to amend its capital regulation in 12 CFR part 3. Primarily, this amendment would (1) make the definition of capital in 12 CFR 3.2 and in the OCC's risk-based capital guidelines consistent by replacing the definitions of primary and secondary capital with Tier 1 and Tier 2 capital, respectively and (2) change the minimum capital requirement in 12 CFR 3.6 to 3.0% Tier 1 capital-to-total assets (the leverage ratio). The new minimum leverage ratio would operate in conjunction with the OCC's risk-based capital guidelines and would limit the amount of leverage a national bank can undertake. The intended effect of this amendment is to ensure the continued safety and soundness of the national banking system. Certain technical amendments to Interpretive Ruling 3.100 are also proposed in this notice.

DATE: Comments must be submitted on or before January 2, 1990.

ADDRESS: Comments should be mailed or delivered to Docket No. 89–14, Communications Division, 5th Floor, 490 L'Enfant Plaza East, SW., Washington, DC 20219, Attention: Jacqueline England. Comments will be available for inspection and photocopying at this address.

FOR FURTHER INFORMATION CONTACT: Jennifer C. Kelly, National Bank Examiner, Supervision Policy/Research Division, (202) 447–1164; Mark D. Winer, Senior Financial Economist, Economic and Policy Analysis Division, (202) 447–1924; or Robert J. Roth, Attorney, Legal Advisory Services Division, (202)447–1880.

SUPPLEMENTARY INFORMATION:

Background

Since the early 1980s, the OCC has analyzed the capital adequacy of national banks using minimum ratios of primary and total capital to total assets. Similar standards are used by the other Federal bank regulatory agencies. In early 1989, the OCC, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System adopted a risk-based capital standard for all commercial banks. The OCC's final risk-based capital guidelines were published on January 27, 1989 (54 FR 4168). That standard becomes effective for all national banks on December 31, 1990.

When the OCC published its risk-based capital proposal on March 15, 1988, (53 FR 8550), it raised the possibility that the existing minimum capital requirements in 12 CFR part 3 would be replaced by an 8.0 percent minimum risk-based capital standard. However, the OCC stated that, if it determined that a minimum leverage ratio should be retained in addition to risk-based capital, the definition of capital might be modified to be consistent with the one contained in the risk-based capital guidelines. *Id.*

The OCC received 122 comments in response to the risk-based capital proposal. Sixteen commenters discussed whether a minimum leverage ratio should remain in place alongside the new risk-based capital standard. That is, these commenters addressed the issue of whether there should be "tandem capital ratios," with one ratio calculated as a percentage of total assets and the other ratio based on a bank's risk-weighted assets. Most commenters stated that the existing capital requirements should be phased out as quickly as possible to avoid what they perceived as a potentially burdensome dual system of capital maintenance. These commenters stated that retaining a leverage constraint might decrease the incentive offered by

the risk-based capital system to minimize credit risk. They argued that the risk-based test is a superior measure of capital adequacy and, in order to operate effectively, it must not be constrained by the imposition of a separate minimum leverage ratio.

One commenter suggested that some minimum amount of capital should be required in response to the hypothetical possibility of a zero capital requirement. The commenter stated that some capital protection is needed against losses that might result from errors in management judgment, or from any number of other risks not recognized by risk-based capital—*e.g.*, fiduciary liability, underwriting liability, or employee dishonesty. Several commenters addressed the concern about the potential for a zero capital requirement and pointed out that the lower yields associated with relatively riskless assets serve as an inherent constraint against unrestricted growth.

On a related point, another commenter mentioned that, even if the OCC eliminated the present capital adequacy requirements, it should continue using the existing definition of capital for lending limits and other statutory and/or regulatory limits that are based on a bank's capital and/or capital and surplus. The rationale behind this comment was that the existing definition allows banks to include the entire amount of their allowance for loan and lease losses ("ALLL") in capital. The commenter stated that the full ALLL should be included for these purposes, because it is all available to meet risks associated with these statutory and regulatory limitations.

When the final risk-based capital guidelines were published on January 27, 1989, the OCC announced its decision to supplement risk-based capital with a minimum leverage ratio for the following reasons. First, the 8.0 percent minimum risk-based capital standard is designed principally as a measure of credit risk; therefore, there are a number of other banking risks that it does not address—*e.g.*, interest rate risk, operational risk and asset concentrations. Second, the leverage ratio, because it is based upon total, rather than risk-adjusted, assets, will eliminate the possibility for significant leverage that exists under the risk-based capital guidelines.

In order to implement that decision, the OCC, in this notice, is proposing to change the definition of capital in Part 3 to be consistent with the risk-based capital guidelines and adjust the minimum leverage ratio required by 12 CFR part 3. (The definitions of Tier 1 and Tier 2 capital are in § 3.2 of the attached amendments section.) The OCC believes that the changes in the definition of capital, the implementation of a risk-based capital standard, and the proposed minimum leverage ratio together will ensure sufficient capital for national banks. Therefore, the OCC is proposing that the revised leverage ratio become effective concurrent with risk-based capital guidelines on December 31, 1990. Until that date, the current capital requirements based on primary and total capital will remain effective.

This notice of proposed rulemaking also includes technical changes to the OCC's Interpretive Ruling 3.100 (*See* 12 CFR 3.100), which interprets the statutory terms "capital" and "surplus." However, it is not envisioned that these changes would have any substantive impact on those definitions. Thus, it is not intended that this rulemaking would have any effect on the lending limit or other activities that are limited by statute or regulation as a percentage of "capital" and/or "surplus."

Proposed Amendments

Minimum Capital Requirements

The OCC, like other domestic and foreign bank regulators, believes that a bank's capital requirement should be related to the risk associated with its assets and off-balance sheet activities, along with appropriate consideration of other relevant factors. Therefore, the risk-based capital standard, when it becomes effective on December 31, 1990, will be the OCC's primary focus in evaluating the adequacy of a national bank's capital. However, in addition to the minimum risk-based capital requirement, the OCC is proposing to retain a minimum leverage ratio. Under this proposal, a bank would have to meet both the minimum risk-based capital standard and the minimum leverage ratio. A bank that satisfies one minimum requirement, but not the other, would have to raise capital or adjust its portfolio so that it meets both of the requirements. Taken together, the tandem capital requirements establish a coherent, rational approach to bank capital regulation.

Illustration of Tandem Capital Requirements

The clearest way to demonstrate the combined effect of the risk-based capital guidelines and the proposed leverage ratio is with the assistance of some simple illustrations. The data needed to calculate capital ratios for three sample banks are presented in table 1.

TABLE 1.—CAPITAL AND ASSET DATA FOR ILLUSTRATIVE BANKS

[In millions of dollars]

	Bank #1	Bank #2	Bank #3
Tier 1 Capital	500	10	2
Tier 2 Capital	250	[1]875	[2]3
Risk Weighted Assets	10,000	70	25
Total Assets	10,000	100	100

[1] The actual allowance for loan and lease losses is 1 million dollars or one percent of total assets (.01×100=1). However, one-eighth of this is ineligible for inclusion in Tier 2 capital because it exceeds 1.25 percent of risk-weighted assets. These percentages are representative of the average community bank.

[2] In this case, 70 percent of the allowance for loan and lease losses is ineligible for Tier 2 capital because it exceeds 1.25 percent of risk-weighted assets.

Bank #1 is a hypothetical multinational bank. This bank has significant Tier 2 capital made up of the allowance for loan and lease losses, subordinated debt, and preferred stock. The bank also has significant off-balance sheet activities. The inclusion of off-balance sheet activities makes the risk adjusted assets approximately equal to total assets.

Bank #2 is a typical community bank. It has no Tier 2 capital other than the allowance for loan and lease losses. The risk-weighted assets are significantly lower than total assets because (1) many of the bank's assets are in the 50 percent or 20 percent risk-weight categories and (2) almost all of the bank's off-balance sheet activities receive a zero percent conversion factor.

Bank #3 is also a community bank. It is assumed that this bank is trying to minimize its capital levels. It has adopted a two-part strategy of reducing its capital level and rearranging its balance sheet into extremely low risk-weighted assets. The OCC does not expect banks to respond to the risk-based capital guidelines in this fashion. If a bank were to structure its assets in this manner, the proposed leverage ratio is designed to insure adequate capital.

TABLE 2.—CAPITAL RATIOS

	Bank #1 (percent)	Bank #2 (percent)	Bank #3 (percent)
Tier 1 Capital: Risk-Weighted Assets	5.0	14.3	8.0
Tier 1+Tier 2: Risk-Weighted Assets	7.5	15.5	9.2
Tier 1 Capital: Total Assets	5.0	10.0	2.0

The multinational bank does not meet the minimum capital requirements, even though it meets the minimum leverage ratio. It does not have sufficient capital to meet the 8.0 percent minimum total capital to risk-weighted assets ratio. The bank would have to increase Tier 1 capital, increase Tier 2 capital, decrease its assets or off-balance sheet activities, or rearrange its portfolio into lower risk weight categories to meet the minimum capital requirements. Because the risk-based capital requirements only account for credit risk, this bank also would likely be required to increase its capital levels beyond the 8.0 percent minimum to provide sufficient protection from the other risks inherent in the bank's activities.

Bank #2 has sufficient capital to meet all regulatory requirements. Like most community banks, it is currently operating well above minimum regulatory requirements. We would not expect such a bank to decrease its capital levels solely in response to the new minimum capital requirements.

The second community bank has significantly decreased its capital levels, but, because of changes in its portfolio, the bank continues to meet the risk-based capital requirements. However, it does not meet the minimum leverage ratio requirement. This bank would be forced to shrink its asset size or increase its Tier 1 capital to meet minimum capital requirements. In addition, because many of the items in the low-risk-weight categories may have significant interest rate risk (*e.g.*, mortgage-backed securities), this bank would likely be required to increase its capital levels well above the regulatory minimums.

Improved Capital Standards

Taken as a whole, the new capital framework is designed to strengthen capital in the national banking system by making two important changes. First, risk-based capital provides a refined methodology for relating capital adequacy to the individual risk profile of a particular bank. Second, the new definitions of capital utilized in both the risk-based capital guidelines and the proposed minimum leverage ratio reflect a more stringent capital standard with a strong emphasis on the purest forms of equity capital. This approach significantly reduces the ability of banks to use "soft" capital in fulfilling their capital requirements.

The minimum leverage ratio (capital-to-total assets) is in 12 CFR part 3. The OCC is proposing to amend the minimum capital ratio contained in 12 CFR 3.6 to a level that reflects the impact of the change in the definition of capital and the fact that it will be operating in tandem with the risk-based capital standard. The OCC, in evaluating this issue, contemplated several alternatives to the current minimum capital ratios found in 12 CFR 3.6.

After evaluating the alternatives, the OCC is proposing that, as of December 31, 1990, a national bank will have to satisfy both the minimum risk-based capital standard (7.25 percent until December 31, 1992 and thereafter, 8.0 percent) and the 3.0 percent Tier 1 capital-to-total assets.[3]

Capital standards must provide adequate protection against insolvency. They become counterproductive when they become so burdensome that they deny a bank the ability to compete or to provide a sufficient return to attract investors. The combination of risk-based capital and the proposed leverage ratio together with the new definition of capital provide an adequate level of capital protection for national banks.

Because of the significant changes in the definition of capital, the existing primary and total capital standards are not directly comparable to the proposed 3.0 percent leverage ratio. The definition of Tier 1 capital emphasizes equity capital by not including a number of items that are presently included in primary capital. For example, the allowance for loan and lease losses, cumulative perpetual preferred stock, and mandatory convertible debt which are included in primary capital, are not included in Tier 1 capital. Therefore, one cannot state categorically whether a 3.0 percent leverage ratio is more or less stringent than the current capital requirements. Furthermore, since the proposed leverage ratio would operate in conjunction with risk-based capital, it is inappropriate to view the proposed 3.0 percent Tier 1 requirement as the sole determination of capital adequacy. In fact, in most instances, the amount of capital required under the risk-based capital guidelines will exceed the amount required by the proposed 3.0 percent leverage ratio.

The OCC expects that many more banks will have more difficulty attaining the minimum capital requirements under the new tandem system than under the existing system and that overall, more capital will be required in the national banking system for all banks to meet minimum capital requirements.

The OCC considered, among other options, proposing to maintain the current 6.0 percent capital standard (consisting of 5.5 percent primary capital and 0.5 percent secondary capital), while substituting the new definitions of Tier 1 and Tier 2 capital for primary and secondary capital respectively. On the surface, a 6.0 percent minimum leverage ratio appears to resemble the current total capital requirement. However, because the new capital definitions place several restrictions on particular components that do not exist in the current capital requirements, a revised 6.0 percent leverage ratio using the new definitions would be significantly more severe than the current capital requirements. As a result, maintaining the minimum leverage ratio at 6.0 percent would have two undesirable effects. First, it would require a number of adequately capitalized banks to raise additional capital. Second, it, rather than the risk-based capital standard, would become the operative capital standard for most banks. This is contrary to the OCC's intention for the risk-based capital standard to be the primary focus in the evaluation of capital adequacy.

By limiting the minimum leverage ratio to Tier 1 capital, the OCC would require banks to have pure equity that is readily available to absorb losses. This approach is consistent with the OCC's recently proposed rule on equity insolvency that would change the definition of net worth for the purpose of declaring a national bank insolvent. *See* 54 FR 28072 (July 5, 1989). At present, the OCC declares a bank insolvent under the net worth standard when its primary capital is depleted. As proposed, the OCC would declare a bank insolvent when its equity capital, as opposed to primary capital, is exhausted. The major difference between the use of primary capital and equity capital as the insolvency standard is the exclusion from capital of the bank's allowance for loan and lease losses ("ALLL").

In addition to the capital standards prescribed by the OCC, every national bank must maintain an ALLL that adequately covers the reasonably anticipated losses in its loan portfolio. The OCC will continue to assess the adequacy of a bank's ALLL, relative to the quality of its assets, as part of the normal regulatory supervision of each institution. Thus, the ALLL provides an additional cushion that is available to supplement the protection offered by

[3] The total assets figure, used as the denominator of the leverage ratio, would be calculated by making the following adjustments to the average total assets figure reported in the bank's most recent Call Report. The period-end balance of the allowance for loan and lease losses would be added to the bank's average total assets, which does not include the allowance, and any intangible assets that have been deducted from Tier 1 capital, would also be deducted from average total assets.

both the risk-based capital standard and the proposed leverage ratio.

The minimum leverage ratio represents a floor below which capital may not decrease; the actual capital a bank will be required to hold will be at least as great as the amount that meets the risk-based capital standard and the leverage ratio. However, it is important to note that these capital requirements are minimums. As they have in the past, many banks, on their own initiative, will maintain capital levels that exceed the minimums. Additionally, the OCC will continue to assess both the quality of risk management systems and the level of overall risk in individual banks through the supervisory process and, as at present, will require additional capital as warranted. In other words, the OCC's final supervisory judgment on a bank's capital adequacy, in terms of both risk-based capital and the minimum leverage ratio, will still be based on an assessment of the relevant factors present in each bank and, in the case of most banks, will be higher than the regulatory minimums.

Transition Period

The transition period, announced upon adoption of the risk-based capital guidelines, provides banks with adequate time to raise additional capital or to make changes in the volume or structure of their assets and off-balance sheet activities in anticipation of the new capital standards. If adopted, these amendments to 12 CFR part 3 would become effective on December 31, 1990, and would coincide with the effective date of the risk-based capital guidelines. Therefore, as of that date, banks would be required (1) to comply with the provisions of the risk-based capital guidelines and, (2) to maintain a minimum leverage ratio of at least 3.0 percent Tier 1 capital-to-total assets.

Other Changes

The OCC is also proposing to add a new paragraph prior to paragraph (a) of § 3.100 and to make a few minor, technical corrections in that interpretive ruling. Paragraphs (a) and (c) of § 3.100 are the regulatory provisions interpreting the statutory terms "capital" and "surplus" respectively. The new paragraph, as proposed, will clarify that the definitions of § 3.100 are solely for use in determining statutory limits that are based on the amount of a bank's "capital," and/or "surplus," not its risk-based capital or minimum leverage ratios. Therefore, the proposal will not have any effect on either a bank's lending limit or the size of transactions a bank can permissibly conduct with its affiliates—the two most widely used limits calculated as a percentage of a bank's capital and surplus.

The proposal also amends certain other provisions of 12 CFR part 3 to make the risk-based capital guidelines an essential component in the process of establishing a bank's required minimum capital level. For example, a specific reference to Appendix A of part 3 (risk-based capital guidelines) has been added to § 3.9. That section gives the OCC the authority to establish a higher minimum capital requirement for an individual bank. The proposal makes Appendix A to part 3 an integral component of the formalized establishment of minimum capital ratios for an individual bank under subpart C of 12 CFR part 3. The incorporation of the risk-based capital guidelines into 12 CFR part 3 does not represent a substantive change as Appendix A is binding on national banks when it becomes effective.

Issues for Specific Comment

The OCC is seeking comments on all aspects of the proposed amendments to 12 CFR part 3. The agency especially invites comments on the following issues:

1. The proposed amendments set the minimum leverage ratio at 3.0 percent Tier 1 capital-to-total assets. The OCC is seeking comment on whether a different minimum leverage ratio, for example, 3.0 percent Tier 1 capital-to-total assets *and* 6.0 percent total (Tier 1 plus Tier 2) capital-to-total assets, would be more effective.

2. The proposed amendments do not envision making any substantive changes in the current definition of capital and surplus for the purposes of various statutory limits, such as the lending limit. The OCC is seeking comment on whether it should adjust the definition of capital and surplus in order to have a consistent regulatory definition of capital.

Regulatory Flexibility Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Comptroller of the Currency certifies that these changes, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, a Regulatory Flexibility Analysis is not required.

Executive Order 12291

The OCC has determined that this proposal does not constitute a major rule within the meaning of Executive Order 12291. Accordingly, a Regulatory Impact Analysis will not be required on the grounds that this revision (1) would not have an annual effect on the economy of $100 million or more, (2) would not result in a major increase in the cost of bank operations or governmental supervision, and (3) would not have a significant adverse effect on competition (foreign or domestic), employment, investment, productivity, or innovation.

List of Subjects in 12 CFR Part 3

National banks, Capital, Leverage, Risk.

Authority and Issuance

For the reasons set forth in the preamble, title 12, chapter I, part 3 of the Code of Federal Regulations is proposed to be amended as follows:

PART 3—[AMENDED]

1. The authority citation for part 3 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 93a, 161, 1818; and 12 U.S.C. 3907 and 3909.

2. Section 3.1 is revised to read as follows:

§ 3.1 Authority.

This part is issued under the authority of 12 U.S.C. 1 *et seq.*, 93a, 161, 1818; and the International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX, 97 Stat. 1153), 12 U.S.C. 3907 and 3909.

2. Section 3.2, paragraphs (a), (c), (d) and (e) are revised to read as follows:

§ 3.2 Definitions.

For the purposes of this part:

(a) *"Adjusted total assets"* means the average total assets figure required to be computed for and stated in a bank's most recent quarterly "Consolidated Report of Condition and Income" (Call Report), plus the end-of-quarter allowance for loan and lease losses, minus end-of quarter intangible assets that are deducted from Tier 1 capital. The OCC reserves the right to require a bank to compute and maintain its capital ratios on the basis of actual, rather than average, total assets when necessary to carry out the purposes of this regulation.

(b) * * *

(c) *"Tier 1 capital"* means the sum of paragraphs (c) (1), (2), (3) and (4) of this section.

(1) Common stockholders' equity;

(2) Noncumulative perpetual preferred stock and related surplus, excluding preferred stock issues where the dividend rate is reset periodically based upon current market conditions and the bank's current credit rating, including but not limited to Dutch auction, money market or remarketable preferred stock; and

(3) Minority interests in the equity accounts of consolidated subsidiaries.

(4) Deductions from Tier 1 capital:

(i) Unidentifiable intangibles, (*e.g.*, goodwill), subject to the transition rules contained in § 3.3.

(ii) Identifiable intangible assets, unless they meet the following criteria:

(A) The intangible asset must be able to be separated and sold apart from the bank or from the bulk of the bank's assets;

(B) The market value of the intangible asset must be established on an annual basis through an identifiable stream of cash flows, and there must be a high degree of certainty that the asset will hold this market value notwithstanding the future prospects of the bank; and

(C) The bank must demonstrate that a market exists which will provide liquidity for the intangible asset;

(5) Intangibles which are not deducted from Tier 1 capital are limited to 25 percent of total Tier l capital; amounts in excess of 25 percent of total Tier I capital must be deducted from Tier 1 capital.

(6) Intangibles not deducted from Tier 1 capital must be valued, for capital adequacy purposes, at the lower of either their current amortized book value or their current market value established as part of the bank's annual audit.

(d) *"Tier 2 capital"* means the sum of paragraphs (d) (1), (2), (3) and (4) of this section, up to 100 percent of the bank's Tier 1 capital.

(1) Allowance for loan and lease losses, up to a maximum of 1.25 percent of risk-weighted assets; however, a national bank may deduct reserves for loan and lease losses in excess of the amount permitted to be included as capital, as well as allocated transfer risk reserves and reserves held against other real estate owned, from the gross sum of risk-weighted assets in computing the denominator of its total risk-based capital ratio;

(2) Cumulative perpetual preferred stock, long-term preferred stock, convertible preferred stock, and any related surplus, if the issuing national bank has the option to defer payment of dividends on these instruments. For long-term preferred stock, the amount that is eligible to be included as Tier 2 capital is reduced by 20 percent of the original amount of the instrument (net of redemptions) at the beginning of each of the last five years of the life of the instrument;

(3) Hybrid capital instruments, *i.e.*, those instruments that combine certain characteristics of debt and equity. To be included as Tier 2 capital, these instruments must meet the following criteria:[1]

(i) The instrument must be unsecured, subordinated to the claims of depositors and general creditors, and fully paid-up;

(ii) The instrument must not be redeemable at the option of the holder prior to maturity, except with the prior approval of the OCC;

(iii) The instrument must be available to participate in losses while the issuer is operating as a going concern (in this regard, the instrument must automatically convert to common stock or perpetual preferred stock, if the sum of the retained earnings and capital surplus accounts of the issuer shows a negative balance); and

(iv) The instrument must provide the option for the issuer to defer principal and interest payments, if

(A) The issuer does not report a net profit for the most recent combined four quarters, and

(B) The issuer eliminates cash dividends on its common and preferred stock.

(4) Term subordinated debt instruments, and intermediate-term preferred stock and related surplus are included in Tier 2 capital, but only to a maximum of 50 percent of Tier 1 capital. To be considered Tier 2 capital, term subordinated debt instruments must meet the requirements of § 3.100(f)(1). Also, at the beginning of each of the last five years of the life of either type of instrument, the amount that is eligible to be included as Tier 2 capital is reduced by 20 percent of the original amount of that instrument (net of redemptions).

(e) *"Total capital"* means the sum of Tier 1 capital and qualifying Tier 2 capital, less the following items:

(1) Investments, both equity and debt, in unconsolidated banking and finance subsidiaries that are deemed to be capital of the subsidiary—the OCC may require deduction of investments in other subsidiaries and associated companies, on a case-by-case basis; and

(2) Reciprocal holdings of bank capital instruments.

3. Section 3.3 is revised to read as follows:

§ 3.3 Transition rules.

Intangible assets, other than those that meet the criteria contained in § 3.2(c)(4)(ii), purchased prior to April 15, 1985, and accounted for in accordance with the instructions of the OCC, do not have to be deducted from Tier 1 capital until December 31, 1992. However, when combined with other qualifying intangible assets, these intangibles are limited to 25 percent of Tier 1 capital. After December 31, 1992, only those intangible assets that meet the criteria contained in § 3.2(c)(4)(ii) will not be deducted from Tier 1 capital.

4. Section 3.4 is revised to read as follows:

§ 3.4 Reservation of authority.

Notwithstanding the definitions of "Tier 1 capital" and "Tier 2 capital" in § 3.2 (c) and (d), the OCC may find that a particular type of purchased intangible asset or newly developed or modified capital instrument constitutes or may constitute "Tier 1 capital" or "Tier 2 capital", and the OCC may permit one or more banks to include all or a portion of such intangible asset or funds obtained through such capital instruments as Tier l or Tier 2 capital, permanently or on a temporary basis, for the purposes of compliance with this Part or for other purposes. Similarly, the OCC may find that a particular asset or Tier 1 or Tier 2 capital component has characteristics or terms that diminish its contribution to a bank's ability to absorb losses, and the OCC may require the discounting or deduction of such asset or component from the computation of Tier 1 or Tier 2 capital.

5. Section 3.6 is revised to read as follows:

§ 3.6 Minimum capital ratio.

National banks must have and maintain Tier 1 capital in an amount equal to at least 3.0 percent of adjusted total assets.

6. Section 3.7 is revised to read as follows:

§ 3.7 Plan to achieve minimum capital ratios.

Any bank having capital ratios less than the minimums set forth in § 3.6 and Appendix A to this part shall, within 60 days of December 31, 1990, submit to the OCC a plan describing the means and schedule by which the bank shall achieve the minimum capital ratios. The plan may be considered acceptable unless the bank is notified to the contrary by the OCC. A bank in compliance with an acceptable plan to achieve the minimum capital ratios will not be deemed to be in violation of § 3.6 or Appendix A.

7. Section 3.9 is revised to read as follows:

§ 3.9 Purpose and scope.

The rules and procedures specified in this subpart are applicable to a proceeding to establish required

[1] Mandatory convertible debt instruments that meet the requirements of 12 CFR 3.100(e)(5), or that have been previously approved as capital by the OCC, are treated as qualifying hybrid capital instruments.

minimum capital ratios for an individual bank above the ratios that would otherwise be applicable to the bank under § 3.6 or appendix A to this part. The Comptroller is authorized under 12 U.S.C. 3907(a)(2) to establish such minimum capital requirements for a bank as the OCC, in its discretion, deems necessary or appropriate in light of the particular circumstances of the bank. Proceedings under this subpart also may be initiated to require a bank having capital ratios above those set forth in § 3.6, appendix A or other legal authority, to continue to maintain capital at those levels or higher levels.

8. Section 3.10 introductory text and paragraph (d) are revised to read as follows:

§ 3.10 Applicability.

Higher minimum capital ratios may be required for an individual bank when the OCC believes that the bank's capital is or may become inadequate in view of its circumstances. For example, higher capital ratios may be appropriate for:

* * * * *

(d) A bank exposed to a high degree of asset depreciation or interest rate, funding, transfer, or similar risks; or having a low level of liquid assets in relation to short term liabilities;

* * * * *

9. Section 3.12, paragraph (a) is revised to read as follows:

§ 3.12 Procedures.

(a) *Notice.* When the OCC determines that minimum capital ratios above those set forth in § 3.6, Appendix A to this part or other legal authority, are necessary or appropriate for a particular bank, the OCC will notify the bank in writing of the proposed minimum capital ratios and the date by which they should be reached (if applicable), and will provide an explanation of why the ratios proposed are considered necessary or appropriate for the bank.

* * * * *

10. Section 3.14 is revised to read as follows:

§ 3.14 Remedies.

A bank that does not have or does not maintain the minimum capital ratios applicable to it, whether established in Subpart B of this part, Appendix A to this part, in a decision pursuant to subpart C of this part, in a written agreement or temporary or final order under 12 U.S.C. 1818 (b) or (c), or in a condition for approval of an application, or a bank that has failed to submit or comply with an acceptable plan to attain those minimum capital ratios will be subject to such administrative action or sanctions as the OCC considers appropriate, including the issuance of a Directive pursuant to subpart E of this part, other enforcement action, assessment of civil money penalties, and/or the denial, conditioning, or revocation of applications. Failure to achieve or maintain these minimum capital ratios may also be the basis for an action by the Federal Deposit Insurance Corporation to terminate federal deposit insurance. *See* 12 CFR part 325.

11. Section 3.15 is revised to read as follows:

§ 3.15 Purpose and scope.

This subpart is applicable to proceedings by the OCC to issue a directive under 12 U.S.C. 3907(b)(2). A directive is an order issued to a bank that does not have or does not maintain capital at or above the minimum ratios set forth in § 3.6 or Appendix A, or established for the bank under Subpart C of this part, by a written agreement under 12 U.S.C. 1818(b), or as a condition for approval of an application. A directive may order the bank to:

(a) Achieve the minimum capital ratios applicable to it by a specified date;

(b) Adhere to a previously submitted plan to achieve the applicable capital ratios;

(c) Submit and adhere to a plan acceptable to the OCC describing the means and time schedule by which the bank shall achieve the applicable capital ratios;

(d) Take other action, such as reduction of assets or the rate of growth of assets, or restrictions on the payment of dividends, to achieve the applicable capital ratios; or

(e) A combination of any of these or similar actions.

A directive issued under this rule, including a plan submitted under a directive, is enforceable in the same manner and to the same extent as an effective and outstanding cease and desist order which has become final as defined in 12 U.S.C. 1818(k). Violation of a directive may result in assessment of civil money penalties in accordance with 12 U.S.C. 3909(d).

12. In § 3.100, introductory text is inserted immediately following the section heading and preceding paragraph (a), and paragraphs (e)(5) and (f) (1) introductory text, (2) and (3) are revised to read as follows:

§ 3.100 Capital and surplus.

For purposes of determining statutory limits that are based on the amount of a bank's "capital" and/or "surplus," the provisions of this section are to be used, rather than the definitions of capital contained in § 3.2 or appendix A to this part.

* * * * *

(e) * * *

(5) *"Mandatory convertible debt"* means subordinated debt instruments which unqualifiedly require the issuer to exchange either common or perpetual preferred stock for such instruments by a date at or before the maturity of the instrument. The maturity of these instruments must be 12 years or less. In addition, the instrument must meet requirements of paragraph (f)(1)(i) through (v) of this section for subordinated notes and debentures or other requirements published by the OCC.

* * * * *

(f) * * *

(1) *Requirements.* Issues of limited life preferred stock and subordinated notes and debentures (except mandatory convertible debt) must have original weighted average maturities of at least five (5) years to be included in the definition of "surplus." In addition, a subordinated note or debenture must also:

* * * * *

(2) *Restrictions.* The total amount of mandatory convertible debt not included in paragraph (c)(3) of this section, limited life preferred stock, and subordinated notes and debentures considered as surplus is limited to 50 percent of the sum of paragraphs (a) and (c) (1), (2) and (3) of this section.

(3) *Reservation of Authority.* In exigent circumstances, the OCC expressly reserves the authority to waive the minimum maturity requirement and the percentage restriction set forth in paragraphs (f) (1) and (2) of this section, in order to allow the inclusion of other limited life preferred stock, mandatory convertible notes and subordinated notes and debentures in the capital base of any national bank for capital adequacy purposes. The OCC further expressly reserves the authority, in exigent circumstances, to impose more stringent conditions than those set forth in paragraphs (f) (1) and (2) of this section in order for any component of Tier 1 or Tier 2 capital to be included, in whole or in part, as part of a national banking association's capital and surplus for any purpose.

Dated: October 30, 1989.

Robert L. Clarke,

Comptroller of the Currency.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-201-AD]

Airworthiness Directives; Boeing Model 737-300 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 Boeing Model 737-300 series airplanes, which would require a one-time inspection of the engines' nacelle strut firewall duct assemblies for proper application of firewall sealant. This proposal is prompted by a manufacturer's production report that firewall sealant may not have been applied to all the mating surfaces of the engines' nacelle strut firewall door assemblies. This condition, if not corrected, could compromise the integrity of the engines' nacelle strut firewall seal.

DATES: Comments must be received no later than December 26, 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-201-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen S. Bray, Propulsion Branch, ANM-140S; telephone (206) 431-1969. 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-201-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

A recent manufacturer's factory inspection revealed that firewall sealant was not applied to all the mating surfaces of the engines' nacelle strut firewall door assemblies. There must not be gaps, holes, or voids in an engine's firewall seal. This condition, if not corrected, could compromise the integrity of the engines' nacelle strut firewall seal.

The FAA has reviewed and approved Boeing Service Bulletin 737-54-1028, dated August 17, 1989, which provides instructions for the inspection of the engines' nacelle strut firewall door assemblies for proper application of the firewall sealant and application of sealant, if necessary.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require a one-time inspection of the engines' nacelle strut firewall door assemblies for proper application of the firewall sealant, and application of sealant, if necessary, in accordance with the service bulletin previously described. Additionally, this AD would require operators to report the findings of their inspection to the FAA.

There are approximately 50 Model 737-300 series airplanes of the affected design in the worldwide fleet. It is estimated that 20 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2 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 $1,600.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub.L. 96-511) and have been assigned OMB Control Number 2120-0056.

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

PART 39—[AMENDED]

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:

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:

Boeing: Applies to Model 737-300 series airplanes, listed in Boeing Service Bulletin 737-54-1028, dated August 17, 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

To ensure the integrity of the engines' nacelle strut firewall seal, accomplish the following:

A. At the next engine removal or within one year after the effective date of this AD, which ever occurs sooner, inspect the engines' nacelle strut door assemblies for proper application of firewall sealant in accordance with Boeing Service Bulletin 737-54-1028, dated August 17, 1989. The door assemblies are located between nacelle stations 200.00 and 235.00 and attached to the underside of the strut and spar web at approximately nacelle waterline 132.00. If there are gaps, holes, or voids in the firewall sealant, apply sealant prior to further flight, in accordance with the service bulletin.

B. Within 10 days after completion of the inspection required by this AD, submit a report of findings, positive or negative, to the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region. The report must include the line number of the airplane inspected and the findings.

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

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Seattle Aircraft Certification Office.

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

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

Issued in Seattle, Washington, on October 26, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 89-25917 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-208-AD]

Airworthiness Directives; Boeing Model 737-300 and 737-400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain Boeing Model 737-300 and 737-400 series airplanes, which currently requires the inspection of the left and right outboard flap inboard track forward support fitting attach bolts and the replacement of all titanium bolts with steel parts. This action would require the inspection of the nuts and replacement, if necessary, with the proper steel nuts. This proposal is prompted by a report that titanium bolts with aluminum nuts instead of steel bolts and nuts may have been used to attach the outboard flap inboard track forward support fitting to the wing structure. This condition, if not corrected, could result in separation of the outboard flap from the airplane, which could adversely affect controllability.

DATES: Comments must be received no later than December 26, 1989.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-208-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Shardul R. Panchal, Airframe Branch, ANM-120S; telephone (206) 431-1954. 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-208-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On August 25, 1989, the FAA issued Telegraphic AD T89-18-51, applicable to certain Boeing Model 737-300 and -400 series airplanes, to require the inspection of the left and right outboard flap inboard track forward support fitting attach bolts at wing body line (WBL) 254.0 and the replacement of titanium bolts and aluminum nuts with A286 corrosion resistant (CRES) steel parts. That action was prompted by a report by the manufacturer, which indicated that titanium bolts with aluminum nuts instead of A286 CRES steel bolts and nuts may have been used to attach the outboard flap inboard track forward support fitting to the wing structure. Analysis shows that titanium bolts and aluminum nuts do not meet the strength requirements at this location and could result in failure of all four fasteners. This condition, if not corrected, could result in separation of the outboard flap from the airplane, which could adversely affect controllability.

The FAA did not require immediate inspection of the nuts in the above referenced Telegraphic AD because the probability of finding an aluminum nut on a steel bolt was sufficiently remote as to enable the FAA to allow the public an opportunity to comment; nonetheless, because such a combination could exist, however remote, this proposed action is considered necessary.

The FAA has reviewed and approved Boeing Alert Service Bulletin 737-57A1202, dated August 24, 1989, which describes procedures for the inspection, removal, and replacement of the left and right outboard flap inboard track forward fitting attach bolts and nuts.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would supersede Telegraphic AD T89–18–51 with a new airworthiness directive that, in addition to the inspection of the bolts required by AD T89–18–51, would require the inspection of the nuts (even if the part number of the bolt has been determined to be correct), in accordance with the service bulletin previously described.

This inspection would not be required if it was previously accomplished during the bolt inspection and replacement required by the existing AD.

There are approximately 763 Model 737–300 and 737–400 series airplanes of the affected design in the worldwide fleet. It is estimated that 350 airplanes of U.S. registry would be affected by this AD, that it would take approximately 50 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 $700,000.

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

PART 39—[AMENDED]

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:

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 superseding Telegraphic AD T89–18–51, issued on August 25, 1989, with the following new airworthiness directive:

Boeing: Applies to Model 737–300 and 737–400 series airplanes, line numbers 1001 through 1762, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent separation of the outboard flap from the airplane, accomplish the following:

A. Within the next 30 days after August 25, 1989 (the issuance date of Telegraphic AD T89–18–51), inspect the bolts used to secure track forward support fitting of the inboard tracks to determine the bolt head designation.

B. If a bolt other than A286 CRES steel, Boeing part number BACB30LE, is installed, replace it with a proper bolt and nut prior to next flight, in accordance with Boeing Alert Service Bulletin 737–57A1202, dated August 24, 1989. Ensure that the replacement nut is Boeing Part Number BACN10HR.

C. Within the next 1,500 cycles or 6 months after the effective date of this amendment, whichever occurs first, inspect the nuts used to secure track forward support fitting of the inboard track for proper part number designation and material, in accordance with Boeing Alert Service Bulletin 737–57A1202, dated August 24, 1989.

Note: Inspection of nuts must be accomplished even if the part numbers of the bolts were previously determined to be correct.

D. If a nut other than A286 CRES steel, Boeing part number BACN10HR, is installed, replace it with a proper nut, prior to further flight, in accordance with Boeing Alert Service Bulletin 737–57A1202, dated August 24, 1989.

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

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Seattle Aircraft Certification Office.

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

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

Issued in Seattle, Washington, on October 26, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–25918 Filed 11–2–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 89–NM–204–AD]

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, and –30 Series Airplanes Equipped With a Non-ventral Aft Pressure Bulkhead

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 McDonnell Douglas Model DC–9–10, –20, and –30 series airplanes, which would require more explicit aft pressure bulkhead emergency exit (tailcone exit hatch) opening instructions to be displayed on the aft side of the exit hatch. This proposal is prompted by a report of an accident in which passenger evacuation through the aft pressure bulkhead emergency exit was delayed because the opening instructions on the outside of the exit were inadequate. This condition, if not corrected, could result in delayed passenger evacuation during an emergency situation.

DATES: Comments must be received no later than December 26, 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–204–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90801, Attention: Director of Publication, C1–L00 (54–60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft

Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Aerospace Engineer, Los Angeles Aircraft Certification Office, Systems and Equipment Branch, ANM 131L, FAA, Northwest Mountain Region, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (213) 988–5355.

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–204–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

In one reported accident involving a Model DC–9 series airplane, impact damage and debris in the area of the aft tailcone exit hatch delayed passenger evacuation. Contributing to the delay was the fact that outside rescuers were hampered by limited visibility around the exit hatch area. The only instruction printed on the outside of the exit hatch was the word "Pull" on a placard near the exit hatch release handle. The exit hatch must be unlocked and then moved into the cabin to clear the evacuation route. After reviewing the Model DC–9 aft pressure bulkhead emergency exit installation and opening instructions, the FAA has determined that more complete opening instructions are necessary. This situation, if not corrected, could result in delay of passenger evacuation during an emergency situation.

The FAA has reviewed and approved McDonnell Douglas Service Bulletin 52–167, dated August 31, 1989, which describes procedures for installing a placard with proper exit opening instructions on the aft side of the aft pressure bulkhead emergency exit. The new placard states, "Pull handle to unlock/push door to open."

Since this situation is likely to exist on other airplanes of this same type design, an AD is proposed which would require a placard with explicit opening instructions to be installed on the aft side of the aft pressure bulkhead emergency exit, in accordance with the service bulletin previously described.

There are approximately 260 McDonnell Douglas Model DC–9–10, –20, and –30 series airplanes of the affected design in the worldwide fleet. It is estimated that 183 airplanes of U.S. registry would be affected by this AD, that it would take approximately 0.5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Each airplane would require one placard, at an estimated cost of $29 per placard. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $8,967.

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:

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:

McDonnell Douglas: Applies to Model DC–9–10, –20, and –30 series airplanes, equipped with a non-ventral aft pressure bulkhead, as listed in McDonnell Douglas Service Bulletin 52–167, dated August 31, 1989, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent delayed passenger evacuation through the aft pressure bulkhead emergency exit during an emergency evacuation, accomplish the following:

A. Within three months after the effective date of this AD, install a placard with exit opening instructions, in accordance with the Accomplishment Instructions of McDonnell Douglas Service Bulletin 52–167, dated August 31, 1989.

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

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90801–0001, ATTN: Director of Publications, C1–L00 (54–60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

Issued in Seattle, Washington, on October 24, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25916 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-113-AD]

Airworthiness Directives; SAAB-Scania Model SF-340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental Notice of Proposed Rulemaking (NPRM); Reopening of Comment Period.

SUMMARY: This notice proposes to amend an earlier proposed airworthiness directive (AD), applicable to certain SAAB-Scania Model SF-340A series airplanes, that would have required inspection of the AC generators for modification status, and replacement of the AC generators, if necessary. This action revises the proposal to add Model SAAB 340B series airplanes to the AD applicability.

DATES: Comments must be received no later than November 30, 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-113-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from SAAB-Scania AB, Product Support, S-581.88, Linkoping, Sweden. 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. Mark Quam, Standardization Branch, ANM-113; telephone (206) 431-1978. 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 submited 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-113-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations to add an airworthiness directive which would have required inspection of AC generators on SAAB-Scania Model SF-340A series airplanes, and replacement, if necessary, was published as Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on July 18, 1989 (54 FR 30062). That NPRM was prompted by numerous reports of failure of the AC generators due to inadequate anti-drive end bearing support. This condition, if not corrected, could result in loss of ice protection for the one engine inlet; and when combined with the loss of the other AC generator output (engine or generator system failure), could result in loss of ice protection for both engine inlets, windshields, pitot systems, alpha systems, and propeller.

Since the issuance of the proposal, SAAB-Scania has issued Service Bulletin SF340-24-016, Revision 1, dated August 28, 1989, to include Model SAAB 340B series airplanes in the effectivity. The Swedish Airworthiness Authority has classified the revised service bulletin as mandatory, and has issued Swedish Airworthiness Directive No. 1-033, Revision A, to include the additional model.

Further, two comments were received in response to the original proposal. Both commenters supported the rule, but one commenter noted that the proposed rule should be made appliable to the newly certified Model SAAB 340B series airplanes.

The FAA has determined that Model SAAB 340B series may also be subject to the unsafe condition addressed by this action. Therefore, the applicability statement in this Supplemental NPRM has been revised to include this model. Additionally, the proposed rule has been revised to require inspection of the AC generator, P/N 31342-001, for modification status, and replacement of the generator, if necessary, in accordance with SAAB-Scania Service Bulletin SF340-24-016, Revision 1, dated August 28, 1989.

Since these changes expand the scope of the proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional time for public comment.

This airplane model is manufactured in Sweden 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.

It is estimated that by December 1989, 83 airplanes of U.S. registry would be affected by this AD, that it would take approximately 3 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 $9,960.

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

PART 39—[AMENDED]

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:

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.

2. By revising the Notice of Proposed Rulemaking, Docket No. 89-NM-113-AD, FR Doc. 89-16742, published in the Federal Register on July 18, 1989 [54 FR 30062], as follows:

SAAB-Scania: Applies to Model SF-340A and SAAB 340B series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent the loss of certain ice protection systems due to AC generator failures, accomplish the following:

A. Inspect the AC generators, P/N 31342-001, for the modification status.

1. If the modification status blocks are X-stamped in the D (or later) modification status block, no further action is required.

2. If the modification status blocks are X-stamped in the A, B, or C modification status block, prior to further flight, replace the AC generator with one X-stamped in the D (or later) modification status block, in accordance with SAAB Service Bulletin SF340-24-016, Revision 1, dated August 28, 1989.

B. 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.

C. 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 SAAB-Scania AB, Product Support, S-581.99, Linkoping, Sweden. These documents 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 October 26, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-25919 Filed 11-2-89; 8:45 am]

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DEPARTMENT OF STATE

22 CFR Part 35

[Public Notice 1131]

RIN 1400-AA13

Program Fraud Civil Remedies Regulations

AGENCY: Department of State.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of State proposes rules to implement the Program Fraud Civil Remedies Act of 1986. The Department proposed to establish administrative procedures for imposing the statutorily authorized civil penalties and assessments against any person who makes, submits, or presents a false, fictitious, or fraudulent claim or written statement to the Department.

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

ADDRESSES: Comments should be sent to Jean Bailly, Office of the Legal Adviser, Room 4427A, Department of State, 2201 C Street NW., Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Jean Bailly (202) 647-2350.

SUPPLEMENTARY INFORMATION: The Program Fraud Civil Remedies Act established a new administrative procedure as a remedy against those who knowingly make false claims or statements. The statute requires Federal agencies to follow certain procedures to recover penalties, and assessments against persons who file false claims or statements. It provides for designated investigative and reviewing officials, an administrative hearing process, and an agency appeal procedure with limited judicial review. The President's Council on Integrity and Efficiency developed draft model regulations in order to facilitate and promote uniformity in implementing the new procedure. The State Department, with minor variations, has adopted the model regulations. Consistent with the statute's requirements, the Department's proposed regulations provide that the Office of Inspector General will act as the Investigating Official; the Comptroller of the Department will act as Reviewing Official; an administrative law judge will be the Presiding Official; and the Deputy Secretary or his designee will act as Authority Head on appeals. The new administrative process should serve to deter fraud in cases where costs of litigation formerly made it uneconomical to press such claims, and should give the Department an effective remedy against persons submitting false claims to the Department.

The proposed rules would have no direct effect on the economy, or on Federal or State expenditures, and thus do not constitute a "major rule" within the meaning of section 1(b) of Executive Order 12291. Consequently, we have concluded that an initial regulatory impact analysis is not required. Nor do the requirements of the Regulatory Flexibility Act, 5 U.S.C. 605(b) apply. The proposed rules contain no information collection or recordkeeping requirements as defined by the Paperwork Reduction Act of 1978, and fall within the exceptions to coverage.

List of Subjects in 22 CFR Part 35

Administrative practice and procedure, Claims, Fraud, Penalties.

Accordingly, title 22, chapter I of the Code of Federal Regulations is proposed to be amended to add part 35 to read as follows:

PART 35—PROGRAM FRAUD CIVIL REMEDIES

Sec.

Sec.
35.30 The hearing and burden of proof.
35.31 Determining the amount of penalties and assessments.
35.32 Location of hearing.
35.33 Witnesses.
35.34 Evidence.
35.35 The record.
35.36 Post-hearing briefs.
35.37 Initial decision.
35.38 Reconsideration of initial decision.
35.39 Appeal to authority head.
35.40 Stays ordered by the Department of Justice.
35.41 Stay pending appeal.
35.42 Judicial review.
35.43 Collection of civil penalties and assessments.
35.44 Right to administrative offset.
35.45 Deposit in Treasury of United States.
35.46 Compromise or settlement.
35.47 Limitations.

Authority: 31 U.S.C. 3801–3812.

§ 35.1 General.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Pub. L. No. 99–509, secs. 6101–6104, 100 Stat. 1874 (October 21, 1986), to be codified at 31 U.S.C. 3801–3812. 31 U.S.C. 3809 of the statute requires each authority head to promulgate regulations necessary to implement the provisions of the statute.

(b) *Purpose.* This part establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents; and specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

(c) *Special considerations abroad.* Where a party, witness or material evidence in a proceeding under these regulations is located abroad, the investigating official, reviewing official or ALJ, as the case may be, may adjust the provisions below for service, filing of documents, time limitations, and related matters to meet special problems arising out of that location.

§ 35.2 Definitions.

(a) *ALJ* means an Administrative Law Judge in the authority appointed pursuant to 5 U.S.C. 3105 or detailed to the authority pursuant to 5 U.S.C. 3344.

(b) *Authority* means the United States Department of State.

(c) *Authority head* means the Under Secretary for Management.

(d) *Benefit* means, in the context of "statement," anything of value, including but not limited to, any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

(e) *Claim* means any request, demand, or submission—

(1) Made to the authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

(2) Made to a recipient of property, services, or money from the authority or to a party to a contract with the authority—

(i) For property or services if the United States—

(A) Provided such property or services;

(B) Provided any portion of the funds for the purchase of such property or services; or

(C) Will reimburse such recipient or party for the purchase of such property or services; or

(ii) For the payment of money (including money representing grants, loans, insurance or benefits) if the United States—

(A) Provided any portion of the money requested or demanded; or

(B) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(3) Made to the authority which has the effect of decreasing an obligation to pay or account for property, services or money.

(f) *Complaint* means the administrative complaint served by the reviewing official on the defendant under § 35.7.

(g) *Defendant* means any person alleged in a complaint under § 35.7 to be liable for a civil penalty or assessment under § 35.7 to be liable for a civil penalty or assessment under § 35.3.

(h) *Department* means the Department of State.

(i) *Government* means the United States Government.

(j) *Individual* means a natural person.

(k) *Initial decision* means the written decision of the ALJ required by § 35.10 or § 35.37, and includes a revised initial decision issued following a remand or a motion for reconsideration.

(l) *Investigating official* means the Inspector General of the Department of State or an officer or employee of the Office of Inspector General designated by the Inspector General and serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule.

(m) *Knows or has reason to know* means that a person, with respect to a claim or statement—

(1) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(2) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(3) Acts in reckless disregard of the truth or falsity of the claim or statement.

(n) *Makes,* wherever it appears, shall include the terms presents, submits, and causes to be made, presented, or submitted. As the context requires, making or made, shall likewise include the corresponding forms of such terms.

(o) *Person* means any individual, partnership, corporation, association or private organization, and includes the plural of the term.

(p) *Representative* means an attorney who is a member in good standing of the bar of any state, territory, or possession of the United States, or of the District of Columbia, or the Commonwealth of Puerto Rico.

(q) *Representative for the Authority* means the Counsel to the Inspector General.

(r) *Reviewing official* means the Comptroller of the Department or his designee who is—

(1) Not subject to supervision by, or required to report to, the investigating official;

(2) Not employed in the organizational unit of the authority in which the investigating official is employed; and

(3) Serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule.

(s) *Statement* means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(1) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(2) With respect to (including relating to eligibility for)—

(i) A contract with, or a bid or proposal for a contract with; or

(ii) A grant, loan or benefit from, the authority, or any state, political subdivision of a state, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such state, political subdivision, or party for any portion of the money or property under such contract of for such grant, loan, or benefit.

§ 35.3 Basis for civil penalties and assessments.

(a) *Claims* (1) Except as provided in paragraph (c) of this section, any person who makes a claim that the person knows or has reason to know the

following shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such claim:

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission, and

(C) Is a statement in which the person making the statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed—

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to the authority, recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any state or political subdivision thereof, acting for or on behalf of the authority, recipient, or party.

(4) Each claim for property, services, or money is subject to a civil penalty regardless of whether such property, services, or money is actually delivered or paid.

(5) If the Government has made any payment (including transferred property or provided services) on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section to an assessment of not more than twice the amount of such claim or that portion thereof that is determined to be in violation of paragraph (a)(1) of this section. Such assessment shall be in lieu of damages sustained by the Government because of such claim.

(b) *Statements.* (1) Except as provided in paragraph (c) of this section, any person who makes a written statement that—

(i) The person knows or has reason to know—

(A) Asserts a material fact which is false, fictitious, or fraudulent; or

(B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in such statement; and

(ii) Contains or is accompained by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such statement.

(2) Each written representation, certification, or affirmation constitutes a separate statement.

(3) A statement shall be considered made to the authority when such statement is actually made to an agent, fiscal intermediary, or other entity, including any state or political subdivision thereof, acting for or on behalf of the authority.

(c) No proof of specific intent to defraud is required to establish liability under this section.

(d) In any case in which it is determined that more than one person is liable for making a claim or statement under this section, each such person may be held liable for a civil penalty under this section.

(e) In any case in which it is determined that more than one person is liable for making a claim under this section on which the Government has made payment (including transferred property or provided services), an assessment may be imposed against any such person or jointly and severally against any combination of such persons.

§ 35.4 Investigation.

(a) If an investigating official concludes that a subpoena pursuant to the authority conferred by 31 U.S.C. 3804(a) is warranted—

(1) The subpoena so issued shall notify the person to whom it is addressed of the authority under which the subpoena is issued (and, in the case of a subpoena to be served outside the jurisdiction of the United States, the basis for such service), and shall identify the records or documents sought;

(2) The investigating official may designate a person to act on his or her behalf to receive the documents sought; and

(3) The person receiving such subpoena shall be required to tender to the investigating official or the person designated to receive the documents a certification that the documents sought have been produced, or that such documents are not available and the reasons therefore, or that such documents, suitably identified, have been withheld based upon the assertion of an identified privilege.

(b) If the investigating official concludes that an action under the Program Fraud Civil Remedies Act may be warranted, the investigating official shall submit a report containing the findings and conclusions of such investigation to the reviewing official.

(c) Nothing in this section shall preclude or limit an investigating official's discretion to refer allegations directly to the Department of Justice for suit under the False Claims Act or other civil relief, or to preclude or limit such official's discretion to defer or postpone a report or referral to the reviewing official to avoid interference with a criminal investigation or prosecution.

(d) Nothing in this section modifies any responsibility of an investigating official to report violations of criminal law to the Attorney General.

§ 35.5 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 35.4(b), the reviewing official determines that there is adequate evidence to believe that a person is liable under § 35.3 of this part, the reviewing official shall transmit to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 35.7.

(b) Such notice shall include—

(1) A statement of the reviewing official's reasons for issuing a complaint;

(2) A statement specifying the evidence that supports the allegations of liability;

(3) A description of the claims or statements upon which the allegations of liability are based;

(4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in violation of § 35.3;

(5) A statement of any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments. Such a statement may be based upon information indicating that the person may be unable to pay such an amount.

§ 35.6 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under § 35.7 only if—

(1) The Department of Justice approves the issuance of a complaint in a written statement described in 31 U.S.C. 3803(b)(1); and

(2) In the case of allegations of liability under § 35.3(a) with respect to a claim, the reviewing official determines that, with respect to such claim or a group of related claims submitted at the same time such claim is submitted (as defined in paragraph (b) of this section), the amount of money or the value of property or services demanded or

requested in violation of § 35.3(a) does not exceed $150,000.

(b) For purposes of this section, a related group of claims submitted at the same time shall include only those claims arising from the same transaction (*e.g.*, grant loan, application, or contract) that are submitted simultaneously as part of a single request, demand or submission.

(c) Nothing in this section shall be construed to limit the reviewing official's authority to join in a single complaint against a person's claims that are unrelated or were not submitted simultaneously, regardless of the amount of money, or the value of property or services, demanded or requested.

§ 35.7 Complaint.

(a) On or after the date the Department of Justice approves the issuance of a complaint in accordance with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the defendant, as provided in § 35.8

(b) The complaint shall state—

(1) The allegations of liability against the defendant, including the statutory basis for liability, an identification of the claims or statements that are the basis for the alleged liability, and the reasons why liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which the defendant may be held liable;

(3) Instructions for filing an answer to request a hearing, including a specific statement of the defendant's right to request a hearing by filing an answer and to be represented by a representative; and

(4) That failure to file an answer within 30 days of service of the complaint will result in the imposition of the maximum amount of penalties and assessments without right to appeal, as provided in § 35.10.

(c) At the same time the reviewing official serves the complaint, he or she shall serve the defendant with a copy of these regulations.

§ 35.8 Service of complaint.

(a) Service of a complaint must be made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure. Service is complete upon receipt.

(b) Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by—

(1) Affidavit of the individual serving the complaint by delivery;

(2) A United States Postal Service return receipt card acknowledging receipt;

(3) Written acknowledgment of receipt by the defendant or his representative; or

(4) In case of service abroad authenticated in accordance with the Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters.

§ 35.9 Answer.

(a) The defendant may request a hearing by filing an answer with the reviewing official within 30 days of service of the complaint. An answer shall be deemed to be a request for hearing.

(b) In the answer, the defendant—

(1) Shall admit or deny each of the allegations of liability made in the complaint;

(2) Shall state any defense on which the defendant intends to rely;

(3) May state any reasons why the defendant contends that the penalties and assessments should be less than the statutory maximum; and

(4) Shall state the name, address and telephone number of the person authorized by the defendant to act as defendant's representative, if any.

(c) If the defendant is unable to file an answer meeting the requirements of paragraph (b) of this section within the time provided, the defendant may, before the expiration of 30 days from service of the complaint, file with the reviewing official a general answer denying liability and requesting a hearing, and a request for an extension of time within which to file an answer meeting the requirements of paragraph (b) of this section. The reviewing official shall file promptly with the ALJ the complaint, the general answer denying liability, and the request for an extension of time as provided in § 35.10. For good cause shown, the ALJ may grant the defendant up to 30 additional days within which to file an answer meeting the requirements of paragraph (b) of this section.

§ 35.10 Default upon failure to file an answer.

(a) If the defendant does not file an answer within the time prescribed in § 35.9(a), the reviewing official may refer the complaint to the ALJ.

(b) Upon the referral of the complaint, the ALJ shall promptly serve on defendant in the manner prescribed in § 35.8, a notice that an initial decision will be issued under the section.

(c) If the defendant fails to answer, the ALJ shall assume the facts alleged in the complaint to be true, and, if such facts established liability under § 35.3, the ALJ shall issue an initial decision imposing the maximum amount of penalties and assessments allowed under the statute.

(d) Except as otherwise provided in this section, by failing to file a timely answer, the defendant waives any right to further review of the penalties and assessments imposed under paragraph (c) of this section, and the initial decision shall become final and binding upon the parties 30 days after it is issued.

(e) If, before such an initial decision becomes final, the defendant files a motion with the ALJ seeking to reopen on the grounds that extraordinary circumstances prevented the defendant from filing an answer, the initial decision shall be stayed pending the ALJ's decision on the motion.

(f) If, on such motion, the defendant can demonstrate extraordinary circumstances excusing the failure to file a timely answer, the ALJ shall withdraw the initial decision in paragraph (c) of this section, if such a decision has been issued, and shall grant the defendant an opportunity to answer the complaint.

(g) A decision of the ALJ denying a defendant's motion under paragraph (e) of this section is not subject to reconsideration under § 35.38.

(h) The defendant may appeal to the authority head, the decision denying a motion to reopen by filing a notice of appeal with the authority head within 15 days after the ALJ denies the motion. The timely filing of a notice of appeal shall stay the initial decision until the authority head decides the issue.

(i) If the defendant files a timely notice of appeal with the authority head, the ALJ shall forward the record of the proceeding to the authority head.

(j) The authority head shall decide expeditiously whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the ALJ.

(k) If the authority head decides that extraordinary circumstances excused the defendant's failure to file a timely answer, the authority head shall remand the case to the ALJ with instructions to grant the defendant an opportunity to answer.

(l) If the authority head decides that the defendant's failure to file a timely answer is not excused, the authority head shall reinstate the initial decision of the ALJ, which shall become final and binding upon the parties 30 days after the authority head issues such decision.

§ 35.11 Referral of complaint and answer to the ALJ.

Upon receipt of an answer, the reviewing official shall file the complaint and answer with the ALJ.

§ 35.12 Notice of hearing.

(a) When the ALJ receives the complaint and answer, the ALJ shall promptly serve a notice of hearing upon the defendant in the manner prescribed by § 35.8. At the same time, the ALJ shall send a copy of such notice to the representative for the Authority.

(b) Such notice shall include—

(1) The tentative time and place, and the nature of the hearing;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The matters of fact and law to be asserted;

(4) A description of the procedures for the conduct of the hearing;

(5) The name, address, and telephone number of the representative of the Government and of the defendant, if any; and

(6) Such other matters as the ALJ deems appropriate.

§ 35.13 Parties of the hearing.

(a) The parties to the hearing shall be the defendant and the Authority.

(b) Pursuant to 31 U.S.C. 3730(c)(5), a private plaintiff under the False Claims Act may participate in these proceedings to the extent authorized by the provisions of that Act.

§ 35.14 Separation of functions.

(a) The investigating official, the reviewing official, and any employee or agent of the authority who takes part in investigating, preparing, or presenting a particular case may not, in such case or a factually related case—

(1) Participate in the hearing as the ALJ;

(2) Participate or advise in the initial decision or the review of the initial decision by the authority head, except as a witness or a representative in public proceedings; or

(3) Make the collection of penalties and assessments under 31 U.S.C. 3806.

(b) The ALJ shall not be responsible to, or subject to the supervision or direction of the investigating official or the reviewing official.

(c) Except as provided in paragrah (a) of this section, the representative for the Government may be employed anywhere in the authority, including in the offices of either the investigating official or the reviewing official.

§ 35.15 Ex parte contacts.

No party or person (except employees of the ALJ's office) shall communicate in any way with the ALJ on any matter at issue in a case, unless on notice and opportunity for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

§ 35.16 Disqualification of reviewing official or ALJ.

(a) A reviewing official or ALJ in a particular case may disqualify himself or herself at any time.

(b) A party may file with the ALJ a motion for disqualification of a reviewing official or an ALJ. Such motion shall be accompanied by an affidavit alleging personal bias or other reason for disqualification.

(c) Such motion and affidavit shall be filed promptly upon the party's discovery of reasons requiring disqualification, or such objections shall be deemed waived.

(d) Such affidavit shall state specific facts that support the party's belief that personal bias or other reason for disqualification exists and the time and circumstances of the party's discovery of such facts. It shall be accompanied by a certificate of the representative of record that it is made in good faith.

(e) Upon the filing of such a motion and affadavit, the ALJ shall proceed no further in the case until he or she resolves the matter of disqualification in accordance with paragraph (f) of this section.

(f) If the ALJ—

(1) Determines that a reviewing official is disqualified, the ALJ shall dismiss the complaint without prejudice;

(2) Disqualifies himself or herself, the case shall be reassigned promptly to another ALJ; or

(3) Denies a motion to disqualify, the authority head may determine the matter only as part of his or her review of the initial decision upon appeal, if any.

§ 35.17 Rights of parties.

Except as otherwise limited by this part, all parties may—

(a) Be accompanied, represented, and advised by a representative;

(b) Participate in any conference held by the ALJ;

(c) Conduct discovery;

(d) Agree to stipulations of fact or law, which shall be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral arguments at the hearing as permitted by the ALJ; and

(h) Submit written briefs and proposed findings of fact and conclusions of law after the hearing.

§ 35.18 Authority of the ALJ.

(a) The ALJ shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The ALJ has the authority to—

(1) Set and change the date, time, and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas to be served within the United States requiring the attendance of witnesses and the production of documents at depositions or at hearings. Subpoenas to be served outside the jurisdiction of the United States shall state on their face the authority therefore;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(13) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(14) Exercise such other authority as is necessary to carry out the responsibilities of the ALJ under this part.

(c) The ALJ does not have the authority to find treaties and other international agreements or federal statutes or regulations invalid.

§ 35.19 Prehearing conferences.

(a) The ALJ may schedule prehearing conferences as appropriate.

(b) Upon the motion of any party, the ALJ shall schedule at least one prehearing conference at a reasonable time in advance of the hearing.

(c) The ALJ may use prehearing conferences to discuss the following:

(1) Simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings, including the need for a more definite statement;

(3) Stipulations and admissions of fact or as to the contents and authenticity of documents;

(4) Whether the parties can agree to submission of the case on a stipulated record;

(5) Whether a party chooses to waive appearance at an oral hearing and to submit only documentary evidence (subject to the objection of other parties) and written argument;

(6) Limitation of the number of witnesses;

(7) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(8) Discovery;

(9) The time and place for the hearing; and

(10) Such other matters as may tend to expedite the fair and just disposition of the proceedings.

(d) The ALJ may issue an order containing all matters agreed upon by the parties or ordered by the ALJ at a prehearing conference.

§ 35.20 Disclosure of documents.

(a) Upon written request to the reviewing official, the defendant may review any relevant and material documents, transcripts, records, and other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under § 35.4(b) are based, unless such materials are subject to a privilege under federal law or classified pursuant to Executive Order. Upon payment of fees for duplication, the defendant may obtain copies of such documents.

(b) Upon written request to the reviewing official, the defendant also may obtain a copy of all exculpatory information in the possession of the reviewing official or investigating official relating to the allegations in the complaint, even if it is contained in a document that would otherwise be privileged. If the document would otherwise be privileged, only that portion containing exculpatory information must be disclosed.

(c) The notice sent to the Attorney General from the reviewing official as described in § 35.5 is not discoverable under any circumstances.

(d) The defendant may file a motion to compel disclosure of the documents subject to the provisions of this section. Such a motion may only be filed with the ALJ following the filing of an answer pursuant to § 35.9.

§ 35.21 Discovery.

(a) The following types of discovery are authorized:

(1) Requests for production of documents for inspection and copying;

(2) Requests for admissions of the authenticity of any relevant document or of the truth of any relevant fact;

(3) Written interrogatories; and

(4) Depositions.

(b) For the purpose of this section and §§ 35.22 and 35.23, the term "documents" includes information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence. Nothing contained herein shall be interpreted to require the creation of a document.

(c) Unless mutually agreed to by the parties, discovery is available only as ordered by the ALJ. The ALJ shall regulate the timing of discovery.

(d) Motions for discovery. (1) A party seeking discovery may file a motion with the ALJ. Such a motion shall be accompanied by a copy of the requested discovery, or in the case of depositions, a summary of the scope of the proposed deposition.

(2) Within ten days of service, a party may file an opposition to the motion and/or a motion for protective order as provided in § 35.24.

(3) The ALJ may grant a motion for discovery only if he finds that the discovery sought—

(i) Is necessary for the expeditious, fair, and reasonable consideration of the issues;

(ii) Is not unduly costly or burdensome;

(iii) Will not unduly delay the proceeding; and

(iv) Does not seek privileged or classified information.

(4) The burden of showing that discovery should be allowed is on the party seeking discovery.

(5) The ALJ may grant discovery subject to a protective order under § 35.24.

(e) Depositions. (1) If a motion for deposition is granted, the ALJ shall issue a subpoena for the deponent, which may require the deponent to produce documents. The subpoena shall specify the time and place at which the deposition will be held.

(2) The party seeking to depose shall serve the subpoena in the manner prescribed in § 35.8.

(3) The deponent may file with the ALJ a motion to quash the subpoena or a motion for a protective order within ten days of service.

(4) The party seeking to depose shall provide for the taking of a verbatim transcript of the deposition, which it shall make available to all other parties for inspection and copying.

(f) Each party shall bear its own costs of discovery.

§ 35.22 Exchange of witness lists, statements and exhibits.

(a) At least 15 days before the hearing or at such other time as may be ordered by the ALJ, the parties shall exchange witness lists, copies of prior statements of proposed witnesses, and copies of proposed hearing exhibits, including copies of any written statements that the party intends to offer in lieu of live testimony in accordance with § 35.33(b). At the time the above documents are exchanged, any party that intends to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, if permitted by the ALJ, shall provide each party with a copy of the specific pages of the transcript it intends to introduce into evidence.

(b) If a party objects, the ALJ shall not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party as provided above unless the ALJ finds good cause for the failure or that there is no prejudice to the objecting party.

(c) Unless another party objects within the time set by the ALJ, documents exchanged in accordance with paragraph (a) of this section shall be deemed to be authentic for the purpose of admissibility at the hearing.

§ 35.23 Subpoenas for attendance at hearing.

(a) A party wishing to procure the appearance and testimony of any individual at the hearing may request that the ALJ issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to produce documents at the hearing.

(c) A party seeking a subpoena shall file a written request therefore not less than 15 days before the day fixed for the hearing unless otherwise allowed by the ALJ for good cause shown. Such request shall specify any documents to be produced and shall designate the witnesses and describe the address and location thereof with sufficient particularity to permit such witness to be found.

(d) The subpoena shall specify the time and place at which the witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena shall serve it in the manner prescribed in § 35.8. A subpoena on a party or upon

an individual under the control of a party may be served within the United States by first class mail.

(f) A party or the individual to whom the subpoena is directed may file with the ALJ a motion to quash the subpoena within ten days after service or on or before the time specified in the subpoena for compliance if it is less than ten days after service.

§ 35.24 Protective order.

(a) A party or a prospective witness or deponent may file a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) In issuing a protective order, the ALJ may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery not be had;

(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) That the discovery may be had only through a method of discovery other than that requested;

(4) That certain matters not be inquired into, or that the scope of discovery be limited to certain matters;

(5) That discovery be conducted with on one present except persons designated by the ALJ;

(6) That the contents of discovery or evidence be sealed;

(7) That a deposition after being sealed be opened only by order of the ALJ;

(8) That a trade secret or other confidential research, development, commercial information, classified material, or facts pertaining to any criminal investigation, proceeding, or other administrative investigation not be disclosed or be disclosed only in a designated way; or

(9) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the ALJ.

§ 35.25 Fees.

The party requesting a subpoena shall pay the cost of the fees and mileage of any witness subpoenaed in the amounts that would be payable to a witness in a proceeding in the United States District Court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is isued on behalf of the authority, a check for witness fees and mileage need not accompany the subpoena.

§ 35.26 Form, filing and service of papers.

(a) *Form.* (1) Documents filed with the ALJ shall include an original and two copies.

(2) Every pleading and paper filed in the proceeding shall contain a caption setting forth the title of the action, the case number assigned by the ALJ, a designation of the paper (*e.g.*, motion to quash subpoena), and shall be in English or accompanied by an English translation.

(3) Every pleading and paper shall be signed by, and shall contain the address and telephone number of the party or the person on whose behalf the paper was filed, or his or her representative.

(4) Papers are considered filed when they are mailed. Date of mailing may be established by a certificate from the party or its representative or by proof that the document was sent by certified or registered mail.

(b) *Service.* A party filing a document with the ALJ shall, at the time of filing, serve a copy of such document on every other party. Service upon any party of any document other than the complaint or notice of hearing, shall be made by delivering or mailing a copy to the party's last known address. When a party is represented by a representative, service shall be made upon such representative in lieu of the actual party.

(c) *Proof of service.* A certificate of the individual serving the document by personal delivery or by mail, setting forth the manner of service, shall be proof of service.

§ 35.27 Computation of time.

(a) In computing any period of time under this part or in an order issued thereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government, in which event it includes the next business day.

(b) When the period of time allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal Government shall be excluded from the computation.

(c) Where a document has been served or issued by mail, or by airmail abroad, an additional five days will be added to the time permitted for any response.

§ 35.28 Motions.

(a) Any application to the ALJ for an order or ruling shall be by motion. Motions shall state the relief sought, the authority relied upon, and the facts alleged, and shall be filed with the ALJ and served on all other parties.

(b) Except for motions made during a prehearing conference or at the hearing, all motions shall be in writing. The ALJ may require that oral motions be reduced to writing.

(c) Within 15 days after a written motion is served, or such other time as may be fixed by the ALJ, any party may file a response to such motion.

(d) The ALJ may not grant a written motion before the time for filing responses thereto has expired, except upon consent of the parties or following a hearing on the motion, but may overrule or deny such motion without awaiting a response.

(e) The ALJ shall make a reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

§ 35.29 Sanctions.

(a) The ALJ may sanction a person, including any party or representative for—

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Any such sanction, including but not limited to those listed in paragraphs (c), (d), and (e) of this section, shall reasonably relate to the severity and nature of the failure or misconduct.

(c) When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the ALJ may—

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon, testimony relating to the information sought; and

(4) Strike any part of the pleadings or other submissions of the party failing to comply with such request.

(d) If a party fails to prosecute or defend an action under this part commenced by service of a notice of hearing, the ALJ may dismiss the action or may issue an initial decision imposing penalties and assessments.

(e) The ALJ may refuse to consider any motion, request, response, brief or

other document which is not filed in a timely fashion.

§ 35.30 The hearing and burden of proof.

(a) The ALJ shall conduct a hearing on the record in order to determine whether the defendant is liable for a civil penalty or assessment under § 35.3 and, if so, the appropriate amount of any such civil penalty or assessment considering any aggravating or mitigating factors.

(b) The authority shall prove defendant's liability and any aggravating factors by a preponderance of the evidence.

(c) The defendant shall prove any affirmative defenses and any mitigating factors by a preponderance of the evidence.

(d) The hearing shall be open to the public unless otherwise ordered by the ALJ for good cause shown.

§ 35.31 Determining the amount of penalties and assessments.

(a) In determining an appropriate amount of civil penalties and assessments, the ALJ and the authority head, upon appeal, should evaluate any circumstances that mitigate or aggravate the violation and should articulate in their opinions the reasons that support the penalties and assessments they impose. Because of the intangible costs of fraud, the expense of investigating such conduct, and the need to deter others who might be similarly tempted, ordinarily double damages and a significant civil penalty should be imposed.

(b) Although not exhaustive, the following factors are among those that may influence the ALJ and the authority head in determining the amount of penalties and assessments to impose with respect to the misconduct (*i.e.*, the false, fictitious, or fraudulent claims or statements) charged in the complaint:

(1) The number of false, fictitious, or fraudulent claims or statements;

(2) The time period over which such claims or statements were made;

(3) The degree of the defendant's culpability with respect to the misconduct;

(4) The amount of money or the value of the property, services, or benefit falsely claimed;

(5) The value of the Government's actual loss as a result of the misconduct, including foreseeable consequential damages and the costs of investigation;

(6) The relationship of the amount imposed as civil penalties to the amount of the Government's loss;

(7) The potential or actual impact of the misconduct upon national defense, public health or safety, or public confidence in the management of government programs and operations, including particularly the impact on the intended beneficiaries of such programs;

(8) Whether the defendant has engaged in a pattern of the same or similar misconduct;

(9) Whether the defendant attempted to conceal the misconduct;

(10) The degree to which the defendant has involved others in the misconduct or in concealing it;

(11) Where the misconduct of employees or agents is imputed to the defendant, the extent to which the defendant's practices fostered or attempted to preclude such misconduct;

(12) Whether the defendant cooperated in or obstructed an investigation of the misconduct;

(13) Whether the defendant assisted in identifying and prosecuting other wrongdoers;

(14) The complexity of the program or transaction, and the degree of the defendant's sophistication with respect to it, including the extent of the defendant's prior participation in the program or in similar transactions;

(15) Whether the defendant has been found, in any criminal, civil, or administrative proceeding to have engaged in similar misconduct or to have dealt dishonestly with the Government of the United States or of a state, directly or indirectly; and

(16) The need to deter the defendant and others from engaging in the same or similar misconduct.

(c) Nothing in this section shall be construed to limit the ALJ or the authority head from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

§ 35.32 Location of hearing.

(a) The hearing may be held—

(1) In any judicial district of the United States in which the defendant resides or transacts business;

(2) In any judicial district of the United States in which the claim or statement in issue was made; or

(3) In such other place within the United States as may be agreed upon by the defendant and the ALJ.

(b) Each party shall have the opportunity to present argument with respect to the location of the hearing.

(c) The hearing shall be held at the place and at the time ordered by the ALJ.

§ 35.33 Witnesses.

(a) Except as provided in paragraph (b) of this section, testimony at the hearing shall be given orally by witnesses under oath or affirmation.

(b) At the discretion of the ALJ, testimony may be admitted in the form of a written statement or deposition. Any such written statement must be provided to all other parties along with the last known address of such witness, in a manner which allows sufficient time for other parties to subpoena such witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts shall be exchanged as provided in § 35.22(a).

(c) The ALJ shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence in order to make—

(1) The interrogation and presentation effective for the ascertainment of the truth;

(2) To avoid needless consumption of time; and

(3) To protect witnesses from harassment or undue embarrassment.

(d) The ALJ shall permit the parties to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(e) At the discretion of the ALJ, a witness may be cross-examined on matters relevant to the proceeding without regard to the scope of his or her direct examination. To the extent permitted by the ALJ, cross-examination on matters outside the scope of direct examination shall be conducted in the manner of direct examination and may proceed by leading questions only if the witness is a hostile witness, an adverse party, or a witness identified with an adverse party.

(f) Upon motion of any party, the ALJ shall order witnesses excluded so that they cannot hear the testimony of other witnesses. This rule does not authorize exclusion of—

(1) A party who is an individual;

(2) In the case of a party that is not an individual, an officer or employee of the party designated by the party's representative; or

(3) An individual whose presence is shown by a party to be essential to the presentation of its case, including an individual employed by the Government engaged in assisting the representative for the Government.

§ 35.34 Evidence.

(a) The ALJ shall determine the admissibility of evidence.

(b) Except as provided herein, the ALJ shall not be bound by the Federal Rules of Evidence. However, the ALJ may apply the Federal Rules of Evidence where appropriate, *e.g.*, to exclude unreliable evidence.

(c) The ALJ shall exclude irrelevant and immaterial evidence.

(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay or needless presentation of cumulative evidence.

(e) Although relevant, evidence may be excluded if it is classified or otherwise privileged under Federal law.

(f) Evidence concerning offers or compromise or settlement shall be inadmissible to the extent provided in Rule 408 of the Federal Rules of Evidence.

(g) The ALJ shall permit the parties to introduce rebuttal witnesses and evidence.

(h) All documents and other evidence offered or taken for the record shall be open to examination by all parties, unless otherwise ordered by the ALJ pursuant to § 35.24.

§ 35.35 The record.

(a) The hearing will be recorded and transcribed. Transcripts may be obtained following the hearing from the ALJ at a cost not to exceed the actual cost of duplication.

(b) The transcript of testimony, exhibits and other evidence admitted at the hearing, and all papers and requests filed in the proceeding constitute the record for the decision by the ALJ and the authority head.

(c) The record may be inspected and copied (upon payment of a reasonable fee) by anyone, unless otherwise ordered by the ALJ pursuant to § 35.24.

§ 35.36 Post-hearing briefs.

The ALJ may require the parties to file post-hearing briefs. In any event, any party may file a post-hearing brief. The ALJ shall fix the time for filing such briefs, not to exceed 60 days from the date the parties receive the transcript of the hearing or, if applicable the stipulated record. Such briefs may be accompanied by proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

§ 35.37 Initial decision.

(a) The ALJ shall issue an initial decision based only on the record, which shall contain findings of fact, conclusions of law, and the amount of any penalties and assessments imposed.

(b) The findings of fact shall include a finding on each of the following issues:

(1) Whether the claims or statements identified in the complaint, or any portions thereof, violate § 35.3; and

(2) If the person is liable for penalties or assessments, the appropriate amount of any such penalties or assessments considering any mitigating or aggravating factors that he or she finds in the case, such as those described in § 35.31.

(c) The ALJ shall promptly serve the initial decision on all parties within 90 days after the time for submission of post-hearing briefs and reply briefs (if permitted) has expired. The ALJ shall at the same time serve all defendants with a statement describing the right of any defendant determined to be liable for a civil penalty or assessment to file a motion for reconsideration with the ALJ or a notice of appeal with the authority head. If the ALJ fails to meet the deadline contained in this paragraph, he or she shall notify the parties of the reason for the delay and shall set a new deadline.

(d) Unless the initial decision of the ALJ is timely appealed to the authority head, or a motion for reconsideration of the initial decision is timely filed, the initial decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued by the ALJ.

§ 35.38 Reconsideration of initial decision.

(a) Except as provided in paragraph (d) of this section, any party may file a motion for reconsideration of the initial decision within 20 days of receipt of the initial decision. If service was made by mail within the United States, receipt will be presumed to be five days from the date of mailing in the absence of contrary proof.

(b) Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Such motion shall be accompanied by a supporting brief.

(c) Responses to such motions shall be allowed only upon request of the ALJ.

(d) No party may file a motion for reconsideration of an initial decision that has been revised in response to a previous motion for reconsideration.

(e) The ALJ may dispose of a motion for reconsideration by denying it or by issuing a revised initial decision.

(f) If the ALJ denies a motion for reconsideration of the initial decision, the initial decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after the ALJ denies the motion, unless the initial decision is timely appealed to the authority head in accordance with § 35.39.

(g) If the ALJ issues a revised initial decision, that decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued, unless it is timely appealed to the authority head in accordance with § 35.39.

§ 35.39 Appeal to authority head.

(a) Any defendant who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal such decision to the authority head by filing a notice of appeal with the authority head in accordance with this section.

(b) (1) No notice of appeal may be filed until the time period for filing a motion for reconsideration under § 35.38 has expired.

(2) If a motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ denies the motion or issues a revised initial decision, whichever applies.

(3) If no motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ issues the initial decision.

(4) The authority head may extend the initial 30-day period for an additional 30 days if the defendant files with the authority head a request for an extension within the initial 30-day period and shows good cause.

(c) If the defendant files a timely notice of appeal with the authority head and the time for filing motions for reconsideration under § 35.38 has expired, the ALJ shall forward the record of the proceeding to the authority head.

(d) A notice of appeal shall be accompanied by a written brief specifying exceptions to the initial decision and reasons supporting the exceptions.

(e) The representative for the Government may file a brief in opposition to exceptions within 30 days of receiving the notice of appeal and accompanying brief.

(f) There is no right to appear personally before the authority head.

(g) There is no right to appeal any interlocutory ruling by the ALJ.

(h) In reviewing the initial decision, the authority head shall not consider any objection that was not raised before the ALJ unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the authority head that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the authority head shall remand the matter to the ALJ for consideration of such additional evidence.

(j) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment, determined by the ALJ in any initial decision.

(k) The authority head shall promptly serve each party to the appeal with a copy of the decision of the authority head and a statement describing the right of the defendant to seek judicial review.

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the authority head serves the defendant with a copy of the authority head's decision, a determination that a defendant is liable under § 35.3 is final and is not subject to judicial review.

§ 35.40 Stays ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the authority head a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the authority head shall stay the process immediately. The authority head may order the process resumed only upon receipt of the written authorization of the Attorney General.

§ 35.41 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the authority head.

(b) No administrative stay is available following a final decision of the authority head.

§ 35.42 Judicial review.

Section 3805 of title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the authority head imposing penalties or assessments under this part and specifies the procedures for such review.

§ 35.43 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

§ 35.44 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 35.42 or § 35.43, or any amount agreed upon in a compromise or settlement under § 35.46, may be collected by administrative offset under 31 U.S.C. 3717, except that an administrative offset may not be made under this subsection against a refund of an overpayment of federal taxes, then or later owing by the United States to the defendant.

§ 35.45 Deposit in Treasury of United States.

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

§ 35.46 Compromise or settlement.

(a) Parties may make offers of compromise or settlement at any time.

(b) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.

(c) The authority head has exclusive authority to compromise or settle a case under this part at any time after the date on which the ALJ issues an initial decision, except during the pendency of any review under § 35.42 or during the pendency of any action to collect penalties and assessments under § 35.43.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 35.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(e) The investigating official may recommend settlement terms to the reviewing official, the authority head, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the authority head, or the Attorney General, as appropriate.

(f) Any compromise or settlement must be in writing.

§ 35.47 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 35.8 within six years after the date on which such claim or statement is made.

(b) If the defendant fails to file a timely answer, service of notice under § 35.10(b) shall be deemed a notice of hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

Dated: October 30, 1989.

Jill E. Kent,

Acting Under Secretary for Management.

[FR Doc. 89-25935 Filed 11-2-89; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Reg. 6010.8-R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Revisions to CHAMPUS Peer Review Organization Program; Accommodation of Voluntary Discounts Under Provider Reimbursement Methods

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed Rule.

SUMMARY: This proposed rule would make a series of revisions to the CHAMPUS (PRO) Program, including the addition of procedures pertinent to preauthorization of some hospital admissions. The proposed rule would also clarify the authority of CHAMPUS to accommodate discounts from health care providers under provider reimbursement methods, including voluntary discounts from prospectively determined DRG based or per diem based payment rates.

DATE: Written comments on this proposed rule are due by December 4, 1989.

ADDRESS: Comments should be sent to: Office of the Assistant Secretary of Defense for Health Affairs (Health Program Management), The Pentagon, Washington, DC 20301-1200.

FOR FURTHER INFORMATION CONTACT: With respect to the PRO program: Nancy Gidley at (202)695 5016; and with respect to the accommodation of discounts: LCDR Arthur Miller, USN, at (202)695-3331.

SUPPLEMENTARY INFORMATION:

I. Introduction

This proposed rule has two substantive parts: the first proposes to make a series of refinements to the CHAMPUS Peer Review Organization (PRO) program, and the second proposes to clarify authority of OCHAMPUS to accommodate voluntary discounts from health care providers under provider reimbursement methods. These are discussed below in turn.

II. Peer Review Organization (PRO) Program Refinements

A. Background

When CHAMPUS instituted its DRG-based payment system at the beginning of fiscal year 1988, it also created authority in the CHAMPUS regulation for a program of utilization of quality review of hospital care covered by the DRG system. On March 6, 1989, CHAMPUS issued a final rule supplementing the rules and procedures initially established with a series of provisions essentially designed to flesh out the CHAMPUS PRO program in ways conforming to the operations of the Medicare PRO program.

The provisions of this proposed rule concerning the PROs represent a next step in the process of refining the program, with the major theme continuing to be to maintain consistency with the rules and procedures of the Medicare PRO program. This key theme is based on our continued belief that it is in the best interest of beneficiaries, hospitals, providers, PROs and CHAMPUS for us to take advantage of the requirements and procedures that have been worked out by Congress and the Department of Health and Human Services for the Medicare PRO program.

This policy has recently been endorsed by the Senate in a provision pending final Congressional approval. It states:

> The Secretary of Defense may by regulation adopt any quality and utilization review requirements and procedures in effect for the Peer Review Organization program under title XVIII of the Social Security Act (Medicare) that the Secretary determines necessary, and may adapt the Medicare requirements and procedures to the circumstances of the CHAMPUS PRO program as the Secretary determines appropriate.

H.R. 3072, section 9091 (Senate version).

This provision, based on a legislative proposal of the Department of Defense, will, if enacted, provide statutory endorsement of our program and reinforce our statutory authority.

B. Provisions of Proposed Rule

The specific provisions of this proposed rule are in the nature of refinements to our existing regulation. There are no major new policy directions. A summary of the various changes follows.

1. *Limitation on financial liability in certain cases.* Currently, the regulation (section 199.4(h)) includes provisions, like those applicable to Medicare, under which beneficiaries are generally protected from financial liability for medical care determined by the PRO to have been provided unnecessarily. In some cases, providers may also be protected if they had not learned of the PRO's review standards or otherwise could not reasonably have been expected to know the care provided was excludable as unnecessary care. The proposed revision to section § 199.4(h)(1) clarifies that these limitations on liability rules apply only to the PRO program activities; they do not apply to normal medical benefit coverage issues that occur from time to time.

This clarification conforms with the Medicare rule (see 42 CFR 466.86(c)). It recognizes the distinction between those matters on which the controlling issue for CHAMPUS payment is the PRO's determination—based on medical judgment of medical necessity—versus those cases in which the controlling issues are CHAMPUS rules and interpretations regarding what care is covered by the CHAMPUS program.

2. *Recodification of Provisions regarding PRO Program.* The regulatory provisions pertinent to the operations of the PRO program have been set forth as a part of the group of provisions in section 199.14, Provider Reimbursement Methods, pertaining to the DRG based payment system. To more accurately reflect the applicability of dimensions of the PRO program and to facilitate comprehension of the regulation, we propose to recodify the existing PRO regulatory provisions, set forth as paragraph (a)(1)(iv) of § 199.14, as a new § 199.15 of the CHAMPUS regulation. The description of the proposed revisions, below, refers to the new section designation and, where applicable, the old.

3. *Regulatory guidance.* In the introductory paragraph applicable to the PRO program (new § 199.15(a); old § 199.14(a)(1)(iv)), we propose to add a general statement that in applying the rule, we will be guided by established Medicare PRO rules and procedures. This is consistent with the approach we have taken since initiating the PRO program. We hope that including this statement in the regulation will provide useful guidance to interested parties.

4. *Preadmission review procedures.* Our regulation had previously not referenced those provisions of Medicare's regulation governing cases subject to preadmission review by the PRO. We propose, in new § 199.15(c)(5), to incorporate by reference the provisions of Medicare's 42 CFR 466.78(b) (5)–(7). In summary, these provisions establish that for cases covered by any PRO preadmission review requirements: hospitals have a responsibility to obtain preadmission approval; hospitals agree that if they fail to obtain preadmission approval for care the PRO later determines was unnecessary, the hospital will generally be financially liable; and hospitals agree that if they fail to obtain preadmission approval, the care is subject to PRO prepayment review. Adoption of these Medicare procedures is reasonable and appropriate to establish ground rules for the initiation of a preadmission review activity under the CHAMPUS PRO program.

It is our view that preadmission review of selected inpatient admissions, and perhaps some other services, will be preferable to retrospective review. It is preferable from the standpoint of beneficiaries because it protects them from unnecessary hospital stays or procedures and it provides independent verification of the necessity of approved care. It is better for providers because it protects them from incurring costs for care that may later be denied and it provides continuous education on what is appropriate and what is not. Preadmission review is less expensive for the PROs than retrospective review. And from the viewpoint of CHAMPUS, it is likely to be more effective in assuring the provision of necessary care while discouraging care that may not be necessary or could be provided at a level more economical for both the beneficiary and the program.

As a result of instituting preadmission review, we expect CHAMPUS will move more into line with increasingly strong trends in the medical community of shifting some selected types of care from expensive hospitalizations to the more economical outpatient care setting. Medicare has also moved in this direction, now requiring each PRO to conduct preadmission review on at least 10 procedures. At this time, the precise dimensions of our preadmission review activity are under development. We expect to provide detailed information about this activity later this fall and expect to have it become operational beginning early next year. For purposes of this proposed rule, however, the focus is on the establishment of the basic ground rules that will apply.

5. *PRO review of non-DRG covered services.* Our current PRO program regulatory provisions are perhaps less clear than they might be on PRO review of services not covered by the DRG-based payment system. Consistent with the context of the initial development of the PRO program, as well as its continuing emphasis, much of our PRO program regulation is addressed to review of DRG covered hospital care. Other provisions of our regulation, such

as those applicable to sanction procedures, apply to all providers.

However, just as the Medicare program has moved into PRO review of other types of care, such as certain ambulatory procedures, our policy is to have in place the basic regulatory authorities and procedures to permit PRO review of all CHAMPUS services, allowing PRO review to be activated when necessary and appropriate. This policy recognizes that the underlying substantive requirement of assuring consistency with prevailing standards of quality and medical necessity applies to all CHAMPUS care; the PRO program is one procedural system to implement that requirement. To clarify this basic approach, we propose to add to our regulation a provision (new § 199.15(f)) stating that if the Director of OCHAMPUS decides to activate PRO program review (using the same PROs or other similar organizations) of services not covered by the DRG based payment system, the basic rules and procedures of the regulations will apply. To the extent some technical or procedural provisions would need to be adapted to the circumstances of that type of health care service, that could be done as long as substantive comparability with the regular DRG-related provisions is maintained. Similarly, the proposed provision further states that some services that are covered by the DRG-based payment system, but that also have other special circumstances, could be the subject of technical or procedural adjustments.

To illustrate the purpose and effect of this section, if OCHAMPUS decides to activate PRO program review of certain ambulatory surgical procedures, all the basic requirements concerning PRO authorities, applicable remedies, limitations on financial liability, due process rights and the like would be applicable. However, certain procedural steps applicable to DRG-covered hospital care, such as expedited review procedures to protect against premature discharges, would not be necessary. As another example, medical care services being provided under a special set of circumstances, such as a model similar to a pre-paid health care system (for example, a Health Maintenance Organization), could raise a different set of quality and utilization issues, even if covered by the DRG based hospital payment system. The proposed regulatory provision would clarify the authority and intent of CHAMPUS to adopt procedural adjustments appropriate to the circumstances presented. But again, by way of securing all substantive rights and obligations, all such technical or procedural adjustments must maintain substantive comparability with the regular procedures.

6. *Appeals and hearings.* Our current regulation (old § 199.14(a)(1)(iv)(G)) states that providers (unlike beneficiaries) may not appeal to OCHAMPUS reconsidered determinations of PROs. In adopting this provision, we intended to follow the Medicare practice. We failed to note, however, that under Medicare (42 CFR 473.14(c)(2)), providers may appeal adverse decisions on an issue of whether the provider knew or could reasonably have been expected to know the services were excludable by the PRO in connection with limitation of liability decisions. This is not inconsistent with the underlying policy thrust of accepting PRO reconsidered determinations on matters of medical judgment; this type of issue involves, not medical judgments, but administrative matters, such as reasonable notice and the like.

We propose (new § 199.15(i)(2)&(3)) to adopt the same approach as applies under Medicare: PRO reconsidered determinations regarding limitations of liability are appealable by providers to OCHAMPUS.

7. *Qualified immunity for peer reviewers.* Under our current regulation (old § 199.14(a)(1)(iv)(I)), a person who performs CHAMPUS PRO functions has the same qualified civil immunity, as applies to the external civilian peer review program that reviews care in military hospitals. This is pursuant to 10 U.S.C. 1102, which provides for confidentiality of records and qualified immunity under all DoD quality assurance program activities.

As additional authority for assuring immunity for good faith PRO program participation, we propose to add to our regulation adoption of the requirement of section 1157 of the Social Security Act (42 U.S.C. 1320c-6), the federal statute assuring immunity under the Medicare PRO program. This is set forth in our proposed new § 199.15(k).

8. *Obligations, sanctions and procedures.* Our current regulation (§ 199.14(a)(1)(iv)(J)) incorporates by reference the provisions of section 1156(a) of the Social Security Act (42 U.S.C. 1320c-5(a)) regarding provider obligations, sanctions and procedures under the Medicare PRO program. Without changing the effect of the regulation, we propose to revise this provision (new § 199.15(m)) to incorporate the Medicare regulation, 42 CFR 1004.1-1004.80, corresponding to the statutory provision. In other words, we are simply changing our reference from the Medicare statute to the appropriate Medicare regulation. Consistent with our intent regarding many other provisions of our regulation, our hope is that this will facilitate understanding of the CHAMPUS PRO procedures.

In addition, we propose to add to our provision regarding obligations and sanctions an obligation comparable to 42 U.S.C. 1395ww(f)(2). That section states that, under Medicare, if a hospital is determined through the PRO program to be attempting to circumvent the PPS system, payments may be denied or other corrective actions required. Our proposed new paragraph § 199.15(m)(2) would establish the same rule for CHAMPUS. Any hospital affected by this provision has appeal rights to OCHAMPUS.

III. Accommodation of Discounts

A. *Background.* As discussed above, at the beginning of Fiscal Year 1988, CHAMPUS began to pay for most inpatient hospital care on the basis of diagnosis related groups (DRGs). In fiscal year 1989, the DRG based payment system was extended to several additional categories of care and a separate prospective payment method, one using set per diem rates, was instituted for reimbursing psychiatric hospitals and units. Under these payment systems, even if a provider's billed charges would be greater than the set payment amounts, reimbursement under CHAMPUS will be at the applicable established payment amount.

Questions have recently arisen regarding whether providers may seek reimbursements *less than* the prospectively determined rates, whether DRG-based, per diem or other system, as part of a program to offer discounted rates. One context in which this has arisen is in connection with the Air Force "Health Care Finder" program, under which providers are asked to, at a minimum, accept assignment for all CHAMPUS claims. Some providers, including institutional providers normally paid on the basis of pre-set standard rates, have indicated an interest in an arrangement whereby they would provide CHAMPUS services at a rate less than the applicable DRG or per diem rate Presumably, such providers would see their number of CHAMPUS patients increase.

The Department of Defense is developing plans to expand programs similar to the Health Care Finder by establishing a DoD-wide "Participating Provider Program." Under this program, individual and institutional providers will be given the opportunity to become

Participating Providers, meaning that they will, at a minimum, always accept the CHAMPUS allowable payment rates and will handle the claims paperwork for the beneficiaries. Military facility Health Benefits Advisors, CHAMPUS Fiscal Intermediaries and others will make lists of Participating Providers widely available to beneficiaries.

We expect that in connection with the Participating Provider Program, some providers, including institutional providers, would welcome the opportunity to offer discounts below the usual fixed rate (for example, DRG or per diem rate) or prevailing charge level (such as for physicians' fees). It is in recognition of this that we propose this amendment to the CHAMPUS regulation.

B. Provisions of Proposed Rule

The proposed rule would simply clarify, in proposed new § 199.14 (a)(4) and (i), the authority of the Director of CHAMPUS to reimburse a provider, including an institutional provider, at an amount below the amount usually paid under the regulation's provider reimbursement methods when, under a program approved by the Director, the provider has agreed to the lower amount. In the case of physicians and other noninstitutional providers, the normal rule is the allowed charge is the lesser of the billed charge or the prevailing charge level. If a discounted fee is below the provider's normal billed charge and the normal prevailing charge level, the discounted fee will be deemed to be the true billed charge. In the case of institutional providers normally paid on the basis of a pre-set amount (such as DRG-based amount or per-diem amount), reimbursement will be at the lower amount as an exception to the usual rule that the pre-set rate is paid regardless of the institutional provider's normal billed charges.

The proposed rule would also clarify, in proposed new § 199.4(f)(8), that in cases in which special discount arrangements are recognized for purposes of provider reimbursements, they may be comparably recognized for purposes of the beneficiary's cost-sharing amount. In other words, the Director of OCHAMPUS will have authority to assure that beneficiaries also benefit from any discount arrangements that might be made.

These new authorities only apply to circumstances when both the provider and the Director have agreed to the discounted payment rate The Director's agreement may be in the context of approval of a program (such as the Participating Provider Program) that allows for such discounts. The Director of OCHAMPUS may establish uniform terms, conditions and limitations for this payment method in order to avoid administrative complexity.

As an example of the operation of this proposed rule. suppose a hospital and all the individual providers affiliated with that hospital decide, under an official DoD program approved by the Director of OCHAMPUS, to offer a 10% discount for CHAMPUS care. Regarding the hospital payment, assume that for the inpatient care of a retired member the normal DRG-based payment amount would be $8,000 for the admission and the normal beneficiary copayment (based on the copayment per diem amount times the number of days of care) would be $2,000. Regarding the professional fees, assume the total billed charges are $2,900 and the prevailing charge levels for all of the procedures performed total to $3,000.

Applying the discounts would result in a payment amount of $7,200 (rather than $8,000) to the hospital. The beneficiary's copayment for the hospital charges would be $1,800 (the normal copayment of $2,000, reduced by the discount percentage of 10%). Regarding the professional fees, taking 10% off the prevailing charge levels produces a total maximum payment of $2,700. Because these fees are lower than the usual billed charges, the lower amounts are treated as the actual billed charges and become the basis for payments (both the CHAMPUS share and beneficiary share) to the professional providers.

The proposed rule would allow discounts such as these to be offered by providers and be accommodated within the CHAMPUS provider reimbursement methods as exceptions to the usual calculations.

IV. Regulatory Procedures

With respect to regulatory procedures, this proposed rule involves primarily a series of refinements and clarifications. Therefore, it is not a major rule within the scope of Executive Order 12291. In addition, we certify that this proposed rule will not have a significant impact on small entities within the scope of the Regulatory Flexibility Act. Also, there are no Paperwork Reduction Act implications concerning this proposed rule.

We welcome public comments on this proposed rule. We are simultaneously seeking comments from other interested components of DoD and other agencies. We anticipate publication of a final rule in approximately 60 days, which would take effect 30 days thereafter.

List of Subjects in 32 CFR Part 199

Claims, Health insurance, Military personnel.

For the reasons set forth in the preamble, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

The authority citation for Part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, 5 U.S.C. 301.

2. Section 199.4 is amended by adding at the end of paragraph (f) a new paragraph (8), by revising the first sentence of paragraph (h)(1), and by adding a new sentence at the end of paragraph (h)(1), to read as follows:

§ 199.4 Basic Program Benefits.

* * * * *

(f) *Beneficiary or sponsor liability.*

* * *

(8) *Cost-sharing for services provided under special discount arrangements*—(i) *General rule.* With respect to services determined by the Director, OCHAMPUS (or designee) to be covered by § 199.14(i), the Director, OCHAMPUS (or designee) has authority to establish, as an exception to the cost-sharing amount normally required pursuant to this section, a different cost-share amount that appropriately reflects the application of the statutory cost share to the discount arrangement.

(ii) *Specific applications.* The following are examples of applications of the general rule; they are not all inclusive.

(A) In the case of services provided by individual health care professionals and other noninstitutional providers, the cost-share shall be the usual percentage of the CHAMPUS allowable charge determined under § 199.14(i).

(B) In the case of services provided by institutional providers normally paid on the basis of a pre-set amount (such as DRG-based amount under § 199.14(a)(1) or per diem amount under § 199.14(a)(2)), if the discount rate is lower than the pre-set rate, the cost-share amount that would apply for a beneficiary other than an active duty dependent pursuant to the normal pre-set rate would be reduced by the same percentage by which the pre-set rate was reduced in setting the discount rate.

* * * * *

(h) *Payment and liability for certain potentially excludable services under the Peer Review Organization program*—(1) *Applicability.* This subsection provides special rules that apply only to services retrospectively determined under the Peer Review

Organization (PRO) program (operated pursuant to section 199.15) to be potentially excludable (in whole or in part) from the basic program under paragraph (g) of this section. * * * This paragraph does not apply to coverage determinations made by OCHAMPUS or the fiscal intermediaries which are not based on medical necessity determinations made under the PRO program.

* * * * *

3. Section 199.14 is amended by adding a new paragraph (a)(4) by redesignating the second paragraph (h) as paragraph (j), by redesignating paragraph (i) and newly redesignated paragraph (j) as paragraphs (j) and (k), and by adding a new paragraph (i), to read as follows:

§ 199.14 Provider Reimbursement Methods.

(a) *Hospitals.* The CHAMPUS determined allowable cost for reimbursement of a hospital shall be determined on the basis of one of the following methodologies.

* * * * *

(4) *CHAMPUS discount rates.* The CHAMPUS-determined allowable cost for authorized care in any hospital may be based on discount rates established under paragraph (i) of this section.

* * * * *

(i) *Accommodation of discounts under provider reimbursement methods*—(1) *General rule.* The Director, OCHAMPUS (or designee) has authority to reimburse a provider at an amount below the amount usually paid pursuant to this section when, under a program approved by the Director, the provider has agreed to the lower amount.

(2) *Special applications.* The following are examples of applications of the general rule; they are not all inclusive.

(i) In the case of individual health care professionals and other noninstitutional providers, if the discounted fee is below the provider's normal billed charge and the prevailing charge level (see paragraph (g) of this section), the discounted fee shall be the provider's actual billed charge and the CHAMPUS allowable charge.

(ii) In the case of institutional providers normally paid on the basis of a pre-set amount (such as DRG based amount under paragraph (a)(1) or per-diem amount under paragraph (a)(2) of this section), if the discount rate is lower than the pre-set rate, the discounted rate shall be the CHAMPUS-determined allowable cost. This is an exception to the usual rule that the pre-set rate is paid regardless of the institutional provider's billed charges or other factors.

(3) *Procedures.* (i) This paragraph only applies when both the provider and the Director have agreed to the discounted payment rate. The Director's agreement may be in the context of approval of a program that allows for such discounts.

(ii) The Director of OCHAMPUS may establish uniform terms, conditions and limitations for this payment method in order to avoid administrative complexity.

* * * * *

4. Section 199.14 is further amended by removing paragraph (a)(1)(iv).

5. A new § 199.15 is added to read as follows:

§ 199.15 Peer Review Organization Program

(a) *General.* This section establishes rules and procedures applicable to the CHAMPUS Peer Review Organization (PRO) program for utilization and quality review of services, especially services provided in hospitals for which the hospital care is covered by the CHAMPUS DRG-based payment system. In implementing the provisions of this section, OCHAMPUS will be guided by the general policy of following Medicare PRO program requirements and procedures, with appropriate adaptations.

(b) *Objectives of review system.* There are four required functions:

(1) A review of the completeness, adequacy and quality of care provided;

(2) A review of the reasonableness, necessity and appropriateness of hospital admissions under CHAMPUS DRG reimbursement;

(3) A validation of diagnoses and procedural information that determines CHAMPUS reimbursement; and

(4) A review of the necessity and appropriateness of care for which payment is sought on an outlier basis.

(c) *Hospital cooperation.* All hospitals which participate in CHAMPUS and submit CHAMPUS claims are required to provide all information necessary for CHAMPUS to properly process the claims. In order for CHAMPUS to be assured that services for which claims are submitted meet quality of care standards, hospitals are required to provide the Peer Review Organization (PRO) responsible for quality review with all the information, within timeframes to be established by OCHAMPUS, necessary to perform the review functions required by this paragraph. Additionally, all participating hospitals shall provide CHAMPUS beneficiaries, upon admission, with information about the admission and quality review system including their appeal rights. A hospital which does not cooperate in this activity shall be subject to termination as a CHAMPUS authorized provider.

(1) Documentation that the beneficiary has received the required information about the CHAMPUS PRO program must be maintained in the same manner as is the notice required for the Medicare program by 42 CFR 466.78(b).

(2) The physician attestation and physician acknowledgement required for Medicare under 42 CFR 412.40 and 412.46 are also required for CHAMPUS as a condition for payment and may be satisfied by the same statements as required for Medicare, with substitution or addition of "CHAMPUS" when the word "Medicare" is used.

(3) Participating hospitals must execute a memorandum of understanding with the PRO providing appropriate procedures for implementation of the PRO program.

(4) Participating hospitals may not charge a CHAMPUS beneficiary for inpatient hospital services excluded on the basis of § 199.4(g)(1) (not medically necessary), § 199.4(g)(3) (inappropriate level), or § 199.4(g)(7) (custodial care) unless all of the conditions established by 42 CFR 412.42(c) with respect to Medicare beneficiaries have been met with respect to the CHAMPUS beneficiary. In such cases in which the patient requests a PRO review while the patient is still an inpatient in the hospital, the hospital shall provide to the PRO the records required for the review by the close of business of the day the patient requests review, if such request was made before noon. If the hospital fails to provide the records by the close of business, that day and any subsequent working day during which the hospital continues to fail to provide the records shall not be counted for purposes of the two day period of 42 CFR 412.42(c)(3)(ii).

(5) With respect to cases subject to preadmission review, the provisions of 42 CFR 466.78(b)(5)–(b)(7) shall apply to CHAMPUS cases as those provisions apply to Medicare cases.

(d) *Areas of review*—(1) *Admissions.* The following areas shall be subject to review to determine whether inpatient care was medically appropriate and necessary, was delivered in the most appropriate setting and met acceptable standards of quality. This review may include preadmission or prepayment review when appropriate.

(i) Transfers of CHAMPUS beneficiaries from a hospital or hospital unit subject to the CHAMPUS DRG-based payment system to another hospital or hospital unit.

(ii) CHAMPUS admissions to a hospital or hospital unit subject to the CHAMPUS DRG-based payment system which occur within a certain period (specified by OCHAMPUS) of discharge from a hospital or hospital unit subject to the CHAMPUS DRG-based payment system.

(iii) A random sample of other CHAMPUS admissions for each hospital subject to the CHAMPUS DRG-based payment system.

(iv) CHAMPUS admissions in any DRGs which have been specifically identified by OCHAMPUS for review or which are under review for any other reason.

(2) *DRG validation.* The review organization responsible for quality of care reviews shall be responsible for ensuring that the diagnostic and procedural information reported by hospitals on CHAMPUS claims which is used by the fiscal intermediary to assign claims to DRGs is correct and matches the information contained in the medical records. In order to accomplish this, the following review activities shall be done.

(i) Perform DRG validation reviews of each case under review.

(ii) Review of claim adjustments submitted by hospitals which result in the assignment of a higher weighted DRG.

(iii) Review for physician certification as to the major diagnoses and procedures and the physician's acknowledgment of annual receipt of the penalty statement as contained in the Medicare regulations at 42 CFR 412.40 and 412.46.

(iv) Review of a sample of claims for each hospital reimbursed under the CHAMPUS DRG-based payment system. Sample size shall be determined based upon the volume of claims submitted.

(3) *Outlier review.* Claims which qualify for additional payment as a long-stay outlier or as a cost-outlier shall be subject to review to ensure that the additional days or costs were medically necessary and appropriate and met all other requirements for CHAMPUS coverage. In addition, claims which qualify as short-stay outliers shall be reviewed to ensure that the admission was medically necessary and appropriate and that the discharge was not premature.

(4) *Procedure review.* Claims for procedures identified by OCHAMPUS as subject to a pattern of abuse shall be the subject of intensified quality assurance review.

(5) *Other review.* Any other cases or types of cases identified by OCHAMPUS shall be subject to focused review.

(e) *Actions as a result of review— (1) Findings related to individual claims.* If it is determined, based upon information obtained during reviews, that a hospital has misrepresented admission, discharge, or billing information, or is found to have quality of care defects, or has taken an action that results in the unnecessary admissions of an individual entitled to benefits, unnecessary multiple admission of an individual, or other inappropriate medical or other practices with respect to beneficiaries or billing for services furnished to beneficiaries, the PRO, in conjunction with the fiscal intermediary, shall, as appropriate:

(i) Deny payment for or recoup (in whole or in part) any amount claimed or paid for the inpatient hospital and professional services related to such determination.

(ii) Require the hospital to take other corrective action necessary to prevent or correct the inappropriate practice.

(iii) Advise the provider and beneficiary of appeal rights, as required by section 199.10.

(iv) Notify OCHAMPUS of all such actions.

(2) *Findings related to a pattern of inappropriate practices.* In all cases where a pattern of inappropriate admissions and billing practices that have the effect of circumventing the CHAMPUS DRG-based payment system is identified, OCHAMPUS shall be notified of the hospital and practice involved.

(3) *Revision of coding relating to DRG validation.* The following provisions apply in connection with the DRG validation process set forth in paragraph (d)(2) of this section.

(i) If the diagnostic and procedural information attested to by the attending physician is found to be inconsistent with the hospital's coding or DRG assignment, the hospital's coding on the CHAMPUS claim will be appropriately changed and payments recalculated on the basis of the appropriate DRG assignment.

(ii) If the information attested to by the physician as stipulated under paragraph (e)(2) of this section is found not to be correct, the PRO will change the coding and assign the appropriate DRG on the basis of the changed coding.

(f) *Procedures regarding certain services, including services not covered by the DRG-based payment system.* Paragraphs (b) through (e) of this section are directed to the context of services covered by the CHAMPUS DRG-based payment system. The Director, OCHAMPUS may activate PRO program review (using the same PROs or other similar organizations) of services not covered by the DRG-based payment system. For any such review activity designated by the Director, OCHAMPUS, the provisions of paragraphs (g) through (m) of this section shall apply. In addition, the Director, OCHAMPUS may establish procedures, appropriate to the types of services to be reviewed, substantively comparable to those applicable to services covered by the DRG-based payment system pertaining to obligations of providers to cooperate in PRO program review activities, authority to require precertification of services proposed to be required and authorities to require appropriate corrective actions. The Director, OCHAMPUS may also establish such procedures for review of services which, although covered by the DRG based payment system, are also affected by some other special circumstances concerning payment method, nature of care or other potential quality or utilization issue.

(g) *Procedures regarding initial determinations.* The CHAMPUS PROs shall establish and follow procedures for initial determinations that are substantively the same or comparable to the procedures applicable to Medicare under 42 CFR 466.83 to 466.104. In addition, these procedures shall provide that a PRO's determination that an admission is medically necessary is not a guarantee of payment by CHAMPUS; normal CHAMPUS benefit and procedural coverage requirements must also be applied.

(h) *Procedures regarding reconsiderations.* The CHAMPUS PROs shall establish and follow procedures for reconsiderations that are substantively the same or comparable to the procedures applicable to reconsiderations under Medicare pursuant to 42 CFR 473.15 to 473.34, except that the time limit for requesting reconsideration (see 42 CFR 473.20(a)(1)) shall be 90 days. A PRO reconsidered determination is final and binding upon all parties to the reconsideration except to the extent of any further appeal pursuant to paragraph (i) of this section.

(i) *Appeals and hearings.* (1) Beneficiaries may appeal a PRO reconsideration determination to OCHAMPUS and obtain a hearing on such appeal to the extent allowed and under the procedures set forth in section 199.10(d).

(2) Except as provided in paragraph (i)(3) of this section, a PRO reconsidered determination may not be further appealed by a provider.

(3) A provider may appeal a PRO reconsideration determination to OCHAMPUS and obtain a hearing on such appeal to the extent allowed under the procedures set forth in section 199.10(d) if it is a determination pursuant to section 199.4(h) that the provider knew or could reasonably have been expected to know that the services were excludable.

(4) For purposes of the hearing process, a PRO reconsidered determination shall be considered as the procedural equivalent of a formal review determination under § 199.10.

(5) The provisions of § 199.10(e) concerning final action shall apply to hearings cases.

(j) *Acquisition, protection and disclosure of peer review information.* The provisions of 42 CFR part 476, except § 476.108, shall be applicable to the CHAMPUS PRO program as they are to the Medicare PRO program.

(k) *Limited immunity from liability for participants in PRO program.* The provisions of section 1157 of the Social Security Act (42 U.S.C. 1320c–6) are applicable to the CHAMPUS PRO program in the same manner as they apply to the Medicare PRO program. Section 1102(g) of title 10, United States Code also applies to the CHAMPUS PRO program.

(l) *Additional provision regarding confidentiality of records*—(1) *General rule.* The provisions of 10 U.S.C. 1102 regarding the confidentiality of medical quality assurance records shall apply to the activities of the CHAMPUS PRO program as they do to the activities of the external civilian PRO program that reviews medical care provided in military hospitals.

(2) *Specific applications.* (i) Records concerning PRO deliberations are generally nondisclosable quality assurance records under 10 U.S.C. 1102.

(ii) Initial denial determinations by PROs pursuant to paragraph (a)(1)(i)(E) of this section (concerning medical necessity determinations, DRG validation actions, etc.) and subsequent decisions regarding those determinations are not nondisclosable quality assurance records under 10 U.S.C. 1102.

(iii) Information the subject of mandatory PRO disclosure under 42 CFR part 476 is not a nondisclosable quality assurance record under 10 U.S.C. 1102.

(m) *Obligations, sanctions and procedures.* (1) The provisions of 42 CFR 1004.1–1004.80 shall apply to the CHAMPUS PRO program as they do the Medicare PRO program, except that the functions specified in those sections for the Office of Inspector General of the Department of Health and Human Services shall be the responsibility of OCHAMPUS.

(2) The provisions of 42 USC section 1395ww(f)(2) concerning circumvention by any hospital of the applicable payment methods for inpatient services shall apply to CHAMPUS payment methods as they do to Medicare payment methods.

(3) The Director, or a designee, of CHAMPUS shall determine whether to impose a sanction pursuant to paragraphs (m)(1) and (m)(2) of this section. Providers may appeal adverse sanctions decisions under the procedures set forth in § 199.10(d).

Linda Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 24, 1989.

[FR Doc. 89–25586 Filed 11–2–89; 8:45 am]

BILLING CODE 3810–01–M

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32 CFR Part 297

[DoD Instruction 5120.4]

RIN 0790–AA56

DoD Newspapers and Civilian Enterprise Publications

AGENCY: American Forces Information Services, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed amendment incorporates administrative and memorandum changes to DoD Instruction 5120.4 and adds a review civilian publishers requirement for DoD newspapers. It prohibits civilian publishers DoD civilian enterprise (CE) publications from accepting political advertising. It permits the addition of a telephone directory section in CE base guides. A new section, Appendix F, establishes a review and reporting system for DoD newspapers.

DATE: Forward comments to Department of Defense, American Forces Information Service (ATTN: PMP&P), 601 North Fairfax Street, #311, Alexandria, VA 22314–2007, no later than December 4, 1989.

FOR FURTHER INFORMATION CONTACT: Col. H. Baker, USAF, telephone (703) 274–4868.

SUPPLEMENTARY INFORMATION: In FR Doc. 50–32851 appearing in the **Federal Register** on August 15, 1985, the Office of the Secretary of Defense published a final rule reissuing policies on DoD newspapers and CE publications. OSD proposes to make minor revisions to these policies and establish certain internal reporting requirements.

List of Subjects in 32 CFR Part 297

Government publications, Newspapers and magazines.

Accordingly, 32 CFR part 297 is proposed to be amended as follows:

PART 297—[AMENDED]

1. The authority citation continues to read as follows:

Authority: 10 U.S.C. 121 and 133.

2. The table of contents is proposed to be amended:

a. By adding a new appendix F as follows:

Appendix F to Part 297—DoD Command Newspaper Review System

b. By revising the titles of enclosures 1 through 5 as follows:

"Enclosure 1–Funded Newspapers" to "Appendix A to Part 297–Funded Newspapers"

"Enclosure 2–Civilian Enterprise Publications" to "Appendix B to Part 297–Civilian Enterprise Publications"

"Enclosure 3—*Stars and Stripes*" to "Appendix C to Part 297—*Stars and Stripes*"

"Enclosure 4–Mailing of DoD Newspapers and Civilian Enterprise Publications Other Than Newspapers; Sales and Distribution of Non–DoD Publications" to "Appendix D to Part 297–Mailing of DoD Newspapers and Civilian Enterprise Publications Other Than Newspapers; Sales and Distribution of Non–DoD Publications"

"Enclosure 5–American Forces Press and Publications Service" to "Appendix E to Part 297—American Forces Press and Publications Service"

3. Part 297 is proposed to be amended by changing the following references throughout the text to read as follows:

a. "Enclosure 1" to "Appendix A".

a. "Enclosure 2" to "Appendix B".

c. "Enclosure 3" to "Appendix C".

d. "Enclosure 4" to "Appendix D".

e. "Enclosure 5" to "Appendix E".

§ 297.2 [Amended]

4. Section 297.2 is proposed to be amended by removing the words "Organization of the" and replacing them with "Joint Staff,"

5. Section 297.5 is proposed to be amended as follows:

a. Paragraph (b)(8), after the word "may" appears a second time, add the word "not"

b. Redesignating paragraph (d)(6) as (d)(5)(i)

c. Adding a new paragraph (5)(ii)

d. Redesignating paragraph (d)(7) as (d)(6)

e. Amending paragraph (e) by changing the words "§ 297.5(d)(1)(i)(F)" to "§ 297.5(d)(5)(i)"

f. Adding a new paragraph (i).

§ 297.5 Procedures.

* * * * *

(d) * * *

(5) * * *

(ii) This provision is not intended to prohibit the headquarters of a geographically dispersed command that receives its local coverage in the host-installation newspaper from publishing a command-wide newspaper; nor is it intended to prohibit a command that has information needs that are significantly different from the majority of the host-installation audience from publishing a separate newspaper, when authorized by the designated approving authority (see section C., appendix F).

* * * * *

(i) *DoD Command Newspaper Review System.* See appendix F.

7. Newly redesignated appendix A is proposed to be amended by revising paragraph D as follows:

Appendix A to Part 297—Funded Newspapers

* * * * *

D. Masthead

The masthead shall include the names of the commanding officer and the public affairs officer (PAO), and the names and editorial titles of the staff of the newspaper.

* * * * *

8. Newly redesignated Appendix B is proposed to be amended as follows:

a. Revising paragraph A

b. Amending paragraph D. by changing the words "§ 297.5(b)(5)" to "§ 297.5(b)(6)"

c. Amending paragraph F.4., second sentence, by adding the words "public affairs," after the word "include"

d. Removing the sentence: The public affairs officer shall serve as executive secretary and advisor.

e. Revising paragraph I.

Appendix B to Part 297—Civilian Enterprise Publications

* * * * *

A. Purpose

Civilian Enterprise (CE) publications consist of newspapers, guides and maps. They support command internal communications. The command provides the editorial content. Commercial publishers sell advertising to cover costs and secure earnings, print the publications, and may make all or part of the distribution. Periodically, commercial publishers compete for contracts to publish these publications. Appropriated or non-appropriated funds may not be used to pay for any part of a commercial publisher's costs incurred in publishing a CE publication.

* * * * *

I. Civilian Enterprise Guides and Maps

1. The name of the publication may include the name and emblem of the command or installation.

2. At the discretion of the commander, an installation official telephone directory may be included as a section of a CE guide. The telephone section shall be integral to the guide and not separable. (Separate CE telephone directories are not authorized). Required communication security (COMSEC) information shall be printed on the first page of the telephone section and not on the cover of the guide. The cover of the guide may notify users that the publication contains the official telephone directory. Publishing contracts shall establish a firm delivery date and ensure control of distribution by the command executing the contract.

3. A CE mission and services pocket guide for transient personnel that contains advertising from businesses in the community whose services may be needed by transients may be contracted for in addition to the installation guide. Normally, these pocket guides will be procured as a part of the installation guide contract.

* * * * *

Appendix E to Part 297—[Amended]

9. Newly redesignated Appendix E is proposed to be amended as follows:

a. Removing the word "monthly" in paragraphs A.1. and A.2.

b. Amending paragraph D.1. by changing the address to "601 North Fairfax Street, Room 311, Alexandria, VA 22314–2007"

c. Removing paragraph E.

10. Appendix F is proposed to be added as follows:

Appendix F to Part 297—DoD Command Newspaper Review System

A. Purpose

The purpose of the DoD command newspaper review system is to assist commanders in establishing and maintaining cost-effective internal communications essential to mission accomplishment. The system also enables internal information managers to assess the cost and effective use of resources devoted to command newspapers and to provide requested reports.

B. Policy

DoD newspaper (except those covered by Appendix C) shall be reviewed and reported biennially. The review process is not intended to replace day-to-day quality assurance procedures or established critique prorams.

C. Approving Authorities

1. The Assistant Secretary of Defense (Public Affairs) (ASD(PA)) shall be the approving authority for newspapers published by DoD Components, less the Military Department.

2. Within the Military Departments, the Secretary or a designated representative shall be the approving authority. This authority may be delegated no lower than the major command or equivalent level.

D. Review Criteria

1. Each newspaper shall be evaluated on the basis of mission essentiality, communication effectiveness, cost effectiveness, and compliance with applicable regulations.

2. In implementing the requirement that only one newspaper is authorized at each installation, any competing needs of an installation and its tenant commands shall be considered (see paragraphs 297.5(d)(5)(i) and (ii) of this part).

E. OSD Command Newspaper Review Board

The OSD Command Newspaper Review Board shall be chaired by the Director, American Forces Information Service (AFIS). Members shall be senior personnel representing functional areas of the command communication process (public affairs, editorial, design and layout, production, etc.). Members shall be drawn from OSD and Defense Agencies, nominated by office and agency heads at the invitation of the chair. A technical advisory panel of relevant specialties (printing, postal, distribution, contracting, legal, etc.) may be established at the discretion of the chair.

1. Recommendations may include the establishement, disestablishment, or continuance of a newspaper; changes in volume, frequency, format, or paper stock; and cost reduction measures.

2. Recommendations shall have the concurrence of two-thirds of the voting board members.

F. Military Department Command Newspaper Review

Military Departments shall establish appropriate procedures to accomplish command newspaper review and reporting requirements.

G. Appeals

Appeals shall be made within 30 calendar days of the approving authority's decision if publishing activities have new information to present. Representatives of a publishing activity may make presentations to a board and respond to questions during open sessions of the board.

H. Reporting Requirements

1. DoD Components (less the Military Departments) shall forward, by January 31 of each even numbered year, the information indicated on attachment 1 of this Appendix for each newspaper published, and four recent copies of the newspaper to: Director, American Forces Information Service, ATTN:

Print Media Plans and Policy, 601 North Fairfax Street, #311, Alexandria, VA 22314–2007.

Requests for approval of new newspapers may be submitted at any time, using the format at attachment 1 of this Appendix.

2. No later than April 15 of each even numbered year, the Secretary, or designee, of each Military Department shall forward to the ASD(PA) (ATTN: Director, AFIS) a report of the Department's review of newspaper. A cover memorandum shall include summary data on total number of newspapers, number eliminated, and total cost for the year being reported, along with a listing of the information indicated on attachment 2 of this Appendix.

3. One information copy of each issue of all DoD newspapers shall be forwarded on publication date to the address in paragraph H.1. of this Appendix.

4. Information copies of CE newspaper contracts shall be forwarded to the address in paragraph H.1. of this Appendix.

5. Administrative Instructions shall be isued by the Director, AFIS, for the biennial review and reporting of newspapers.

I. Report Control Requirement

The information requirements prescribed in this Appendix are assigned Report Control Symbol DD PA(B1) 1638.

Attachment 1 to Appendix F—Request for Continuation or Establishment of DoD Newspaper

As required by Section H. of this appendix, the following information shall be provided biennially on newspapers published by DoD Components (less Military Departments), and when requesting approval for a new newspaper:

A. Name of newspaper.

B. Publishing command and mailing address.

C. Printing arrangement:

1. Government equipment.

2. Government contract with commercial printer.

3. CE contract with commercial printer (give name and mailing address of commercial printer).

D. Frequency and number of issues per year.

E. Number of copies printed and estimated readership.

F. Paper size (metro, tabloid, or magazine/newsletter) and average number of pages per issue.

G. Size of newspaper staff, listed as full time and part time.

H. Annual costs:

1. Editorial and administrative.

2. Supply and equipment.

3. Printing (funded only).

4. Distribution and mailing.

5. Staff transportation.

I. Attach four recent copies of newspaper.

J. For requests for approval of new newspapers:

1. Provide comprehensive statement of the necessity for the newspaper, including, if a tenant command, why host installation newspaper does not serve the needs of the requester's audience.

2. Attach four recent copies of newspapers published by host and any other tenants.

Attachment 2 to Appendix F—Military Department Newspaper Data

As required by section H., paragraph 2., of this appendix, the following information shall be provided biennially on each newspaper published by the Military Departments.

A. Name of newspaper.

B. Publishing command and mailing address.

C. Printing arrangement:

1. Government equipment.

2. Government contract with commercial printer.

3. CE contract with commercial printer (give name and mailing address of commercial printer).

D. Frequency and number of issues per year.

E. Number of copies printed and estimated readership.

F. Paper size (metro, tabloid, or magazine/newsletter) and average number of pages per issue.

G. Size of newspaper staff, listed as full time and part time.

H. Annual costs:

1. Editorial and administrative.

2. Supply and equipment.

3. Printing (funded only).

4. Distribution and mailing.

5. Staff transportation.

Dated: October 30, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Office, Department of Defense.

[FR Doc. 89–25851 Filed 11–2–89; 8:45 a.m.]

BILLING CODE 3810–01–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AA91

Cape Cod National Seashore; Off-Road Vehicle Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed Rule; Withdrawal.

SUMMARY: On January 6, 1989 (54 FR 429), the Department of the Interior published a proposed rule in the **Federal Register** to modify the existing off-road vehicle (ORV) regulations at Cape Cod National Seashore. The rulemaking proposed minor revisions in the current restrictions that apply to ORV use. Of the 4,722 public comments received in response to the proposed rule, 98% indicated opposition to the proposal in some manner. The National Park Service (NPS) has determined that further review is warranted prior to any change in the current ORV regulations. The NPS will continue to evaluate the current regulations in terms of their effectiveness. The Service intends to address ORV use as one of the elements to be considered in the comprehensive planning process initiated in 1989 that will lead to the development of a General Management Plan for Cape Cod National Seashore. For these reasons, the National Park Service is withdrawing the proposed rule.

DATE: The proposed rule is withdrawn as of November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Anthony Bonanno, Chief Ranger, Cape Cod National Seashore, South Wellfleet, MA 02663, Telephone: (508) 349–3785.

Dated: October 27, 1989.

Constance B. Harriman,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89–25863 Filed 11–2–89; 8:45 am]

BILLING CODE 4310–70–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 3677–8]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts Extension of Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: On August 14, 1989 (54 FR 33245), EPA proposed approval of a revision submitted by the Commonwealth of Massachusetts for the Acushnet Company, Plant A. On October 13, 1989, Acushnet Company requested a second extension of the public comment period. EPA has evaluated this request and is hereby granting a thirty (30) day extension of the public comment period. This will be the final extension request granted for this action.

DATES: Comments should be received on or before November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Greene; (617) 565–3244; FTS 835–3244.

Authority: 42 U.S.C. 7401–7642.

Dated: October 24, 1989.

Paul Keough,

Acting Regional Administrator, Region I.

[FR Doc. 89–25952 Filed 11–2–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 307

[FRL-3677-6]

Response Claims Procedures for the Hazardous Substance Superfund; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; correction.

SUMMARY: EPA is correcting errors in the preamble and regulatory text of the proposed Response Claims Procedures for the Hazardous Substance Superfund which appeared in the **Federal Register** on September 13, 1989 (54 FR 37892).

FOR FURTHER INFORMATION CONTACT: William O. Ross at (FTS or Commercial) (202) 382–4645.

SUPPLEMENTARY INFORMATION: On September 23, 1989, EPA proposed regulations to establish the procedures for filing, evaluating, and resolving claims for response costs incurred for responding to releases of hazardous substances, pollutants, or contaminants asserted against the Hazardous Substance Superfund established under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 *et seq.* In addition, this proposed regulation would establish procedures for notifying concerned parties regarding limitations on the payment of response claims. The proposed regulation is consistent with EPA's proposed revisions to the National Oil and Hazardous Substances Pollution Contingency Plan (53 FR 51394 *et seq.*). The proposed regulation contained errors which are discussed briefly below and are corrected by this notice.

Dated: October 26, 1989.

Robert Wayland,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

The following corrections are made in FRL–3399–6, the Response Claims Procedures for the Hazardous Substance Superfund published in the **Federal Register** on September 13, 1989 (54 FR 37892).

1. On page 37892, first column, under the heading "**FOR FURTHER INFORMATION CONTACT,**" line 2, change "(WH–220)" to "(OS–220)".

2. On page 37895, first column, line 21, change "(See 40 CFR part 35, subpart O regarding assurances from Indian Tribes.)" to "(see 40 CFR part 35, subpart O regarding assurance from Indian Tribes.)".

3. On page 37895, third column, line 5, change the subsection number "(1)" in "111(1)" to lower case letter "(l)".

4. On page 37897, first column, line 62, change "(b)(5)" to "(b)(4)".

5. On page 37899, the first sentence of the third full paragraph, second column, line 66, which reads, "For sites that are on the NPL, EPA will consider applications for preauthorization of remedial actions where the Agency does not in the near future intend: (1) To bring an enforcement action against responsible parties; (2) to initiate a Fund-financed response through contracts or cooperative agreements with States; or (3) where the Agency finds it desirable to allow claims in addition to one or more of the above mechanisms (e.g., mixed funding)." is revised to read as follows:

"For sites that are on the NPL, EPA will consider applications for preauthorization of remedial actions where the Agency: (1) does not in the near future intend to bring an enforcement action against responsible parties; (2) does not intend to initiate a Fund-financed response through contracts or cooperative agreements with States; or (3) finds it desirable to allow claims in addition to one or more of the above mechanisms (e.g., mixed funding)."

6. On page 37900, first column, line 57, change "§ 307.21(g)" to "§ 307.21(h)".

7. On page 37900, second column, line 37, change "§ 307.21(f)" to "§ 307.2l(g)".

8. On page 37900, second column, line 55, change "§ 307.21(g)" to "§ 307.21(h)".

9. On page 37900, second column, line 66, change "§ 307.21(g)" to "§ 307.21(h)".

10. On page 37900, third column, first paragraph under the heading, "2. Elements of the Application for Preauthorization", line 5, change "for" to "from".

11. On page 37901, first column, line 13, change "the" to "that".

12. On page 37901, first column, line 34, change "sities" to "sites".

13. On page 37901, first column, line 38, change "or" to "of".

14. On page 37901, third column, line 7, the comma following the word "revision" should be deleted.

15. On page 3790l, third column, line 23, the sentence that reads, "Section 300.430(e)(70)(iii) (300.68(i) except for paragraph (iv), regarding waivers) on selection of the remedy." is revised to read as follows:

"Section 300.430(f)(3) (except for the waivers in paragraph (iv)) (300.68(i)) on selection of the remedy.".

16. On page 37901, third column, line 59, change "section 300.430(e)" to "§ 300.430(e)(2)–(6)".

17. On page 37901, third column, line 64, the sentence that reads, "The proposed remedy must also have been selected from the alternatives in accordance with proposed § 300.430(f)(3) (§ 300.68(i) except for the waivers in paragraph (iv) of the 1985 NCP." is revised to read as follows:

"The proposed remedy must also have been selected from the alternatives in accordance with proposed § 300.430(f)(3) (except for the waivers in paragraph (iv)) (§ 300.68(i) of the 1985 NCP)."

18. On page 37902, first column, line 46, change "employes" to "employs".

19. On page 37903, second column, line 15, change "may be reflect" to "may reflect".

20. On page 37906, third column, line 2, add a comma after the word "actions".

21. On page 37907, first column, first paragraph under the heading, "4. State and Indian Tribe Consultation", line 13, change "(see Section IV.D.2.f)." to "(see Section IV.D.2.g.).".

22. On page 37907, second column, line 63, delete the word "the".

23. On page 37909, second column, line l, change "§ 307.32(i)" to "§ 307.32(h)".

24. On page 37909, third column, line 18, change "or" to "of".

§ 307.21 [Corrected]

25. Section 307.21(e) on page 37913, second column, line 46 is correctly revised to include the word "transactions" after the word "procurement".

§ 307.22 [Corrected]

26. Section 307.22(b) on page 37914, first column, line 19, replace the period after the word "available" with a colon.

27. Section 307.22(b)(5) on page 37914, first column, line 49, change "section" to "§".

28. Section 307.22(e)(9) on page 37914, third column, line 5, is revised to read, "Takes into account Appendix D [7] (methods of remedying releases) (section 300.70 of the existing 40 CFR).".

§ 307.23 [Corrected]

29. Section 307.23(b)(10) on page 37915, second column, line 54, add a comma after the word "study".

§ 307.30 [Corrected]

30. Section 307.30(c) on page 37916, second column, line 38, change "§ 307.20(d)" to "§ 307.20(c)".

§ 307.32 [Corrected]

31. Section 307.32(1) on page 37917, second column, line 13, change the

subsection letter from the number "(1)" to the letter "(1)".

Appendix D to Part 307—[Corrected]

32. Appendix D on page 37925, third column, line 8, change "consisent" to "consistent".

[FR Doc. 89-25845 Filed 11-2-89; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 372

[OPTS-400036; FRL-3665-1]

Decabromodiphenyl Ether; Toxic Chemical Release Reporting; Community Right-to-Know Denial of Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of petition.

SUMMARY: EPA is denying a petition to delete decabromodiphenyl ether (DBDPE) from the list of toxic chemicals under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). The decision is based on evidence that the chemical can be reasonably anticipated to cause developmental and chronic toxicological effects in humans. As a result of the review of the petition, EPA will consider initiating a rulemaking to add octabromodiphenyl ether (OBDPE) to the EPCRA section 313 list because of evidence that the chemical can be reasonably anticipated to cause developmental toxicological effects in humans. OBDPE was included in the petition review because it is a photolysis product of DBDPE and health and hazard assessment information of OBDPE was included in the documentation on DBDPE.

DATES: Written comments must be submitted on or before January 2, 1990.

ADDRESSES: Written comments should be submitted in triplicate to: OTS Docket Clerk, TSCA Public Docket Office (TS-793), Environmental Protection Agency, Rm. NE-G004, 401 M St., SW., Washington, DC 20460, Attention: Docket Control Number OPTS-400036.

FOR FURTHER INFORMATION CONTACT: Robert J. Israel, Petitions Coordinator, Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail Stop OS-120, 401 M St. SW., Washington, DC 20460, Toll free: 800-535-0202, In Washington, DC and Alaska, 202-479-2449.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

The denial is issued under section 313 (d) and (e)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (Pub. L. 99-499, "EPCRA" or the "Act"). EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986.

B. Background

Section 313 of EPCRA requires certain facilities that manufacture, process, or otherwise use toxic chemicals to report annually their environmental releases of such chemicals. Section 313 establishes an initial list of toxic chemicals that is composed of more than 300 chemicals and chemical categories. Any person may petition the Agency to add chemicals to or delete chemicals from the list.

EPA issued a statement of petition policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for submitting petitions. EPA must respond to petitions within 180 days either by initiating a rulemaking or by issuing an explanation of why the petition is denied.

II. Description of Petition

On May 15, 1989, EPA received a petition from Great Lakes Chemical Corporation to delete decabromodiphenyl ether (DPDPE) from the EPCRA section 313 list of toxic chemicals. The petition was based on Great Lakes' contention that DBDPE does not meet the EPCRA section 313 criteria for listing. The statutory deadline for EPA's response is November 11, 1989.

III. EPA's Review of Decabromodiphenyl Ether

A. Chemistry Profile

DBDPE, which is also known as decabromodiphenyl oxide (DBDPO), is a white solid. DBDPE is synthesized by treating diphenyl ether with bromine in the presence of a Friedel-Crafts catalyst. DBDPE melts at 300 to 310 °C, has a vapor pressure of less than 1 torr at 250 °C, and a solubility in water of 30 parts per billion.

1. *Photolysis.* Photolysis of DBDPE in organic solvents under ultraviolet (UV) light (using a mercury lamp) or artificial sunlight rapidly yields the lesser brominated congeners, including octabromodiphenyl ether (OBDPE), and polybrominated dibenzofurans (PBDFs). The formation and distribution of photoproducts by sunlight were similar to those by UV irradiation. It appears that debromination occurs more rapidly than cyclization which gives the dibenzofurans. The half-life for photodegradation in octanol under artificial sunlight is 4 hours. Photolysis in hexane-benzene-acetone (8:1:1) under artificial sunlight is 18 minutes. The half-life for photolysis under UV light is 100 minutes. The amount of PBDFs formed by photolysis in sunlight is substantial, about a 10 percent yield for 16 hours of irradiation. The amount of PBDFs formed after irradiation with UV light for 16 hours is 20 percent.

DBDPE also undergoes photolysis in water. Photohydroxylation, in which bromine is replaced by hydroxyl and yields phenolic derivatives, is the favored route. The degradation products decompose rapidly via increased UV absorption, due to the hydroxyl groups, resulting ultimately in the rupture of the aromatic ring.

Photodegradation may therefore occur in surface waters, in the atmosphere, or on soil surfaces exposed to sunlight.

2. *Thermal degradation.* Data has been submitted to EPA under section 8(e) of the Toxic Substances Control Act (TSCA) which demonstrates that under certain conditions brominated dibenzofurans may be formed during thermal processing of polyester resins (polybutylene terephthalate) which contain DBDPE. The data suggest that PBDFs may be formed at temperatures as low as 200 °C.

B. Toxicity Evaluation

Information on the most significant health and environmental hazards likely to be associated with DBDPE was assessed. All readily available data were received, including those provided by studies retrieved from a search of the recent literature, and documents prepared by EPA. Included in the materials researched were hazard and health assessments of the lesser brominated diphenyl ethers, such as OBDPE, which is known to be in production in the U.S. Thus, readily available information on the most significant health hazards associated with OBDPE (all isomers), which is a photolysis product of DBDPE, was also assessed.

Decabromodiphenyl Ether

1. *Developmental toxicity.* DBDPE can be reasonably anticipated to cause developmental toxicity in humans.

A standard teratology study performed in Sprague-Dawley rats showed an increased incidence of resorptions after treatment with doses as low as 10 mg/kg of DBDPE, and

increased incidence of subcutaneous edema and delayed ossification of portions of the calvarium after treatment with doses of 1,000 mg/kg of DBDPE. The lowest observed adverse effect level (LOAEL) for this study was 10 mg/kg/day and a no observed adverse effect level (NOAEL) was not established.

2. *Chronic toxicity.* DBDPE can be reasonably anticipated to cause chronic toxicity in humans.

Chronic exposure to DBDPE may cause liver toxicity in humans based on a repeated dose 30-day study in Sprague-Dawley rats. In that sudy, marked liver toxicity was seen at 80 and 800 mg/kg/day. In addition, there is some liver toxicity which was observed in the chronic bioassay which utilized Fischer rats; this heptatoxicity, however, was observed at much higher dose levels. The data from these studies indicate that the liver is the major target organ in the rat and there is a strain difference in the susceptibility to the effects of DBDPE. The liver was found to be the target organ for toxicity in carcinogenesis bioassays in both Fischer rats and $B_6C_3F_1$ mice.

In 14 to 30-day repeated dose studies in three strains of rats and one mouse strain, the greatest toxicity was evident in a 30-day study of DBDPE at doses of 0, 8, 80, or 800 mg/kg/day in Sprague-Dawley rats. The mixture of DBDPE used in that study consisted of 77.4 percent DBDPE, 21.8 percent nonabromodiphenyl ether (NBDPE), and 0.8 percent OBDPE. Treatment-related effects of DBDPE in Sprague-Dawley rats were found in the liver, spleen, thyroid, and kidneys. The effects observed in the liver included increased absolute and relative liver weight, liver enlargement at gross necropsy, and centrilobular hypetrophy with vacuolation. The effects observed in the spleen included increased absolute and relative weight, but it is not clear whether the spleen was examined microscopically. Hyperplasia was observed in the thyroid and hyaline droplet degenerative changes were observed in the kidneys. The lowest dose at which a treatment-related effect, specifically increased absolute and relative spleen weight, occurred in this study was at 8 mg/kg/day, which was also the lowest dose tested. In contrast to the positive findings in the 30-day study in Sprague-Dawley rats, no treatment related effects were found in the following studies: a 28-day study in Charles River CD rats using a mixture of DBDPE of unstated purity at a maximum dose of 100 mg/kg/day; several 14-day studies in F344/N rats using a mixture of DBDPE of 99 percent purity (2 unidentified impurities) at a maximum dose of 5,100 mg/kg/day; and a study in $B_6C_3F_1$ mice using a mixture of DBDPE of 99 percent purity (2 unidentified impurities) at a maximum dose of 15,560 mg/kg/day.

Administration of high doses of DBDPE in the diet of $B_6C_3F_1$ mice for 2 years produced treatment-related nonneoplastic lesions in males in the liver and thyroid. Centrilobular hypertrophy with vacuolation was observed in the liver and follicular cell hyperplasia was observed in the thyroid. In that 2-year study, the mixture of DBDPE used was of 94 to 97 percent purity, with 2 impurities identified as isomers of NBDPE and 2 unidentified impurities. In males, the LOAEL based upon all these lesions is 3,200 mg/kg/day, which was the lowest dose tested; a NOAEL was not established. No treatment-related nonneolastic lesions were reported in females when a maximum dose of 7,780 mg/kg/day was administered.

The chronic oral (diet) LOAEL for DBDPE, derived from studies on F344/N rats and $B_6C_3F_1$ mice, is much higher than the lowest doses that produced treatment-related effects in the 30-day dietary study in Sprague-Dawley rats. Compared to the Sprague-Dawley rats, F344/N rats and $B_6C_3F_1$ mice appeared relatively insensitive to toxic effects from prolonged oral exposure to DBDPE. This may be due to strain/species difference and/or to the higher purity or different compositions of the DBDPE tested. Data are not available to eliminate strain/species differences as a basis for this apparent sensitivity difference. However, it is clear that purity or the proportion of lesser brominated diphenyl ethers may play a role. In equivalent 28-day feeding studies of 100 or 1,000 ppm of DBDPE of unstated purity or OBDPE of unstated purity in Charles River CD rats, OBDPE produced toxic effects at both doses whereas DBDPE did not (See the discussion of OBDPE studies below). These studies did not include information on organ weights.

Octabromodiphenyl Ether

1. *Developmental toxicity.* OBDPE can be reasonably anticipated to cause developmental toxicity in humans.

A pilot and standard teratology study of OBDPE showed maternal toxicity (decreased weight gain) at doses as low as 50 mg/kg and developmental toxicity at doses as low as 10 mg/kg. Signs of developmental toxicity included increased incidence of resorptions, decreased fetal body weight, increased incidence of malformations such as shortened or bent leg bones, and increased incidence of delayed ossification of the axial skeleton at doses as low as 25 mg/kg and decreased fetal body weight at doses as low as 10 mg/kg. The LOAEL for this study was 10 mg/kg/day and the NOAEL was 2.5 mg/kg/day.

2. *Chronic toxicity.* OBDPE can be reasonably anticipated to cause chronic toxicity in humans.

There have been a number of studies carried out on OBDPE. Every study had some deviations from standard test guidelines, which precluded a full evaluation of the potential chronic toxicity of OBDPE.

Following repeated oral exposure of rodents to DBDPE or OBDPE, common target organs included the liver, thyroid, and kidney. Compared to DBDPE, the number of alterations produced in these organs by OBDPE appeared to be more extensive. Although treatment-related spleen and stomach effects were noted in studies of DBDPE but not OBDPE, the studies of the latter were inadequate to determine whether or not the spleen or stomach may be a target organ for OBDPE. Treatment-related effects produced by OBDPE included decreased body weight, hypoglycemia, and hematologic changes including reduced hemoglobin, hematocrit, and erythrocyte count. The lowest dose at which treatment related effects such as increased liver weight and liver lesions occurred was 10 mg/kg/day. These effects were seen as the result of prolonged exposure to OBDPE in 28-day and 13-week studies in Charles River CD rats.

C. Use, Release, and Exposure

1. *Production and use.* DBDPE is currently manufactured domestically by the Great lakes Chemical Corporation in El Dorado, AR, the Ethyl Corporation in Magnolia, AR, and Dow Chemical Company in Midland, MI. DBDPE is processed by Quabaug Corporation in North Brookfield, MA, Thermofil, Incorporated in Brighton, MI, and General Felt Industries in Philadelphia, PA, for on-site processing and use. Total domestic consumption in 1989 is estimated to be 13.5 million kilograms.

DBDPE is currently being imported by Lamtec Corporation in Flanders, NJ, and by the Nassau Chemical Corporation in Trenton, NJ. No information is available on the quantity of DBDPE imported.

DBDPE is used as a non-reactive flame retardant in plastics, resins, foams, and textiles. It is incorporated during the thermal molding process or physically blended in. Its major application is in thermoplastics, such as

high impact polystyrene for use in television cabinets, radios and phonographs, and business plastics such as computer housings.

2. *Exposure and release.* Exposure and release data were obtained from the Toxic Chemical Release Inventory (TRI). For the 1987 reporting year, 47 Form Rs were submitted under section 313 of EPCRA.

The largest release of DBDPE was 59,090 kg/yr to air from the Great Lakes plant in El Dorado, AR. The Industrial Source Complex Long-Term and Short-Term (ISCLT, ISCST) dispersion models were used to estimate fenceline exposures. The maximum annual average concentration was estimated to be 21.8 $\mu g/m^3$. The maximum short-term concentration was estimated to be 1,092 $\mu g/m^3$.

The largest releases of DBDPE to surface waters were 5,063 kg/yr from the White Chemical Company's Newark, NJ, facility, 3,773 kg/yr from the Tanner Corporation's Greenville, SC, facility, and 1,364 kg/yr from the Walsh Chemical Company's facility in Philadelphia, PA. The maximum drinking water exposure, 0.164 mg/yr, was estimated to result from the Tanner Corporation facility. Exposure resulting from DBDPE that has been landfilled was not estimated because the chemical is expected to remain bound to the soil and should not leach into the groundwater.

DBDPE has been found in samples of air particulates, soil, and sediments taken from the vicinity of the Great Lakes facility in El Dorado, AR, and the Ethyl Corporation facility in Magnolia, AR. Sediment samples collected near the Great Lakes facility were found to contain maximum concentrations of 1,000 mg/kg of DBDPE. Ambient air samples collected at this facility contained maximum levels of 98.1 $\mu g/m^3$. DBDPE levels of 5 $\mu g/kg$ have been detected in composite samples of human hair from barber shops in the two Arkansas towns. Based on these studies, it was estimated that a minimum of 5 percent of the population in each town had detectable levels of DBDPE.

IV. Explanation for Proposed Denial

A. General Policy

EPA has broad discretion in determining whether to grant or deny petitions under section 313 of EPCRA. When granting a petition, EPA has an obligation to show how the granting of the petition fulfills the statutory criteria EPA is to use in section 313(d) when modifying the list of toxic chemicals. When denying a petition, EPA must issue an explanation of why the petition is denied.

B. Reasons for Denial

EPA is denying the petition submitted by Great Lakes Chemical Corporation to delete DBDPE from the EPCRA section 313 list of toxic chemicals. The decision to deny the petition is based on evidence that DBDPE can be reasonably anticipated to cause developmental and chronic toxicity in humans. EPA's consideration of initiating action to add OBDPE to the EPCRA section 313 list is based on evidence that the chemical can be reasonably anticipated to cause developmental toxicity in humans. The effects noted for these chemicals are in accordance with the criteria in section 313(d)(2)(B) of EPCRA.

V. Administrative Record

The record supporting this decision is contained in docket control number OPTS–400036. All documents, including an index of the docket are available to the public in the TSCA Public Docket Office from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA Public Docket Office is located at EPA Headquarters, room NE–G004, 401 M Steet SW., Washington, DC 20460.

List of Subjects in 40 CFR Part 372

Community right-to-know, Environmental protection, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: October 30, 1989.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 89–25953 Filed 11–2–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–6956]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 20158 on May 10, 1989. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Town of Tolland, Hampden County, Massachusetts.

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

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Tolland, previously published at 20158 on May 10, 1989, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR part 67.

List of Subjects in 44 CFR Part 67

Flood Insurance, Floodplains.

The authority citation for part 67 continues to read as follows:

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

On page 20158, in the May 10, 1989 issue of **Federal Register**, the entries under Massachusetts Tolland (Town), Hampden County, are corrected to read as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
* * * * *	
West Branch Farmington River:	
Approximately 2.5 miles downstream of Old State Route 8	*725
Approximately 1.6 miles upstream of Alan Road	*1,120
* * * * *	

Issued: October 27, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 89–25948 Filed 11–2–89; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

RIN 1018-AA50

Refuge-Specific Fishing Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) would amend certain regulations in 50 CFR part 33 that pertain to fishing on individual national wildlife refuges (NWRs). Refuge fishing programs are reviewed annually to determine whether the regulations governing fishing on individual refuges should be modified. Changing environmental conditions, state and Federal regulations and other factors affecting fish populations and habitats may warrant such amendments. The modifications would ensure the continued compatibility of fishing with the purposes for which the individual refuges involved were established and, to the extent practical, make refuge fishing programs consistent with state regulations.

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

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

FOR FURTHER INFORMATION CONTACT: Larry LaRochelle, Division of Refuges, Fish and Wildlife Service, 18th and C Streets NW., MS 670–ARLSQ, Washington, DC 20240; Telephone 703–358–2043.

SUPPLEMENTARY INFORMATION: 50 CFR part 33 contains the provisions that govern fishing on NWRs. Fishing is regulated on refuges to (1) ensure compatibility with primary refuge purposes, (2) properly manage the fishery resource and (3) protect other refuge values. On many refuges, the Service policy of adopting state fishing regulations is an adequate way of meeting these objectives. On other refuges it is necessary to supplement state regulations with refuge-specific fishing regulations which will ensure that the Service meets its management responsibilities, as outlined under the section entitled "Conformance with Statutory and Regulatory Authorities." These regulations may list the seasons, methods of taking fish, descriptions of open areas and other provisions. The Service has previously issued refuge-specific fishing regulations in 50 CFR part 33. Refuge-specific fishing regulations are issued only after the final publication of the opening of a wildlife refuge to fishing.

This proposed rule would amend and supplement certain refuge-specific regulations in 50 CFR part 33, §§ 33.8 through 33.51, which pertain to fishing on individual refuges in their respective alphabetically listed state.

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

Conformance With Statutory and Regulatory Authorities

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

The RRA authorizes the Secretary to administer refuge areas within the National Wildlife Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the area was established. The RRA also authorizes the Secretary to issue regulations to carry out the purposes of the Act.

Fishing plans are developed for each fishing program on a refuge prior to its opening to fishing. In many cases, refuge-specific fishing regulations are included as part of fishing plans to ensure the compatibility of the fishing programs with the purposes for which the refuge was established. Compliance with the NWRSAA and RRA is ensured when fishing plans are developed and the determinations required by these Acts are made prior to the addition of the refuge to the list of areas open to fishing in 50 CFR part 33. Continued compliance is ensured by annual review of fishing programs and regulations.

Economic Effect

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

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

Paperwork Reduction Act

The Service has approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements are presently approved by OMB as cited below:

Type of information collection	OMB approval No.
Economic and public use permits	1018–0014

Public reporting burden for this form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing and

reviewing the form. Direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S. Fish and Wildlife Service, MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0014), Washington, DC 20503.

Environmental Considerations

Compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) is ensured when fishing plans are developed and the determinations required by these Acts are made prior to the addition of refuges to the list of areas open to sport fishing in 50 CFR part 33. Refuge-specific fishing regulations are subject to a categorical exclusion from the NEPA process if they do not significantly alter the existing use of a particular refuge. The changes proposed in this rulemaking would not significantly alter the existing uses of the refuges involved.

Information regarding the conditions that apply to individual refuge fishing programs, any restrictions related to public use on the refuge and a map of the refuge are available at refuge headquarters. This information can also be obtained from the regional offices of the Service at the addresses listed below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon and Washington:
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1002 NE Holladay Street, Portland, Oregon 97232; Telephone (503) 231–6214.
Region 2—Arizona, New Mexico, Oklahoma and Texas:
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; Telephone (505) 766–1829.
Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin:
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612) 725–3507.
Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Puerto Rico, Tennessee and the Virgin Islands:
Assitant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street SW, Atlanta, Georgia 30303; Telephone (404) 331–0833.
Region 5—Connecticut, Delaware, District of Columbia, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia:
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158; Telephone (617) 965–9222.
Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming:
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80225; Telephone (303) 236–8145.
Region 7—Alaska:
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; Telephone (907) 786–3538.

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

List of Subjects in 50 CFR Part 33

Fishing, National Wildlife Refuge System, Wildlife refuges.

PART 33—[AMENDED]

Accordingly, it is proposed to amend part 33 of chapter I of title 50 of the Code of Federal Regulations as set forth below:

1. The authority citation for part 33 continues to read as follows:

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

2. Section 33.4 would be amended to reflect a name change by deleting the Columbian White-tailed Deer National Wildlife Refuge and adding the Julia Butler Hansen Refuge for the Columbian White-tailed Deer in alphabetical sequence under the State of Washington as follows:

§ 33.4 List of open areas; sport fishing

* * * * *

Washington

* * * * *

Julia Butler Hansen Refuge for the Columbian White-tailed Deer.

* * * * *

3. Section 33.8 would be amended by revising paragraph (a) introductory text and adding paragraph (a)(6) as follows:

§ 33.8 Arkansas.

(a) *Big Lake National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(6) Frogging is permitted from the beginning of the State frogging season through October 31. The use of archery equipment for taking frogs is not permitted.

* * * * *

4. Section 33.13 would be amended by removing paragraph (h); redesignating paragraphs (a) through (g) as (b) through (h) and adding a new paragraph (a) as follows:

§ 33.13 Florida.

(a) *Arthur R. Marshall Loxahatchee National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only from sunrise to sunset on all areas of the refuge except the management impoundments and those areas marked by signs as closed to public entry or fishing.

(2) Only the use of rods and reels or poles and lines is permitted, and this fishing equipment must be attended at all times.

(3) Commercial fishing or the taking of frogs or turtles is not permitted.

(4) The possession or use of trotlines, gigs, jugs, seines, castnets or other fishing devices not described above is not permitted.

* * * * *

5. Section 33.17 would be amended by revising paragraph (b)(4) and the heading of paragraph (d) as follows:

§ 33.17 Illinois.

* * * * *

(b) *Crab Orchard National Wildlife Refuge.* * * *

* * * * *

(4) Largemouth bass under 15" in length may not be taken from A–41, Bluegill or Blue Huron Ponds, Crab Orchard Lake or Managers or Honkers Ponds.

* * * * *

(d) *Upper Mississippi River National Wildlife and Fish Refuge.* * * *

* * * * *

6. Section 33.19 would be amended by revising the heading of paragraph (d) as follows:

§ 33.19 Iowa.

* * * * *

(d) *Upper Mississippi River National Wildlife and Fish Refuge.* * * *

* * * * *

7. Section 33.22 would be amended by revising paragraph (e), redesignating paragraphs (g) as (h) and (f) as (g); adding new paragraph (f) and revising newly designated paragraph (g)(4) as follows:

§ 33.22 Louisiana.

(e) *Lacassine National Wildlife Refuge.* Fishing and crayfishing are permitted on designated areas of the refuge subject to the following condition:

Fishing is permitted from 1 hour before sunrise until 1 hour after sunset during the period of March 15 through October 15.

(f) *Lake Ophelia National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing and public access is permitted from one-half hour before sunrise until one-half hour after sunset only from March 1 through October 15 in areas posted by refuge signs and/or designated in refuge brochures.

(2) Fishing and public access is permitted year-round from one-half hour before sunrise until one-half hour after sunset in areas posted by refuge signs and/or designated in refuge brochures.

(3) Access to refuge fishing areas is restricted to those roads and trails posted by refuge signs and/or designated by refuge brochures.

(4) Only nonmotorized boats, boats with electric motors, and boats with motors of 25 horsepower or less are permitted in refuge wates. Boats may not be left on the refuge overnight.

(5) The ends of trotlines must consist of a length of cotton line that extends from the point of attachment into the water.

(g) *Sabine National Wildlife Refuge.*

* * *

* * * * *

(4) All other refuge waters are open to fishing, crabbing, crayfishing and shrimping from March 15 through October 15 only.

* * * * *

8. Section 33.26 would be amended by revising paragraph (a)(2)(i); removing paragraph (a)(2)(ii) and redesignating paragraphs (a)(2)(iii) through (v) as paragraphs (a)(2)(ii) through (iv) as follows:

§ 33.26 Michigan.

(a) *Seney National Wildlife Refuge.*

* * *

* * * * *

(2) *Summer fishing.* (i) Fishing is permitted from May 15 through September 30 during daylight hours only.

* * * * *

9. Section 33.27 would be amended by revising paragraph (b) and the heading of paragraph (f) as follows:

§ 33.27 Minnesota.

* * * * *

(b) *Minnesota Valley National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Only bank fishing is permitted.

(2) Ice fishing is permitted when ice conditions are safe.

(3) Ice fishing shelters must be removed from the refuge following each day's fishing activity.

* * * * *

(f) *Upper Mississippi River National Wildlife and Fish Refuge.* * * *

10. Section 33.32 would be amended by revising paragraphs (a) (1) through (3); revising paragraph (b)(2), adding paragraphs (b) (4) through (8) as follows:

§ 33.32 Nevada.

(a) *Pahranagat National Wildlife Refuge.* * * *

(1) Fishing is permitted year-round with the exception of North Marsh which is closed annually during the waterfowl hunting season.

(2) Only non-motorized boats and boats with electric motors are permitted on Upper Lake, Middle Pond, and Lower Lake.

(3) The use of boats, rubber rafts or other flotation devices is not permitted on North Marsh.

(b) *Ruby Lake National Wildlife Refuge.* * * *

* * * * *

(2) Only dike fishing is permitted in the areas north of the Brown Dike and east of the Collection Ditch with the exception that fishing by wading and from personal flotation devices (float tubes) is permitted in Unit 21 and portions of Unit 10.

* * * * *

(4) Beginning June 15 annually and continuing until December 31 annually, motorless boats with battery powered electric motors are permitted only on the South Sump.

(5) Beginning August 1 annually and continuing until December 31 annually, boats propelled with a motor or combination of motors in aggregate not to exceed 10 horsepower rating are permitted on the South Sump.

(6) Boats may be launched only from designated landings.

(7) No boats of any kind may be stored on the refuge from January 1 through March 31.

(8) Fishing is prohibited from the west bank of the Collection Ditch between Bressman Cabin and Passey Springhole, in the hatchery rearing and brooding from the dike between Units 14 and 20 as posted.

* * * * *

11. Section 33.34 would be amended by revising paragraphs (a)(2) and (a)(3) as follows:

§ 33.34 New Jersey.

(a) *Edwin B. Forsythe National Wildlife Refuge.* * * *

* * * * *

(2) Boat and bank fishing are permitted in and along Lily Lake. Boat ramp facilities are not available; only cartop launches will be permitted.

(3) Fishing, clamming and crabbing are not permitted from land or on any waters within tract 122X locally known as the AT&T properties. This area is closed to all public use.

* * * * *

12. Section 33.53 would be amended by revising paragraph (d) as follows:

§ 33.53 Wisconsin.

* * * * *

(d) *Upper Mississippi River National Wildlife and Fish Refuge.* Fishing is permitted subject to the following condition:

(1) Only hand powered boats or boats with electric motors are permitted on Mertes' Slough in Buffalo County, Wisconsin.

Dated: September 22, 1989.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 89-25975 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 54, No. 212
Friday, November 3, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. 89-028N]

National Advisory Committee on Microbiological Criteria for Foods; Meeting

Notice is hereby given that a meeting of the National Advisory Committee on Microbiological Criteria for Foods, will be held on Monday, Tuesday, and Wednesday, November 27–29, 1989, at the Marriott Key Bridge Hotel, 1401 Lee Highway, Arlington, VA 22209. On Monday, November 27, 1989, the Meat and Poultry and the Seafood Working Groups will meet from 1:00 p.m. to 5:00 p.m. to prepare for the full committee discussions on Tuesday and Wednesday. The full committee will meet from 9:00 a.m. to 5:00 p.m. on November 28 and 29.

The committee provides advice and recommendations to the Secretaries of Agriculture and Health and Human Services concerning the development of microbiological criteria by which the safety and wholesomeness of food can be assessed, including criteria for microorganisms that indicate whether foods have been produced using good manufacturing practices.

The Agenda for this meeting follows:

(1) Approval of Meeting Agenda,

(2) Approval of the June 21–23, 1989, Meeting Minutes,

(3) Presentation of the Seafood Subcommittee Recommendations,

(4) Presentation of the Meat and Poultry Subcommittee Recommendations,

(5) Presentation of the HACCP Subcommittee Recommendations,

(6) Committee Discussions of Recommendations,

(7) New Business, and

(8) Future Assignments.

The Committee meetings are open to the public on a space available basis. Comments of interested persons may be filed prior to or after the meeting and should be addressed to Ms. Catherine M. DeRoever, Director, Executive Secretariat, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 3175, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. In submitting comments, please reference the docket number appearing in the heading of this notice. Background materials are available for inspection by contacting Ms. DeRoever on (202) 447–9150.

Done at Washington, DC on: October 30, 1989.

Lester M. Crawford,

Chairman.

[FR Doc. 89–25897 Filed 11–2–89; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Warren E. Thompson; Order

In the matter of Warren E. Thompson, 1064 Gridley Street, Bayshore, New York 11706, Respondent.

On October 10, 1989, then-Acting Assistant Secretary for Export Enforcement Skidmore signed an Order in the above-captioned matter which denied the export privileges of Warren E. Thompson (Thompson). 54 FR 42969, October 19, 1989. Through inadvertence, that Order did not include Thompson's address.

In view of the foregoing, I am hereby amending the October 10, 1989 Order by inserting in line five of the second full paragraph of that Order, after the word "[Thompson]", the following address: 1064 Gridley Street, Bayshore, New York 11706.

Entered this 27th day of October, 1989.

Kenneth A. Cutshaw,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 89–25873 Filed 11–3–89; 8:45 am]

BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Order No. 447]

Approval for Expansion of Foreign-Trade Zone 83; Huntsville, AL

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

Whereas, the Huntsville-Madison County Airport Authority, Grantee of Foreign-Trade Zone No. 83, has applied to the Board for authority to expand its general-purpose zone at the Huntsville International Airport, within the Huntsville Customs port of entry;

Whereas, the application was accepted for filing on December 22, 1988, and notice inviting public comment was given in the **Federal Register** on January 9, 1989 (Docket 39–88, 54 FR 650);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the Huntsville area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed December 22, 1988. The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 30th day of October, 1989.

Eric I. Garfinkel,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89-25981 Filed 11-2-89; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 445]

Approval for Expansion of Foreign-Trade Zone 23; County of Erie, NY

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

Whereas, the County of Erie, New York, Grantee of Foreign-Trade Zone No. 23, has applied to the Board for authority to expand its general-purpose zone at the Gateway Trade Center in Buffalo and Lackawanna, New York, within the Buffalo Customs port of entry;

Whereas, the application was accepted for filing on December 16, 1987, and notice inviting public comment was given in the **Federal Register** on December 24, 1987 (Docket 45–87, 52 FR 48732);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the Buffalo area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed December 16, 1987. The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 30th day of October, 1989.

Eric I. Garfinkel,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89-25982 Filed 11-02-89; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 21-89]

Foreign-Trade Zone 141—Monroe County, NY; Application for Subzone Hickey-Freeman Apparel Plant, Rochester, NY

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Monroe, New York, grantee of FTZ 141, requesting special-purpose subzone status for the apparel manufacturing plant of Hickey-Freeman Company, Inc. (a subsidiary of Hartmarx Corporation), in Rochester, New York, within the Rochester Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 25, 1989.

The Hickey-Freeman plant (6 acres) is located at 1155 Clinton Avenue North, Rochester. The facility employs some 1,200 persons and is used to manufacture men's suits. The primary material is woven worsted wool fabric, which is purchased mostly from foreign sources. Within the activated zone area, material would be inspected, sprayed, shrunk and cut under zone procedures, resulting in unfinished shells. The shells would be sewn and finished into men's suits elsewhere at the plant outside the activated zone area.

Zone procedures would allow Hickey-Freeman to accelerate its claims for drawback on products to be exported. On domestic sales, the company would be able to choose the duty rate on cut suit shells (15.5%), whereas the duty rate on woolen fabric is 36.1 percent. The application indicates that subzone status will result in savings that will help the plant compete with foreign plants, which are increasing shipments to the United States.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Edward A. Goggin, Deputy Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 10 Causeway Street, Boston, Massachusetts 02222; and Colonel Hugh F. Boyd IV, District Engineer, U.S. Army Engineer District Buffalo, 1776 Niagara Street, Buffalo, New York 14207.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 8, 1989.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Department of Commerce, Branch Office, 121 East Avenue, Rochester, New York 14604;

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 2835, Washington, DC 20230.

Dated: October 27, 1989.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89-25909 Filed 11-2-89; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 23-89]

Foreign-Trade Zone 78—Nashville, TN; Extension of Time Limit for Subzone 78D, Global Power Company Equipment Storage Facility, Phipps Bend, TN

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Metropolitan Nashville Port Authority (Port Authority), grantee of FTZ 78, requesting an extension of the time limit on Subzone 78D (to 10–25–93) at the Global Power Company's nuclear equipment storage facility in Phipps Bend, Tennessee. Global Power Company (Global), a Delaware Corp., (an affiliate of Park Co.) replaced the Tennessee Valley Authority (TVA) as operator in January 1989. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 USC 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 23, 1989.

Subzones 78C and 78D were approved by the Board on March 30, 1984, to allow TVA to defer duties on certain foreign-sourced nuclear power plant equipment purchased for power plants that were never built (Board Order 246, 49 FR 13562). Approval was granted for five

years (3–30–89), during which time TVA had expected to sell the equipment. In 1988, TVA executed an agreement with Global and its affiliate Park Company (Park), pursuant to which Park purchased the equipment and Global applied to become operator. Park planned to sell the equipment to foreign customers. Based on a request from the Port Authority on behalf of Park, the Board approved a time extension of subzone status until December 31, 1989 for Subzone 78D, and October 25, 1993 for Subzone 78C (Board Order 413, 53 FR 51575). The Port Authority is now requesting that the time limit for Subzone 78D be extended to October 25, 1993. This would give Park additional time to sell the equipment at that site.

The examiners committee which will review the request consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Joel Mish, District Director, U.S. Customs Service, South Central Region, 423 Canal Street, New Orleans, Louisiana 70130–2341; and, Colonel James P. King, District Engineer, U.S. Army Engineer District Nashville, P.O. Box 1070, Nashville, TN 37202–1070.

Comments concerning the proposed time extension are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before November 24, 1989.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, Suite 1114 Parkway Towers, 404 James Robertson Parkway, Nashville, TN 37219–1505;

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 2835, 14th & Pennsylvania Ave., NW., Washington, DC 20230.

Dated: October 26, 1989.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89–25910 Filed 11–2–89; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A–583–008]

Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On November 16, 1988, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke in part the antidumping duty order on certain circular welded carbon steel pipes and tubes from Taiwan. The review covers four manufacturers and/or exporters of this merchandise to the United States for the period May 1, 1986 through April 30, 1987.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the final results from those presented in our preliminary results of review for one of the four manufacturers.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC, 20230; telephone (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1988, the Department of Commerce ("the Department") published in the Federal Register (53 FR 46102) the preliminary results of its administrative review and tentative determination to revoke in part the antidumping duty order on certain circular welded carbon steel pipes and tubes from Taiwan (49 FR 19369, May 7, 1984). We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Tariff Act").

Scope of the Review

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 is now classified solely according to the appropriate HTS number(s).

Imports covered by this review are shipments of certain circular welded carbon steel pipes and tubes. The Department defines such merchandise as welded carbon steel pipes and tubes of circular cross section, with walls not thinner than 0.065 inch, and 0.375 inch or more but not over 4.5 inches in outside diameter, which were classified under items 610.3231, 61O.3234, 610.3241, 610.3242, 610.3243 and 610.3252 of the Tariff Schedules of the United States Annotated ("TSUSA"); this merchandise is currently classified under HTS item number 7306.30.50. The TSUSA and HTS item numbers are provided for convenience and customs purposes. The written product description remains dispositive.

The review covers four manufacturers/exporters of certain Taiwan circular welded carbon steel pipes and tubes and the period May 1, 1986 through April 30, 1987.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received comments from the petitioner, the standard pipe subcommittee of the Committee on Pipe and Tube Imports, and one respondent, An Mau Steel Company ("An Mau").

Petitioner's Comment 1

Petitioner contends that the Department's tentative decision to revoke the antidumping duty order with respect to Yieh Hsing Enterprise ("Yieh Hsing") was inappropriate, since such a decision may only be made pursuant to a review under section 751(b) of the Tariff Act, subsequent to a section 751(a) finding of no sales at less than fair value. Petitioner cites as authority for this claim the decision of the Court of Appeals for the Federal Circuit in *Oregon Steel Mills, Inc.* v. *United States*, Slip Op. 88–1242 (November 23, 1988).

Department's Position

We disagree. Under the statute, a section 751(c) revocation can be made pursuant to either a section 751(a) or 751(b) review. Petitioner misplaces its reliance on *Oregon Mills*, which held that a section 751(b) review, by itself, is adequate to authorize 751(c) revocation, not that both 751(a) and 751(b) reviews are necessary.

Petitioner's Comment 2

Petitioner faults the Department for failing to honor petitioner's withdrawal of its request for a review of the respondent, Kao Hsing Chang Iron and Steel ("Kao Hsing Chang"), stating that nothing in section 751(a) of the Tariff Act gives the Department the authority to continue an administrative review without a valid request on the record. The petitioner cites similar instances where the Department has terminated a review following the withdrawal of the sole request by the requester after a substantial period of time has passed

and after the questionnaire response has been received.

Department's Position

As the Department stated in its preliminary results of review, the petitioner withdrew its request for review with respect to Kao Hsing Chang on July 25, 1988, 404 days after initiation of the review. The length of time in this case far exceeds the time elapsed in the examples cited by the petitioner in which the Department has terminated a case upon withdrawal of a request. The Department's new regulations now permit a party to withdraw a request for review no later than 90 days after the date of publication of the notice of initiation, although the Secretary may extend this time limit if the Secretary decides it is reasonable to do so (§ 353.22(a)(5) of the Department's regulations published in the **Federal Register** on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22(a)(5)). Although the Department's prior regulations did not address this question, we determine that 404 days is an excessive length of time after initiation to withdraw a request and terminate a review; therefore, we have not terminated the review of Kao Hsing Chang.

Petitioner's Comment 3

Petitioner questions a U.S. price change reported by Yieh Hsing and requests the Department to obtain documentation to verify the revised price.

Department's Position

The Department was able to confirm through U.S. Customs that the price change reported by Yieh Hsing is accurate.

Petitioner's Comment 4

Petitioner comments that it is unclear from Yieh Hsing's response whether its reported home market price included value added tax ("VAT"). If Yieh Hsing did not include VAT in its reported home market prices, the VAT adjustment made in the preliminary results of review should not be made in the final results.

Department's Position

The Department received confirmation from Yieh Hsing that VAT was not included in the home market selling price reported. We have deleted the adjustment for VAT in these final results

Petitioner's Comment 5

The petitioner argues that the Department should decline to grant Yieh Hsing a circumstance of sale adjustment since its home market credit experience was insufficiently documented.

Department's Position

We disagree. Yieh Hsing provided complete credit information on the home market transactions specifically selected by the Department and on which the Department has reasonably relied as support for Yieh Hsing's home market credit experience.

Petitioner's Comment 6

Petitioner argues that costs associated with the discontinuation of An Mau's pipe producing operations should be included in the constructed value of its pipe and tube sold during the period of this review.

Department's Position

We disagree. Costs associated with the dismantling and disposal of the pipe mill equipment were not incurred in the course of producing pipes and tubes for sale. Since all scheduled depreciation was included in the production costs corresponding with sales made during the period of review, the subsequent nonoperating expenses of retiring equipment should not be included in the calculation of constructed value.

An Mau's Comments

An Mau 's Comment 1

An Mau argues that the Department should not be relying on production costs incurred after August 1986 in its constructed value calculations, since from September 1986 until January 1987, An Mau was in the process of shutting down production, and as a result of this cessation of normal production, An Mau's fixed factory overhead and labor costs per metric ton of pipe produced increased substantially. Such artificially inflated costs during this latter period do not represent costs incurred "at a time preceding the date of exportation of the merchandise under consideration which would ordinarily permit the production of that particular merchandise in the ordinary course of business," as required by section 773(e)(1)(A) of the Tariff Act. Alternatively, should the Department conclude that constructed value can be based on costs incurred for producing merchandise during September 1986–January 1987, such production costs should only be utilized for merchandise actually produced during these months. Merchandise produced prior to September 1986 cannot be compared to costs incurred in this subsequent period of time.

Department's Position

In its final results of review, the Department has weight averaged the costs of production used in determining constructed value throughout the review period. Although the costs of production for the September 1986–January 1987 period are included in the average, the quantities produced within that period are significantly smaller than the quantities of merchandise produced earlier and, as a result, are not distortive. By using the weighted-average costs of production in this case, the Department is relying on the actual costs incurred in a manner which is representative of production costs throughout the period of review.

Comment 2

An Mau argues that depreciation associated with three idle forming machines that were never put into production should be excluded from constructed value. In particular, An Mau alleges that these three machines are no longer useful, were designed to produce furniture tubing, and could not have been used to produce merchandise exported to the United States.

Department's Position

An Mau never previously indicated that the forming machines in question could not have been used to produce merchandise it exported to the United States even though the issue was discussed and treated similarly in the previous review (See *Final Results of Antidumping Duty Administrative Review, Certain Circular Welded Carbon Steel Pipes and Tubes*, 53 FR 41219, October 20, 1988). An Mau failed to provide any evidence in the course of this review to support this assertion and only raised the issue following the preliminary results of review. Therefore, An Mau has not provided adequate factual or sufficiently timely information to enable the Department to evaluate this claim. For these reasons, we have continued to include the depreciation associated with these three machines as a cost of production in our calculation of constructed value.

Comment 3

An Mau requests the Department to correct two errors it made in its U.S. sales listing. The corrections cited involve an incorrect pipe designation for one transaction as well as an incorrect U.S. price for a second transaction.

Department's Position

We consider these corrections submitted by An Mau subsequent to the preliminary results to be untimely. We

will not allow respondents to selectively amend responses to their advantage unless the errors are so obvious they can be corrected without additional information. An Mau had ample time between the submission of its response in October 1987 and the preliminary results in November 1988 to correct any errors in its U.S. sales data.

Final Results of the Review

As a result of the comments received, we have revised our preliminary results and determine that the following margins exist for the period May 1, 1986 through April 30, 1987:

Manufacturer	Margin (percent)
An Mau	.66
Yieh Hsing	0
Kao Hsing Chang	[1] 0
Far East Machinery Co	[1] 0

[1] No shipments during the period. Rates noted are from the preceding antidumping duty administrative review.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above for An Mau. The Department will issue appraisement instructions directly to the Customs Service.

As provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margin will be required for An Mau. Because there was no margin for Yieh Hsing, Kao Hsing Chang, and Far East Machinery Co., no cash deposit shall be required for those companies. For shipments from the remaining known manufacturer not covered by this review, the cash deposit will continue to be at the rate established in the final results of antidumping duty administrative review for this firm (51 FR 43948, December 5, 1986). For any future entries of this merchandise from a new exporter not covered in this or prior reviews, whose first shipments occurred after April 30, 1987 and who is unrelated to any previously reviewed firm, a cash deposit of .66 percent shall be required. These deposit requirements and waivers are effective for all shipments of certain circular pipes and tubes from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Department's regulations.

Dated: October 30,1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-25983 Filed 11-2-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-015]

Television Receivers, Monochrome and Color, From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by two domestic parties to the proceeding and two respondents, the Department of Commerce (the Department) has conducted an administrative review of the antidumping finding on television receivers from Japan. The review covers four manufacturers/exporters of this merchandise to the United States and various periods from April 1, 1981, through February 28, 1989. As a result of the review, the Department has preliminarily determined the dumping margins for these firms to range from zero to 28.29 percent.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: J.E. Downey or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3601/ 4733.

SUPPLEMENTARY INFORMATION:

Background

On August 28, 1989, the Department published in the **Federal Register** (54 FR 35517) the final results of its last administrative review of the antidumping finding on television receivers from Japan. Two domestic parties to the proceeding and two respondents requested in accordance with 19 CFR 353.53a(a) of the Commerce Regulations (1988) that we conduct these administrative reviews. We published notices of initiation of the antidumping duty administrative reviews on November 27, 1985, April 18, 1986, July 9, 1986, and April 28, 1989. As required by section 751 of the Tariff Act of 1930 (the Tariff Act), we have now conducted these administrative reviews.

We verified in Japan and in the United States the questionnaire responses submitted by Sharp Corporation and Toshiba Corporation. Sharp failed to provide supplementary model match data that we requested for the fifth, sixth, and seventh administrative reviews. NEC did not respond to our questionnaire for the tenth review period.

For Sharp's fifth, sixth, and seventh administrative reviews, we used the highest rate for any firm from each respective period as BIA. We used NEC's rate from the ninth review period (54 FR 13917, April 6, 1989) as BIA for its tenth review period.

Scope of Review

Imports covered by the review are shipments of television receiving sets, monochrome and color, from Japan. Television receiving sets include, but are not limited to, units known as projection televisions, receiver monitors, and kits (containing all parts necessary to receive a broadcast television signal and produce a video image). Not included are certain monitors not capable of receiving a broadcast signal, certain combination units (combination television receivers with other electrical entertainment components such as tape recorders, radio receivers, etc.), and certain subassemblies not containing the components essential for receiving a broadcast television signal and producing a video image.

This review covers four manufacturers/exporters of Japanese television receivers, monochrome and color, and various periods from April 1, 1981 through February. 28, 1989.

On November 27, 1985 (50 FR 48852), the Department initiated reviews for Toei Electronics Co., Ltd. for the periods April 1, 1981 through March 31, 1982 and April 1, 1982 through March 31, 1983. Since Toei did not have sales of merchandise included in the scope of the antidumping finding during these periods, we preliminarily determine to terminate those reviews.

United States Price

In calculating United States price, we used purchase price (PP) or exporter's sales price (ESP), as defined in section 772 of the Tariff Act, where appropriate. PP and ESP were based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in the United States. We made adjustments, where appropriate, for discounts, rebates, commissions to unrelated parties, royalties, ocean freight, marine insurance, U.S. and Japanese inland freight, inland freight insurance, U.S.

and Japanese brokerage fees, Japanese customs clearance fees, export license fees, forwarding and handling charges, export selling expenses incurred in Japan, and the U.S. subsidiaries, selling expenses. We accounted for taxes imposed in Japan, but rebated or not collected by reason of the exportation of the merchandise to the United States, by multiplying the ex-factory price of the televisions sold in the United States by the tax rate and adding the result to the U.S. price.

Foreign Market Value

In calculating foreign market value (FMV), we used home market price, as defined in section 773 of the Tariff Act, when sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. For Sharp, when the quantities of such or similar merchandise sold in the home market were insufficient to provide a basis for comparison, we used constructed value. A domestic party to the proceeding, Zenith, alleged sales below cost in the home market by Toshiba during the fifth review. We considered those allegations sufficient to warrant a below-cost investigation of that firm for that period.

Toshiba's response to our production cost questionnaire was inadequate in various respects. For example, it did not explain its cost accounting system, its calculation of labor costs, its calculation of factory overhead, its treatment of assists, or its production capacity, nor did it furnish adequate data on its general and administrative expenses, as requested in our questionnaire. As best information available (BIA) for Toshiba, we used the company's incomplete response data to derive constructed value in the partial fifth review period. Those data were adverse to Toshiba.

We calculated constructed value as the sum of material and fabrication costs, general expenses, profit, and the cost of U.S. packing. Since Toshiba's actual general expenses were greater than the statutory minimum of ten percent of the sum of materials and fabrication costs, we used its actual general expenses. Since Sharp's actual general expenses were lower than ten percent, we used the statutory minimum of ten percent, as provided by section 773 of the Act. We used Sharp's and Toshiba's actual profits because their actual profits were above the statutory minimum.

Home market price was based on the packed, ex-factory or delivered price to unrelated purchasers in the home market. Where applicable, we made adjustments for discounts, inland freight, differences in credit expenses, warranties, advertising, royalties, physical characteristics of the merchandise, and packing. We made further adjustments in ESP calculations, where appropriate, for indirect selling expenses to offset U.S. commissions and U.S. indirect selling expenses, but not exceeding the amount of those U.S. expenses. Finally, we made circumstance-of-sale adjustments for commodity tax differences, where appropriate.

For Toshiba, we made no adjustments to constructed value because our calculations were based on BIA.

No other adjustments were claimed or allowed for any firm.

Preliminary Results of Review

As a result of our review, we preliminarily determine the margins to be:

Manufacturer	Review No.	Period of review	Margin (percent)
Funai	10	03/01/88-02/28/89	[1] 21.93
NEC	10	03/01/88-02/28/89	26.94
Sharp	3	04/01/81-03/31/82	0.00
	4	04/01/82-03/31/83	1.59
	5	04/01/83-03/31/84	18.21
	6	04/01/84-02/28/85	7.37
	7	03/01/85-02/28/86	7.16
Toshiba	Partial		
	5	04/01/83-09/27/83	28.29
	9	03/01/87-02/29/88	[1] 28.29

[1] No shipments during the period; rate from last review in which there were shipments.

Interested parties may submit written comments on these preliminary results within 21 days of the date of publication of this notice and may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held as early as is convenient for the parties but not later than 30 days after the date of publication or the first workday thereafter. Pre-hearing briefs from interested parties may be submitted not later than 9 days before the date of the hearing or the first workday thereafter. Rebuttal briefs and rebuttal comments, limited to issues raised in the initial round of comments, may be filed not later than 7 days after the submission of the initial round of comments. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

On September 27, 1983, the Department published in the **Federal Register** a tentative determination to revoke in part the antidumping finding on Japanese television receivers with respect to Toshiba (48 FR 44101). We preliminarily find margins for Toshiba in this review. If we determine that Toshiba has higher than *de minimis* margins in the final results of this review, we will not consider Toshiba further for revocation.

The Department will determine, and the Customs Service will assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the most recent of the above margins will be required for the above firms. For any shipments of this merchandise manufactured by Fujitsu General Ltd., Hitachi Ltd., Matsushita Electric Industrial Corporation, Mitsubishi Electric Corporation, Sanyo Electric Company, Ltd., or Victor Company of Japan, the cash deposit will continue to be the same as the rates published in the final results of the last administrative review for these firms (Fujitsu General, Hitachi, and Sanyo: 54 FR 35517, August 28, 1989; Matsushita, and Victor: 54 FR 13917, April 6, 1989; Mitsubishi: 53 FR 4050, February 11, 1988).

For any future entries of this merchandise from a new exporter, not covered in this or prior reviews, whose first shipments of this merchandise occurred after February 28, 1989 and which is unrelated to any reviewed firm or any previously reviewed firms, a cash deposit of 26.94 percent shall be required. This is the rate for Matsushita in the eighth review (54 FR 13917, April 6, 1989). These deposit requirements are effective for all shipments of Japanese television receivers, monochrome or color, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations (54 FR 12742) (to be codified at 19 CFR 353.22).

Dated: October 31, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26033 Filed 11-2-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-015]

Television Receivers, Monochrome and Color, From Japan; Determination Not To Revoke Antidumping Finding in Part

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of determination not to revoke antidumping finding in part.

SUMMARY: On August 28, 1989, the Department of Commerce published the final results of its review of the antidumping finding on television receivers, monochrome and color, from Japan. In that review, we found antidumping margins for Sharp Corporation for the period April 1, 1980 through March 30, 1981. Based on those results, we determine not to revoke in part the antidumping finding on Japanese television receivers with respect to Sharp.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: J.E. Downey or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3601/4733.

SUPPLEMENTARY INFORMATION: On August 18, 1983, the Department of Commerce ("the Department") published a tentative determination to revoke in part the antidumping finding with respect to Sharp (48 FR 37508) based on all sales at not less than fair value, or sales resulting in *de minimis* weighted-average margins, during the period April 1, 1979 through March 31, 1981. On August 28, 1989, the Department published the final results of its review of the antidumping finding on television receivers, monochrome and color, from Japan (54 FR 35517). In that review, we found antidumping margins for Sharp Corporation for the period April 1, 1980 through March 31, 1981. Since we found higher than *de minimis* margins for Sharp, we determine not to revoke in part the antidumping finding on Japanese television receivers with respect to Sharp.

This notice and determination are in accordance with section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) and, because the tentative revocation for Sharp was published prior to the effective date of the Commerce Regulations published in the **Federal Register** on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.25), this notice and determination are in accordance with 19 CFR 353.54 (1988).

Dated: October 31, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import/Administration.

[FR Doc. 89-26034 Filed 11-2-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-059]

Pressure Sensitive Plastic Tape From Italy; Preliminary Results of Antidumping Duty Administrative Review and Intent To Revoke in Part

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

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review and Intent to Revoke in Part.

SUMMARY: In response to requests by the petitioner and respondents, the Department of Commerce has conducted an administrative review of the antidumping finding on pressure sensitive plastic tape from Italy. The review covers three manufacturers and/or exporters of this merchandise to the United States and generally the period October 1, 1987 through September 30, 1988. We preliminarily determine the dumping margins to be zero, 8.67 percent, and 0.14 percent for Manuli S.p.A. ("Manuli"), Boston S.p.A. ("Boston"), and NAR S.p.A. ("NAR"), respectively. We also intend to revoke the finding with respect to Boston.

Interested parties are invited to comment on these preliminary results and intent to revoke in part.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Eugenio Parisi or John Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923/3601.

SUPPLEMENTARY INFORMATION:

Background

On March 30, 1989, the Department published in the **Federal Register** (54 FR 13091) the final results of its last administrative review of the antidumping finding on pressure sensitive plastic tape from Italy (42 FR 56110, October 21, 1977). We published a tentative determination to revoke with respect to Boston on August 5, 1988 (53 FR 29507). We published a notice of initiation of the antidumping duty administrative review on December 5, 1988 (53 FR 48951). The petitioner, Minnesota Mining and Manufacturing ("3M"), and one respondent, NAR, requested in accordance with 19 CFR 353.53a(a) (1988) that we conduct an administrative review. The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

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 is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of pressure sensitive plastic tape measuring over 1⅜ inches in width and not exceeding 4 mils in thickness. During this review period such merchandise was classified under items 790.5530, 790.5545, and 790.5555 of the Tariff Schedules of the United States Annotated ("TSUSA"). This merchandise is currently classifiable under HTS items 3919.90.20 and 3919.90.50. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers three manufacturers and/or exporters to the United States of Italian pressure sensitive plastic tape and generally the period October 1, 1987 through September 30, 1988.

United States Price

In calculating United States price, we used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the packed, c.i.f. price to unrelated purchasers in the United States. We made adjustments, where applicable, for brokerage fees, ocean freight, foreign inland freight, and marine insurance. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value, we used home market price, as defined in section 773 of the Tariff Act, because sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the packed, ex-factory or delivered price to unrelated purchasers in the home market. Where applicable, we made adjustments for inland freight, differences in credit expenses,

discounts, rebates, differences in packing, and differences in merchandise. No other adjustments were claimed or allowed.

Preliminary Results of Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine the dumping margins to be:

Manufacturer/ Exporter	Time period	Margin (percent)
NAR	10/1/87-9/30/88	0.14
Manuli	10/1/87-9/30/88	[1] 0
Boston	10/1/87-8/05/88	[1] 8.67

[1] No shipments during the period; margin from last review in which there were shipments.

Parties to the proceeding may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of issues raised in any such comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by section 751 (a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for these firms. Since the margin for NAR is less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes, the Department shall not require a cash deposit of estimated antidumping duties on entries for this firm. For any shipments of this merchandise manufactured or exported by the remaining known manufacturers and/or exporters not covered in this review, the cash deposit will continue to be the rate published in the final results of the last administrative review for these firms (54 FR 13091, March 30, 1989). For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after September 30, 1988 and who is unrelated to the reviewed firms or any previously reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Italian pressure sensitive plastic tape entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Boston made no shipments of the subject merchandise to the United States for more than four years. We published a tentative determination to revoke the antidumping finding with respect to Boston on August 5, 1988 (53 FR 29507). Boston has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding under circumstances specified in the written agreement.

Therefore, we intend to revoke in part the antidumping finding on pressure sensitive plastic tape from Italy with respect to Boston. If this partial revocation is made final, it will apply to all unliquidated entries of this merchandise manufactured and exported by Boston and entered, or withdrawn from warehouse, for consumption on or after August 5, 1988.

This administrative review, intent to revoke in part, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and §§ 353.22 and 353.25 of the Department's new regulations, published in the **Federal Register** on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22 and 353.25).

Dated: October 27, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-25908 Filed 11-2-87; 8:45 am]

BILLING CODE 3510-DS-M

Quarterly Update of Foreign Government Subsidies on Articles of Quota Cheese

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

ACTION: Publication of quarterly update of foreign government subsidies on articles of quota cheese.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared a quarterly update to its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: October 1, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Paul J. McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 ("the TAA") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese.

In the current quarter the Department has determined that the subsidy amounts have changed for each of the countries for which subsidies were identified in the last quarterly update to our January 1, 1989 annual subsidy list. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the TAA (19 U.S.C. 1202 note).

Dated: October 25, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

Appendix—Quota Cheese Subsidy Programs

Country	Program(s)	Gross [1] subsidy (cents per lb.)	Net [2] subsidy (cents per lb.)
Belgium	European Community (EC) Restitution Payments	36.1	36.1
Canada	Export Assistance on Certain Types of Cheese	29.3	29.3
Denmark	EC Restitution Payments	44.5	44.5
Finland	Export Subsidy	144.9	144.9
	Indirect Subsidies	21.2	21.2
		166.1	166.1
France	EC Restitution Payments	41.0	41.0
Greece	EC Restitution Payments	0.0	0.0
Ireland	EC Restitution Payments	54.1	54.1
Italy	EC Restitution Payments	60.7	60.7
Luxembourg	EC Restitution Payments	36.1	36.1
Netherlands	EC Restitution Payments	37.0	37.0
Norway	Indirect (Milk) Subsidy	16.9	16.9
	Consumer Subsidy	38.1	38.1
		55.0	55.0
Portugal	EC Restitution Payments	36.6	36.6
Spain	EC Restitution Payments	39.0	39.0
Switzerland	Deficiency Payments	88.3	88.3
United Kingdom	EC Restitution Payments	40.2	40.2
West Germany	EC Restitution Payments	44.1	44.1

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 89-25984 Filed 11-2-89; 8:45 am]
BILLING CODE 3510-DS-M

[C-549-804]

Preliminary Affirmative Countervailing Duty Determination: Carbon Steel Butt-Weld Pipe Fittings From Thailand

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Thailand of carbon steel butt-weld pipe fittings ("pipe fittings") as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is 2.85 percent *ad valorem* for all manufacturers, producers or exporters in Thailand of pipe fittings.

We are directing the U.S. Customs Service to suspend liquidation of all entries of pipe fittings from Thailand that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and to require a cash deposit or bond on entries of these products in an amount equal to 2.85 percent *ad valorem*.

If this investigation proceeds normally, we will make a final determination on or before January 10, 1990.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Kay Halpern 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) 377-0192 or 377-3217.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based on our investigation, we preliminarily determine that there is reason to believe or suspect that benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Thailand of pipe fittings. For purposes of this investigation, the following programs are preliminarily found to confer bounties or grants:

- Short-Term Loans Provided under the Export Packing Credits Program
- Tax Certificates for Exports
- Business Tax and Import Duty Exemptions for Machinery under Section 28 of the Investment Promotion Act

The estimated net bounty or grant is 2.85 percent *ad valorem*.

Case History

Since publication of the Notice of Initiation in the **Federal Register** (54 FR 35914, August 30, 1989), the following events have occurred. On September 5, 1989, we presented a questionnaire to the Government of Thailand (GOT) in Washington, DC, concerning petitioner's allegations. On October 11, 1989, after granting an extension, we received responses from the GOT and from the three respondent companies, Awaji Sangyo Co., Ltd. (AST), Thai Benkan Co., Ltd. (TBC), and TTU Industrial Corp., Ltd. (TTU). On October 19, 1989, we issued a supplemental/deficiency questionnaire to the GOT and the respondent companies, and received responses on October 25, 1989. We issued an additional questionnaire to the respondent companies on October 25, 1989, for which responses are due November 1, 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 U.S. tariff schedules were fully converted to the Harmonized Tariff Schedule (HTS), and all merchandise entered or withdrawn from warehouse for consumption on or after that date is now classified solely according to the appropriate HTS item number. The Department is providing both the appropriate Tariff Schedules of the United States Annotated (TSUSA) item number and the appropriate HTS item number with its product descriptions for convenience and Customs purposes. The Department's written description of the product under investigation remains dispositive as to the scope of the products covered by this investigation.

The product covered by this investigation is carbon steel butt-weld pipe fittings, having an inside diameter of less than 360 millimeters (fourteen inches), imported in either finished or unfinished form. These formed or forged pipe fittings are used to join sections in piping systems where conditions require

permanent, welded connections, as distinguished from fittings based on other fastening methods (*e.g.*, threaded, grooved, or bolted fittings). The product is classified under HTS subheading 7307.93.30 and was formerly classifiable under TSUSA item 610.88.00.

Analysis of Programs

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 responses, however, are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a bounty or grant in the final determination.

For purposes of this preliminary determination, the period for which we are measuring bounties or grants ("the review period") is calendar year 1988, which corresponds to the fiscal year of all three respondent companies. Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Thailand of pipe fittings under the following programs:

A. Short-Term Loans Provided Under the Export Packing Credits Program

Export packing credits (EPCs) are short-term loans used for either pre-shipment or post-shipment financing. Exporters apply to commercial banks for EPCs. The commercial banks, in turn, must submit an application for approval to the Bank of Thailand (BOT). Under the "Regulations Governing the Purchase of Promissory Notes Arising from Exports" (B. E. 2528), effective January 2, 1986, the BOT repurchases promissory notes issued by creditworthy exporters through commercial banks. To qualify for the repurchase arrangement, promissory notes must be supported by a letter of credit, sales contract, purchase order, usance bill or warehouse receipt. The notes are available for up to 180 days, and interest is paid on the due date of the loan rather than the date of receipt.

The BOT charges an interest rate of five percent per annum to commercial banks on repurchased packing credits issued in connection with exports of goods specified in categories one and two of the "Notification of the Board of Investment No. 40/2521." The commercial banks are permitted to charge exporters no more than seven percent per annum for the purchase of such notes.

On the due date of the loan, the BOT debits the commercial bank's account for the principal amount and the interest charged the commercial bank. If the terms of the loan are not met, the BOT charges the commercial bank a penalty, retroactive to the first day of the loan.

Similarly, on the due date of the loan, the commercial bank debits the exporter's account for the principal amount and the maximum of seven percent interest charged the exporter. If the exporter has not met the terms of the loan, the commercial bank passes on the penalty charge over the term of the loan.

The penalty is refunded to the commercial bank by the BOT and by the commercial bank to the exporter if the company can prove shipment of the goods took place within 60 days after the due date (in the case of pre-shipment loans), or the foreign currency was received within 60 days after the due date (in the case of post-shipment loans). Otherwise, the penalty is not refunded. The purpose of the penalty charge is to ensure that companies take out EPC loans only to finance actual export sales.

On October 1, 1988, the GOT issued new regulations that coexisted with the prior regulations until December 31, 1988. On January 1, 1989, the new regulations completely replaced the former ones. Until January 1, 1989, exporters could still receive EPC loans under the terms of the program described above. Under the new regulations, the maximum rate commercial banks can charge exporters was raised from seven to ten percent. In addition, the BOT now rediscounts only up to 50 percent of the loan amount, whereas under the previous program the BOT could rediscount the full value of the loan.

According to the responses, TBC and TTU received EPC loans on which interest was paid during the review period. Because only exporters are eligible for these loans, we determine that they are countervailable to the extent that they are provided at preferential rates.

As the benchmark for short-term loans, it is our practice to use the predominant form of short-term financing or a national average commercial interest rate. In the absence of a predominant form of short-term financing in the Thai economy, we are using the weighted-average interest rate charged by commercial banks on domestic loans, bills and overdrafts during 1988, and, where loans were issued in 1987, the weighted-average interest rate of the same composition for 1987. This is the benchmark that we have applied in all previous Thai cases, most recently in Final Affirmative Countervailing Duty Determination and Partial Countervailing Duty Order: Ball Bearings and Parts Thereof from Thailand; Final Negative Countervailing Duty Determinations: Antifriction Bearings (Other Than Ball or Tapered Roller Bearings) and Parts Thereof from Thailand, (54 FR 19130, May 3, 1989) (Bearings).

Comparing the weighted-average interest rates for 1987 and 1988, as reported in the GOT response, to the rate charged on EPCs, as reported in the company responses, we find that the rate on EPCs is preferential and, therefore, confers a bounty or grant on exports of pipe fittings.

To calculate the benefit from the EPC loans on which interest was paid during the review period, we followed the short-term loan methodology which has been applied consistently in our past determinations (see, for example, Bearings) and which is described in more detail in the Subsidies Appendix attached to the notice of Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order (49 FR 18006, April 26, 1984); see also, *Alhambra Foundry* v. *United States*, 626 F. Supp. 402 (CIT, 1985).

We compared the amount of interest actually paid during the review period to the amount that would have been paid at the benchmark rate. Because the responses specified which EPC loans were tied to exports to the United States, we calculated the amount of interest that would have been paid on such loans at the benchmark rate and subtracted the amount of interest that was actually paid. We then divided the result by the respondents' exports to the United States during the review period to obtain an estimated net bounty or grant of 0.14 percent *ad valorem*.

TTU has argued that, in addition to subtracting the interest actually paid from the interest that would have been paid at the benchmark rate, we should also subtract an interest cost to the company associated with penalty payments which were subsequently refunded. TTU argues that because it had to forego use of these funds, the company had to borrow money and,

therefore, incurred increased financing costs. TTU has calculated the increase in its financing costs by using the national average benchmark described above. We are not subtracting the cost due to subsequently refunded penalty payments for purposes of our preliminary determination because we are not convinced that TTU's calculation is appropriate. We are seeking more information and will continue to examine this issue for purposes of our final determination.

B. Tax Certificates for Exports

The GOT issues to exporters tax certificates which are freely transferable and which constitute a rebate of indirect taxes and import duties used to produce exports. This rebate program is provided for in the "Tax and Duty Compensation of Exported Goods Produced in the Kingdom Act" (Tax and Duty Act). The rebate rates under the Tax and Duty Act are computed on the basis of an Input/Output (I/O) study published in 1980, based on 1975 data, and updated in 1985 using 1980 data.

Using the I/O study, the Thai Ministry of Finance computes the value of total inputs (both imports and local purchases) used in a discrete range of sector-specific products at ex-factory prices. It also calculates the import duties and indirect taxes on each input. The Ministry then calculates two rebate rates. The "A" rate includes both import duties and indirect taxes. The "B" rate includes only indirect domestic taxes. The "B" rate is claimed when firms participate in Thailand's customs duty drawback program or duty exemption program on imported raw materials, or when firms do not use imported materials in their production process. New rebate rates, announced on February 5, 1986, were computed using the study published in 1985. Since 1986, the "A" rate applicable to exports of pipe fittings has been 8.11 percent and the "B" rate has been 4.98 percent. The "A" or "B" rate, as appropriate, is then applied to the FOB value of the export to determine the amount of rebate that will be provided.

Under the Tax and Duty Act, the rebates are paid to companies through tax certificates which can be used to pay other tax liabilities. These tax certificates can also be transferred to other companies which can use them to pay their tax liabilities.

According to the responses, only TTU actually received tax certificates during the review period.

However, all three respondent companies earned the "B" rate on exports made during the review period. Therefore, we have preliminarily determined that each company used this program during the review period. We also preliminarily determine that, because this program is available only to exporters, it is countervailable to the extent that it confers an overrebate of indirect taxes.

To determine whether an indirect tax rebate system confers an overrebate and, therefore a bounty or grant, we must apply the following analysis. First, we examine whether the system is intended to operate as a rebate of both indirect taxes and import duties. Next, we analyze whether the government properly ascertained the level of the rebate. This includes a review of a sample from the I/O study used by the Government to quantify the rebate. We analyze the documentation supporting the study to determine the accuracy of the sample on input coefficients, the import prices and rates of duty on imported inputs, the ratio of imported inputs to domestically produced inputs (when, for a given imported input, there is also domestic production of the input), and the exchange rates used to convert import prices denominated in a foreign currency to the local currency. Finally, we review whether the rebate schedules are revised periodically in order to determine whether the rebate amount reasonably reflects the amount of duty and indirect taxes paid.

When the study upon which the indirect tax and import duty rebate system is based is shown to bear a reasonable relation to the actual indirect tax rebate incidence, the Department will consider that the system does not confer a bounty or grant unless the amount rebated for duties and indirect taxes on physically incorporated inputs exceeds the fixed amount set forth in the rebate schedule for the exported product. When the system rebates duties and indirect taxes on both physically incorpated and non-physically incorporated inputs, we find a bounty or grant exists to the extent that the fixed rebate exceeds the allowable rebate on physically incorporated inputs.

In the Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Certain Apparel from Thailand (50 FR 9818, 9820, March 12, 1985), we examined Thailand's rebate system under the Tax and Duty Act. We found that the program was intended to rebate indirect taxes and import duties and that the rebate rates had been reasonably calculated. However, to the extent that the program rebates indirect taxes and import duties on non-physically incorporated inputs, we found that the remissions are excessive. In subsequent investigations involving products from Thailand, the most recent of which was Bearings, we undertook the analysis described above and reiterated that these rebates are countervailable only to the extent that the remissions are excessive. In the present investigation, we will verify whether rebates under this program continue to reasonably reflect the incidence of indirect taxes and import duties on inputs.

For purposes of our preliminary determination, to determine whether, and the extent to which, the tax certificates confer an excessive remission of indirect taxes, we calculated the indirect taxes and import duties paid on physically incorporated inputs according to the most recent I/O table. We divided the tax incidence on all items physically incorporated into all products classified in the secondary steel products sector, which includes carbon steel butt-weld pipe fittings, by the value of all domestically produced finished goods in this sector. Given that the aggregated data used in the I/O study is broken down only by sector, and that each sector covers many individual products, it is impossible to isolate the value of domestically produced pipe fittings.

Although the methodology described above is a deviation from that used in previous investigations involving products from Thailand (see, for example, Bearings), we believe that it more accurately reflects the amount of allowable rebate. Furthermore, unlike previous investigations in which respondents either failed to provide a comprehensive list of all items physically incorporated into the sector, or failed to provide such information prior to verification, respondents in the present investigation have provided the necessary information in a timely manner.

We recognize that, by using the tax incidence on all physically incorporated inputs into secondary steel products, we may be including the tax incidence on inputs used in the production of pipe fittings but not physically incorporated into pipe fittings. We have determined, however, that for purposes of this preliminary determination the inclusion of this tax incidence provides the most accurate measure of the allowable rebate percentage for secondary steel products and, as such, the most reasonable calculation of the allowable percentage for pipe fittings. However, because this is a significant change in methodology with respect to this program, we will continue to examine this issue for purposes of our final determination.

The value of all domestically produced finished goods, as shown in the I/O tables, is an ex-factory value. However, because the rebate is applied to the FOB value of a company's exports, we had to adjust the ex-factory value to reflect an FOB value. We did this by dividing the wholesale margin and transportation costs for all domestically produced finished goods in the sector, including exports, by the ex-factory value and then multiplying the ex-factory value by this ratio. We added the result to the ex-factory value in order to obtain the FOB-adjusted value.

In order to obtain the allowable rebate rate, we divided the tax incidence on all items physically incorporated into secondary steel sector products by the FOB-adjusted value of all domestically produced finished goods in the secondary steel sector. We then compared the authorized rebate rate of 4.98 percent, which is based on both physically and non-physically incorporated inputs, to the allowable rebate rate and found that there is an excessive remission of indirect taxes to exporters of pipe fittings. The difference between the two rebate rates equals the net overrebate. On this basis, we calculated an estimated net bounty or grant of 0.94 *ad valorem.*

C. Tax and Duty Exemptions Under Section 28 of the Investment Promotion Act

The Investment Promotion Act (IPA) of 1977 provides incentives for investment to promote development of the Thai economy. Administered by the Board of Investment, the IPA authorizes, among other incentives, the exemption of import duties and certain taxes with respect to qualifying projects. Section 28 provides for exemption from payment of import duties and business taxes on machinery. All three respondent companies received exemptions under section 28 that became effective during the review period. According to the responses, all three respondent companies are required to export a certain percentage of their output as a condition for receipt of benefits under this program.

Because benefits to the respondent companies under this program are contingent upon their export performance, we preliminarily determine that it is countervailable.

We divided the total amount of exemptions received by respondents during the review period by the respondents' total export sales during the review period. On this basis, we calculated an estimated net bounty or grant of 1.77 *ad valorem.*

II. Programs Preliminarily Determined Not to Confer Bounties or Grants

We preliminarily determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Thailand of pipe fittings under the following program:

IPA Section 36(1)

Section 36(1) of the IPA authorizes exemptions from import duties and business taxes on "raw and necessary materials." All three respondent companies received exemptions under this section of the IPA during the review period. According to the responses, all exemptions were received for items physically incorporated into exported goods.

III. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs were not used by manufacturers, producers, or exporters in Thailand of pipe fittings during the review period:

A. Electricity Discounts for Exporters

The Electricity Generating Authority of Thailand, the Metropolitan Electricity Authority, and the Provincial Electricity Authority provide discounts on electricity rates charged to producers of export products. According to the responses, this program provides discounts of 20 percent of the cost of electricity consumed to produce exports. Any producer that consumes electricity in manufacturing products that are eligible to receive tax certificates for exports is eligible for the electricity discount. Once a producer has qualified for the electricity discount and has completed an export transaction involving eligible products, it may apply to the electricity authority from which it receives its electricity bill. The authority then calculates the amount of the discount and credits a deduction on a subsequent electricity bill. According to the responses, none of the respondents received benefits under this program during the review period.

B. Rediscount of Industrial Bills

The BOT authorizes rediscounts for short-term promissory notes arising from industrial activity. The BOT's "Regulations Governing the Rediscount of Promissory Notes Arising from Industrial Undertakings" permit commercial banks to rediscount short-term promissory notes for industrial purchases. Commercial banks may charge their industrial customers a maximum of seven percent per annum, while the rate charged to commercial banks by the BOT is five percent per annum. According to the responses, none of the respondents participated in this program during the review period.

C. International Trade Promotion Fund

This fund is used to finance export promotion activities, such as marketing research and trade fairs. According to the responses, none of the respondents applied for, or received, benefits under this program during the review period.

D. Export Processing Zones

Under the Industrial Estates Authority of Thailand Act, firms located in designated export processing zones and industrial estates receive tax and import duty exemptions on: (1) Machinery used for factory construction and operation; (2) goods imported for use in the production of exports; (3) items produced for export; and (4) items imported for re-export. According to the responses, none of the respondents have facilities located in government-sponsored export processing zones or industrial estates.

E. Additional Incentives Under the IPA

Petitioner alleges that the following incentives are available to manufacturers, producers and exporters of pipe fittings:

- *Section 31* of the IPA provides a three-to-eight year exemption from payment of corporate income tax on profits derived from promoted activities, as well as deductions from net profits for losses incurred during the tax exemption period.
- *Section 33* of the IPA provides a five-year tax exemption for goodwill and royalty payments.
- *Section 34* provides an additional deduction from taxable income for dividends paid on promoted activities.
- *Section 36(2)* provides an exemption of import duties and business taxes on items imported for re-export.
- *Section 36(3)* provides an exemption of export duties and business taxes on products produced or assembled by promoted firms.
- *Section 36(4)* provides a deduction from assessable income of an amount equal to five percent of the increased income over the previous year derived from exports.

According to the responses, none of the respondent companies received benefits under any of these sections of the IPA during the review period.

Verification

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

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation on all entries of pipe fittings from Thailand 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 for each such entry equal to 2.85 percent *ad valorem*. This suspension will remain in effect until further notice.

Public Comment

In accordance with 19 CFR 355.38 of the Department's regulations published in the Federal Register on December 27, 1988 (54 FR 52306, to be codified at 19 CFR § 355.38), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination on December 15, 1989 at 10:30 a.m., at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish 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 December 8, 1989. Ten copies of the business proprietary version and five copies of the nonproprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than December 13, 1989. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with § 35.38 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 27, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-25986 Filed 11-2-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-469-004]

Stainless Steel Wire Rod From Spain; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on stainless steel wire rod from Spain. We preliminarily determine the net subsidy for the period January 1, 1988, through December 31, 1988, to be 0.19 percent *ad valorem*, a rate we consider *de minimis*. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Laurie Goldman or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On June 28, 1989, the Department of Commerce ("the Department") published in the Federal Register (54 FR 26826) the final results of its last administrative review of the countervailing duty order on stainless steel wire rod from Spain (48 FR 52; January 3, 1983). On January 31, 1989, a Spanish exporter, Roldan S.A., requested an administrative review of the order in accordance with section 355.22 of the Commerce Regulations published in the Federal Register on December 27, 1988 (55 FR 52354) (to be codified at 19 CFR 355.22). We published the initiation on March 8, 1989 (54 FR 9868). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Spanish stainless steel wire rod, which includes coiled, semifinished, hot-rolled stainless steel products of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, whether or not tempered or treated or partly manufactured. During the review period, such merchandise was classifiable under item numbers 607.2600 and 607.4300 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under item numbers 7221.00.0020 and 7221.00.0040 of the Harmonized Tariff Schedule.

The review covers the period January 1, 1988 through December 31, 1988 and five programs.

Analysis of Programs

(1) Long Term Loans

Under the Concerted Action Program established by Royal Decree 669/74, the Spanish government directs banks to make long-term loans to steel companies at below market rates. Such loans are provided for approximately ten years. Roldan received a long-term loan for financing new plant and equipment that had an outstanding balance during the review period. The loan was received in multiple disbursements from 1977 to 1981. Because the loans under the Concerted Action Program are provided to a specific industry at rates and terms inconsistent with commercial considerations, we preliminarily determine that this loan confers a countervailable domestic subsidy.

Roldan did not obtain any comparable commercial loans in the year in which it received the preferential long-term loan. Therefore, we used as our long-term commercial benchmark the "free" long-term (three or more years) lending rate published by the Bank of Spain in its Boletin Estatistico. We treated the multiple disbursements as individual loans.

To calculate the benefit, we found the difference between the annual amounts of principal and interest Roldan actually paid and the annual amounts of principal and interest Roldan would have paid if it had received each disbursement at our commercial benchmark rate. We then calculated the "grant equivalent" of each disbursement by determining present value (at the time the preferential loan was made) of the difference in annual payments that would occur during the life of the loan. Using our declining balance methodology with the long-term commercial benchmark as the discount rate, we allocated the grant equivalents over the life of the loan. We then totaled the benefits allocated to the review period for each disbursement.

Since these loans benefit a company's total production, we allocated the benefit over the company's total sales during the review period. On this basis, we preliminarily determine the benefit from this program to be 0.19 percent *ad valorem* during the review period.

(2) Other Programs

We also examined the following programs and preliminarily determine that Roldan did not use them during the review period:

A. Operating Capital Loans
B. Capital Grants
C. Regional Incentives Program
D. Prefinancing of Exports

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy for the period January 1, 1988 through December 31, 1988 to be 0.19 percent *ad valorem*. The Department considers any rate less than 0.50 percent to be *de minimis*.

The Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of this merchandise exported on or after January 1, 1988 and on or before December 31, 1988.

The Department also intends to instruct the Customs Service to waive cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Rebuttal briefs and rebuttals to written comments, limited to issues in those comments, must be filed not later than 37 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.22 of the Commerce Regulations.

Dated: October 30, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-25985 Filed 11-2-89; 8:45 am]

BILLING CODE 3510-DS-M

Michigan Department of Public Health; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 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.

Docket number: 89-131. *Applicant:* Michigan Department of Public Health, Lansing, MI 48909. *Instrument:* Mass Spectrometer System, Model TS-250. *Manufacturer:* VG Analytical Ltd., United Kingdom. *Intended use:* See notice at 54 FR 21090, May 16, 1989.

Comments: None received.

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

Reasons: The foreign instrument provides an air-core magnet capable of 10 scans per second and a cycle time of 0.4 second for magnetic selected ion recording (SIR). The National Intitutes of Health advises in its memorandum dated August 29, 1989 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89-25902 Filed 11-02-89; 8:45 am]

BILLING CODE 3510-DS-M

National Institutes of Health, et al.; Notice of 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 (Public Law 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 A.M. and 5 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, was being manufactured in the United States at the time the instrument was ordered.

Docket number: 88-042. *Applicant:* National Institutes of Health, Bethesda, MD 20892. *Instrument:* Nuclear Magnetic Resonance Spectrometer, Model AM-500. *Manufacturer:* Bruker Instruments, West Germany. *Intended use:* See notice at 52 FR 48851, December 28, 1987. *Reasons:* The foreign instrument provides a S/N with 0.1% ethylbenzene of 650:1; 16-bit digitization over a range of 50 kHz and a 24-bit computer word length. *Order date:* June 30, 1987. *Advice submitted by:* National Bureau of Standards, March 22, 1988.

Docket numbers: 88-208R and 88-212R. *Applicant:* USDA-ARS, Athens, GA 30613 and Fargo, ND 58105. *Instrument:* NMR Spectrometers, Model MSL-300 (System E and System F). *Manufacturer:* Bruker Analytische Messtechnik, West Germany. *Intended use:* See notices at 53 FR 22685, June 17, 1988. *Reasons:* The foreign instrument provides (1) a sensitivity (S/N) of 53/1 for the alpha carbon of glycine and (2) demonstrated and guaranteed resolution of 20 μm for microimaging. *Order Dates:* September 11 and 18, 1987. *Advice submitted by:* National Institutes of Health, August 3, 1989.

The National Bureau of Standards and National Institutes of Health advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value to any of the foreign instruments for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

We know of no other domestic instrument or apparatus of equivalent scientific value to any of the foreign instruments being manufactured at the time it was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89-25903 Filed 11-2-89; 8:45 am]

BILLING CODE 3510-DS-M

University of California, 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 (Public Law 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 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: 89–181. *Applicant:* University of California at Davis, Davis, CA 95616.

Docket number: 89–188. *Applicant:* University of Michigan, Ann Arbor, MI 48109–1063.

Instrument: Mass Spectrometer, MAT 251. *Manufacturer:* Finnigan MAT, West Germany. *Intended use:* See notices at 54 FR 34541 and 34542, August 21, 1989. *Reasons:* The foreign instrument provides high precision automated analysis of small samples (0.006°/oo for $C0_2$ with a 40 bar μl sample size, 0.006°/oo for N_2, $S0_2$ and SF_6 and 0.080°/oo with a 100 bar μl sample size).

Docket number: 89–184. *Applicant:* University of North Carolina, Chapel Hill, NC 27599–1100.

Docket number: 89–185. *Applicant:* Lehigh University, Bethlehem, PA 18015.

Docket number: 89–193. *Applicant:* University of California, Davis, CA 95616.

Instrument: FTIR Interferometer System, Model DA3.16.

Manufacturer: Bomem, Canada. *Intended use:* See notices at 54 FR 34541 and 34543, August 21, 1989. *Reasons:* The foreign instrument provides an unapodized resolution of 0.026 cm^{-1}.

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. 89–25904 Filed 11–2–89; 8:45 am]

BILLING CODE 3510–DS–M

University of Illinois; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made 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 am and 5:00 pm in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 89–164. *Applicant:* University of Illinois at Chicago, Chicago, IL 60680. *Instrument:* Excimer Laser, Model 201F MSC. *Manufacturer.* Lambda Physik, West Germany. *Intended Use:* See notice at 54 FR 30788, July 24, 1989.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the instrument was ordered (October 27, 1988).

Reasons: The foreign article provides a 10 mJ pulse energy and a maximum pulse rate of 80 Hz. This capability is pertinent to the applicant's intended purpose and we know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89–25905 Filed 11–2–89; 8:45 am]

BILLING CODE 3510–DS–M

University of Michigan; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made 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.

Docket Number: 89–189. *Applicant:* University of Michigan, Ann Arbor, MI 48109–1063. *Instrument:* Mass Spectrometer, Model MAT Delta S. *Manufacturer:* Finnigan MAT, West Germany. *Intended Use:* See notice at 54 34542, August 21, 1989.

Comments: None received.

Decision: Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the instrument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations, at the time the foreign instrument was ordered (September 30, 1988).

Reasons: The foreign instrument includes an automated carbonate reaction system, a six Faraday cup multi-element collector and automated changeover from CNOS to HD providing precise isotope ratio data.

These capabilities are pertinent to the applicant's intended purposes. We know of no domestic manufacturer both able and willing to provide an instrument with the required features at the time the foreign instrument was ordered.

As to the domestic availability of instruments, § 301.5(d)(2) of the regulations provides that, in determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, "the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case." This subsection also provides that, if "a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument."

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purposes of comparison with the foreign instrument. Where an applicant, as in this case, received no response to a formal request for quotation sent to the only known domestic manufacturer of comparable instrument it is apparent that the domestic manufacturer was either not able or not willing to produce an instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument was intended to be used at the time the foreign instrument was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89–25906 Filed 11–02–89; 8:45 am]

BILLING CODE 3510–DS–M

Utah State University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made 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 am and 5:00 pm in Room 2841, U.S. Department of Commerce, 14th and

Constitution Avenue, NW., Washington, DC.

Docket Number: 89–118. *Applicant:* Utah State University, Logan, UT 84322–8300. *Instrument:* Rapid Kinetic Spectrometer Accessory with Pneumatic Drive Unit, Model RX–1000. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Intended Use:* See notice at 54 FR 18689, May 2, 1989.

Comments: None received.

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

Reasons: This is a compatible accessory for an instrument previously imported for the use of the applicant. The instrument and accessory were made by the same manufacturer. The National Institutes of Health advises in its memorandum dated August 29, 1989 that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89–25907 Filed 11–2–89; 8:45 am]

BILLING CODE 3510–DS–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1989; Proposed Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1989 commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

Comments Must Be Received on or Before December 4, 1989.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1989, which was published on November 15, 1988 (53 FR 46018):

Commodities

Bag, Cargo
1670–00–587–3421
Folder, IRS Tax Form
IRS Document No. 6982
IRS Docunent No. 6983

Services

Commissary Shelf Stocking & Custodial, Fort Stewart, Georgia.
Commissary Shelf Stocking & Custodial, White Sands Missile Range, White Sands, New Mexico.

Jeffrey R. Kurtz,

Management Analyst.

[FR Doc. 89–25933 Filed 11–2–89; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

National Guard Bureau

Availability of a Draft Environmental Impact Statement; Camp Shelby Army National Guard Training Site, Mississippi

AGENCY: National Guard Bureau/ Mississippi Military Department, DOD.

ACTION: Notice of availability of a draft environmental impact statement: proposed mission expansion/multiple construction at Camp Shelby Army National Guard Training Site, Mississippi.

Background

Camp Shelby is a state operated, federally funded Army National Guard Training Site located near the town of Hattiesburg, Mississippi. Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Guard Bureau and the Mississippi Military Department have, acting as co-lead agencies, prepared a Draft Environmental Impact Statement on the proposed master plan mission expansion/multiple construction at Camp Shelby, Mississippi. On July 22, 1986, a Notice of Intent to prepare an Environmental Impact Statement was published in the **Federal Register.** A scoping meeting (in accordance with the Council on Environmental Quality Regulations (40 CFR 1500–1508)) was conducted on July 30, 1986, at Hattiesburg, Mississippi, to identify significant issues related to the proposed master plan mission expansion/multiple construction at Camp Shelby.

Action

The proposed action includes renovation and rehabilitation of existing facilities, construction of new facilities, range improvements, and a potential for increased training site utilization. The Draft Environmental Impact Statement addresses direct and indirect environmental impacts, both beneficial and detrimental. Environmental impacts addressed include those affecting air quality, noise, physical setting, natural resources, land use, waste disposal, water resources, cultural resources, and social and economic resources.

This draft Environmental Impact Statement pertains only to master plan construction projects. Any contemplated land transfer or real estate action associated with Camp Shelby will be evaluated in a separate document in accordance with the National Environmental Policy Act.

Document Availability

The identification of preferred alternatives in the Draft Environmental Impact Statement does not constitute a final decision. The Draft EIS and any comments received will be used by the Army National Guard to prepare a Final Environmental Impact Statement and Record of Decision. Copies of the Draft EIS may be obtained from: Mississippi Military Department, The Adjutant General's Office, ATTN: LTC Samuel K. McLellan, Facilities Management Office, P.O. Box 5027, Jackson, Mississippi 39216–1027.

Lewis D. Walker,

Deputy for Environmental, Safety, and Occupational Health, OASA (I,L & E).

[FR Doc. 89–25945 Filed 11–2–89; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before December 4, 1989.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 732–3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: October 30, 1989.

Carlos U. Rice,

Director, for Office of Information Resources Management.

Office of Planning, Budget, and Evaluation

Type of Review: New.
Title: Design for a Study of the Provision of Chapter 1 Services to Limited English Proficient Students.
Frequency: One time.
Affected Public: State of local governments.
Reporting Burden:
Responses: 344.
Burden Hours: 127.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: The purpose of this study is to provide the Department with detailed information about elementary and secondary schools on Chapter 1 programs serving limited English proficient students. The Department will use this information to assess the accomplishments of program goals and objectives and to aid in effective program management.

[FR Doc. 89–25914 Filed 11–2–89; 8:45 am]

BILLING CODE 4000–1–M

Office of Elementary and Secondary Education

Intent To Repay to the Oregon State Department of Education Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Intent to award grantback funds.

SUMMARY: Under section 456 of the General Education Provisions Act (GEPA), 20 U.S.C. 1234e (1982), the U.S. Secretary of Education (Secretary) intends to repay to the Oregon State Department of Education, the State educational agency (SEA), an amount equal to 75 percent of the funds recovered by the U.S. Department of Education (Department) as a result of a final audit determinaiton. This notice describes the SEA's plan, submitted on behalf of Central Linn School District, the local educational agency (LEA), for the use of the repaid funds and the terms and conditions under which the Secretary intends to make those funds available. The notice invites comments on the proposed grantback.

DATE: All written comments must be received on or before December 4, 1989.

ADDRESS: All written comments should be submitted to Dr. James Spillane, Director, Division of Program Support, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 2043), Washington, DC 20202–6132.

FOR FURTHER INFORMATION CONTACT: Dr. James Spillane. Telephone: (202) 732–4692.

SUPPLEMENTARY INFORMATION:

A. Background

The Department recovered $38,045 from the Oregon SEA in satisfaction of a final audit determination issued to the LEA by the SEA on March 30, 1987. This claim arose from an audit conducted under the requirements of the Single Audit Act of 1984 of the LEA's administration of Federal programs during fiscal year (FY) 1986. Specifically, the LEA had a balance of $38,045 of FY 1985 funds on hand and the availability period for the use of FY 1985 funds had expired. The FY 1985 funds were available for obligation from July 1, 1984, to September 30, 1985. Section 412(b) of GEPA provides that funds that remain unobligated at the end of the year for which they were appropriated shall remain available for obligation and expenditure during the succeeding fiscal year. With this additional year of availability, FY 1985 funds remained available for obligation through September 30, 1986. The LEA was unable to support its claim that FY 1985 funds had been obligated in a timely manner for allowable program costs, and that timely obligations were not reflected because of inefficient bookkeeping practices.

Of the lapsed FY 1985 funds, an amount of $28,641 was from Chapter 1 of the Education Consolidation and Improvement Act of 1981, a program that addressed the special educational needs of educationally deprived children in areas with high concentrations of children from low-income families. The remaining $9,404 of the funds was from Part B of the Education of the Handicappped Act (EHA).

B. Authority for Awarding a Grantback

Section 456(a) of GEPA provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for the program and may arranged to repay to the SEA or LEA affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this "grantback" arrangement if the Secretary determines that—

(1) The practices and procedures of the SEA or LEA that resulted in the audit determination have been corrected, and the SEA or LEA is, in all other respects, in compliance with the requirements of the applicable program;

(2) The SEA or LEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to

comply or by the misexpenditures that resulted in the audit exception; and

(3) The use of the funds to be awarded under the grantback arrangement in accordance with the SEA's plan would serve to achieve the purposes of the program under which the funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

Pursuant to section 456(a)(2) of GEPA the SEA has applied for a grantback of $21,480, which is 75 percent of the Chapter 1 funds recovered by the Department. No request was made for a grantback on behalf of the EHA funds. The SEA has submitted a plan on behalf of the LEA for the use of the grantback funds to meet the special educational needs of educationally deprived children in programs administered under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended. According to the plan, the LEA would use the grantback funds during school year 1989–90 to purchase supplies and equipment to enhance its regular Chapter 1 program. The LEA is located in an economically deprived area where funds for educational purposes are limited. Furthermore, the LEA's allocation for its regular Chapter 1 program is only sufficient to pay salaries and benefits for two teachers, who provide services to approximately 63 students in reading and mathematics at the LEA's only two elementary schools. The LEA would purchase two computers, printers, software, and other instructional supplies and materials with the grantback funds to expand and supplement the regular Chapter 1 program. In the regular Chapter 1 program, the educationally deprived children in grades 1–4 receive 30 minutes of extra instruction in reading or mathematics each day. Each child is provided an individual program designed to address his or her special educational needs. The grantback funds would provide materials and equipment that would encourage and facilitate learning at the Chapter 1 center.

D. The Secretary's Determinations

The Secretary has carefully reviewed the plan submitted by the SEA. Based upon the review, the Secretary has determined that the conditions under section 456 of GEPA have been met.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action. In finding that the conditions of section 456 of GEPA have been met, the Secretary makes no determination concerning any pending audit recommendations or final audit determinations.

E. Notice of the Secretary's Intent To Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires that, at least 30 days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 456(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the Oregon SEA under a grantback arrangement. The grantback award would be in the amount of $21,480, which is 75 percent—the maximum percentage authorized by the statute—of the Chapter 1 funds recovered by the Department as a result of the audit.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Would Be Made

The SEA and LEA agree to comply with the following terms and conditions under which payments under a grantback arrangement would be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan that the SEA submitted and any amendments to that plan that are approved in advance by the Secretary; and

(c) The budget that was submitted with the plan and any amendments to the budget that are approved in advance by the Secretary.

(2) All funds received under the grantback arrangement must be obligated by September 30, 1990, in accordance with section 456(c) of GEPA and the SEA's plan.

(3) Not later than January 1, 1991, the SEA will submit, on behalf of the LEA, a report to the Secretary which—

(a) Indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and approved budget, and

(b) Describes the results and effectiveness of the project for which the funds were spent.

(4) Separate accounting records must be maintained documenting the expenditure of funds awarded under the grantback arrangement.

(Catalog of Federal Domestic Assistance Number 84.010, Educationally Deprived Children—Local Educational Agencies)

Dated: October 27, 1989.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 89–25912 Filed 11–2–89; 8:45 am]

BILLING CODE 4000–01–M

Office of Intergovernmental and Interagency Affairs

Procedures for Requesting Authoritative Guidance Under Part E of the General Education Provisions Act

AGENCY: Department of Education.

ACTION: Amended notice of procedure for requesting authoritative guidance under part E of the General Education Provisions Act.

In the May 5, 1989 issue of the **Federal Register**, the Secretary of Education issued a notice of the procedure to be used by certain recipients of funds in requesting authoritative guidance from Department of Education officials under part E of the General Education Provisions Act (54 FR 19523, corrected May 19, 1989 (54 FR 21726)). The Secretary amends that notice to increase the number of officials who may provide authoritative guidance and reissues the notice in its entirety.

Final regulations implementing the core provisions of part E were published in the **Federal Register** on May 5, 1989 (54 FR 19512, corrected May 19, 1989 (54 FR 21622, 21726)). Section 81.23 of those regulations provides that a State or local educational agency that has received a grant or cooperative agreement under an applicable program and that has made an unallowable expenditure or otherwise failed to account properly for funds is not required to return any amount that is attributable to certain "mitigating circumstances."

Section 81.23 (b) of the regulations, relating to erroneous written guidance from the Department of Education, provides in relevant part as follows:

> (b) Mitigating circumstances exist if it would be unjust to compel the recovery of funds because the recipient's violation was caused by erroneous written guidance from the Department. To prove mitigating circumstances under this paragraph, the recipient shall prove that—
>
> (1) The guidance was provided in response to a specific written request from the recipient that was submitted to the Department at the address provided by notice published in the **Federal Register** under this section; [and]
>
> (2) The guidance was provided by a Departmental official authorized to provide the guidance, as described by that notice[.]

Section 81.23(c) of the regulations, relating to the Department's failure to

provide timely guidance, provides in relevant part as follows:

(c) Mitigating circumstances exist if it would be unjust to compel the recovery of funds because the recipient's violation was caused by the Department's failure to provide timely guidance. To prove mitigating circumstances under this paragraph, the recipient shall prove that—

(1) The recipient in good faith submitted a written request for guidance with respect to the legality of a proposed expenditure or practice; [and]

(2) The request was submitted to the Department at the address provided by notice published in the **Federal Register** under this section[.]

Requests for guidance referred to in § 81.23(b) and (c) must be submitted to the following address: U.S. Department of Education, Box 4799, Washington, DC 20202–4799.

Department officials who are authorized to provide guidance under § 81.23 (b)(2), quoted above, are listed below:

Office of Management: Deputy Under Secretary for Management; Comptroller; Director, Grants and Contracts Service; Director, Financial Management Service.

Office of Elementary and Secondary Education: Assistant Secretary for Elementary and Secondary Education; Deputy Assistant Secretary for Elementary and Secondary Education; Deputy Assistant Secretary for Regulations, Innovation, and Development; Director, Compensatory Education Programs; Director, Office of Migrant Education; Director, Office of Indian Education; Director, School Improvement Programs.

Office of Postsecondary Education: Assistant Secretary for Postsecondary Education.

Office of Educational Research and Improvement: Assistant Secretary for Educational Research and Improvement; Commissioner, National Center for Education Statistics; Director, Library Programs; Director, Programs for the Improvement of Practice; Director, Fund for the Improvement and Reform of Schools and Teaching; Director, Office of Research.

Office of Special Education and Rehabilitative Services: Assistant Secretary for Special Education and Rehabilitative Services; Commissioner, Rehabilitation Services Administration; Director, National Institute on Disability and Rehabilitation Research; Director, Office of Special Education Programs.

Office of Vocational and Adult Education: Assistant Secretary for Vocational and Adult Education; Director, Division of Vocational-Technical Education; Director, Division of National Programs; Director, Division of Adult Education.

Office of Bilingual Education and Minority Languages Affairs: Director, Office of Bilingual Education and Minority Languages Affairs.

EFFECTIVE DATE: The regulations implementing part E and the notice that was published with the regulations took effect on June 19, 1989. The amendments to the notice in this document take effect November 3, 1989.

FOR FURTHER INFORMATION CONTACT: Barry W. Stevens, U.S. Department of Education, Office of the General Counsel, 400 Maryland Avenue SW., Room 4091 FOB–6, Washington, DC 20202; Telephone: (202) 732–2730.

Dated: October 30, 1989.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 89–25911 Filed 11–2–89; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Idaho Operations Office; Research and Development of Nickel/Cadmium (Ni/Cd) Alkaline Batteries

AGENCY: Idaho Operations Office, DOE.

ACTION: Solicitation for Financial Assistance Applications No. DE–PS07–90ID12873 for Research and Development of Nickel/Cadmium (Ni/Cd) Alkaline Electric Vehicle Batteries.

SUMMARY: "Research and Development of Nickel/Cadmium (Ni/Cd) Alkaline Batteries." The U.S. Department of Energy (DOE), Idaho Operations Office (ID), is seeking applications on the basis of open competition, for cost-sharing research and development of Nickel/Cadmium (Ni/Cd) alkaline batteries in support of its Electric and Hybrid Vehicle (EV) Program. The statutory authority for this action is the Electric Vehicle and Hybrid Vehicle Research, Development and Demonstration Act of 1976. This announcement is the complete solicitation document and no other document for this work is available. The objective of this program is to execute one or more cooperative agreements to evaluate currently available fiber-electrode technologies and identify those which possess the potential for advancing nickel/cadmium batteries for Electric Vehicle traction applications. A cooperative agreement is the anticipated instrument because, in accordance with the DOE financial assistance rules, 10 CFR part 600.202, DOE will be substantially involved in the project. The substanital involvement between DOE and the awardee and DOE's authorities and responsibilities under this agreement shall be as follows: (1) DOE will monitor project status and expenditures, and counsel the awardee if significant variance with plans and budgets occur. DOE will convene periodic project reviews, at a time and place agreeable to the awardee, to permit review of the project status by DOE and/or DOE contractor personnel. The reviews will determine if satisfactory progress towards the goals of the project are being met and determining whether to continue funding the project, redirecting the research efforts, or canceling support of the project. (2) Within 30 days of any project review meeting or within 30 days of receipt of any technical progress report, DOE will inform the awardee of any required changes or additions. (3) DOE review and approval is required prior to building any cells and prior to testing for cells. (4) DOE will recommend technology transfer activities for consideration by the awardee as part of the activities. DOE will review and approve all technology transfer activities planned by the awardee to ensure that the activities will be effective in helping development and commercial acceptance of the technology. All projects will be cost-shared by DOE and the Participant and project duration is expected to be approximately 36 months. Applicants should be aware that any awardee will be required to have a cost-share of not less than 10% (ten percent). No fee or profit will be paid to the Participant. DOE anticipates that approximately $130,000 will be available for support of activities during the first year, and $150,000 to $300,000 for each of the following two years. Negotiation, award, and administration will be in accordance with DOE Financial Assistance Regulations (10 CFR part 600). The Catalog of Federal Assistance number for this program is 81.086. Profit making entities, individuals, educational institutions, nonprofit institutions and other entities are eligible to submit applications in response to the solicitation. Federal agencies and/or laboratories owned, operated, or under the cognizance of the Federal Government are not eligible for award and should not submit applications. Applications which anticipate participation of such a laboratory by subcontract, use agreement, or other arrangement must include satisfactory evidence of specific authorization from the cognizant Federal agency.

Background

Public Law 94–413, enacted on September 17, 1976, then modified by Public Law 95–238, authorized the U.S. Department of Energy (DOE) to conduct a program of research, development and demonstration designed to promote electric and hybird vehicle technologies to commercial feasibility. Basic and applied research on batteries for electric and hybrid vehicles were among the activities specified by the legislation. Over the past ten years DOE has searched for the battery type that would be the breakthrough for electric vehicle transportation. The search goes on with static electrolyte, flowing electrolyte and solid electrolyte types. Progress toward achievement of the long range goals is as elusive as ever. Several battery types, in their earliest stages of development, have exhibited high promise, but that promise has become more and more modest as research turns up additional problems of a practical nature. Currently only two battery types show field operational capability: Lead/acid and nickel/iron (Ni/Fe). Research work on the nickel/cadmium (Ni/Cd) battery for EV traction has focused on the non-sintered nickel electrode, in an effort to produce a low cost Ni/Cd battery. However, the power limitation of this technology has always been a concern. This limitation is perhaps fundamental. At issue is internal "resistance" versus pore structure as an explanation for the battery's poorer performance when compared with the lead/acid battery of the same ampere/hour rating. This is a paradox, because standard rechargeable Ni/Cd batteries are popular because of their high power with high voltage cranking ability. The non-sintered nickel electrode technology has a rapid temperature-rise characteristic at high discharge rates. The high internal heat generation causes graphite oxidation, cell swelling, and loss of cell capacity of each cycle following a high rate demand. The standard Ni-Cd battery technology possesses two characteristics which make it attractive as an improved power source of EV traction. It is a high power delivery device, as described above, and exhibits better operating characteristics at cold ambient temperatures than the lead-acid battery. Thermal management is required on battery types that lose their capability at low ambient temperatures. Thermal management is a complication in the system that elevates cost, adds bulk and weight to the vehicle, and requires energy from the battery to maintain its operating temperature which reduces the energy available for powering the vehicle.

Scope

This technology evaluation program is designed to refocus the Ni/Cd efforts along more conventional lines. First it is designed to evaluate available fiber-electrode technologies and identify the best technology. Assuming that this evaluation identifies a technology that possesses the potential to reduce cost without sacrificing performance and live, the next effort would be directed at identification of a suitable cadmium recombination electrode technology. If successful on both counts, this project could lead to a cost-reduced Ni/Cd battery technology with low maintenance requirements. This technology would offer significant advantages over Ni/Fe batteries, which possess no known potential for gas recombination and require almost daily watering.

The applicant is to provide a concise but definitive scope of work for inclusion into any resulting agreement. The individual key tasks are to be defined and listed in logical sequence. It is the responsibility of the applicant to include all items in the scope of work that are required to accomplish the stated purpose of the project. Each task is to be priced separately. DOE may choose none, all, or some combination of the tasks to be funded. As a minimum, the following tasks should be included and discussed in the statement of work:

1. Perform a survey of all fiber nickel and cadmium electrode technologies (without carbon or graphite additivies) available for both foreign and domestic battery developers. Using 50 Wh/kg (at 3-hour discharge rate) as the specific energy, 120 W/kg (at 50% depth of discharge) as the peak specific power, and −20 to +60 °C as the operating temperature range as targets, the surveyed technologies shall be ranked and current status documented.

2. Build three sample cells each, of the top three rated electrode combinations (20 Ah minimum size). Charge-discharge performance shall be established at five different temperatures within the range of interest (room temperature being one point).

A second series of tests shall be performed with the cells charged at room temperature and then discharged at each of the five temperatures previously chosen. Room temperature charging shall be at the 5- to 6-hour rate, with all discharging at the one-hour rate. When operating at temperatures other than room temperature, the charging rates shall be established at the gassing threshold for each temperature. These thresholds will be reported as part of the cell characteristics.

3. Identify the best technologies from task 2 to perform life cycle tests. Eight cells (20 Ah minimum size) are to be built. Four cells are to be cycled at the one-hour discharge rate using a water bath to control temperature. The Simplified Federal Urban Driving Cycle (SFUDC) is to be run at regular intervals (i.e., every 50 cycles) to determine if any degradation of the dynamic characteristics is occurring. The objective is to determine if the best fiber nickel electrode, in combination with the best cadmium electrode, can achieve or exceed 1000 cycles. The life testing requirement is to extract 70% of the maximum one-hour rate energy from the battery. Beginning-of-life performance is to be established after 20 break-in or conditioning cycles. End-of-life is to be determined when the voltage under load drops below the cutoff voltage before the specified energy is delivered; or when the acceleration fails to meet the driving cycle requirements on two consecutive cycles or twice during the same cycle on the SFUDC regime. Cutoff voltage may not be defined lower than sixty percent (60%) of the open circuit voltage. The remaining four cells are to be sent to an independent testing facility designated by DOE.

4. Survey the available cadmium recombination electrode technologies and report on the feasibility of using one or more of these technologies to build sealed or low maintenance batteries. The objective is to prove the potential for one-year (minimum) maintenance-free operation in an EV traction application. Noble metal catalysts are not an acceptable alternative to a recombining electrode technology.

5. Build eight cells (20 Ah minimum size) of the type from Task 3 and include the best cadmium recombination electrode, if the recombination technology shows promise. Establish a test plan and test four cells to show the effectiveness of the recombination electrode. Testing shall include an initial charge current equivalent to a 5- to 6-hour discharge rate, with allowance for taper current charging after 80% SOC. The data must be usable to define the maximum taper charge current that the recombination electrode can accommodate. The applicant will send the remaining four cells to a test facility designated by DOE.

6. Demonstrate scale-up of the chosen technologies: (1) Build six full-size EV cells (150–200 Ah capacity) and (2) upon approval from DOE, build eight full-size 6-volt modules for delivery.

7. Prepare a detailed weight and cost analysis of the technology used in tasks 3 and 5. The analysis shall highlight costly materials and manufacturing areas. This analysis shall identify and address the high-cost aspects of mass production; e.g., inherent materials costs and/or high-cost steps in the production process (due to high labor requirements, expensive equipment, low production rates, and/or low yields).

Note: Any hazardous waste produced or the handling of hazardous material must be handled in accordance with applicable EPA and/or OSHA regulations. The proposal must reference applicable EPA regulations and your procedures on how the waste will be treated or disposed, and how hazardous material is to be handled.

Evaluation Criteria

All timely proposals received will be evaluated and point scored in accordance with the technical evaluation criteria listed below.

The criteria are listed in descending order of importance.

Technical Proposal Evaluation Criteria

The Technical Evaluation Criteria are weighted in the following manner: Criterion A is weighted approximately equal to Criterion B and three times as much as Criterion C. Subcriterion A.1 is weighted about one and one-fourth as much as subcriterion A.2. Subcriterion B.1 is weighted equal to subcriterion B.2. Subcriterion C.1 is weighted twice as much as subcriteria C.2.

Criterion A: Statement of Objectives and Facility Description

1. The statement of work will be evaluated for technical quality, merit of proposed approach, and probability of achieving positive results.

2. The facility description will be evaluated to determine the capabilities of the facility to build and test NiCd cells and batteries, to handle hazardous material and dispose of hazardous waste.

Criterion B: Qualification and Capabilities

1. Key personnel will be evaluated as to their work experience in the required technology areas and understanding of the technology involved, as demonstrated by education, publications, inventions and work experience in the required technology areas.

2. The proposing organization, including subcontractor's, capabilities will be evaluated relative to (1) experience and expertise in the required technology areas, (2) the ability to manage the proposed effort, (3) past technical performance, and (4) ability to handle hazardous material and hazardous waste.

Criterion C: Project Management Plan

1. Quality of the management plan provisions for technical, quality, and administrative controls, to assure appropriate project maintenance and overall management for the building and testing of cells and batteries.

2. Cost effectiveness of building and testing cells and batteries as required.

Applications shall be responsive to all the above criteria. Cost considerations will not be point scored or adjectively rated. In making the selection decision, the apparent advantages of individual technical applications will be weighed against the evaluated probable cost to the Government (including cost sharing) to determine whether better applications, excluding cost considerations are worth the evaluated probable cost differentials over other applications. If applications are very closely ranked and the Source Selection Official determines that the superiority in the technical aspects of the higher related application(s) is not meaningful when viewed in relationship to lower rated applications, evaluated probable costs to the Government may form the basis for selection.

Instructions

Each application in response to this solicitation should be prepared in one volume. One original and seven copies of each application is required. Applications shall exclude material not essential to evaluation of the proposal. Applications shall be as short as possible consistent with completeness, clearly and concisely written and neat and logically assembled. The importance of supplying full and completely responsive information for each of the evaluation criteria cannot be overemphasized. If the offer is submitted under a joint venture arrangement, this fact must be clearly set forth. In conducting the evaluation of applications, the Government may utilize assistance and advice from non-Government personnel. Applicants that do not consent to the use of non-Government personnel in evaluating their application(s) are required to make that statement on the cover of their application(s). Applicants are further advised that DOE may be unable to give full consideration to an application submitted without such consent. Information contained in the applications shall be treated in accordance with the policies and procedures set forth in 10 CFR part 600.18. DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this solicitation. DOE may require applications to be clarified or supplemented either through additional written submissions or oral presentations; however, the award may be made solely on the information contained in the application. Unsuccessful applications will not be returned but will be destroyed by DOE. DOE is under no obligations to pay for any costs associated with preparation or submission of applications of an award is not made. If an award is made, such costs may be allowable as provided in the applicable cost principles. Further, costs incurred prior to the signing of a cooperative agreement are not reimbursable. The cost principles that shall apply will depend on the type of awardee(s): FAR 31.2 shall apply to commercial organizations, OMB Circular A–21 shall apply to educational institutions; OMB Circular A–87 shall apply to state and local governments; and OMB Circular A–122 shall apply to nonprofit organizations. Reporting under any agreement awarded will be in accordance with DOE Order 1332.2 "Uniform Reporting System for Federal Assistance." The awardee(s) must have an accounting system capable of accumulating costs by project. All applicants are required to provide in their proposal the nine-digit Taxpayer Identification Number (TIN) assigned by the U.S. Internal Revenue Service. Applications should be submitted to the contact given below.

Applications must include a completed Standard Form 424 "Application for Federal Assistance," a 424A "Budget Information," and 424B "Assurances," including the Drug-Free Workplace Certification. These may be obtained from the Contract Specialist named below. The specific reporting requirements, prepared in accordance with DOE Order 1332.2 "Uniform Reporting System for Federal Assistance," are also obtainable from the Contract Specialist. Notice of Possible Availability of Loans for Bid Proposal Preparation by Minority Business Enterprises Seeking DOE Contracts and Assistance section 211(e)(1) of the DOE Act (Public Law 95–91 as amended by Public Law 95–619) authorizes the Department of Energy (DOE) to provide financial assistance to minority business enterprises to assist them in their efforts to participate in DOE acquisition and assistance programs. Financial assistance is in the form of direct loans to enable the preparation of bids or proposals for DOE contracts and assistance awards,

subcontracts with DOE operating contractors, and contracts with subcontracts of DOE operating contractors. The loans are limited to 75 percent of the costs involved. Availability of these loans is subject to annual appropriation of funds and the remaining availability of funds from such appropriations. DOE does not warrant that such assistance can be made available in sufficient time to prepare an application for this solicitation. DOE does point out that the program includes provisions for a preliminary review in advance of a specific loan request. Information regarding loan availability, eligibility critieria, and how to apply may be obtained from: San Francisco Operations Office, U.S. DOE, ATTN: Minority Loan Program Office, 1333 Broadway, Oakland, CA 94612, (415) 273–6403.

The closing date and time will be : 4:00 p.m., Idaho Falls, Idaho local time, on December 7, 1989. Be aware that the applications must be submitted no later than the closing date and time, according to the criteria of 10 CFR Part 600.13 entitled "Application Deadlines." Evaluation of the applications will commence approximately one week after the closing date. Late applications will be handled in accordance with 10 CFR part 600.13. Prospective applicants who intend to submit an application in response to this solicitation should so notify the contact below in writing.

Questions regarding this solicitation should also be submitted to the contact below in writing and postmarked prior to November 10, 1989. Questions and answer will be issued in writing by amendment to this solicitation. Copies of all amendments to this solicitation will be sent only to those notifying this office of their intent to submit an application. Selection and award are expected to be made within four months of the closing date of this solicitation.

CONTACT: James P. McGowan, Contract Specialist, Contracts Management Division, U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402.

Issued this 25th day of September at Idaho Falls, Idaho.

J. Roger Gonzales,

Director, Contracts Management Division.

[FR Doc. 89–26148 Filed 11–2–89; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER90–36–000, et al.]

Florida Power & Light Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 27, 1989.

Take notice that the following filings have been made with the Commission:

1. Florida Power & Light Company

[Docket No. ER90–36–000]

Take notice that on October 24, 1989, Florida Power & Light Company (FPL), tendered for filing a document entitled Amendment Number Seven to Agreement to Provide specified Transmission Service Between Florida Power & Light Company and City of Tallahassee, Florida (Rate Schedule FERC No. 47).

FPL states that under Amendment Number Seven, FPL will transmit power and energy for City of Tallahassee, Florida as is required in the implementation of its interchange agreement with the Utility Board of the City of Key West, Florida.

FPL requests that waiver of § 35.3 of the Commission's Regulations be granted and that the proposed Amendment be made effective immediately. FPL states that a copy of the filing was served on City of Tallahassee, Florida.

Comment date: November 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Southwestern Public Service Company

[Docket No. ER90–35–000]

Take notice that Southwestern Public Service Company (Southwestern) on October 23, 1989, tendered for filing a supplemental filing to change the rate schedules for full requirements electric power service to Central Valley Electric Cooperative, Inc., Farmers' Electric Cooperative, Inc., of New Mexico Lea County Electric Cooperative, Inc., and Roosevelt County Electric Cooperative, Inc.

The supplemental filing was made to clarify certain provisions of the new rate schedules and to correct a rate rider so that it is consistent with the currently effective rider.

Copies of the supplemental filing were served upon the four customers and the New Mexico Public Service Commission.

Comment date: November 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Bangor Hydro-Electric Company UNITIL Power Corporation

[Docket No. ER90–32–000]

Take notice that Bangor Hydro-Electric Company ("Bangor") and UNITIL Power Corporation (UNITIL) on October 23, 1989 tendered for filing as an Initial Rate Schedule, an Electric Generating Capability Agreement. The Agreement provides for the sale by Bangor to UNITIL of 10,000 kw of electric generating capability during November 1, 1989 through October 31, 1990 and the total output associated therewith.

Comment date: November 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

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[Docket No. ER90–35–000]

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The supplemental filing was made to clarify certain provisions of the new rate schedules and to correct a rate rider so that it is consistent with the currently effective rider.

Copies of the supplemental filing were served upon the four customers and the New Mexico Public Service Commission.

Comment date: November 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Bangor Hydro-Electric Company UNITIL Power Corporation

[Docket No. ER90–32–000]

Take notice that Bangor Hydro-Electric Company ("Bangor") and UNITIL Power Corporation (UNITIL) on October 23, 1989 tendered for filing as an Initial Rate Schedule, an Electric Generating Capability Agreement. The Agreement provides for the sale by Bangor to UNITIL of 10,000 kw of electric generating capability during November 1, 1989 through October 31, 1990 and the total output associated therewith.

Comment date: November 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Arizona Public Service Company

[Docket No. ER89-649-000]

Take notice that on October 24, 1989, Arizona Public Service Company ("APS" or "Company") tendered for filing an amended filing revising the methodology used in developing the proposed purchased power adder pursuant to Commission Staff's recommendations.

Comment date: November 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. New York State Electric & Gas Corporation

[Docket No. ER90-31-000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on October 23, 1989, tendered for filing pursuant to § 35.13 of the regulations under the Federal Power Act, as a rate schedule, an agreement with New England Power Company (NEP). The short term agreement provides that NYSEG shall sell surplus capability and associated energy to NEP. Service under this agreement will commence on October 31, 1989 and shall terminate on April 30, 1990 unless extended in writing by mutual agreement.

NYSEG has filed a copy of this filing with New England Power Company with the Massachusetts Department of Public Utilities, and with the Public Service Commission of the State of New York.

NYSEG requests that the 60-day filing requirement be waived and that October 31, 1989 be allowed as the effective date of the filing.

Comment date: November 13, 1989, in accordance with Standard Paragraph E end of this notice.

6. Connecticut Light and Power Company

[Docket No. ER90-33-000]

Take notice that on October 23, 1989, Northeast Utilities Service Company (NUSCO) as agent for Connecticut Light and Power Company (CL&P) tendered for filing Notices of Termination of the following rate schedules:

Sales Agreement with respect to slice-of-system units between CL&P and Boston Edison Company, dated January 1, 1989 (CL&P Rate Schedule FERC 424).

Sales Agreement with respect to slice-of-system units between CL&P and Public Service Company of New Hampshire, dated August 1, 1988 (CL&P Rate Schedule FERC 409).

Sales Agreement with respect to slice-of-system units between CL&P and the United Illuminating Company, dated August 1, 1988 (CL&P Rate Schedule FERC 410).

NUSCO states that the schedules are to be terminated in accordance with their own terms. NUSCO requests that the Commission allow the terminations for each of the Agreements to take effect on October 31, 1989.

Comment date: November 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Iowa Power and Light Company

[Docket No. ES90-4-000]

Take notice that on October 24, 1989, Iowa Power and Light Company (Applicant) filed an application seeking authority pursuant to section 204 of the Federal Power Act to issue on or before December 31, 1991, bank notes maturing not more than one year after date of issue and commercial paper notes maturing not more than nine months after the date of issue in principal amounts not exceeding $135,000,000 of which up to an amount not exceeding twenty-five percent (25%) of the Company's gross revenues during the preceding twelve (12) months of operations in the aggregate at any one time may be issued as commercial paper, and that the Company may issue and sell commercial paper either directly to buyers, insofar as allowed by state law, or through established commercial paper dealers.

Comment date: November 23, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Company of Indiana, Inc.

[Docket No. ER89-672-000]

Take notice that on October 24, 1989, Public Service Company of Indiana, Inc. (PSI or the Company) submitted an amendment to its filing in the above captioned docket of proposed rate Schedule FS-1. The Company's original filing requests authorization to provide long-term firm power sales at negotiated rates to certain unaffiliated customers. Should such authorizations be granted, PSI has committed to file a Transmission Service Tariff with the Commission that would cover Transmission Service on PSI's transmission system. The Amendments to the initial filing clarify that PSI's authorization to make such sales to a customer would be suspended in the event PSI is unable to construct facilities necessary to provide transmission service to such customer consistent with its transmission tariff, which PSI filed as a *pro forma* tariff to its rate schedule.

Copies of the Amendments to the initial filing have been served on the Indiana Utility Regulatory Commission, the Attorney General of the State of Indiana, the Utility Consumer Counselor, the Indiana Municipal Power Agency, the Wabash Valley Power Association, the City of Logansport, Indiana, PSI's existing wholesale customers who purchase under Rate MUN and Rate REMC-1, and upon persons who have intervened in this docket.

Comment date: November 13, 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 Capital 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. 89-24901 Filed 11-2-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-91-000 et al.]

ANR Pipeline Co., et al.; Natural Gas Certificate Filings

October 27, 1989.

Take notice that the following filings have been made with the Commission:

1. ANR Pipeline Company

[Docket No. CP90-91-000]

Take notice that on October 24, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-91-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Coastal Gas Marketing (Coastal), a marketer of natural gas, under ANR's blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport on an interruptible basis up to 150,000 dt equivalent of natural gas on a peak day, 150,000 dt equivalent on an average day

and 54,750,000 dt equivalent on an annual basis for Coastal. ANR states that it would perform the transportation service for Coastal under ANR's Rate Schedule ITS. ANR indicates that it would transport the gas from receipt points in Oklahoma, Texas and Kansas, to a delivery point located in Roberts County, Texas.

It is explained that the service commenced September 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST90-67. ANR indicates that no new facilities would be necessary to provide the subject service.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Algonquin Gas Transmission Company

[Docket No. CP90-134-000]

Take notice that on October 26, 1989, Algonquin Gas Transmission Company (Algonquin) 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP90-134-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing sales and transportation services for certain customers and for authority to abandon sales services to certain specified customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Algonquin states that its application is the end result of extensive negotiations between Algonquin and its firm sales customers for over three years regarding the terms and conditions of new services to replace Algonquin's existing Rate Schedules F-1 and F-4. Algonquin further states that the primary goal of those negotiations has been to flow through, to the extent permitted by Algonquin's operating situation, to Algonquin's customers the benefits resulting from the restructuring of service by Texas Eastern Transmission Corporation (Texas Eastern).[1] Algonquin states that it has been able to offer this comprehensive restructuring to its F-1 and F-4 customers only because Texas Eastern and Algonquin have agreed to restructure Texas Eastern's existing service obligations to Algonquin in accordance with the terms and conditions of Texas Eastern's approved new Rate Schedules CD-1, CD-2, and FT-1 which became effective as of August 1, 1989 under Texas Eastern's restructuring program.[2] Algonquin states that it has executed new service agreements for sales service under Rate Schedules CD-1 and CD-2 and firm transportation under Rate Schedule FT-1. According to Algonquin, these new agreements with Texas Eastern reflect Algonquin's customers nominations for new service proposed herein.

Algonquin states that its restructuring proposal involves no increase in the aggregate contractual quantities of service to existing customers. Rather, it simply replaces the existing firm sales service under Rate Schedules F-1 and F-4 with a comparable level of firm transportation, sales and standby sales services which will be rendered in accordance with the terms and conditions of Rate Schedules AFT-1 and ATAP, as modified herein (Rate Schedule ATAP is currently pending acceptance in Docket No. RP89-241-000).

Algonquin alleges that approval of its proposal to restructure its services will have the effect of enhancing competition in the market place since its customers will have the opportunity to convert existing sales service to new firm sales services and/or firm transportation. Consequently, such customers will be able to purchase supply directly from multiple sources. Further, Algonquin proposes to implement a transportation assignment program for shippers under Algonquin's Rate Schedule AFT-1. Algonquin proposes to allow AFT-1 shippers to assign on either a firm or interruptible basis their firm transportation service to third parties, provided such shippers submit a notice in writing to Algonquin indicating their desire to engage in the assignment of transportation service. Algonquin further states that assignees who have been assigned rights on a firm basis may also reassign these firm rights on either a firm or interruptible bases. Algonquin's instant proposal includes mechanisms to flow through gas supply inventory charges from Texas Eastern should they be incurred as a result of purchase patterns of Algonquin's customers. Algonquin requests that the Commission expeditiously approve its proposal with an effective date of December 1, 1989, in order to provide the benefits of Algonquin's proposal to its customers during the upcoming winter heating season.

Algonquin also requests authority to modify its Rate Schedules STB and SS-III to allow customers under those rate schedules to inject gas from supply sources other than Algonquin. Currently, Algonquin states that Rate Schedule STB and SS-III customers must purchase Algonquin Rate Schedules F-1 and/or I-1 supply for injection into storage. Algonquin states that customers will benefit from this change if they are able to purchase supply form sources other than Algonquin. Algonquin also requests authorization to receive such third party gas for injection at points of receipt under these storage rate schedules corresponding to the points of delivery under Rate Schedule ATAP.

Specifically, Algonquin requests that the Commission issue a certificate authorizing a comprehensive restructuring of its existing service obligations by permitting Algonquin (a) to render to existing firm sales customers under Rate Schedules F-1 and F-4 a firm sales and firm standby sales service in accordance with the terms and conditions to proposed new Rate Schedules ACD-1 and ACD-4, (b) to establish for each firm sales customer under Rate Schedules ACD-1, ACD-4, F-1 and F-4 a gas supply inventory cost provision pursuant to which Algonquin will recover from those customers, on a quarterly basis, the monthly costs billed to Algonquin by Texas Eastern pursuant to Texas Eastern's Gas Supply Inventory Reservation Charge, (c) to modify existing Rate Schedule AFT-1 to reflect the impact of standby sales service under Rate Schedules ACD-1 and ACD-4 proposed in its application and to reflect a transportation assignment program for Algonquin's Rate Schedule AFT-1 shippers, (d) to modify Algonquin's Rate Schedule ATAP as filed on September 25, 1989, to reflect the impact of standby sales service under Rate Schedules ACD-1 and ACD-4 and (e) to implement certain tariff provisions set forth in the pro forma General Terms and Conditions set forth Exhibit P to the application. In addition, Algonquin requests that to the extent customers elect to convert to services under Rate Schedules ACD-1, ACD-4, ATAP and AFT-1, Algonquin requests permission and approval of the related abandonment of its sales services obligations to such customers under Algonquin's Rate Schedules F-1 and F-4.

Comment date: November 13, 1989 in accordance with Standard Paragraph F at the end of the notice.

[1] Algonquin states that, historically, the gas purchased from Texas Eastern has been resold under Rate Schedules F-1, F-4 and WS-1. It is states that the instant application contemplates a restructuring of Algonquin's Rate Schedules F-1 and F-4. Algonquin states that it anticipates filing a comprehensive restructuring of its Rate Schedule WS-1 in the near future.

[2] See *Texas Eastern Transmission Corporation*, 47 FERC ¶61,100 (1989), and 48 FERC ¶61,133 (1989).

3. ANR Pipeline Company

[Docket No. CP90–92–000]

Take notice that on October 24, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90–92–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Santanna Natural Gas Corp. (Santanna), a marketer of natural gas, under ANR's blanket certificate issued in Docket No. CP88–532–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport on an interruptible basis up to 75,000 dt equivalent of natural gas on a peak day, 75,000 dt equivalent on an average day and 27,375,000 dt equivalent on an annual basis for Santanna. ANR states that it would perform the transportation service for Santanna under ANR's Rate Schedule ITS. ANR indicates that it would transport the gas from receipt points in Louisiana, Oklahoma, Texas, Kansas, Wisconsin, offshore Texas, and offshore Louisiana, to delivery points located in Wisconsin.

It is explained that the service commenced September 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST90–52. ANR indicates that no new facilities would be necessary to provide the subject service.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. Canyon Creek Compression Company

[Docket No. CP90–88–000]

Take notice that on October 20, 1989, Canyon Creek Compression Company (Canyon), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP90–88–000 a request pursuant to § 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Chevron USA, Inc. (Chevron), a producer of natural gas, under Canyon's blanket certificate issued in Docket No. CP89–1497–000 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.

Canyon proposes to transport on an interruptible basis up to 100,000 MMBtu of natural gas on a peak day, 50,000 MMBtu on an average day and 18,250,000 MMBtu on an annual basis for Chevron. Canyon states that consistent with Canyon's Rate Schedule ICS, Chevron may request and Canyon may agree to accept additional quantities as overrun gas. Canyon indicates that it would transport the gas from two receipt points in Uinta, Wyoming to two delivery points in Uinta, Wyoming.

It is explained that the service commenced September 21, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST90–183. Canyon indicates that no new facilities would be necessary to provide the subject service.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Natural Gas Pipeline Company of America

[Docket No. CP90–49–000]

Take notice that on October 11, 1989, Natural Gas Pipeline Company of America (Natural) 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89–1430–000 a request, as supplemented October 17, 1989, pursuant to § 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to operate an existing tap for the sale, delivery, and transportation of natural gas to Iowa Electric Light and Power Company (Iowa Electric), an existing customer of Natural's, for resale to Green Valley Chemical Company (Green Valley) in Union County, Iowa, under its blanket authorization issued in Docket No. CP82–402–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Natural avers that it recently discovered that a certificate of public convenience and necessity had apparently never been issued for the construction and operation of the facilities required for delievery to Green Valley. This delivery point was constructed in 1966 at the request of Iowa Electric and is listed on Natural's currently effective Seventh Revised Sheet No. 402 of Third Revised Volumes No. 1, as well as Natural's "Annual Report of System Flow Diagrams", Format No. FERC 567. It is alleged that Iowa Electric is an existing sales customer of Natural's receiving such service under Natural's Rate Schedule DMQ–1. Natural received authority to provide resale service to Iowa Electric in an order issued October 13, 1942, in Docket No. G–235.

The sales deliveries at the Green Valley meter station enables Iowa Electric to service the end use needs of Green Valley, which are the manufacture of anhydrous ammonia for fertilizer and dry ice for food processing. It is averred that it is not necessary for Iowa Electric to increase its total entitlements form Natural in order to provide this sales service for Green Valley. Natural contends that this action was not, and is not, prohibited by Natural's tariff, and Natural had and has sufficient capacity to provide this service without detriment or disadvantage to any other customers.

Natural asserts that it received authority in Docket Nos. G–651 and G–1423, pursuant to orders issued May 10, 1946, and August 8, 1950, respectively, to construct and operate one two-inch lateral approximately 6.7 miles long and one three-inch lateral approximately 6.7 miles long (Creston Laterals), extending from connections to Natural's mainlines in Adair County, Iowa, to the City of Creston located in Union County, Iowa, in Docket Nos. G–651 and G–1423, pursuant to orders issued May 10, 1946 and August 8, 1950, respectively. Natural states that it received authority to replace the two-inch lateral with a four-inch lateral in Docket No. CP62–229. In 1966, Iowa Electric requested that Natural install two three-inch taps, 311 feet of three-inch lateral and one four-inch meter to connect Green Valley to the Creston Laterals in order to provide a new sales and delivery point for Iowa Electric. Natural contends that the physical work was completed on April 28, 1966, and that the total cost of the facilities was $10,331.

It is stated that Iowa Electric has been purchasing natural gas from Natural and selling this natural gas to Green Valley at the Green Valley meter station since 1966. The Green Valley meter station is the only delivery point on Natural's system connected to Green Valley, an enduser. It is also stated that Natural has also been transporting natural gas for the account of Green Valley since 1966.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Natural Gas Pipeline Company of America

[Docket No. CP90–87–000]

Take notice that on October 20, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP90–87–000 a request pursuant to § 157.205 of the Commission's Regulation under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Midcon Marketing Corporation (Midcon), a marketer of natural gas, under Natural's

blanket certificate issued in Docket No. CP86–582–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Pursuant to a tranportation agreement dated March 23, 1989, as amended, Natural requests authority to transport up to 100,000 MMBtu of gas per day (plus any additional volumes accepted pursuant to the overrun provisions of its Rate Schedule ITS), on an interruptible basis, for Midcon. Natural states that the agreement provides for it to receive the gas at various existing points of receipt along its system and to deliver the gas to various existing points of delivery located in Texas, offshore Texas, Louisiana, offshore Louisiana and Illinois. Midcon has informed Natural that it expects to have only 50,000 MMBtu of gas transported on an average day and, based thereon, Natural estimates that 18,250,000 MMBtu of gas would be transported annually. Natural advises that the transportation service commenced on August 23, 1989, as reported in Docket No. ST90–185–000 pursuant to § 284.223 of the Commission's Regulations.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Panhandle Eastern Piple Line Company

[Docket No. CP90–96–000]

Take notice that on October 23, 1989, Panhandle Eastern Pipeline Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP90–96–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas for Panhandle Trading Company (PTC), a shipper and marketer of natural gas, pursuant to Panhandle's blanket certificate issues in Docket No. CP86–585–000 and 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.

Specifically, Panhandle requests authority to transport up to 50,000 DT per day on an interruptible basis on behalf of PTC pursuant to a transportation agreement dated May 2, 1988, between Panhandle and PTC. It is stated that the agreement provides for Panhandle to receive gas from various existing points of receipt located in Colorado, Illinois, Kansas, Michigan, Ohio, Oklahoma and Texas. Panhandle would then transport and redeliver subject gas, less fuel used and unaccounted for line loss, to Union Gas in Wayne County, Michigan, it is stated. It is further stated that the estimated annual quantities would be 20,000 Dt and 7,300,000 Dt, respectively. Panhandle states that service under § 284.223(a) commenced on September 1, 1989, as reported in Docket No. ST89–4780.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Canyon Creek Compression Company

[Docket No. CP90–114–000]

Take notice that on October 23, 1989, Canyon Creek Compression Company (Canyon), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP90–114–000 a request pursuant to the notice procedure in §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport and compress, on an interruptible basis, for MidCon Marketing Corporation (MMC), a marketer of natural gas, under Canyon's blanket certificated issued in Docket No. CP89–1497–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Canyon Creek, pursuant to an agreement dated August 14, 1989, proposes to transport and compress for MMC on an interruptible basis from receipt points and delivery points in Uinta County, Wyoming. It is stated that the volumes to be transported on a peak day is up to a maximum of 193,000 MMBtu (plus any additional volumes accepted pursuant to the overrun provisions of Canyon's Rate Schedule ICS) for MMC, on an average day approximately 100,000 MMBtu, and on an annual basis approximately 36,500,000 MMBtu.

Canyon Creek states that service commenced on September 1, 1989, as reported in Docket No. ST90–19–000, pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Panhandle Eastern Pipe Line Company

[Docket No. CP90–108–000]

Take notice that on October 23, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP90–108–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport natural gas for Entrade Corporation (Entrade), a shipper and marketer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86–585–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle proposes to transport up to 100,000 dekatherms (dt) of natural gas equivalent per day on an interruptible basis on behalf of Entrade pursuant to a transportation agreement dated July 24, 1989, between Panhandle and Entrade. Panhandle would receive the gas at various existing points of receipt on its system in Texas, Oklahoma, Kansas, Colorado, Illinois, Michigan, Ohio and Wyoming and deliver equivalent volumes, less fuel used and unaccounted for line loss, to various points of redelivery in Missouri.

Panhandle states that the estimated daily and annual quantities would be 100,000 dt and 36,500,000 dt, respectively. Service under § 284.223(a) commenced on September 1, 1989, as reported in Docket No. ST89–4802–000.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. Moraine Pipeline Company

[Docket No. CP90–112–000]

Take notice that on October 23, 1989, Moraine Pipeline Company (Moraine), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP90–112–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Carnation Company (Carnation), under Moraine's blanket certificate issued in Docket No. CP86–492–000, 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.

Moraine requests authorization to transport, on an interruptible basis, up to a maximum of 1,700 MMBtu of natural gas per day (plus any additional volumes accepted pursuant to the overrun provisions of Moraine's Rate Schedule ITS) for Carnation from a receipt point located in Illinois to a delivery point located in Wisconsin. Moraine anticipates transporting, on an average day 1,500 MMBtu and an annual volume of 547,500 MMBtu.

Moraine states that the transportation of natural gas for Carnation commenced September 17, 1989, as reported in Docket No. ST90–192–000, for a 120-day period pursuant to § 284.223(a) of the

Commission's Regulations and the blanket certificate issued to Moraine in Docket No. CP86–492–000.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. Panhandle Eastern Pipe Line Company

[Docket No. CP90–100–000]

Take notice that on October 23, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP90–100–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Centran Corporation (Centran), a marketer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86–585–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Pursuant to a gas transportation agreement dated April 27, 1989, Panhandle requests authority to transport up to 5,000 Dt. of natural gas per day, on an interruptible basis, on behalf of Centran. Panhandle states that the agreement provides for it to receive gas from various existing points of receipts along its system and to redeliver the gas, less fuel used and unaccounted for line loss, to Northern Indiana Public Service Company at an existing point of delivery in Fort Wayne, Adams County, Indiana. Centran has informed Panhandle that it expects to have only 4,000 Dt. transported on an average day and, based thereon, Centran estimates that the annual transportation quantity would be 1,825,000 Dt. Panhandle advises that the transportation service commenced on September 1, 1989, as reported in Docket No. ST89–4806, pursuant to § 284.223 of the Commission's Regulations.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. Panhandle Eastern Pipe Line Company

[Docket No. CP90–106–000]

Take notice that on October 23, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP90–106–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Unicorp Energy Inc. (Unicorp), a marketer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86–585–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Pursuant to a gas transportation agreement dated July 18, 1989, Panhandle requests authority to transport up to 150,000 Dt. of natural gas per day, on an interruptible basis, on behalf of Unicorp. Panhandle states that the agreement provides for it to receive gas from various existing points of receipts along its system and to redeliver the gas, less fuel used and unaccounted for line loss, to Haven Pool at an existing point of delivery in Reno County, Kansas. Unicorp has informed Panhandle that it expects to have the full 150,000 Dt. transported on an average day and, based thereon, estimates that the annual transportation quantity would be 54,750.00 Dt. Panhandle advises that the transportation service commenced on September 1, 1989, as reported in Docket No. ST89–4804, pursuant to § 284.223 of the Commission's Regulations.

Comment date: December 11, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed 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. 89–25898 Filed 11–2–89: 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP90–131–000]

Transcontinental Gas Pipe Line Corp.; Application

October 26, 1989.

Take notice that on October 25, 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 to utilize a pipeline loop segment which was certificated as part of the SS–2 storage project to render firm transportation service for the Associated PennEast customer group (APEC) [1] during a narrowly defined interim period, all as more fully described in the application which is on file with the Commission and open to public inspection.

In an order issued June 7, 1989 (47 FERC ¶ 61,341), the Commission

[1] APEC is comprised of Public Service Electric & Gas Company, The Brooklyn Union Gas Company, Long Island Lighting Company, New Jersey Natural Gas Company, Elizabethtown Gas Company and South Jersey Gas Company.

authorized Transco to render a firm, long-term winter season transportation service (November 15–March 31) for the APEC customers totalling 170,000 Mcf per day. Pursuant to such order, firm certificated service is scheduled to commence on November 15, 1989 to enable the APEC customers to receive delivery of their winter season volumes. In the order issued by the Commission approving the APEC service, Transco was authorized, *inter alia,* to construct an additional 12,600 horsepower of compression at existing Station No. 520. Transco has been unable to serve the APEC customers as of yet since the authorized compressor station upgrade is awaiting subsequent environmental approval. Without this additional compression, Transco cannot effectuate the previously authorized firm service.

In this application, Transco seeks authorization to utilize, on a temporary basis, 3.39 miles of 36-inch pipeline loop, which was certificated by the Commission in an order issued July 27, 1989 (48 FERC ¶ 61,223) as part of the SS–2 storage project, in order to render the firm transportation service for the APEC customers. Transco proposes that the temporary authorization sought herein expire on the earlier of (1) March 31, 1990 (the end of the APEC service "winter period"), or (2) the date on which the 12,600 horsepower compression upgrade is ready for service.

Transco states that the proposal does not involve any request for new facilities, but instead reflects Transco's desire for Commission approval to utilize a pipeline loop segment which was certificated as part of the SS–2 project to provide the APEC service during a narrowly defined interim period. Additionally, this request reflects a change in the previously authorized APEC firm transportation service by delaying the commencement of service to South Jersey Gas Company until November 1, 1990.[2]

Any person desiring to be heard or to make any protest with reference to said application should on or before November 6, 1989, file with the Federal Energy Regulatory Commission, 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.

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 application 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 Transco to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 89–25900 Filed 11–2–89; 8:45 am]

BILLING CODE 6717–01–M

[2] Transco states that on October 5, 1989, South Jersey Gas Company agreed to a one year delay in the commencement of the delivery of its 10,000 Mcf per day entitlement of the APEC firm transportation volumes.

Office of Energy Research

Fusion Policy Advisory Committee; Establishment

Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act (FACA), (Pub. L. 92–463) and in accordance with 41 CFR 101–6.10, and following consultation with the Committee Management Secretariat, General Services Administration (GSA), notice is hereby given that the Fusion Policy Advisory Committee has been established.

This Committee will, on a one-time basis, review the new draft fusion policy covering both magnetic and inertial confinement, and provide its recommendation for a fusion policy for the Department of Energy. The review will focus on the technical basis for, and the likely effectivness of, the proposed policy. The final written report will provide advice on how to structure the fusion programs—either by the proposed policy, some specific modifications to it, or some totally different approach.

The Committee members will be chosen to ensure appropriately balanced membership, taking into account: (1) The scientific disciplines to be represented, such as magnetic and inertial confinement plasma physics, laser and ion beam physics, and high-power technology; (2) the types of institutions needed to carry out the research, such as universities, national laboratories and industry; and (3) appropriate geographic distribution. Membership and representation of all interests will be determined in accordance with the requirements of FACA, section 624(b) of the Department of Energy Organization Act (Pub. L. 95–91) and implementing regulations.

The establishment of the Fusion Policy Advisory Committee has been determined necessary and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Committee will operate in accordance with the provisions of FACA, the Department of Energy Organization Act, the GSA Final Rule on Federal Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

Further information regarding this Advisory Committee may be obtained from Elinor Donnelly at 586–3448.

Issued at Washington, DC on October 31, 1989.

Howard H. Raiken,

Advisory Committee Management Officer.

[FR Doc. 89–25977 Filed 11–2–1989; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

[FE Docket No. 89–52–NG]

Suncor Inc.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the United States Department of Energy (DOE) gives notice that it has issued an order granting blanket authorization to import natural gas from Canada to Suncor Inc. (Suncor). The order authorizes Suncor to import up to 54.76 Bcf of Canadian natural gas over a two-year term beginning on January 1, 1990, through December 31, 1991

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, 3F–056,

Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 30, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–25976 Filed 11–2–89; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–3677–9]

Environmental Impact Statements; Availability

Responsible Agency

Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

Availability of Environmental Impact Statements Filed October 23, 1989 Through October 27, 1989 Pursuant to 40 CFR 1506.9.

EIS No. 890292, Draft, SCS, IL, Upper Crab Orchard Creek Watershed, Flood Damage Reduction Plan, Funding and Implementation, Williamson County, IL, Due: December 18, 1989, Contact: John Eckes (217) 398–5267.

EIS No. 890293, Draft, FHW, KY, US 27 Construction, Camp Nelson to Nicholasville Bypass, Funding and 404 Permit, Jessamine County, KY, Due: December 22, 1989, Contact: Robert E. Johnson (502) 227–7321.

EIS No. 890294, Final, EPA, REG, Coke By-Product Recovery Plants, Revised Proposed Standards for Benzene Emissions, Implementation, Due: December 4, 1989, Contact: Fred Dimmick (919) 541–5625.

EIS No. 890295, Final, EPA, REG, Fluid Catalytic Cracking Unit Regenerators, Sulfur Oxides Emissions Standards, Due: December 4, 1989, Contact: Robert Ajax (919) 541–5578.

EIS No. 890296, FSuppl, COE, MN, Bassett Creek Watershed Flood Control Plan, Implementation, Hennepin County, MN, Due: December 4, 1989, Contact: Gary Palesh (612) 220–0264.

EIS No. 890297, Final, USA, TT, Kwajalein Atoll Ongoing and Strategic Defense Initiative Activities, Test Range Facility Construction and Support Services, Republic of the Marshall Islands, Due: December 4, 1989, Contact: LtC. Ronald Keglovits (205) 895–3616.

EIS No. 890298, Draft, COE, CO, Adam's Rib Recreation Area Resort Development, 404 Permit and Approval, Eagle County, CO, Due: December 18, 1989, Contact: Larry Vinzant (916) 551–2261.

EIS No. 890299, Final, FHW, WA, WA–18 Improvements, Auburn-Black Diamond Road to I–90, Funding and 404 Permit, King County, WA, Due: December 4, 1989, Contact: Barry Morehead (206) 753–2120.

EIS No. 890301, Final BLM, MT, Powder River Resource Area, Wilderness Study Areas (WSAs), Wilderness Recommendations, Designation or Nondesignation, Zook Creek WSA and Buffalo Creek WSA, Rosebud and Powder River Counties, MT, Due: December 4, 1989, Contact: Gene Kolkman (406) 232–7000.

EIS No. 890302, Draft, BLM, MT, Bull Mountains Land Exchange, Federal Coal Lands for High Values Recreation and Wildlife Lands, Carbon County, MT, Due: January 5, 1990, Contact: Bill Matthews (406) 232–7000.

EIS No. 890303, Draft, USA, MS, Camp Shelby Annual Training Facilities, Construction, Implementation, Forrest, Perry, and Greene Counties, MS, Due: December 18, 1989, Contact: LTC. Samuel K. McLellan (601) 949–6229.

EIS No. 890304, Draft, FHW, AL, Patton Island Bridge and Approach Roads Construction, crossing the Tennessee River and connecting the cities of Florence and Muscle Shoals, Funding, 404 Permit, TVA Permit, and CGD Bridge Permit, Colbert and Lauderdale Counties, AL, Due: December 29, 1989, Contact: Joe Wilkerson (205) 223–7370.

Amended Notices

EIS No. 870393, Draft, SFW, NY, VT, Lake Champlain Sea Lamprey Control Temporary Program, Use of Lampricides and an Assessment of Effects on Certain Fish Populations and Sport Fisheries, Implementation, Clinton, Essex and Washington Counties, NY and Addison and Chittenden Counties, VT, Due: December 1, 1989, Contact: Ralph Abele, Jr (617) 965–5100.

Published FR 11/14/87—Review period extended.

Dated: October 31, 1989.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc 89–25988 Filed 11–2–89; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3678–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 16, 1989 through October 20, 1989 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 7, 1989 (54 FR 15006).

Draft EISs

ERP No. D1–AFS–J65134–WY, Rating EC2, Threemile Area Timber Sale and Road Construction, Medicine Bow National Forest Land and Resource Management Plan, Medicine Bow National Forest, Carbon County, WY.

Summary

EPA has concerns with the cumulative impacts of the proposed action upon wildlife in the area, especially as similar actions are planned for adjacent areas.

Additionally, the EPA requests for information on the anticipated effects of global climate change, cumulative impacts, and increased water yield, and monitoring programs.

ERP No. D–AFS–J65154–CO, Rating EC2, Hatchet Park Timber Sale, Implementation, Arapaho National Forest, Sulphur Ranger District, Grand County, CO.

Summary

EPA expressed concerns about the project's potential for cumulative water quality impacts. EPA requested that the final EIS include additional information on cumulative impact, global climate changes, water yield, and monitoring.

ERP No. D–FHW–J40117–CO, Rating EC2, CO–82 Improvement, East of Basalt to 7th and Main Streets in Aspen, Funding and Section 404 Permit, Pitkin County, CO.

Summary

EPA expressed environmental concerns due to the uncertainty of the final design right-of-way and impacts to wetlands. EPA recommended that the final EIS includes additional information on wetland mitigation.

ERP No. DS–MMS–A02116–00, Rating EC2, Mid 1987–Mid 1992 Outer Continental Shelf (OCS) Oil and Gas Lease Sales, 5 Year Program,

Cumulative Impacts of OCS Development on Migratory Species, Lease Offerings, Offshore the Alaska and Pacific Regions, AK, WA, CA and OR.

Summary

EPA had two primary concerns about this document. The cumulative impact level definitions were too broad including failure to make any distinction between threatened and endangered species and nonendangered species. Also, the analysis did not fully address additive or synergistic responses to exposure to multiple activities.

Final EISs

ERP No. F-AFS-L65019-OR, Tepee Butte Fire Recovery Project, Implementation, August thru September 1988 Tepee Butte Fire Damage Recovery Land Management Plan, Hells Canyon National Recreation Area, Wallowa-Whitman National Forest, Wallowa County, OR.

Summary

Review of the final EIS was not deemed necessary. No formal letter was sent to the agency.

ERP No. F-BLM-L65122-ID, Idaho Statewide Small Wilderness Study Areas (WSAs), Wilderness Recommendations, Designation or Nondesignation, Box Creek, Lower Salmon Falls Creek, Henry's Lake, Worm Creek, Goldbury, Borah Peak, Boulder Creek, Little Wood River and Black Butte WSAs', Valley, Twin Falls, Fremont, Bear Lake, Custer, Blaine and Lincoln Counties, ID.

Summary

Review of the final EIS was not deemed necessary. No formal letter was sent to the agency.

Regulations

ERP No. R-USN-A86233-00, 32 CFR part 775; Procedures for Implementing the Procedural Provisions of the National Environmental Policy Act (54 FR 36818).

Summary

EPA finds the Navy's proposed rule revising its regulation for implementing procedural provisions of the National Environmental Policy Act would make several changes to the list of categorical exclusions contained in 32 CFR 775.6(c). EPA objected to the proposed categorical exclusions for the preparation of planning documents (32 CFR 775.6(c)(7)) and the identification, characterization, and clean-up of hazardous waste sites (32 CFR 775.6(c)(19)) and recommended their deletion.

Dated: October 31, 1989.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 89-25989 Filed 11-2-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

California; Amendment to Notice of a Major Disaster Declaration

[FEMA-845-DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the state of California (FEMA-845-Dr), dated October 18, 1989, and related determinations.

DATED: October 27, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice

The notice of a major diaster for the State of California, dated October 18, 1989, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 18, 1989:

Contra Costa County for Individual Assistance and Public Assistance.
Marin County for Individual Assistance only.

Grant C. Peterson,

Associate Director, State and Local Programs and Support Federal Emergency Management Agency.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

[FR Doc. 89-25946 Filed 11-2-89; 8:45 am]

BILLING CODE 6718-02-M

Office of Training

Board of Visitors for the Emergency Management Institute; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name: Board of Visitors (BOV) for the Emergency Management Institute (EMI).

Dates of Meeting: November 29-December 1, 1989.

Place: Federal Emergency Management Agency, National Emergency Training Center, Emergency Management Institute, Conference Room, Building N, Emmitsburg, Maryland 21727.

Time: November 29—8:30 a.m. to 5:00 p.m.; November 30—8:30 a.m. to 5:00 p.m.; December 1—8:30 a.m. to Agenda Completion.

Proposed Agenda: The Board will continue preparation of their 1989 Annual Report, finalize a draft statement expressing their support of the FEMA's adoption of the Incident Command System (ICS) concept, discuss health issues as they relate to curriculum content, and continue discussions relative to FEMA/EMI's role in hazardous materials training.

The meeting will be open to the public with approximately ten seats available on a first-come, first serve basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, Emergency Management Institute, Office of Training, 16825 South Seton Avenue, Emmitsburg, Maryland 21727 (telephone number, 301-447-1251) on or before November 15.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Director's Office, Office of Training, Federal Emergency Management Agency, Building N, National Emergency Training Center, Emmitsburg, Maryland 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: October 20, 1989.

Dave McLoughlin,

Director, Office of Training.

[FR Doc. 89-25947 Filed 11-2-89; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 1100 L Street NW., Room 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.: 224–004147–002

Title: South Carolina State Ports Authority Terminal Agreement.

Parties: South Carolina State Ports Authority, International Paper Company.

Synopsis: The Agreement extends the basic agreement for an additional five-year term. All other terms and conditions remain unchanged.

By Order of the Federal Maritime Commission.

Dated: October 30, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–25932 Filed 11–2–89; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 1100 L Street NW., Room 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.: 224–200057–002

Title: Tampa Port Authority Terminal Agreement.

Parties: Tampa Port Authority, Tampa Bay International Terminals, (TBIT).

Synopsis: The Agreement extends the term of the basic agreement (Agreement No. 224–200057) from November 1, 1989, through December 31, 1989. TBIT's rent shall be $4,166.67 per month and the minimum annual guarantee (MAG) per month will be assessed at 1/12th of the MAG, calculated at $27,083.34 per month.

Agreement Nos.: 224–000060–010, 224–000060–011, 224–000060–012

Title: Port of New Orleans Terminal Agreement.

Parties: Board of Commissioners of the Port of New Orleans (Port), Coastal Cargo Company (Coastal).

Synopsis: The Agreements modify the basic lease (Agreement No. 224–000060) to re-let thirty (30) sections (sections 51 through 60, Agreement No. 224–000060–010; sections 61 through 70, Agreement No. 224–000060–011; and sections 71 through 80, Agreement No. 224–000060–012) of the leased premises which are located at the Galvez Street Wharf. The Agreements also proportionally increase the rent as specified in the basic agreement.

Agreement No.: 224–200156–001

Title: State of Hawaii Terminal Agreement.

Parties: State of Hawaii, Matson Terminals, Inc.

Synopsis: The Agreement restates paragraph 7 of the basic agreement to provide that the annual rental as determined under paragraph 9 of the basic agreement shall be set forth in amendments filed with the FMC and effective under the Shipping Act of 1984.

Agreement No.: 224–200155–001

Title: State of Hawaii Terminal Agreement.

Parties: State of Hawaii, Matson Terminals, Inc.

Synopsis: The Agreement restates paragraph 7 of the basic lease agreement to provide that the annual rental for subsequent years as determined under paragraph 10 of the basic agreement shall be set forth in amendments filed with the FMC and effective under the Shipping Act of 1984.

By Order of the Federal Maritime Commission.

Dated: October 30, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–25915 Filed 11–2–89; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

[File No. 892–3061]

Black & Decker (U.S.) Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Towson, MD based manufacturer of small appliances from representing that any consumer products are endorsed by a person, group or organization that is an expert, unless the endorser has the expertise that is represented and the endorsement is supported by a valid evaluation or test.

DATE: Comments must be received on or before January 2, 1990.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 136, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Joel Winston, FTC/S–4002, Washington, DC 20580. (202) 326–3153.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Black & Decker (U.S.) Inc., a corporation, and it now appearing that Black & Decker (U.S.) Inc., hereinafter referred to as proposed respondent, is willing to enter into an agreement containing and order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Black & Decker (U.S.) Inc., by its duly authorized officer, and counsel for the Federal Trade Commission that:

1. Proposed respondent Black & Decker (U.S.) Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business at 701 East Joppa Road, in the City of Towson, State of Maryland.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a

statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All claims under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint as attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the complaint and the order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

For the purposes of this order, "consumer product" shall mean any product advertised, offered for sale, sold, or distributed to consumers for their personal or household use, and not for commercial or industrial use.

I

It is ordered, That respondent Black & Decker (U.S.) Inc., a corporation; its successors and assigns; and its officers, representatives, agents and employees; directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any consumer product sold under the "Black & Decker" trademark, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that such product has been endorsed by a person, group or organization that is an expert with respect to the endorsement message unless:

A. The endorser's qualifications give it the expertise that the endorser is represented as possessing with respect to the endorsement; and

B. The endorsement is supported by an objective and valid evaluation or test using procedures generally accepted by experts in that science or profession to yield accurate and reliable results.

II

It is further ordered, That for three (3) years from the date that the representations to which they pertain are last disseminated, respondent shall maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying:

A. All materials relied upon to substantiate any claim or representation covered by this Order; and

B. All test reports, studies, surveys or other materials in its possession or control or of which it has knowledge that contradict, qualify or call into question such representation or the basis upon which respondent relied for such representation, including complaints from consumers.

III

It is further ordered, That respondent shall forthwith distribute a copy of this Order to each of its operating divisions and to each of its officers, agents, representatives or employees engaged in the preparation and placement of advertisements or other such sales materials covered by this Order.

IV

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as a dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations under this Order.

V

It is further ordered, That respondent shall, within sixty (60) days after service of this Order upon it, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted subject to final approval an agreement to a proposed consent order from Black & Decker (U.S.) Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This action arises from advertisements claiming that the Black & Decker Automatic Shut-Off iron is "exclusively endorsed by the National Fire Safety Council, Inc." The Commission's complaint alleges that Black & Decker's advertisements falsely represent that the National Fire Safety Council, Inc. is an organization with expertise in the evaluation and testing of appliance fire safety and that it conferred its exclusive endorsement on the Black & Decker Automatic Shut-Off iron on the basis of independent, objective and valid evaluation or testing of the iron using procedures generally accepted in the field of appliance fire safety.

Under the terms of the proposed consent order, Black & Decker has agreed to cease and desist from

representing that any Black & Decker consumer product has the endorsement of any expert individual or group unless the endorser's qualifications give it the expertise that the endorser is represented as possessing with respect to the endorsement, and the endorsement is supported by an objective and valid evaluation or test using procedures generally accepted by experts in that science or profession.

The proposed order also requires Black & Decker to maintain materials relied upon to substantiate claims covered by the order, to distribute copies of the order to certain company officials and employees, to notify the Commission of any changes in corporate structure that may affect its compliance with the order, and to file one or more reports detailing its compliance with the order, and to file one or more reports detailing its compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 89-25954 Filed 11-2-89; 8:45 am]

BILLING CODE 6750-01-M

[File No. 861 0035]

New Jersey Movers Tariff Bureau, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the Highland Park, NJ based movers from entering into or maintaining any agreement to fix, maintain, or interfere with the prices charged by movers. The order would also prohibit respondent from discussing or formulating agreements among movers concerning intrastate prices to be charged for the transportation of property or related services.

DATE: Comments must be received on or before January 2, 1990.

ADDRESS: Comments should be directed to: FTC/OFFICE of the Secretary, room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael J. Bloom, New York Regional Office, Federal Trade Commission, 150 William St., 13th Floor, New York, NY. 10038. (212) 264-8290.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of the New Jersey Movers Tariff Bureau, Inc., a corporation, and the New Jersey Warehousemen and Movers Association, a corporation (hereinafter sometimes referred to as "Tariff Bureau" or "Movers Association," respectively, or as "proposed respondents," collectively), and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between the Tariff Bureau, by its duly authorized officer, the Movers Association, by its duly authorized officer, their attorney, and counsel for the Federal Trade Commission that:

(1) Proposed respondent New Jersey Movers Tariff Bureau, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey. Proposed respondent New Jersey Warehousemen and Movers Association is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey. Both proposed respondents have their offices and principal places of business located at 24 North Third Avenue, Highland Park, New Jersey, 08904.

(2) Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint attached hereto.

(3) Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

(4) This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

(5) This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

(6) This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postsal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

(7) Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

For purposes of this order, the following definitions shall apply:

(A) "*Household goods*" means personal effects, fixtures, equipment, stock and supplies, or other property usually used in or as part of the stock of a dwelling.

(B) "*Intrastate transportation*" or "*intrastate moves*" means the pickup or receipt, transportation and delivery of property for compensation within the State of New Jersey by a mover authorized by state law to engage therein.

(C) "*Member*" means any mover or other person which pays dues or belongs to the New Jersey Movers Tariff Bureau, Inc. or to the New Jersey Warehousemen and Movers Association, or to any successor corporation.

(D) "*Office goods*" means personal effects, fixtures, furniture, equipment, stock and supplies, or other property usually used in or as part of the stock of any office, or commercial, institutional, professional, or other type of establishment.

(E) "*Person*" means any individual, copartnership, association, company, or corporation, and includes any trustee, receiver, assignee, lessee, or personal representative of any person herein defined.

(F) "*Mover*" means any person engaged in the transportation of household goods, office goods, or special commodities by motor vehicle for compensation in intrastate commerce between points in the State of New Jersey.

(G) "*Special commodities*" means uncrated or unboxed works of art, fixtures, appliances, business machines, electronic equipment, displays, exhibits, home, office, store, theatrical or show equipment, musical instruments, or other articles.

(H) "*Tariff Bureau*" means the New Jersey Movers Tariff Bureau, Inc.

(I) "*Movers Association*" means the New Jersey Warehousemen and Movers Association.

(J) "*Tariff*" means a publication stating the prices charged by movers for services rendered in the transportation of household goods, office goods, and special commodities, within the State of New Jersey.

II

It is ordered, That respondents Tariff Bureau and Movers Association, their successors and assigns, and their directors, officers, committees, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the transportation of property, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, jointly and indivdually, do forthwith cease and desist from:

A. Entering into, adhering to, or maintaining, directly or indirectly, any contract, agreement, understanding, plan, program, combination, or conspiracy to construct, fix, stabilize, raise, maintain, or otherwise interfere or tamper with the prices charged by movers;

B. Suggesting, urging, encouraging or persuading in any way movers to charge, file, or adhere to any existing or proposed tariff provision, or otherwise to charge or refrain from charging any particular price for any services rendered or goods or equipment provided;

C. Inviting, coordinating, or providing a forum for any discussion or agreement between or among movers concerning intrastate prices charged or proposed to be charged by movers for the intrastate transportation of property or related services, goods, or equipment; and

D. Formulating, compiling, filing, or maintaining any tariff derived in whole or in part from price information that respondents or others have collected on forms that contain pre-selected prices or that use or refer to tables of prices.

Provided, however, That nothing contained in subpart II. D. of this Order shall prevent respondents from collecting and publishing individual tariffs or tariff information that movers have communicated to respondents on forms, other than forms devised, established or circulated to movers by respondents that contain pre-selected prices or that use or refer to tables of prices, in which each mover inserts or sets forth prices that are unilaterally determined by the mover, for the purpose of facilitating each mover's satisfaction of the tariff filing requirements of the State of New Jersey. And provided further that, after a period of one year from the effective date of this Order, nothing contained in this subpart shall prevent respondents from presenting to state regulatory authorities tariff filings that contain a tabularized or consolidated display of unilaterally determined mover prices.

III

It is further ordered, That respondents Tariff Bureau and Movers Association each shall:

(A) At the first opportunity after this order becomes final, but in no case later than six (6) months thereafter, cancel all tariffs and any supplements thereto on file with the Director of the Division of Consumer Affairs in the New Jersey Department of Law and Public Safety that establish prices for transportation of property or related services, goods, or equipment by movers in New Jersey and take such action as may be necessary to effectuate cancellation and withdrawal.

(B) Within thirty (30) days after this order becomes final, distribute a copy of the order to each of their members.

(C) Within thirty (30) days after this order becomes final, amend their by-laws, rules and regulations, and other of their materials to conform to the provisions of this order and provide each of their members with a copy of the amended by-laws, rules and regulations, and other materials.

(D) Within thirty (30) days after this order becomes final, amend their by-laws to require each of their members to observe the substantive provisions of the order as a condition of their membership.

(E) At the first opportunity after this order becomes final, but in no case later than six (6) months thereafter, terminate all previously executed powers of attorney and tariff service agreements between the Tariff Bureau and any mover utilizing its services that authorizes the publication and/or filing of intrastate tariffs within the State of New Jersey; provided, however, that nothing contained in this subpart shall prevent any new executions of such agreements or powers of attorney.

(F) For a period of three (3) years after this order becomes final, furnish a copy of the order to each of their new members within thirty (30) days of each new member's admission.

IV

It is further ordered, that respondents Tariff Bureau and Movers Association each shall:

(A) Within sixty (60) days after this order becomes final, file a verified written report with the Federal Trade Commission setting forth in detail the manner and form in which the

respondent has complied and is complying with this order.

(B) In addition to the report required by paragraph IV(A), annually for a period of three (3) years on or before the anniversary date on which this order becomes final, and at such other times as the Federal Trade Commission or its staff may by written notice to respondent require, file a verified written report with the Federal Trade Commission setting forth in detail the manner and form in which the respondent has complied and is complying with this order.

(C) For a period of five (5) years after this order becomes final, maintain and make available to the Commission staff for inspection and copying, upon reasonable notice, all documents that relate to the manner and form in which the respondent has complied and is complying with this order.

(D) Notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the respondent that may affect compliance obligations arising out of this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from the New Jersey Movers Tariff Bureau, Inc., and the New Jersey Warehousemen and Movers Association (hereafter referred to as "Tariff Bureau" or "Movers Association," respectively, or as "respondents," collectively). The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint

A complaint that the Commission would issue along with the proposed order alleges that the Tariff Bureau and the Movers Association have conspired with at least some of their members to restrain unreasonably price and service competition in the intrastate transportation of household goods, office goods, and special commodities. The complaint charges that respondents, in furtherance of the conspiracy, created and operated a joint tariff setting the prices their member movers charge for their transportation services, and that these acts and practices violated section 5 of the Federal Trade Commission Act.

According to the complaint, during much of the 1970's, respondent Tariff Bureau filed for its members a joint and common tariff; that tariff was subject to the approval of the Board of Public Utilities. In 1978, however, after the Board determined that the Tariff Bureau had acted anticompetitively and injured consumers, public movers who had been members of the Tariff Bureau began to file their rates individually instead of through a joint and common tariff. The State of New Jersey thereafter decided to move away from rate regulation and, although it now requires each mover to file tariffs semiannually with state authorities, New Jersey allows each mover to choose the rates on its tariff.

According to the complaint, in 1982, respondent Movers Association corresponded with its members and members of the Tariff Bureau, inviting them to stop filing their tariffs individually and to participate in the filing of a new joint tariff that would be designed and implemented by a newly reactivated Tariff Bureau. The Tariff Bureau then acted in conjunction with the Movers Association to design and implement a joint tariff in a manner that had the natural tendency and effect of raising the prices of moving services.

The complaint charges that, in furtherance of the alleged conspiracy, respondents and their members engaged in various acts and practices that restrained competition. Specifically, according to the complaint, beginning in the fall of 1982, respondents surveyed their membership concerning the rates that members wanted to have published in the new joint tariff, but then rejected the price preferences of their members reflected in the survey results. Instead respondents created a joint tariff containing menus of rates in tabular form and invited their members to select from among the rate tables.

The complaint further states that, although respondents' joint tariff allowed movers to select rates and terms of service that the tables did not reflect by "taking exception," in general, however, respondents designed and operated the tariff, including the exception process, in a way that discouraged movers' from taking exceptions to implement their individual pricing decisions.

According to the complaint, in the fall of 1987, the Tariff Bureau modified several of the tariff tables. In general, the modifications eliminated lower rates and added higher rates. The Tariff Bureau eliminated tables containing lower rates from the fall 1987 tariff even where the lower rates had been, during the most recent tariff period, movers' most popular choice of rates for their moving services. Thereafter, as the complaint charges, movers' rate selections revealed a marked price increase for several categories of moving services. Movers who had previously selected lower rates that were now no longer presented as rate options in the tariff generally did not seek to use the exception process to continue charging lower rates. In addition, the complaint states that the Tariff Bureau often ignored movers' requests for the same rates that they had selected in the previous tariff, and assigned them to the new higher rate tables.

The effects of these practices, as alleged in the complaint, are to restrain price competition in the intrastate transportation of household goods, office goods, and special commodities, and to deprive consumers of the benefits of price and service competition.

The Proposed Order

The proposed order would prohibit respondents from entering into or maintaining, directly or indirectly, any agreement or understanding to fix, stabilize or maintain, or otherwise interfere with the prices charged by movers. The proposed order prohibits respondents from suggesting or encouraging, in any way, movers to charge, file, or adhere to any existing or proposed tariff provision, or otherwise to charge or refrain from charging any particular price for any services rendered or goods or equipment provided. The proposed order also precludes respondents from inviting, coordinating, or providing a forum for any discussion or agreement between or among movers concerning intrastate prices charged or proposed to be charged by movers for the intrastate transportation of property or related services, goods, or equipment.

The proposed order further prohibits respondents from collecting price information from movers through a process that restricts the ability of movers to make individual and independent determinations as to the price each mover desires to charge for services rendered. Specifically, the proposed order contains a provision (paragraph II.D.) that precludes respondents from formulating, compiling, filing, or maintaining any tariff derived in whole or in part from price information that respondents or others have collected on forms that

contain pre-selected prices or that use or refer to tables of prices.

A proviso contained in the proposed order expressly states that paragraph II.D. does not preclude respondents from collecting and publishing individual tariffs or tariff information that movers have communicated to respondents on forms that do not contain pre-selected prices or use or refer to tables of prices. Thus, II.D. does not prevent respondents from functioning as a pure compiler of individually-determined mover prices, where those prices are communicated to respondents on forms that are in accordance with the terms of the order. Each mover may convey price information to respondents using permissible forms to insert or set forth prices or price determinations that are unilaterally selected by the mover, for the purpose of facilitating each mover's satisfaction of the tariff filing requirements of the State of New Jersey.

The proviso further states that, after one year, paragraph II.D. shall not prevent respondents from presenting to state regulatory authorities tariff filings that contain a tabularized or consolidated display of unilaterally determined mover prices. In essence then, for a one-year period, the order precludes respondents from presenting to the state a consolidated or tabularized display of mover prices.

The proposed order would also require respondents to inform their members about the consent order; to conform their by-laws and rules to the order; to file compliance reports; to maintain and make available to the Federal Trade Commission staff certain documents; and to give advance notice of any change in respondents that may affect their compliance obligations. The proposed order further requires that, within six months after the order becomes final, respondents' existing tariff be canceled and withdrawn and all previously executed powers of attorney and tariff service agreements between the respondent Tariff Bureau and any member mover be terminated. The order, however, would permit the execution of new agreements and powers of attorney.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order nor to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 89-25955 Filed 11-2-89; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Establishment; Extramural Science Advisory Board

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, 86 Stat. 770, and the Anti-Drug Abuse Act of 1986, Public Law 99-570, section 4003, 100 Stat. 3207-106 as amended by the Drug Abuse Treatment Technical Corrections Act of 1989, section 3(f), 103 Stat. 611, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), announces the establishment, effective October 23, 1989 of the following committee:

Extramural Science Advisory Board, NIDA

The duration of this committee is continuing unless formally determined by the Administrator, ADAMHA, that termination would be in the best public interest.

Dated: October 30, 1989.

Frederick K. Goodwin,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 89-25876 Filed 11-2-89; 8:45 am]

BILLING CODE 4160-20-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on October 20, 1989. (Call PHS Reports Clearance Officer on 202-245-2100 for copies of package)

1. Food Labeling Cost Survey—NEW—The proposed survey will obtain information from a sample of food manufacturers regarding food labeling costs, such as number of products, types of labels, and printing costs. In conjunction with other data, survey results will contribute to a data base for determining the costs of forthcoming FDA Labeling initiatives. The data also will be used in a microcomputer model that will enable the user to rapidly assess potential cost of a proposed regulation. *Respondents:* Businesses or other for-profit, small businesses or organizations; *Number of Respondents:* 1,459; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 2.6 hours; *Estimated Annual Burden:* 3,794 hours.

2. Respiratory Protective Devices—30 CFR part 11—Regulation—0920-0109—Part 11 prescribes requirements and procedures which must be met in filing applications for joint approval by the Mine Safety and Health Administration and National Institute for Occupational Safety and Health of respirators and modifications of respirators. Applications contents, quality control plans and quality control records are required. *Respondents:* Businesses or other for-profit.

	No. of respondents	No. of hours per response	No. of responses per respondent
Application	40	74.42	13
Recordkeeping	40	322.53	1

Estimated Annual Burden..... 51,599 hours

3. Allergenic Products; List of Source Materials—0910-0161—The purpose of this information collection requirement is to ensure that allergenic source materials are of a suitable quality or purity for production of products intended for use as human injectable drugs. *Respondents:* Businesses or other for-profit, small businesses or organizations; *Number of Respondents:* 19; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 1.5 hours; *Estimated Annual Burden:* 29 hours.

4. Patterns of Care Study in Radiation Oncology—New—The National Cancer Institute will perform a Patterns of Care Study in radiation oncology to (a) obtain a census of radiotherapy facilities and document types of equipment; (b) conduct a long-term follow-up study of patients with cancers of the prostate, cervix, and breast and Hodgkin's disease; and (c) conduct a study of patterns of fractionation where widely varying dose schedules and overall treatment times are routinely used. *Respondents:* State and local government, businesses or other for-profit, Federal agencies or employees, non-profit institutions.

	No. of respondents	No. of hours per response	No. of responses per respondent
Facility Master List	626	0.763	1

	No. of respondents	No. of hours per response	No. of responses per respondent
Long Term Follow-Up	667	3.1	1
Patterns of Fractionation	5	44	3

Estimated Annual Burden..... 3,205 hours

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Date: October 27, 1989.

James M. Friedman,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

[FR Doc. 89-25864 Filed 11-2-89; 8:45 am]

BILLING CODE 4160-17-M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the Federal Register on October 27, 1989.

Social Security Administration

(Call Reports Clearance Officer on (301) 965-4149 for copies of package)

1. SSA/DDS Cost-Effectiveness-Measurement System Data Reporting Form—0960-0384—The information collected on the form SSA-1461 is used by the Social Security Administration to assure effective and uniform administration of the disability program, assist in making payment decisions and measure the operating costs of State agencies on a per-case basis. The affected public consists of State Disability Determination Agencies.

Number of Respondents: 52.
Frequency of Response: Quarterly.
Average Burden Per Response: 5 hours.
Estimated Annual Burden: 1,040 hours.

2. Statement of Death by Funeral Director—0960-0142—The information collected on the form SSA-721 is used by the Social Security Administration to verify the death of an individual insured under the Social Security Act and to determine if there is a survivor eligible for a lump sum death payment. The affected public is comprised of funeral directors with knowledge of the death of a Social Security insured individual.

Number of Respondents: 900,000.
Frequency of Response: 1.
Average Burden Per Response: 3.5 minutes.
Estimated Annual Burden: 52,500 hours.

OMB Desk Officer: Justin Kopca.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: October 30, 1989.

Ron Compston,

Social Security Administration, Reports Clearance Officer.

[FR Doc. 89-25938 Filed 11-2-89; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

[Docket Nos. 81D-0214 and 83D-0305]

Target Animal Safety Revised Guidelines; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Veterinary Medicine (CVM) is announcing the availability of the June 1989 revision of its "Target Animal Safety Guidelines for New Animal Drugs." The previous target animal safety guidelines had been in use approximately 5 years The revision is based on numerous comments, a need for editorial modification and clarification, and a need for adding certain provisions for optional procedures.

ADDRESSES: Submit written requests for single copies of the June 1989 revision of the "Target Animal Safety Guidelines for New Animal Drugs" to the Industry Information Branch (HFV-12), Center for Veterinary Medicine, Food and Drug Administration, Rm. 7-81, 5600 Fishers Lane, Rockville, MD 20857. Requests should be identified with the docket numbers found in brackets in the heading of this document. Send two self-addressed adhesive labels to assist that office in processing your requests. The June 1989 revision of the guidelines is available for public examination in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Larry D. Rollins, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: CVM is announcing the availability of the June 1989 "Target Animal Safety Guidelines for New Animal Drugs." The revised guidelines reflect the following: CVM's position regarding use of experimental animals and animal welfare; FDA's position regarding the LD_{50} test; clarification of an experimental unit, need for statistical analyses, and presentation of data; addition of a requirement for a complete description of diet in the final report; use of the breed of animals as a factor when selecting test animals; a preferred option of using a 10X dosing regimen for the drug tolerance test; information on when a drug tolerance test is needed; removal of a requirement of extensive animal skin testing in dogs, cats, and horses of certain topical drugs known to be very irritating or caustic and intended for use on limited surface areas; addition of a table to assist in the evaluation of skin reactions on dogs, cats, and horses; emphasis on the need for FDA and the sponsor to agree to the number of animals to test as a subset; deletion of addendum number la, clinical observations, because of redundancy (see addendum number 1); addition of fecal examination measurements for presence of parasites, fecal color, consistency, and quantity; addition of lactate dehydrogenase with isoenzymes determination to the list of clinical pathological tests to consider for dogs and cats; deletion of addendum number 4 for horses and replacement of it with a table for evaluating skin reactions; an updated reference for examining bulls for breeding soundness; addition of a reference for examining boars for breeding soundness; revision of poultry guidelines to include the intermittent drug administration/skip-a-day programs; clarification of duration of testing for certain classes of poultry; addition of recommendation that young birds be sedated when blood samples are collected if sedation will not interfere with the experiment.

Dated: October 26, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-25936 Filed 11-2-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89M-0437]

Salvatori Ophthalmics, Inc.; Premarket Approval of SOF-Form 55 Spherical (Methafilcon A) Soft Hydrophilic Contact Lenses and Sof-Form 55 Toric (Methafilcon A) Soft Hydrophilic Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Salvatori Ophthalmics, Inc., Sarasota, FL, for premarket approval, under the Medical Device Amendments of 1976, of the SOF-FORM 55 Spherical (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear and extended wear and the SOF-FORM 55 Toric (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear. The lenses are to be manufactured under an agreement with Kontur Kontact Lens Co., Inc., Richmond, CA, which has authorized Salvatori Ophthalmics, Inc., to incorporate information contained in its approved premarket approval application and related supplement for the spherical and toric configurations of the Kontur Soft (methafilcon A) Hydrophilic Contact Lenses. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 28, 1989, of the approval of the application.

DATE: Petitions for administrative review by December 4, 1989.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Dr. Rockville, MD 20850, 301-427-1080.

SUPPLEMENTARY INFORMATION: On July 18, 1989, Salvatori Ophthalmics, Inc., Sarasota, FL 34234, submitted to CDRH an application for premarket approval of the SOF-FORM 55 Spherical (Methafilcon A) Soft Hydrophilic Contact Lenses for daily wear and extended wear and the SOF-FORM 55 Toric (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear. The spherical lenses are indicated for daily wear and extended wear from 1 to 7 days between removals for cleaning and disinfection as recommended by the eye-care practitioner. The lenses are indicated for the correction of visual acuity in not-aphakic patients with nondiseased eyes that are myopic or hyperopic. The lenses may be worn by persons who may exhibit astigmatism of 1.50 diopters (D) or less that does not interfere with visual acuity. The spherical lenses are indicated in a power range of −20.00 D to +10.00 D. The toric lenses are indicated for daily wear for the correction of visual acuity in not-aphakic person with nondiseased eyes that are myopic or hyperopic and have astigmatism up to 5.00 D and can obtain satisfactory visual acuity. These toric lenses range in spherical powers from −20.00 D to +10.00 D and cylinder powers from 0.75 D to 5.00 D. These lenses are to be disinfected using a chemical lens care system. The application includes authorization from Kontur Kontact Lens Co., Inc., Richmond, CA 94804, to incorporate information contained in its approved premarket approval application and related supplement for the spherical and toric configurations of the Kontur Soft (methafilcon A) Hydrophilic Contact Lens.

On September 28, 1989, CDRH approved the application by letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above. The labeling of the SOF-FORM 55 Spherical (Methafilcon A) Soft Hydrophilic Contact Lenses and SOF-FORM 55 Toric (methafilcon A) Soft Hydrophilic Contact Lenses states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the person who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 14, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 26, 1989.

Walter E. Gundaker,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 89-25877 Filed 11-2-89; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Health Education Assistance Loan Program; "Maximum Interest Rates for Quarter Ending December 31, 1989"

Section 727 of the Public Health Service Act (42 U.S.C. 294) authorizes the Secretary of Health and Human

Services to establish a Federal program of student loan insurance for graduate students in health profession schools.

Section 60.13(a)(4) of the program's implementing regulations (42 CFR part 60, previously 45 CFR part 126) provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending December 31, 1989, three interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 11⅝ percent. Using the regulatory formula (45 CFR 126.13(a)), in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding calendar quarter (8.12 percent), and rounding the result (11.62 percent) upward to the nearest ⅛ percent (11⅝ percent).

However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. Because the average rate of the 4 quarters ending December 31, 1989, is not in excess of 12 percent, there is no necessity for reducing the interest rate. For the previous 3 quarters the variable interest at the annual rate was as follows: 11½ percent for the quarter ending March 31, 1989; 12⅜ percent for the quarter ending June 30, 1989; and 12¼ percent for the quarter ending September 30, 1989.

2. For variable rate loans executed during the period of January 27, 1981 through October 21, 1985, the interest rate is 11⅝ percent. Using the regulatory formula (42 CFR 60.13(a)) in effect for that time period, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (8.12 percent); adding 3.50 percent (11.62 percent); and rounding that figure to the next higher one-eighth of 1 percent (11⅝ percent).

3. For fixed rate loans executed during the period of October 1, 1989 through December 31, 1989, and for variable rate loans executed on or after October 22, 1985, the interest rate is 11⅛ percent. The Health Professions Training Assistance Act of 1985 (Pub. L. 99–129), enacted October 22, 1985, amended the formula for calculating the interest rate by changing 3.5 percent to 3 percent. Using the regulatory formula (42 CFR 60.13(a)(2)), the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (8.12 percent); adding 3.0 percent (11.12 percent) and rounding that figure to the next higher one-eighth of 1 percent (11⅛ percent).

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: October 27, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89–25878 Filed 11–2–89; 8:45 am]

BILLING CODE 4160–15–M

National Institute of Health

National Institutes of General Medical Sciences; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the committees of the National Institute of General Medical Sciences for November 1989.

The meetings will be open to the public to discuss administrative details to committee business for approximately two hours at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available.

These meetings will be closed thereafter in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion, and evaluation of individual research training grant and research center grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20892 (Telephone: 301–496–7301), will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of Committee: Minority Programs Review Committee

Name of Subcommittee: Minority Access to Research Careers, Review Subcommittee

Executive Secretary: Dr. George Hayden, Rm. 949, Westwood Building, Telephone: 301–496–7585

Dates of Meeting: November 2–3, 1989

Place of Meeting: Holiday Inn, Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland

Open: November 2, 1989, 8:30 a.m.–10:30 a.m.

Closed: November 2, 1989, 10:30 a.m.–5:00 p.m. November 3, 1989, 8:30 a.m.–adjournment

Name of Committee: Genetic Basic of Disease Review Committee.

Executive Secretary: Dr. Marion Zatz (Acting) Room 950, Westwood Building, Telephone: 301–496–7125

Dates of Meeting: November 9, 1989

Place of Meeting: Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland

Open: November 9, 1989, 8:30 a.m.–10:30 a.m.

Closed: November 9, 1989, 10:30 a.m.–adjournment

Name of Committee: Pharmacological Sciences Review Committee

Executive Secretary: Dr. Rodney Ulane, Room 952, Westwood Building, Telephone: 301–496–4772

Date of Meeting: November 13, 1989

Place of Meeting: Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland

Open: November 13, 1989, 8:30 a.m.–10:30 a.m.

Closed: November 13, 1989, 10:30 a.m.–adjournment

Name of Committee: Cellular and Molecular Basis of Disease Review Committee

Executive Secretary: Dr. Carole Latker, Room 950, Westwood Bldg., Telephone: 301–496–7125

Dates of Meeting: November 14–15, 1989

Place of Meeting: Ramada Inn, Bethesda, 8400 Wisconsin Avenue, Bethesda, Maryland

Open: November 14, 1989, 8:30 a.m.–10:30 a.m.

Closed: November 14, 1989, 10:30 a.m.–6:00 p.m. November 15, 1989, 8:30 a.m.–adjournment

Name of Committee: Minority Programs Review Committee

Name of Subcommittee: Minority Biomedical Research Support Subcommittee
Executive Secretary: Dr. Lorrita Watson, Room 10A14, Westwood Bldg., Telephone: 301–496–4390
Dates of Meeting: November 16–17, 1989
Place of Meeting: Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland
Closed: November 16, 1989, 8:30 a.m.–5:00 p.m.
Open: November 17, 1989, 9:00 a.m.–12:00 p.m.

(Catalog of Federal Domestic Assistance Program No. 13–859, 13–862, 13–863, 13–880, National Institute of General Medical Sciences, National Institutes of Health)

Dated: October 30, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–89–1917; FR–2606–N–44]

Underutilized and Unutilized Federal Buildings and Real Property Determined by HUD To Be Suitable for Use for Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: November 3, 1989.

ADDRESS: For further information, contact James Forsberg, Room 7228, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 755–6300; TDD number for the hearing- and speech-impaired (202) 755–5965. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

The Order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which unutilized or underutilized Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about such properties and then to determine, under criteria developed in consultation with the Department of Health and Human Services (HHS) and the Administrator of General Services (GSA), which of those properties are suitable for facilities to assist the homeless. The Order requires HUD to publish, on a weekly basis, a Notice in the **Federal Register** identifying the properties determined as suitable.

The properties identified in this Notice may ultimately be available for use by the homeless, but they are first subject to review by the landholding agencies pursuant to the court's Memorandum of December 14, 1988 and section 501(b) of the McKinney Act. Section 501(b) requires HUD to notify each Federal agency with respect to any property of such agency that has been identified as suitable. Within 30 days from receipt of such notice from HUD, the agency must transmit to HUD: (1) Its intention to declare the property excess to the agency's need or to make the property available on an interim basis for use as facilities to assist the homeless; or (2) a statement of the reasons that the property cannot be declared excess or made available on an interim basis for use as facilities to assist the homeless.

First, if the landholding agency decides that the property cannot be declared excess or made available to the homeless for use on an interim basis the property will no longer be available.

Second, if the landholding agency declares the property excess to the agency's need, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law and the December 12, 1988 Order and December 14, 1988 Memorandum, subject to screening for other Federal use.

Finally, in lieu of declaring any particular property as excess, the landholding agency may decide to make the property available to the homeless for use on an interim basis.

Homeless assistance providers interested in any property identified as suitable in this Notice should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, Room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit such written expressions of interest within 30 days from the date of this Notice. For complete details concerning the timing and processing of applications, the reader is encouraged to refer to HUD's **Federal Register** Notice on June 23, 1989 (54 FR 26421), as corrected on July 3, 1989 (54 FR 27975).

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: GSA: James Folliard, Federal Property Resources Services, GSA, 18th and F Streets NW, Washington, DC 20405 (202) 535–7067; U.S. Army: HQ–DA, Attn: DAEN–ZCI–P–Robert Conte; Room 1E671 Pentagon, Washington, DC 20360–2600 (202) 693–4583.

Dated: October 30, 1989.

Stephen A. Glaude,

Deputy Assistant Secretary for Program Management.

Suitable Building (by State)

(Number of Properties [ ])

California

Madera Emp. Trng. Cntr. & Sewage Lagoon [36]
19500 Road 28½
Madera County, CA
Landholding Agency: GSA
Location: GSA #GR–(1)–CA–864 (excess)
Comment: 40.87 acres w/bldgs. adjoins 4.58 acre sewage lagoon; possible asbestos

Oklahoma

Fort Sill [8]
various on-base locations
Lawton, OK
Landholding Agency: ARMY
Location: T4512, TO4631, TO4389, TO2786, PO1619, PO4634, PO4635, PO4633
Comment: misc deteriorated small bldgs, structural problems, no utilities
Fort Sill [8]
various on-base locations

Lawton, OK
Landholding Agency: ARMY
Location: TO6484, T4557, T4551, T4544, TO3548, TO2931, TO1471, 1277
Comment: Range from 256 sq ft to 825 sq ft; some without utilities
Fort Sill [36]
various on-base locations
Lawton, OK
Landholding Agency: ARMY
Location: TO2538, TO2539, TO2541, TO2542, TO2543, TO2544, TO2545, TO2546, TO2547, TO0931, TO2529, TO2531, TO2532, TO2532, TO2534, TO2535, TO2536, TO2537, TO2549, TO2550, TO2551, TO2552, TO2555, TO2556, TO2557, TO2558, TO2559, TO2561, TO2562, TO2563, TO2564, TO2565, TO2566, TO2567, TO2568, TO2601
Comment: barracks, administrative, mess halls, guest quarters, classrooms, etc.
Fort Sill [36]
various on-base locations
Lawton, OK
Landholding Agency: ARMY
Location 2781, TO3503, TO3508, TO3524, TO3527, TO3529, TO3532, TO3533, TO3534, TO3638, TO3760, TO3767, TO3769, TO3770, TO3772, TO3773, TO3776, TO3777, TO3788, TO4360, TO4361, TO4362, TO4363, TO4364, TO4365, TO4366, TO4374, TO4383, TO4384, TO4385, TO4386, TO4387, TO4388, TO4489, T4500, T4501
Comment: barracks, administrative, mess halls, guest quarters, classrooms, etc.
Fort Sill [39]
various on-base locations
Lawton, OK
Landholding Agency: ARMY
Location T4503, T4504, T4506, T4507, T4508, T4509, T4510, T4511, T4513, T4514, T4523, T4520, T4524, T4525, T4526, T4527, T4528, T4530, T4531, T4533, T4541, T4542, T4543, T4546, T4547, T4552, T4553, T4554, T4555, T4556, T4521, T4540, T4558, T4559, T4502, TO4375, TO3781, TO3549, TO2780
Comment: barracks, administrative, mess halls, guest quarters, classrooms, etc.
Fort Sill [3]
various on-base locations
Lawton, OK
Landholding Agency: ARMY
Location TO0826, TO2548, TO2560
Comment: barracks, administrative, mess halls, classrooms, guest quarters, etc.

Virginia

Dunn Loring RCAG Facility [1]
Central Ave. and Judy Witt Lane
Vienna, VA
Landholding Agency: GSA
Location GSA #4-U-VA-683 (excess)
Comment: 840 sq ft; radio towers; no public water/sanitation facilities

Unsuitable Land (by State)

(Number of Properties [ ])

Missouri

Portions of Harry S. Truman Dam & Reser. [1]
Bates, Henry and St. Clair Counties
see above, MO
Landholding Agency: GSA
Location (excess)
Reason: Floodway
Comment: 8 noncontiguous tracts totalling 736 acres

Unsuitable Building (by State)

(Number of Properties [ ])

Louisiana

Bayou D'Arbonne Recreation Area [1]
see below
Union Parish, LA
Landholding Agency: GSA
Location: #7-D-LA-539; 17 miles NW of West Monroe, Louisiana and 2.5 miles from Highway 143 in Pleasant Hill (excess)
Reason: Floodway
Comment: 17.28 acres; no utilities

Oklahoma

Fort Sill [8]
various on-base locations
Lawton, OK
Landholding Agency: ARMY
Location: TO3530, PO2510, TO2505, T4515, TO4377, TO4376, TO4373, TO4372
Reason: Other
Comment: latrines, detached structures.

[FR Doc. 89-25937 Filed 11-2-89; 8:45 am]
BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

New School Facilities Construction Application

October 26, 1989.

AGENCY: Office of Construction Management, Interior.

ACTION: Notice that applications for new school construction may be submitted for consideration for fiscal year 1992.

SUMMARY: Applications for New School Facilities Construction may be submitted for evaluation and ranking using the guidelines entitled, "Instructions and Application for New School Construction," made available through the Office of Construction Management (OCM), as noticed in 53 FR 3080, February 3, 1987. All new school construction applications will be evalauted and considered for priority ranking based on criteria developed by OCM in accordance with the guidelines, as noticed in 53 FR 12470-12471, April 14, 1988. Highly ranked projects will be considered for advance planning and design in accordance with availability of funds. A validation study will be made to analyze the cost benefits of replacement versus renovation and other project justification information.

Applications must be received by OCM by November 15, 1989, to be considered for Fiscal Year 1992. Incomplete applications or applications received without a supporting Tribal resolution will not be ranked.

The "Instructions and Application for New School Construction" is available upon request through the Office of construction Management and from the Bureau of Indian Affairs (BIA) Area and Agency office and the BIA Facilities Management and Construction Center, P.O. 1248, Albuquerque, NM 87103.

FOR FURTHER INFORMATION CONTACT: Arthur M. Love, Jr., Director, Office of Construction Management, Department of the Interior, 18th and C Streets NW., Mail Stop 2415, Washington, DC 20240, (202) 343-3403.

Lou Gallegos,

Deputy Assistant Secretary, Policy, Budget and Administration.

[FR Doc. 89-25880 Filed 11-2-89; 8:45 am]
BILLING CODE 4310-RK-M

Bureau of Indian Affairs

Increase to the Blackfeet Irrigation Project, Operation and Maintenance Rates

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Public notice.

Purpose: Increase to the Blackfeet Irrigation Project Operation and Maintenance Rates.

SUMMARY: The Bureau of Indian Affairs is proposing to increase the operation and maintenance rate of the Blackfeet Irrigation Project from $7.50 to $7.75 per assessable acre. Congressional Cost of Living and operation cost have increased in 1989 and are anticipated to increase in 1990.

The projects annual operation and maintenance charges are based on the estimated normal operating cost of the project for one Fiscal Year. Copies of the

proposed budget may be acquired from the Superintendent of the Blackfeet Agency, Bureau of Indian Affairs, Browning, Montana 59417. A self addressed manila envelope with postage must be included when making your request.

The due date for all operation and maintenance charges will be May 1 of each calendar year.

Interest and/or penalty fees will be assessed on all (Trust, and Fee assessed lands) delinquent operation and maintenance charges as prescribed in the 42 Bureau of Indian Affairs Manual and the Code of Federal Regulations, chapter 4, part 102. Government agencies, such as Federal, State and Tribal Governments are exempted from interest and/or penalty fees.

This notice will be published and posted at the following locations:

U.S. post offices	Newspaper
Browning, Mt. 59417 Cut Bank, Mt. 59427 Valier, Mt. 59486	Glacier Reporter Browning, Mt. 59417

Bureau of Indian Affairs

Blackfeet Agency
Browning, Mt. 59417

Comments: All comments concerning the operating and maintenance charges for the Blackfeet irrigation project must be in writing and addressed to the Superintendent of the Blackfeet Agency before the close of business on December 8, 1989.

Appeal Process: Chapter 25, part 2 of the Code of Federal Regulations outlines the appeal process for this administrative action. Appeals must be received by the Billings Area Director, Bureau of Indian Affairs, 316 North 26th St., Billings, Montana 59101 via the Superintendent of the Blackfeet Agency, before the close of business on December 8, 1989.

SUPPLEMENTARY INFORMATION: This notice is issued pursuant to the Code of Federal Regulations, chapter 25, part 171 under the authority delegated to the Area Director, by the Assistant Secretary of Indian Affairs and the Deputy Assistant Secretary of the Interior [Departmental Manual, chapter 3, part 230, (3.1 & 3.2)].

Richard Whitesell,

Billings Area Director.

[FR Doc. 89–25883 Filed 11–2–89; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[CA–050–00–4130–12]

Emergency Closure of Certain Public Lands in Butte County, CA

AGENCY: Bureau of Land Management, United States Department of the Interior.

ACTION: Emergency closure of certain public lands to motorized vehicle use in Butte County, California.

SUMMARY: In accordance with title 43, Code of Federal Regulations, §§ 8364.1 and 8341.2, notice is hereby given that all the below listed lands and roads therein, administered by the Bureau of Land Management, have been closed to all motorized vehicle use; except for emergency vehicles, fire suppression and rescue vehicles, BLM operation and maintenance vehicles, law enforcement vehicles and other motorized vehicles specifically approved by an authorized officer of the Bureau of Land Management.

This closure affects all of the public lands and roads located within the following area of Butte County, California:

T. 24 N., R. 3 E., M.D.M., Section 8; SW¼. A total of 160 acres.

DATES: This emergency closure action goes into effect immediately and will remain in effect until the Authorized Officer determines it is no longer needed.

SUPPLEMENTARY INFORMATION: This emergency closure is required to mitigate the impacts of unregulated vehicle use on a steep, poorly constructed and highly erosive road system on the subject land.

This road system provides access to Big Chico Creek and the Minnie-Ha-Ha placer mine. Considerable adverse impacts to the public land and resources have occurred and include the following: Excessive soil erosion and loss, vegetation damage, fisheries degradation, water pollution in Big Chico Creek, illegal trash dumping, and road damage.

Any future mining activities, including motorized vehicluar access, on the subject land will require an approved plan of operation as per 43 CFR 3809.1–4(b)(5).

The authority for this closure and rule making is 43 CFR 8341.2 and 43 CFR 8364.1. Any person who fails to comply with a closure order or rule-making is subject to arrest and fines of up to $1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Mark T. Morse, Area Manager, Bureau of Land Management, Redding Resource Area, 355 Hemsted Drive, Redding, California 96002, (916) 246–5325.

Dated: October 19, 1989.

Mark T. Morse,

Area Manager.

[FR Doc. 89–25884 Filed 11–2–89; 8:45 am]

BILLING CODE 4310–40–M

[MT–930–08–4332–09]

Availability of the Final Environmental Impact Statement for Bitter Creek, MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The final Bitter Creek Wilderness Environmental Impact Statement assesses the environmental consequences of managing the 59,660 acre wilderness study area as wilderness or nonwilderness. The alternatives assessed include: (1) A "No Wilderness Alternative," (2) an "All Wilderness Alternative," (3) a "Bitter Creek East Alternative," and (4) an "Enhanced Wilderness Manageability Alternative."

The proposed action for the study area is to not designate the area as wilderness.

The Bureau of Land Management wilderness proposal will ultimately be forwarded by the Secretary of the Interior to the President and by the President to Congress. The final decision on wilderness designation rests with Congress.

FOR FURTHER INFORMATION CONTACT: Terry Hueth, Area Manager, BLM Valley Resource Area, Route 1–4775, Glasgow, Montana, 59230, 406–228–4316.

SUPPLEMENTARY INFORMATION: Copies of the environmental impact statement may be obtained from the District Manager, Lewistown District, Bureau of Land Management, P.O. Box 1160, Lewistown, Montana 59457–1160. Copies are also available for inspection at Montana State University, Roland R. Renne Library, Bozeman, Montana 59717; Eastern Montana College Library, 1500 North 30th, Billings, Montana 59101; Maureen and Mike Mansfield Library, University of Monatna, Missoula, Montana 59812; Colorado State University Library, Fort Collins, Colorado 80253; Glasgow Public Library, 408 3rd Avenue South, Glasgow, Montana 59230; and in the following locations:

Department of the Interior, Bureau of Land Management, 18th and C Streets NW., Washington, DC 20240;

Montana State Office, Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107;

Lewistown District Office, Bureau of Land Management, Airport Road, P.O. Box 1160, Lewistown, Montana 59457–1160.

Dated: October 27, 1989.

Jonathan P. Deason,

Director, Office of Environmental Project Review.

[FR Doc. 89–25718 Filed 11–2–89; 8:45 am]

BILLING CODE 4310–DN–M

[MT–020–00–4120–09]

Availability of Draft Bull Mountains Exchange Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Draft Bull Mountains Exchange Environmental Impact Statement.

SUMMARY: In accordance with section 202 of the National Environmental Policy Act of 1969, a draft Environmental Impact Statement (EIS) has been prepared for the proposed Bull Mountains exchange of selected Federal coal lands for high value recreation and wildlife private lands offered by Meridian Minerals Company. The EIS describes and analyzes the proposed exchange (BLM's preferred alternative) as well as two coal for coal alternatives, a leasing alternative and a no action alternative. It addresses the impact of development of the coal as a small room and pillar underground mine producing 0.5 million tons of coal per year as the most likely development scenario. A 3.0 million tons of coal per year longwall underground mine is analyzed as the maximum development scenario. A generic railroad to haul the coal is also addressed under this development scenario

Copies of the EIS will be available at each public library located in Musselshell, Yellowstone, Rosebud, Madison, Custer, Beaverhead, Deer Lodge and Carbon counties. In addition, copies will be available at libraries in Billings, Worden, Butte, Ennis, Colstrip, Forsyth, Helena, Miles City and Roundup. Copies will be available upon request from the Miles City District Office, P.O. Box 940, Miles City, Montana, 59301; Telephone (406)232–4331. Public reading copies will be available for review at the following BLM locations:

Bureau of Land Management
Office of Public Affairs
Main Interior Building, Room 5600
18th and C Streets, N.W.
Washington, D.C. 20240

Bureau of Land Management
Public Affairs Office
Montana State Office
222 North 32nd Street
Billings, Montana 59107

Bureau of Land Management
Miles City District Office
West of Miles City
Miles City, Montana 59301

Bureau of Land Management
Butte District Office
106 North Parkmont
Butte, Montana 59702

Bureau of Land Management
Dillon Resource Area
Obey Building
Dillon, Montana 59725

Bureau of Land Management
Garnet Resource Area
3255 Fort Missoula Road
Missoula, Montana 59801

Bureau of Land Management
Billings Resource Area
810 East Main Street
Billings, Montana 59105

Background information and maps used in developing the EIS are available at the Montana State Office, the Miles City and Butte District Offices, and the Big Dry, Billings, Headwaters and Dillon Resource Area Offices.

DATES: Written comments on the draft EIS must be submitted or postmarked no later than January 5, 1990, or sixty days following publication of the Environmental Protection Agency's Notice of Availability in the Federal Register, whichever date is later. Oral and/or written comments may also be presented at three public meetings to be held.

November 27, 1989—7 p.m. MDT—Central School Multipurpose Room, Sixth Avenue and Second Street, Roundup, Montana

November 28, 1989—7 p.m. MDT—Eastern Montana College, Ball Room, 1500 North 30th Street, Billings, Montana

December 4, 1989—7 p.m. MDT—Bureau of Land Management, Butte District Office, 106 North Parkmont, Butte, Montana.

ADDRESS: Written comments on the document should be addressed to: Mat Millenbach, District Manager, Bureau of Land Management, Miles City District Office, P.O. Box 940, Miles City, Montana 59301.

FOR FURTHER INFORMATION CONTACT: Bill Matthews, Project Manager, Miles City District Office, P.O. Box 940, Miles City, Montana 59301; telephone (406) 232–7000.

SUPPLEMENTARY INFORMATION: The draft EIS analyzes the proposed action, i.e., the exchange of selected Federal coal lands to Meridian Minerals Company for high-value recreation and wildlife offered lands. The proposed action is BLM's preferred alternative. Two coal-for-coal exchange alternatives, a leasing alternative and a no-action alternative are also addressed.

The proposed action (Preferred-Alternative A) is to exchange 3,674.36 acres of BLM administered Federal coal for 9,008.49 acres of high-value recreation and wildlife lands offered by Meridian Minerals Company. The Federal coal reserves in the exchange application total 54.5 million tons of which 43.6 million tons are recoverable by a longwall mining operation and 27.3 million tons are recoverable by a room and pillar mining operation. The fair market value of the Federal coal is $730,000. In return for the Federal coal under consideration for exchange, BLM selected six top priority acquisition lands with a fair market value of $1,138,800. The top six priority lands have a minimum value that BLM would accept in an exchange for the Federal coal.

Under the mirror image coal for coal exchange (Alternative B), the Federal and Meridian coal in the project area would be split into two logical mining units of approximately equal size and value. Meridian would get one unit, BLM would get the other unit. About 32.7 million tons of in-place Federal coal in the southern half of the project area would be exchanged for 30.5 million tons of in-place Meridian coal in the northern half of the project area. This alternative would provide a block of private coal of 70.8 million tons in the south half and a block of Federal coal of 60.2 million tons in the north half.

Alternative C considers the option of exchanging the Federal coal in the Bull Mountains for Meridian coal in the Peabody Big Sky Mine Area B south of Colstrip, Montana. Under this proposal, selected Federal coal in the Bull Mountains and Meridian offered coal in the Peabody Big Sky Mine Area B would be appraised and exchanged on an equal cash value basis. The Federal coal in the Bull Mountains has a fair market value of $730,000. An appraisal of the Meridian offered coal in the Peabody Big Sky Mine is being prepared and will be available for the final EIS. The amount of coal that BLM could acquire through this alternative depends on the appraised value of the Meridian offered coal. Since the appraisal is pending, a possible range of the amount of coal that BLM might acquire was developed with 7.0 million tons of coal as a lower limit and all of the Meridian offered coal as

an upper limit (575 acres underlaid by 21.2 million tons of coal).

Under the leasing alternatives (Alternative D), BLM evaluated the Federal coal being considered for exchange as well as some State and other Federal coal lands. the Federal coal being considered for exchange could be leased competitively. Leasing could occur through a regional coal lease sale within the regional activity planning process or, if the Coal Production Region is decertified or partially decertified, through the lease by application process. An emergency coal lease would also be issued under certain conditions.

Current market conditions indicate that the bull Mountains coal would not become economically feasible for development until market conditions approached a $20 to $30 minimum selling price (1990 dollars). This would not occur until twenty to forty years in the future. Using a mid range of these values ($25 and 2020), royalty stream flows were calculated. A 0.5 million tons of coal underground mine would generate $13,367,592 in royalty payments over a forty year period with a discounted value of $176,941 (1990 dollars). A 3.0 million tons of coal underground mine would generate $76,622,000 in royalty payments over the forty year period with a discounted value fo $1,008,208 (1990 dollars).

If BLM were able to lease the Federal coal immediately and it was developed, a 0.5 million tons of coal per year underground mine would generate $7,985,628 in royalty payments over the forty year period with a discounted value of $1,676,763 (1990 dollars). A 3.0 million tons of coal per year underground mine generates $45,773,000 in royalty payments over the same forty year period with a discounted value of $9,554, 192 (1990 dollars).

The No Action (Alternative E) would continue present management as it exists now for all the lands. It is in essence a two-part no action alternative, i.e., denial of the exchange(s) and denial of the leasing. There would be no development of the Federal coal under this alternative.

Should BLM deny the exchanges, the Bull Mountains Federal coal lands included in the exchange application would remain in public ownership and would not be developed in the foreseeble future. The offered recreational properties would remain in private ownership as would the private coal.

Should BLM deny leasing in the Bull Mountains, the Federal coal lands would still remain in public ownership for development by future generations. There would be no immediate coal developent unless it was done on private coal lands.

Public participation has occurred throughout the EIS process. A Notice of Intent was filed in the **Federal Register** in May 1988. Scoping was completed and public meetings are scheduled for comment on the Draft EIS.

Mathew N. Millenbach,

District Manager, Miles City District.

[FR Doc. 89-25247 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-84-M

[MT-930-08-4332-09]

Notice of Availability of the Final Environmental Impact Statement for the Powder River Resource Area, Montana.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The final Powder River Resource Area Wilderness Environmental Impact Statement assesses the environmental consequences of managing two wilderness study areas as wilderness or nonwilderness. The alternatives assessed include: (1) A "No Wilderness Alternative" for each wilderness study area, and (2) an "All Wilderness Alternative" for each wilderness study area.

The names of the wilderness study areas, their total acreages, and the proposed actions for each are as follows:

Buffalo Creek—5,650 acres (all unsuitable)

Zook Creek—8,438 acres (all unsuitable)

The Bureau of Land Management wilderness proposals will ultimately be forwarded by the Secretary of the Interior and the President to Congress. The final decision on wilderness designation rests with Congress.

FOR FURTHER INFORMATION CONTACT: Gene Kolkman, Area Manager, BLM Powder River Resource Area, Miles City Plaza, Miles City, Montana 59301, 406-232-7000.

SUPPLEMENTARY INFORMATION: Copies of the environmental impact statement may be obtained from the District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301-0940. Copies are also available for inspection at Montana State University, Roland R. Renne Library, Bozeman, Montana 59717; Eastern Montana College Library, 1500 North 30th, Billings, Montana 59101; Maureen and Mike Mansfield Library, University of Montana, Missoula, Montana 59812; Colorado State University Library, Fort Collins, Colorado 80523; at the Powder River Public Library, 102 South Lincoln, Broadus, Montana 59317; and the Rosebud County Public Library, Ninth and Cedar, Forsyth, Montana 59327; and in the following locations.

Department of the Interior, Bureau of Land Management, 18th and C Streets, NW. Washington, DC 20240;

Montana State Office, Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107;

Bureau of Land Management, Miles City District Office, West of Miles City, P.O. Box 940, Miles City, Montana 59301-0940

Dated: October 27, 1989.

Jonathan P. Deason,

Director, Office of Environmental Project Review.

[FR Doc. 89-25719 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-DN-M

[CA-060-00-4410-04-ADVB]

Meeting of the California Desert District Advisory Council

SUMMARY: Notice is hereby given, in accordance with Public Laws 92-463 and 94-579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet in formal session Friday, December 1, 1989, from 3:00 p.m. to 5:30 p.m., and Saturday, December 2, 1989, from 8:30 a.m. to 5:00 p.m., at the Wyndham Palm Springs, 888 East Tahquitz Way, in Palm Springs, California.

On Friday, December 1, from 7:15 a.m. to 2:00 p.m., Council members will participate in a field trip to the proposed Santa Rosa Mountains National Scenic Area and the Coachella Valley Preserve. The Santa Rosa Mountain tour will be provided through BLM's contractor, Desert Off-Road Adventures. Since Desert Off-Road Adventures is the only entity with legal permission to enter the area, members of the public may not follow this portion of the tour. If space is available, members of the public can be included on the tour if they are willing to cover the cost ($75.00 per person). Anyone interested in participating should contact the Bureau of Land Management's California Desert District at (714) 351-6383. Members of the public may participate in the Coachella Valley Preserve walking tour. The Council anticipates arriving at the Preserve at approximately 12:00 p.m. for lunch and a

briefing about the Preserve, followed by the tour. Members of the public are welcome to bring their own lunch and join in the tour.

Agenda items for the formal meetings will include:

—The proposed Santa Rosa Mountains National Scenic Area: briefing, discussion, and recommendation;
—1989 proposed amendment #1 to the California Desert Conservation Area Plan: discussion of options;
—Wind energy update: background, current status, and activities of wind energy task force;
—Desert landfill and hazardous material site proposals: Eagle Mountain (Riverside County), Blue Canyon (San Diego County), Broadwell Lake and Hidden Valley (San Bernardino County);
—Off-highway vehicle competitive events: current status, and
—Desert tortoise issues (Council will meet as the Desert Tortoise Coordinating Committee): review of the final 1990 tortoise budget, consultations with the U.S. Fish and Wildlife Service, quarantine status, ongoing research, ongoing projects, and desert tortoise category map.

All formal Council meetings are open to the public, with time allocated for public comments, such time made available by the Council Chairman during presentations of various agenda items.

Written comments may be filed in advance of the meeting with the California Desert District Advisory Council Chairman, Mr. David Fisher, c/o Bureau of Land Management, Public Affairs Office, 1695 Spruce Street, Riverside, California 92507. Written comments are also accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION AND MEETING CONFIRMATION: Contact the Bureau of Land Management, California Desert District, Public Affairs Office, 1695 Spruce Street, Riverside, California 92507; (714) 351-6383.

Dated: October 27, 1989.

Ron Yokota,

Acting District Manager.

[FR Doc. 89-25885 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-40-M

[OR120-6310-02: GPO-045]

Coos Bay Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of Coos Bay District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Public Law 94-579 and 43 CFR, part 1780 that a meeting of the Coos Bay District Advisory Council will be held on Thursday, December 7, 1989, beginning at 9:00 a.m. The meeting will include a tour of BLM lands on the Coos Bay Shorelands, and a review of proposed agency actions there. The meeting will begin at the Coos Bay District Office, and the tour will depart from there. (Note: this will be the new Coos Bay District office facility at 1300 Airport Lane, North Bend, OR).

AGENDA: The agenda for the meeting will include:

1. An update on the progress of the draft management plan for the Coos Bay Shorelands, the closely related proposed land exchange with the Oregon International Port of Coos Bay, and the proposed boat launch facility on the North Spit.
2. A tour of portions of the Coos Bay Shorelands, viewing and discussing proposed developments there.
3. Acceptance of comments or recommendations from the Advisory Council to the District Manager on the Coos Bay Shorelands draft management plan.
4. Plans for the next meeting.

The meeting is open to the public and news media, but no transportation arrangements will be made for other than members and staff. Interested persons may make oral statements to the council between 9:00 a.m. and 9:30 a.m. on Thursday, December 7, or file written statements for the council's consideration. Anyone wishing to make an oral statement must notify the District Manager by close of business Wednesday, November 22, 1989 (Telephone 503-756-0100).

ADDRESS: Bureau of Land Management, Coos Bay District Office, 1300 Airport Lane, North Bend, OR 97459.

Minutes of the meeting will be maintained at the District Office and made available during regular business hours (7:45 a.m. to 4:30 p.m.) for public inspection or reproduction at the cost of duplication.

Date: October 27, 1989.

Cary Osterhaus,

Assistant District Manager, Resources.

[FR Doc. 89-25965 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-33-M

[OR-010-00-4333-06: GPO-043]

Lakeview District Multiple Use Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of a meeting of the Lakeview District Multiple Use Advisory Council.

SUMMARY: The Lakeview District Multiple Use Advisory Council will be meeting to consider information pertaining to the Eligibility and Suitability Report for the Upper Klamath River Wild and Scenic River Study.

DATE: Thursday, December 7, 1989, 10:00 a.m. until 3:00 p.m.

ADDRESS: Klamath County Commissioners Hearing Room, 305 Main Street, Klamath Falls, Oregon.

FOR FURTHER INFORMATION CONTACT: Renee Snyder, Public Affairs Officer, Lakeview District, Bureau of Land Management, P.O. Box 151, Lakeview, OR 97630, (503) 947-6110.

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes presentations by an array of specialists designed to highlight the issues involved in the upper Klamath River Wild and Scenic River Study.

The meeting will be open to the public. However, the opportunity for public comment will be limited to one five minute presentation per person between the hours of 1:00 and 2:00 p.m. Scheduling will be on a first come first served basis. Anyone wishing to make an oral statement must notify the Lakeview District Manager by December 5, 1989. Additional comments may be submitted in writing.

Robert G. Bolton,

Acting District Manager.

[FR Doc. 89-25886 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-33-M

[AK-060-00-4111-10]

Request for Public Comments on Competitive Leasing; National Petroleum Reserve in Alaska (NPR-A)

The Public is requested to give comments on its interest in competitive leasing in the National Petroleum Reserve in Alaska (NPR-A) during the calendar year 1990 for the purpose of determining a general and relative level of interest. Specific public comments are requested regarding a proposed leasing area and future NPR-A lease sales:

1. The Bureau of Land Management proposes to offer for competitive lease an onshore area in the north central

NPR–A bounded by Cape Simpson on the east, private subsurface on the north, and the Chuckhi Sea to the West.

a. If a 1990 lease sale were scheduled in the NPR–A, would you submit a bid at such a sale?

b. Please comment on whether the general area of the 1990 Proposed Lease Sale area is of interest to you.

c. Please comment on any other areas of specific interest: Such as the tracts selected to be offered in the 1985 sale, which was not held, tracts which have not been previously offered, or tracts which you would like to have re-offered in 1990.

2. What is your timing preference for the next NPR–A lease sale?

a. If not in the year 1990 or 1991, when might leasing in the NPR–A be most preferable?

b. Past lease sales have been scheduled during the summer (July). The summer lease sale date was selected to provide sufficient sale preparation time for both industry and the Bureau of Land Management. Present policy is to notify industry of preliminary lease tracts and proposed stipulations 7 months prior to a sale (December), in the belief that this timing will provide sufficient opportunity for gathering and analyzing geophysical data specific to the proposed tracts. Does this practice provide such an opportunity or should BLM's NPR–A leasing process be adjusted to reflect a different schedule?

5. What priority would you place on NPR–A leasing relative to other leasing opportunities in Alaska?

6. Are there any terms, conditions, stipulations or other factors currently imposed on NPR–A lease sales and leases that you would like to see changed if a sale were offered in 1990?

Comments that contain proprietary information should be so marked, and, to the extent possible under the Freedom of Information Act, will be treated confidentially.

Maps of the NPR–A and the Proposed area of lease sale are available at the Public Rooms of the Bureau of Land Management's Alaska State Office, Anchorage, Alaska and the Fairbanks Support Center, Fairbanks, Alaska as well as the address below.

Comments will be accepted for a period of 30 days from the date of publication of this Request for Comments in the Federal Register.

ADDRESSES: Direct written questions and responses to: M. Thomas Dean, Arctic District Office, Bureau of Land Management, 1150 University Avenue, Fairbanks, Alaska 99709–3844.

FOR FURTHER INFORMATION CONTACT: Donald C. Meares, Natural Resource Specialist, at the address given above or telephone 907/474–2306.

M. Thomas Dean,

Manager, Arctic District.

[FR Doc. 89–25964 Filed 11–2–89; 8:45 am]

BILLING CODE 4310–84–JA–M

[MT–930–00–4212–12; MTM–73159]

Conveyance and Order Providing for Opening of Public Land in Beaverhead and Madison Counties; MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This order will open lands reconveyed to the United States in an exchange under the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 *et seq.* (FLPMA), to the operation of the public land laws, including the mining laws and the mineral leasing laws, as specified. It also informs the public and interested state and local governmental officials of the issuance of the conveyance document.

EFFECTIVE DATE: 9 a.m. on January 3, 1990.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2935.

SUPPLEMENTARY INFORMATION: 1. Notice is hereby given that pursuant to section 206 of FLPMA, the following described surface and mineral estate was transferred to the State of Montana:

Principal Meridian, Montana

T. 13 S., R. 1 W.,
Sec. 1, lot 1–4, inclusive, S½N½, SE¼;
Sec. 2, lots 1–4, inclusive, S½N½;
Sec. 3, lots 1–4, inclusive, S½N½;
Sec. 4, lots 1–3, inclusive, S½NE¼, SE¼ NW¼;
Sec. 7, lots 1, 2, 7–11, inclusive, E½SW¼;
Sec. 18, lots 1–4, inclusive, E½E½;
Sec. 19, E½.
T. 13 S., R. 2 W.,
Sec. 12, lot 19, SE¼;
Sec. 13, lots 1–6, inclusive, NE¼E½NW¼.
T. 1 S., R. 3 W.,
Sec. 28, NE¼, SW¼;
T. 13 S., R. 5 W.,
Sec. 1, lot 6, 7, W½;SE¼;
Sec. 5, SE¼SE¼;
Sec. 8, E½NE¼, SE¼;
Sec. 10, SW¼SW¼, E½SW¼, SE¼;
Sec. 11, S½;
Sec. 12, lots 1–4, inclusive, E½, W½W½;
Sec. 13, N½;
Sec. 14, all;
Sec. 15, lots 1–4, inclusive, E½, W½W½;
Sec. 21, N½NE¼.
T. 12 S., R. 6 W.,
Sec. 10, NE¼NW¼;
Sec. 24, NE¼NW¼;
T. 11 S., R. 10 W.,
Sec. 35, SE¼SW¼; SW¼SE¼.
T. 12 S., R. 10 W.,
Sec. 2, lots 2, 3, SE¼NW¼;
Sec. 26, SW¼.

Total Federal acreage transferred: 7,216.01 acres.

2. In exchange for the above selected land, the United States acquired 6,874.01 acres of surface and mineral estate from the State of Montana. The lands and respective estates acquired are described as follows:

A. Surface and Mineral Estate:

Principal Meridan, Montana

T. 13 S., R. 2 W.,
Sec. 6, lots 4, 5 and 6.
T. 13 S., R. 10 W.,
Sec. 16, all.
Sec. 16, all.
T. 13 S., R. 11 W.,
Sec. 2, SW¼W¼SE¼;
Sec. 11, all;
Sec. 12, SW¼SW¼;
Sec. 13, NW¼;
Sec. 14, N½ N½SW¼m NW¼SE¼;
T. 14 S., R. 11 W.,
Sec. 6, lots 4 and 5, S½SE¼;
Sec. 8, NE¼NW¼;
Sec. 9, SW¼NW¼;
Sec. 16, NE¼NE¼; W½W½;
Sec. 25, E½;
Sec. 36, all.
T. 15 S., R. 11, W.,
Sec. 1, lot 4, S½N½, N½S½.

B. *Surface and All Minerals Except Oil and Gas* (Oil and Gas rights reserved to the State of Montana until existing leases terminate or expire):

Principal Meridan, Montana

T. 12 S., R. 11 W.,
Sec. 36, all.
T. 13 S., R. 12 W.,
Sec. 16, NE¼;
Sec. 36, all.

C. Restricted Surface and Mineral Estate (Not open to public land laws, mining laws, or mineral leasing laws):

Principal Meridian, Montana

T. 7. S., R. 11 W.,
Sec. 7, SE¼SE¼;
Sec. 18, NW¼NE¼.
T. 14 S., R. 1 E.,
Sec. 36, all.
T. 14 S., R. 3 W.,
Sec. 36, all.
T. 15 S., R. 2 W.,
Sec. 16, lots 1 and 2.

3. The value of the federal public land were appraised at $787,000 and the values of the state land were appraised at $750,000. The $37,000 balance due to the United States was applied to another land exchange with the State of Montana that was recently completed.

4. At 9 a.m. on January 3, 1990, the lands described in paragraphs 2.A and 2.B above that were conveyed to the United States will be opened to the

operation of the public land laws generally, and to location under the United States mining laws, subject to valid existing rights and the requirements of applicable law. All valid applications under the public land laws received at or prior to 9 a.m. on January 3, 1990, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest on rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

5. At 9 a.m. on January 3, 1990, the lands described in paragraph 2.A above will be opened to applications and offers under the mineral leasing laws.

6. At 9 a.m. on January 3, 1990, the lands described in paragraph 2.B above will be opened to applications and offers under the mineral leasing laws for leasable minerals other than oil and gas.

7. The lands described in paragraph 2.C above are not open to any of the public land laws, mining laws, or mineral leasing laws.

Dated: October 26, 1989.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 89-25887 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-DN-M

Realty Action; Exchange of Public Lands in Elko County, NV

The following described public lands administered by the Bureau of Land Management are being considered for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

Mount Diablo Meridian, Nevada

T. 30 N., R. 59 E.,
- Sec. 11, E½, E½W½, W½SW¼;
- Sec. 12, W½W½;
- Sec. 13, N½, N½S½, SW¼SW¼;
- Sec. 14, All;
- Sec. 15, E½, E½W½;
- Sec. 23, N½N½, SE¼NE¼;
- Sec. 24, W½NW¼, NW¼SW¼.

T. 30 N., R. 60 E.,
- Sec. 8, W½W½;
- Sec. 18, E½SE¼, SW¼SE¼;
- Sec. 19, NE¼, N½SE¼;

Containing 3,080 acres.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1(b), subject to valid existing rights, publication of this Notice shall segregate the affected public lands from appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, and from any subsequent land exchange proposals filed by any proponent other than Ken Jones or his nominee.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of 45 days from the date of first publication, interested parties may submit comments to the District Manager, Elko District Office, P.O. Box 831, Elko, NV 89801.

Dated: October 25, 1989.

Rodney Harris,

District Manager.

[FR Doc. 89-25966 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-HC-M

National Park Service

[WY-060-09-4920-10-4335; WYW97410 FD and PT]

Realty Action; Exchange; Wyoming

AGENCY: National Park Service, Interior; Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, exchange of Federal coal interest in Sheridan County for a conservation easement in Teton County.

SUMMARY: The following Federal coal interest has been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act (FLPMA) of 1976, 43 U.S.C. 1716:

Sixth Principal Meridian

T. 58 N., R. 84 W.,
- sec. 22, E½SW¼, SE¼;
- sec. 23, SW¼, W½SE¼, SE¼SE¼;
- sec. 25, SW¼NE¼, S½NW¼, S½;
- sec. 26, all;
- sec. 27, E½, E½W½;
- sec. 34, N½NE¼, NE¼NW¼;
- sec. 35, N½, N½N½SW¼.

The above description aggregates 2,560 acres.

In exchange, the United States will acquire the following conservation easement within the JY Ranch:

Sixth Principal Meridian

T. 42 N., R. 116 W.,

The conservation easement is described by metes and bounds but lies within parts of sections 4, 5, 6, and 8.

The above description aggregates 1,106.49 acres.

FOR FURTHER INFORMATION CONTACT: All comments and any further information should be addressed to: James W. Monroe, District Manager, Casper District Office, Bureau of Land Management (BLM), 1701 East "E" Street, Casper, Wyoming 82601, phone (307) 261-7600.

SUPPLEMENTARY INFORMATION: Specifically, in this exchange, the Federal Government will acquire a conservation easement within the JY Ranch in Teton County, Wyoming for approximately 200 million tons of recoverable Federal coal from portions of the Youngs Creek and Ash Creek coal tracts together referred to as the Youngs Creek Area in Sheridan County, Wyoming.

The purpose of this exchange is to fulfill recommendations of the approved *Land Protection Plan* (1984) for the Grand Teton National Park which states that "Conservation easements should be obtained through a combination of purchases, donations, or exchanges."

On August 9, 1985, Mr. Laurance S. Rockefeller and former Secretary of the Interior, Donald P. Hodel signed an agreement to pursue an exchange of public lands for a conservation easement on Rockefeller's JY Ranch.

In April of 1986, Mr. Rockefeller, the exchange proponent, followed with a formal exchange proposal to the Bureau of Land Management offering the conservation easement in exchange for Federal mineral rights (coal).

In December of 1987, Mr. Rockefeller donated this conservation easement to Sloan-Kettering Institute for Cancer Research. The Sloan-Kettering Institute is the exchange proponent of record.

This exchange will be for an amount of Federal coal equal in value to the conservation easement.

This exchange is consistent with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716). The exchange is consistent with the approved *Land Protection Plan*

(1984) for the Grand Teton National Park, and the *Buffalo Resource Area Resource Management Plan* (1985). Public involvement and participation were in conformance with current regulations (43 CFR 2203, 1988). The public interest factors were considered for this action according to BLM Manual 2200.06B. The National Park Service and the Bureau of Land Management have determined that the public interest will be served by completion of this exchange.

For a period of forty-five (45) days from the date of issuance of this Notice, interested parties may submit comments to the Bureau of Land Management, District Manager, Casper District Office, 1701 East "E" Street, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become final.

Dated: October 26, 1989.

James W. Monroe,

District Manager.

[FR Doc. 89-25889 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-22-M

Bureau of Land Management

Availability of Proposed Resource Management Plan and Final Environmental Impact Statement for the Arcata Resource Area, Ukiah District, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability, proposed resource management plan and environmental impact statement.

SUMMARY: Notice is hereby given that the Bureau of Land Management, Ukiah District has issued for review the Proposed Resource Management Plan (RMP) and Final Environmental Impact Statement (EIS) for the Arcata Resource Area.

The final RMP/EIS was prepared pursuant to the National Environmental Policy Act (NEPA) of 1969, Council on Environmental Quality regulations (40 CFR 1500-1508) and Bureau of Land Management Manual 1600, Planning Guidelines.

DATE: A protest period on the RMP/EIS will extend until November 27, 1989. All protests must be submitted in writing to the Director by that date.

ADDRESS: Protests should be sent to the Director (202), Bureau of Land Management, 1800 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John Lloyd, Area Manager, Arcata Resource Area, 1125 16th Street, Room 219, P.O. Box 1112, Arcata, California 95521, or Mr. Al Wright, District Manager, Bureau of Land Management, Ukiah District Office, 555 Leslie Street, Ukiah, California 95482.

Dated: October 24, 1989.

Alfred W. Wright,

District Manager.

[FR Doc. 89-25890 Filed 11-2-89; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

International Well Control Symposium/Workshop

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Minerals Management Service (MMS) is cosponsoring the subject symposium/workshop which will be administered by Louisiana State University and held on November 28-29, 1989, at the Hilton Hotel in Baton Rouge, Louisiana. The advance registration fee is $100.

The agenda for the workshop follows:

Tuesday, November 28, 1989

Session 1—Shallow Gas Well Control

8:30 a.m.-11:30 a.m.

Title	Author
A Unique Approach for Confirming Shallow Gas in a New Offshore Exploration Area.	J.G. Guignon, Mobil Oil, Indonesia
Inspection and Testing of Subsea Well Control Equipment.	Michael E. Montgomery, West Hou, Inc.
Analysis of Events, Leading to an Offshore Shallow Gas Blowout by History Matching Field Data Using an Advanced Gas Kick Simulator.	A.L. Podio, University of Texas, Pal Skalle, University of Trondheim, An-Ping Yang, University of Texas
Abnormally Pressured Gas Accumulation under Deep Water-A Field Case History.	Decio Fabricio Oddone Da Costa, Samir Passos Awad, Andre Lima Cordeiro, Petrobas
Method for Determining the Feasibility of a Dynamic Kill of a Diverted Well.	William L. Koederitz, Louisiana State University
Use of Shallow Seismic Data in Relief Well Planning.	J.E. Booth, Mobil Exploration and Production Services, Inc.

Session 2—Modeling of Well Control Operations

1:30 p.m.-4:30 p.m.

Title	Author
An Overview of Kicking Well Computer Codes.	D.J. Element, L.M. Wickens, T.D. Butland, AEA Technology, U.K.
A New Two Phase Flow Model of Kick Control.	Shohei Kato, Japan Drilling Company, Ltd.
Experimental Determination of Gas Migration Velocities.	D.B. White, A. Johnson, Schlumberger Cambridge Research
The Volumetric Properties of Methane and Oil Based Mud Mixtures: Effects on Surface Observations During Kicks.	B.W. Swanson, B.P. Research International
Experimental Bench Mark Data for Testing Well Control Computer Methods.	V. Casariego, Louisiana State University
Blowout Control Methods.	Rob Wesson, Cudd Pressure Controls, Inc.; R.D. Grace, Grace, Shurson, Moore & Assoc.
Gas Slip Velocities in an Inclined Annulus.	Edson Nakagawa, Louisiana State University

Session 3—MWD Applications to Well Control

8:00 a.m.-9:45 a.m.

Title	Author
Prevention or Cure? Kick Avoidance and Detection using MWD in an Integrated Wellsite Information Management System.	Michael R. Taylor, Andrew R. Morley, Exlog
A Computer Assisted Well Control Safety System for Deep Ocean Well Control.	O. Allen Kelly, Louisiana State University
Real Time Pore Pressure Evaluation Options.	Jean-Louis Alixant, Louisiana State University
Evaluation of Downhole Kick Detection Tools.	Jesse L. Holster, Exxon Production Research

Workshop 1: *Equipment Inspection Training*

10:00 a.m.–11:30 a.m.

Title	Author
Chevron BOP Inspection Training and Surface and Subsea Stack Applications.	J.D. Combes, T.M. Windham, Chevron
Errors Inherent in Rig Measurements of Drillpipe and Casing Pressure.	W.R. Holden, Louisiana State University
Plastic Packing Injection Systems and Lead Targets for Choke and Kill Line Piping.	Michael E. Montgomery, West Hou, Inc.

Workshop 2: *Changes in Regulations*

1:30 p.m.–3:30 p.m.

Title	Author
New Training Requirements in U.S. (Subpart 0).	Jerry Richard, MMS
New Regulations in U.K.	To Be Announced
Well Control Training Requirements-Operator's Perspective.	To Be Announced
Well Control Training Requirements-Contractor's Perspective.	Ralph McTaggert, Global Marine

Workshop 3: *Recommendations for Research*

1:30 p.m.–3:30 p.m.

Title	Author
The Development of a Well Control Research Project.	J.W. Peel, D.I. Redman, U.K. Dept. of Energy
Progress Report on Current Projects Underway at the LSU/MMS Research Well Facility.	A.T. Bourgoyne, Louisiana State University
Recommended Well Control Research Priorities.	Panel of representatives from AADE, IADC, API, and DOE-UK

DATES: November 28–29, 1989—See agenda for times.

ADDRESSES: The registration form with complete agenda may be obtained from the following office: Dr. A.T. Bourgoyne, Chairman, Petroleum Engineering Department, Louisiana State University, Baton Rouge, Louisiana 70803–6423 (504) 388–5215.

The meeting will be held at: Baton Rouge Hilton, 5500 Hilton Avenue, Baton Rouge, Louisiana 70808.

FOR FURTHER INFORMATION CONTACT: Mr. John B. Gregory, MMS, 381 Elden Street, Herndon, Virginia, 22070–4817, telephone (703) 787–1559.

Dated: October 26, 1989.

William D. Bettenberg,

Associate Director for Offshore Minerals Management, Minerals Management Service.

[FR Doc. 89–25891 Filed 11–2–89; 8:45 am]

BILLING CODE 4310-MR-M

Offshore Oil Spill Response Technology Seminar

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Minerals Management Service (MMS) will hold the subject seminar for the public at no charge on December 13, 1989, at its offices in Herndon, Virginia. Because of increased interest in oil spill containment and cleanup technology since the tanker oil spill in Prince William Sound, and particularly as a result of the many related inquiries received by the Department of the Interior, this seminar will be conducted by MMS research program personnel to discuss the status of the technology.

Sessions will be held, with audience participation, as follows:

1. General response requirements—Edward Tennyson, MMS;

2. Mechanical containment and cleanup—Edward Tennyson, MMS;

3. Chemical treating agents (including dispersants)—Mervin Fingas, Environment Canada;

4. Burning oil on the ocean surface—Dr. David Evans, National Institute of Standards and Technology.

DATE: December 13, 1989, at 8:30 a.m.

ADDRESS: Parkway Atrium Building, 381 Elden Street, Herndon, Virginia 22070–4817.

FOR FURTHER INFORMATION CONTACT: For planning purposes, it is requested that persons who wish to attend telephone or write to Mr. John B. Gregory, Technology Assessment and Research Branch, 381 Elden Street, Herndon, Virginia 22070–4817, telephone (703) 787–1559. An agenda with directions will be sent.

Dated: October 26, 1989.

William D. Bettenberg,

Associate Director for Offshore Minerals Management, Minerals Management Service.

[FR Doc. 89–25892 Filed 11–2–89; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

John Muir National Historic Site; Amendment to General Management Plan

SUMMARY: The National Park Service is preparing an amendment to the General Management Plan for John Muir National Historic Site, Contra Costa County, California. An amendment is necessary at this time because of the passage of legislation in January, 1988 (Public Law 100–563) expanding the Site's boundary by over three hundred acres. Major issues to be addressed with respect to the added lands include management objectives, visitor use facilities, land protection, access to the John Muir Gravesite, and cooperative management with the East Bay Regional Park District. Additionally, the amendment will update the plan for the lands initially included in the historic site. Issues in this area include the scale and location of visitor and administration facilities and protection of the historic scene.

An environmental assessment will be prepared in combination with the management plan amendment.

Initial contact has been made with local, State and Federal agencies and private individuals and organizations in scoping the plan amendment. Any other parties not contacted are encouraged to provide any views or specific suggestions they may have regarding the future management directions of the Site. Please address any such comments and/or any requests for additional information to the Superintendent, John Muir National Historic Site, 4203 Alhambra Avenue, Martinez, California 94553. Any comments regarding plan considerations should be received within 60 days of the publication of this Notice.

The draft General Management Plan Amendment/Environmental Assessment is expected to be released for public review in January, 1990.

Dated: October 24, 1985.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 89–25967 Filed 11–2–89; 8:45 am]

BILLING CODE 4310-70-M

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area (GGNRA) and Point Reyes National Seashore (PRNS) Advisory Commission will be held at 7:30 p.m. (PST) on Thursday, December 7, 1989, at the Tamalpais High School, Mill Valley, California. The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Mr. Richard Bartke
Dr. Howard Cogswell
Brig. Gen. John Crowley, USA (ret)
Mr. Margot Patterson Doss
Mr. Neil D. Eisenberg
Mr. Jerry Friedman
Mr. Steve Jeong
Ms. Daphne Greene
Ms. Gimmy Park Li
Mr. Gary Pinkston
Mr. Merritt Robinson
Mr. R. H. Sciaroni
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

The main agenda item at this public meeting will be a review of the Environmental Assessment on the proposed Bay Area Discovery Museum at East Fort Baker. A presentation to the Advisory Commission and public on the plans to build the Bay Area Discovery Museum in an area of vacant and underutilized historic structures at East Fort Baker in the Marin Headlands was first presented at a February 12, 1987 public meeting. A Marin Committee Resolution of April 4, 1987 on this project was presented for public comment and adopted by the GGNRA Advisory Commission at the June 30, 1987 meeting. This resolution called for a public presentation of completed plans for the museum.

Also included at this meeting will be a Superintendent's Report which will include a status report on two Marin County issues, the Stinson Pony Pasture permit and the Tinker property, and an update on other major issues impacting the GGNRA.

The meeting is open to the public. Persons wishing to receive the Environmental Assessment for the Bay Area Discovery Museum should contact the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123 or telephone (415) 556–4484.

This meeting will be recorded for documenttion and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. A transcript is available after December 28, 1989. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Dated: October 24, 1989.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 89–25987 Filed 11–2–89; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Perform Interstate Transportation for Certain Nonmembers

Date: October 31, 1989.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, non-exempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) Knouse Foods, Inc, 800 Peach Glen-Idaville Road, Peach Glen, PA 17306–1199

(2) 800 Peach Glen-Idaville Road, Peach Glen, PA 17306–1199

Arlene Jennings, 800 Peach Glen-Idaville Road, Peach Glen, PA 17306–1199

Noreta R. McGee,

Secretary.

[FR Doc. 89–25943 Filed 11–2–89; 8:45 am]

BILLING CODE 7035–01–M

Itent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Tenneco Inc., a Delaware corporation, 1010 Milam Street, (P.O. Box 2511), Houston, TX 77252.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(a) Tennessee Gas Pipeline Company, a Delaware corporation
(b) Tennessee Gas Inc., a Delaware corporation
(c) East Tennessee Natural Gas Company, a Tennessee corporation
(d) Midwestern Gas Transmission Company, a Delaware corporation
(e) Tenngasco Corporation, a Delaware corporation
(f) J. I. Case Company, a Delaware corporation
(g) J. I. Case Canada, a division of Tenneco Canada Inc., an Ontario corporation
(h) Steiger Tractor, Inc., a Delaware corporation
(i) Pryor Foundry, Inc., an Oklahoma corporation
(j) Monroe Auto Equipment Company, a Delaware corporation
(k) Brake Pro Systems, Inc., a Delaware corporation
(l) Bloor Automotive, Inc., a Delaware corporation
(m) Walker Manufacturing Company, a Delaware corporation
(n) Packaging Corporation of America, a Delaware corporation
(o) Albright & Wilson Americas Inc., a Delaware corporation
(p) Newport News Shipbuilding and Dry Dock Company, a Virginia corporation
(q) Greenville Metal Manufacturing, Inc., a Virginia corporation
(r) Newport News Industrial Corporation, a Virginia corporation
(s) Sperry Marine Inc., a Delaware corporation
(t) Asheville Industries Inc., a North Carolina corporation

(u) Tenneco Minerals Company, a Delaware corporation

(v) Tenneco Minerals Company—Nevada, a Delaware corporation

(w) Tenneco Minerals Company—Utah, a Delaware corporation

(x) Tenneco Soda Ash Company, a Delaware corporation

(y) Tenneco Canada Inc., an Ontario corporation

(z) Tenneco Realty, Inc., a Delaware corporation

Noreta R. McGee,

Secretary.

[FR Doc. 89-25944 Filed 11-2-89; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31535]

Chicago Central and Pacific Railroad Co.—Lease and Operation Exemption—North Central Railway Association, Inc.

Chicago Central and Pacific Railroad Company (CC) has filed a notice of exemption to lease and operate a line of railroad acquired by North Central Railway Association, Inc. (NCRA), from the Chicago and North Western Transportation Company (CNW). The line extends between milepost 184.75, at Hampton, and milepost 212.0, at Steamboat Rock, in Hardin and Franklin Counties, IA, a distance of approximately 27.25 miles.[1] Since 49 U.S.C. 10905(f)(4) prohibits transfer of the line by NCRA within 2 years after its purchase, this notice does not embrace acquisition of the line by CC, but exempts only the lease and operation.

Any comments must be filed with the Commission and served on applicant's representative: T. Scott Bannister, Hanson, Bjork & Russell, 1300 Des Moines Building, Des Moines, IA 50309.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any tme. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 30, 1989.

[1] CNW was authorized to abandon this line in Docket No. AB-1 (Sub-No. 217), *Chicago and North Western Transportation Company—Abandonment—Between Steamboat Rock and Hampton in Hardin and Franklin Counties, IA* (not printed), served February 16, 1989. The State Historical Society of Iowa has indicated here that its determination in that proceeding that that proposal would not affect historic resources applies to the instant transaction as well.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-25942 Filed 11-2-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 89-21]

Luis L. Galang, New London; Hearing

Notice is hereby given that on March 22, 1989, the Drug Enforcement Administration, Department of Justice, issued to Luis L. Galang, M.D., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AG9170490, and any pending applications for registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Tuesday, November 7, 1989, commencing at 9:30 a.m., at the Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Milwaukee, Wisconsin.

Dated: October 27, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-25978 Filed 11-2-89; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 89-27]

Wyeth Hardy Worley, Bossier City, Hearing

Notice is hereby given that on March 30, 1989, the Drug Enforcement Administration, Department of Justice, issued to Wyeth Hardy Worley, D.D.S., an Order to Show Cause as to why the Drug Enforcement Administration should not deny your Application for a DEA Certificate of Registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Tuesday, October 31, 1989, commencing at 9:00 a.m., at the United States Courthouse, 1100 Commerce Street, 16th Floor, Room 16F17, Dallas, Texas.

Dated: October 27, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-25979 Filed 11-2-89; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions.

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary or Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be

impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S-3504, Washington, DC 20210.

New General Wage Determinations Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume State and page numbers(s).

Volume I		
Virginia	VA89-69	p.1188ZZZ-13 p.1188zzz-14

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I:		
Delaware	DE89-2 (Jan. 6, 1989)	p. 93 pp. 94-95, 97
Florida	FL89-17 (Jan. 6, 1989)	p. 141 pp. 142-143
Massachusetts	MA89-2 (Jan. 6, 1989)	p. 387 p. 391
Volume II:		
Arkansas	AR89-1 (Jan. 6, 1989)	p. 3 p. 4
Arkansas	AR89-8 (Jan. 6, 1989)	p. 20a p. 20b
Indiana	IN89-2 (Jan. 6, 1989)	p. 257 p. 258
Missouri	MO89-9 (Jan. 6, 1989)	p. 693 pp. 694, 697
Ohio	OH89-29 (Jan. 6, 1989)	p. 869 p. 877
Volume III:		
Alaska	AK89-1 (Jan. 6, 1989)	p. 1 p. 3
Idaho	ID89-1 (Jan. 6, 1989)	p. 145 pp. 146-147, 153
Montana	MT89-1 (Jan. 6, 1989)	p. 171 pp. 172-173 pp. 175-184
Montana	MT89-2 (Jan. 6, 1989)	p. 189 p. 190
Oregon	OR89-1 (Jan. 6, 1989)	p. 307 pp. 308-310, 315
Washington	WA89-1 (Jan. 6, 1989)	p. 363 pp. 365-366, 368 pp. 372, 379-380
Washington	WA89-2 (Jan. 6, 1989)	p. 389 pp. 390-392
Washington	WA89-5 (Jan. 6, 1989)	p. 411 p.412
Washington	WA89-7 (Jan. 6, 1989)	p. 417 p. 418
Washington	WA89-8 (Jan. 6, 1989)	p. 423 p. 424
Washington	WA89-9 (Jan. 6, 1989)	p. 427 pp. 428-432

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 27th day of October 1989.

Ethel P. Miller,

Acting Director, Division of Wage Determinations.

[FR Doc. 89–25784 Filed 11–2–89; 8:45 am]

BILLING CODE 4510–27–M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 13, 1989.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 13, 1989.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 23rd day of October 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Workers/Firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Al Gor Shoe Co., Inc. (Company)	Rochester, NH	10/23/89	10/11/89	23,515	Ladies' Shoes.
AT&T Microflectronics (CWA)	Lee's Summit, MO	10/23/89	10/11/89	23,516	Microflectronics.
ARBEKA Webbing Co. (ACTWU)	Pawtucket, RI	10/23/89	10/10/89	23,517	Bandages, Webbing, Knitted Braces.
Airfoil Textron (UAW)	Lima, OH	10/23/89	10/5/89	23,518	Compressor Blades.
Apache Lease Serv. Inc. (Company)	Alice, TX	10/23/89	10/10/89	23,519	Oil and Gas.
Cape Cod-Cricket Lane, Inc. (CSEA)	W. Bridgewater, MA	10/23/89	10/5/89	23,520	Women's Sports-Wear.
Comtel Mfg. Co. (Company)	Joplin, MO	10/23/89	10/1/89	23,521	Electronic FAX Telephone.
Crescent Pipe & Supply Co	Tulsa, OK	10/23/89	10/11/89	23,522	Oil and Gas.
DeBourgh Mfg. Co. (UE)	Bloomington, MN	10/23/89	10/10/89	23,523	Fabrication.
Dur-O-Lite, Inc. (URW)	Melrose Park, IL	10/23/89	10/11/89	23,524	Writing Instruments.
Eason Oil Co. (Workers)	Tulsa, OK	10/23/89	10/11/89	23,525	Oil and Gas.
Great Northern Paper Co. (Company)	Millinocket, ME	10/23/89	10/6/89	23,526	Paper.
Horison Embroidery (Workers)	Fairview, NJ	10/23/89	10/6/89	23,527	Schffli Embroidery.
Hawkins Oil & Gas Inc. (Workers)	Tulsa, OK	10/23/89	10/9/89	23,528	Oil and Gas.
Leacock & Co. (Company)	Washington, NJ	10/23/89	10/12/89	23,529	Table Linen.
Longview Mfg. Inc. (Company)	Longview, TX	10/23/89	10/6/89	23,530	Ladies' Robes.
Orion Industries (Workers)	Odessa, TX	10/23/89	9/17/89	23,531	Oil Field Machinery.
Philips Lighting (Workers)	Lynn, MA	10/23/89	10/11/89	23,532	Lamps.
Power Resources (formerly Everest Minerals Corp.)	Casper, WY	10/23/89	10/13/89	23,533	Uranium.
Quanex Corp. Michigan Seamless Tube Div. (USWA)	South Lyon, MI	10/23/89	10/10/89	23,534	Steel Tubing.
Royal Conversions, Inc. (Workers)	Brainerd, MN	10/23/89	10/12/89	23,535	Vehicles.
Spicer Transmission (UAW)	Toledo, OH	10/23/89	10/11/89	23,536	Truck Transmission and Component parts.
Transcontinent Oil Co. (Workers)	Denver, CO	10/23/89	10/11/89	23,537	Oil and Gas.
Visionetics Corp. (Workers)	Brookfield, CT	10/23/89	10/4/89	23,538	Automated Optical Inspection Equip.
Zeller Corp. (UAW)	Defiance, OH	10/23/89	10/6/89	23,539	Universal Joints for Motor Vehicles.

[FR Doc. 89–25968 Filed 11–2–89; 8:45 am]

BILLING CODE 4510–30–M

[TA-W-23,296]

Niki-Lu Hialeah, FL; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 9, 1989 in response to a worker petition which was filed on August 9, 1989 on behalf of workers at Niki-Lu, Hialeah, Florida. The workers produced ladies' jackets and sportswear.

The investigation revealed that subject firm Niki-Lu, Hialeah, Florida is out of business. Niki-Lu closed in January 1989. No further information is available to complete the investigation to make a determination for eligibility under section 221 of the Trade Act of 1974. Since no further information is available to complete the investigation, the investigation has been terminated.

Signed at Washington, DC this 18th day of October 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-25969 Filed 11-2-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-23,122]

Santa Fe Energy Co., Amarillo, TX; Notice of Affirmative Determination Regarding Application for Reconsideration

Several former workers requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for former workers of the Santa Fe Energy Company, Amarillo, Texas. The negative determination was issued on September 1, 1989 and published in the Federal Register on October 3, 1989 (54 FR 40755).

The former workers stated, among other things, that the Department should have compared revenues for the years 1987 and 1988 instead of only the first five months of 1989 compared to the same period in 1988. The former workers stated that they met all the criteria earlier and were certified under TA-W-17, 731 and should be reconsidered for benefits under the Trade Act as amended by the Omnibus Trade and Competitiveness Act of 1988.

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 24th day of October 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-25970 Filed 11-2-89; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act; Employment and Training Assistance for Dislocated Workers; Reallotment of Title III Funds

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor is publishing for public information the Job Training Partnership Act Title III (Employment and Training Assistance for Dislocated Workers) funds identified by States for reallotment, and the amount to be reallotted to eligible States.

EFFECTIVE DATES: November 2, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo, Director, Office of Employment and Training Programs, Employment and Training Administration, Department of Labor, Room N-4469, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: 202-535-0577 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title III of the Job Training Partnership Act (JTPA or the Act), as amended by the Economic Dislocation and Worker Adjustment Assistance (EDWAA) Act, directs the Secretary of Labor (Secretary) to deobligate funds from States identified pursuant to section 303(b) of the Act, and to reallot and reobligate such funds by a Notice of Obligation (NOO) adjustment to current year funds to "eligible States" and "eligible high unemployment States" as set forth in sections 303 (a), (b), and (c) of JTPA. 29 U.S.C. 1653. The reallotment process was described in Training and Employment Guidance Letter No. 4-88, dated November 25, 1988, Subject: Reallotment and Reallocation of Funds under Title III of the Job Training Partnership Act (JTPA), as Amended. 53 FR 48737 (December 2, 1988).

NOO adjustments are being issued to adjust the Program Year (PY) 1989 (July 1, 1989-June 30, 1990) formula allotments in accordance with expenditure reports submitted to the Secretary by the States pursuant to Training and Employment Information Notice No. 30-88, dated May 18, 1989, Subject: Job Training Partnership Act (JTPA) Title III Financial Data. Department of Labor Regional Offices reviewed and confirmed that adequate backup documentation was available to reasonably support the reported expenditures.

Pursuant to the provisions of section 303(b) of JTPA and the limitations on carry-over imposed by section 6305(e) of the Omnibus Trade and Competitiveness Act (OTCA), the funds reallotted are an amount equal to the sum of unexpended funds in excess of 30 percent of the PY 1988 formula allotments and all unexpended funds made available by formula for PY 1987. 29 U.S.C. 1653(b); Sec. 6305(e), Pub. L. 100-418 (August 23, 1988). Such reallotted funds are from PY 1989 allotments made available by formula and, as stated above, result in either upward or downward adjustments to PY 1989 allotments.

Unemployment Data

The unemployment data used in the formula for reallotments, relative numbers of unemployed, and relative numbers of excess unemployed were for the July 1988 through June 1989 period. Long-term unemployment data used were for calendar year 1988. The determination of "eligible high unemployment States" for the reallotment of excess unexpended funds was also based on unemployment data for the period July 1988 through June 1989, with all average unemployment rates rounded to the nearest tenth of one percent. The unemployment data were provided by the Bureau of Labor Statistics, based on the Current Population Survey.

The table below is a distribution of the net changes to PY 1989 formula allotments.

Explanation of Table

Column 1: This column shows each State's unemployment rate for the 12 months ending June 1989.

Column 2: This column shows the amount of excess funds (unexpended PY 1988 funds in excess of 30 percent of the State's PY 1988 allotment and/or unexpended PY 1987 formula-allotted funds), which are subject to reallotment. PY 1989 funds in an amount equal to the excess funds identified will be deobligated and distributed as discussed below.

Column 3: This column shows total excess funds distributed among all "eligible States" by applying the regular Title III formula. "Eligible States" are those States that had no excess funds, according to the reports submitted.

Column 4: Eligible States with unemployment rates higher than the national average, which was 5.4 percent for the 12-month period, are "eligible high unemployment States." These eligible high unemployment States receive amounts equal to their share of the excess funds (the amounts shown in column 3) according to the regular Title III formula. This is Step 1 of the reallotment process. These amounts are shown in column 4.

Column 5: The remaining share of available funds ($3,361,200) for eligible States with unemployment rates less than or equal to the national average is distributed among all eligible States, again using the regular Title III allotment formula. This is Step 2 of the reallotment process. These amounts are shown in column 5.

Column 6: Net changes in PY 1989 formula allotment are presented. This column represents the decreases in Title III funds shown in column 2, and the increases in Title III funds shown in columns 4 and 5. NOOs in the amounts shown in column 6 are being issued to the States and other jurisdictions listed.

Equitable Procedures

Pursuant to section 303(d) of the Act, Governors of States required to make funds available for reallotment shall prescribe equitable procedures for making funds available from the State and substate grantees. 29 U.S.C. 1653(d).

Distribution of Funds

Funds are being reallotted by the Secretary in accordance with sections 303(a), (b), and (c) of the Act and section 6305(e) of the OTCA, using the factors described in section 302(b) of the Act. 29 U.S.C. 1652(b) and 1653(a), (b), and (c); Sec. 6305(e), Pub. L. 100-418 [August 23, 1988]. Distribution of funds within States and other jurisdictions shall be in accordance with sections 302(c) and (d) of the Act (29 U.S.C. 1652(c) and (d)), and the JTPA regulations at 20 CFR 631.12(d), 54 FR 39118, 39140 (September 22, 1989).

Signed at Washington, DC this 31 day of October, 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION
PY 1989 JTPA TITLE III REALLOCATION TO STATES
27 Oct-89

	COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6
Alabama	7.3	0	298,932	298,932	119,557	418,489
Alaska	8.7	0	51,966	51,966	20,784	72,750
Arizona	6.0	0	164,649	164,649	65,851	230,500
Arkansas	7.5	502,633	0	0	0	(502,633)
California	5.2	0	966,193	0	386,427	386,427
Colorado	6.3	0	204,925	204,925	81,959	286,884
Connecticut	3.1	0	51,488	0	20,592	20,592
Delaware	3.1	49,140	0	0	0	(49,140)
District of Columbia	5.2	0	22,181	0	8,871	8,871
Florida	5.3	4,412,742	0	0	0	(4,412,742)
Georgia	5.4	0	262,728	0	105,078	105,078
Hawaii	3.2	0	14,389	0	5,755	5,755
Idaho	5.4	0	36,065	0	14,424	14,424
Illinois	6.1	0	670,992	670,992	268,362	939,354
Indiana	4.7	0	136,113	0	54,438	54,438
Iowa	4.1	0	65,418	0	26,164	26,164
Kansas	4.6	0	58,189	0	23,273	23,273
Kentucky	7.1	0	272,133	272,133	108,839	380,972
Louisiana	10.4	0	570,982	570,982	228,363	799,345
Maine	3.7	0	19,252	0	7,700	7,700
Maryland	4.1	0	95,849	0	38,334	38,334
Massachusetts	3.5	0	89,669	0	35,863	35,863
Michigan	7.0	0	706,296	706,296	282,481	988,777
Minnesota	4.3	0	94,008	0	37,598	37,598
Mississippi	8.9	0	242,859	242,859	97,131	339,990
Missouri	5.6	0	235,781	235,781	94,300	330,081
Montana	6.3	0	49,944	49,944	19,975	69,919
Nebraska	3.2	0	25,227	0	10,089	10,089
Nevada	5.0	0	35,902	0	14,359	14,359
New Hampshire	2.7	0	12,300	0	4,920	4,920
New Jersey	3.8	0	137,984	0	55,187	55,187
New Mexico	7.1	0	104,625	104,625	41,845	146,470
New York	4.7	0	439,464	0	175,763	175,763
North Carolina	3.5	0	102,840	0	41,131	41,131
North Dakota	4.6	0	17,051	0	6,819	6,819
Ohio	5.6	0	516,098	516,098	206,412	722,510
Oklahoma	6.2	0	185,321	185,321	74,119	259,440
Oregon	5.5	0	116,146	116,146	46,452	162,598
Pennsylvania	4.6	0	318,445	0	127,361	127,361
Puerto Rico	14.4	64,584	0	0	0	(64,584)
Rhode Island	3.3	0	12,983	0	5,193	5,193
South Carolina	4.3	0	64,595	0	25,834	25,834
South Dakota	4.0	0	15,223	0	6,088	6,088
Tennessee	5.7	0	204,817	204,817	81,916	286,733
Texas	6.8	3,374,999	0	0	0	(3,374,999)
Utah	4.5	0	32,742	0	13,095	13,095
Vermont	3.0	0	6,652	0	2,661	2,661
Virginia	3.9	0	104,486	0	41,789	41,789
Washington	5.9	0	228,493	228,493	91,385	319,878
West Virginia	8.8	0	189,862	189,862	75,935	265,797
Wisconsin	4.1	0	123,764	0	49,499	49,499
Wyoming	6.4	0	28,077	28,077	11,229	39,306
NATIONAL TOTAL	5.4	8,404,098	8,404,098	5,042,898	3,361,200	0

[FR Doc. 89-25971 Filed 11-2-89; 8:45 am]
BILLING CODE 4510-30-M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 89-96; Exemption Application No. D-8005 et al.]

Grant of Individual Exemptions; Consolidated Lumber Co., Inc. Profit Sharing Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 21, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Consolidated Lumber Company, Inc. Profit Sharing Plan (the Plan), Located in Overland Park, Kansas

[Prohibited Transactions Exemption 89-96; Exemption Application No. D-8005]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to a proposed cash sale by the Plan to the Consolidated Lumber Company, Inc., a party in interest with respect to the Plan of interests (the Interests) in the Krupp Commercial Properties Limited Partnership, provided the Plan receives the greater of $30,000 or the fair market value of the Interests as determined at the time of the sale by an independent, qualified appraiser.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 14, 1989 at 54 FR 38008.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 523-8194. (This is not a toll-free number.).

Ameritrust Company National Association (Ameritrust), Located in Cleveland, Ohio

[Prohibited Transaction Exemption 89-97; Exemption Application Nos. D-7833 and L-7834]

Exemption

The restrictions of section 406 (b)(2) or (b)(3) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(F) of the Code, shall not apply to the receipt of fees by Ameritrust from Financial Reserves Fund (the Fund), an open-ended investment company for which Ameritrust performs services, in connection with the investment of funds through a daily automated sweep arrangement of certain employee benefit trusts sponsored by certain incorporated and unincorporated businesses.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption (the Notice) published on August 30, 1989, at 54 FR 35946.

Written Comments: The Department received no requests for a hearing but did receive two comment letters with respect to the Notice. One commentator, a participant in a Keogh for which Ameritrust serves as the investment manager, expressed opposition to the grant of the exemption on the grounds: (1) That Ameritrust would be paid twice for the same service, and (2) that Ameritrust would receive an additional fee of .25% of the amount of the Keogh assets invested in the Fund. In response to this comment, Ameritrust indicated that the Fund is used only for the investment of cash. Therefore, the decision to invest in the Fund is made solely by account holders (the Account Holders) of the Keoghs after such Account Holders have received and read the most recent prospectus of the Fund and have stated in a letter that they are aware of the fees Ameritrust receives from the Fund and have authorized the use of the Fund for cash management in their Keoghs. In addition, with respect to those Keoghs for which Account Holders have waived the right to direct investments, Ameritrust will reduce its investment management fee by offsetting an amount equal to the annual fee of .25% of assets managed with respect to any of the Keoghs' assets invested in the Fund for the entire period of such investment.

The other comment was filed by representatives of the applicant on behalf of Ameritrust. The content of this comment indicates that in the first paragraph of the Notice, employee benefit trusts sponsored by both incorporated and unincorporated businesses are referred to as Keoghs or as a Keogh. Ameritrust indicates that a Keogh is an employee benefit trust which is sponsored by an unincorporated business which covers one or more self-employed individuals. Accordingly, the employee benefit trusts involved in the transactions which are sponsored by incorporated business are not Keoghs and should not have been referred to as such.

In Item 2 of the Summary of Facts and Representations (the Summary), the individual Account Holders who direct their own investments are described as those who have not waived their right to direct the investment of assets in the Keoghs. Ameritrust comments that this statement is accurate as to those

individuals who have adopted a Keogh or who participate in a Keogh adopted by their employer under a prototype Keogh plan, as described in Item 1 of the Summary. However, Ameritrust represents that there is another group of employee benefit trusts (the Trusts), not described in the Notice, over which Ameritrust or banks affiliated with Ameritrust (the Affiliated Banks or Bank) exercise no investment discretion. These Trusts are sponsored by both incorporated and unincorporated businesses. Such Trusts are not established under a prototype plan, but are individually designed Trusts for which Ameritrust or the Affiliated Bank act as custodians or directed trustees. The reason Ameritrust or an Affiliated Bank have no investment discretion with respect to these Trusts is that the sponsors of such Trusts limited the appointment of Ameritrust or the Affiliated Banks to the role of custodian or directed trustee and not because Account Holders retain the right to direct their own investments.

Ameritrust further represents that, as with the directed prototype Keoghs, Ameritrust and the Affiliated Banks charge a custodial fee based on a range of .1% to .3% of the market value of the assets held in these Trusts. For such Trusts either: (1) The individual Account Holders direct their own investments, or (2) the sponsors of such Trusts have appointed investment managers who are unaffiliated with Ameritrust, the Affiliated Banks, or the manager or distributor of the Fund. It is represented that neither Ameritrust or any Affiliated Bank, as applicable, has discretionary control or responsibility with respect to the investment of the assets of such Trusts, not does Ameritrust or any Affiliated Bank, as applicable, render any investment advice with respect to such assets. It is represented that the unaffiliated fiduciary who has investment responsibility will make any decision to invest in the Fund for such Trusts, following disclosure to such fiduciaries of Ameritrust's relationship with the Fund. For these reasons, Ameritrust requests that the Trusts, as described herein, be included in the exemption.

Accordingly, after consideration of the entire record and subject to the above-described modifications, the Department has determined to grant the exemption.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Westchester Teamsters Pension Fund (the Plan) Located in Elmsford, New York

[Prohibited Transaction Exemption 89–98; Exemption Application No. D–7931]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the purchase by the Plan from Local 456 Holding Corp. (the Corp.), a corporation owned by members of Teamsters and Chauffeurs Local 456, of approximately three acres of undeveloped land (the Land), and (2) the extension of credit by the Corp. to the Plan for up to 90 days after the closing date of the purchase pursuant to a non-interest bearing note in the amount of half of the purchase price, provided that the purchase price is not more than the fair market value of the Land on the date of the purchase, and further provided that the independent fiduciary to the Plan with respect to these transactions, Howard Lieberman, monitors these transactions on behalf of the Plan and takes all appropriate actions necessary to safeguard the interests of the Plan and its participants and beneficiaries.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on August 8, 1989, at 54 FR 32539.

Written Comments: The Department received two comment letters. One of these states that the commentator believes the proposed transaction to be a sound investment but would perfer to have at least some of the funds needed for the proposed purchase applied first to annual cost-of-living increases in pension benefits. The other comment letter expresses concern that the proposed investment may jeopardize pension benefits.

In response to these letters, the applicant states that the monies that would be invested in the proposed purchase are in addition to, and would not endanger, the reserves that the Plan maintains, as required under the Code, to fund pension benefits. The applicant explains that the purpose of the proposed purchase is to increase the Plan's assets and that the Plan fiduciaries have consulted professionals who have assured them that the proposed purchase is a sound investment which will diversify the Plan's asset base. The applicant asserts that the decision to invest a portion of the Plan's assets in real estate at this time, instead of using these assets to provide a cost-of-living increase for retired participants, is intended to insure the Plan's ability both to continue paying the pensions of retired participants and also to pay benefits to active participants when they retire.

After considering the entire record, including both written comments, the Department has determined to grant the exemption as proposed.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 31st day of October, 1989.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 89-25972 Filed 11-2-89; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-7968] et al.

Proposed Exemptions; Liberty House Restaurant Corporation Profit Sharing Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, room N-5671, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Liberty House Restaurant Corporation Profit Sharing Plan (the Plan), Located in Atlanta, Georgia

Application No. D-7968

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the Plan's proposed cash sale (the Sale) of certain improved real property (the Property) located in Atlanta, Georgia to Richard Lewis (the Applicant), a party in interest with respect to the Plan; provided that the cash consideration paid on the date of the sale by the Applicant to the Plan is the greater of either the appraised fair market value of the Property or the Plan's aggregate cost of acquisition, financing and holding of the Property as of the date of the Sale.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with 52 participants as of September 14, 1988 and assets totalling $1,256,567.31 as of April 30, 1989. The Applicant is the Plan's trustee and administrator. He is also the owner of 60% of the issued and outstanding common stock of Liberty House Restaurant Corporation (the Employer), the Plan's sponsor, and a member of the Employer's board of directors.

2. The Property is located at 758 West Paces Ferry Road in the Buckhead section of Atlanta, Fulton County, Georgia. The Property consists of a luxury residence with the swimming pool situated on a heavily-landscaped acre lot in an Atlanta residential neighborhood.

3. The Plan acquired the Property on August 20, 1987 from Richard and Ellen Clapp (the Clapps). The Applicant represents that the Clapps are unrelated to any employee of the Employer, or the Applicant; have never been employed by the Employer; and have had no business relationships with either the Employer, or the Applicant. The Plan paid the Clapps $465,000 for the Property, which was encumbered by a $265,000 mortgage from the Buckhead Bank (the Bank).

4. Beginning on August 20, 1987, the date of the Plan's purchase of the Property, the Applicant directed extensive construction and renovation (the Improvements) to the Property. The Plan has paid $627,167.15 for the Improvements through March 1989. In order to finance the Improvements directed by the Applicant, the Property was additionally encumbered by a $235,000 construction loan from the Bank.

5. The Plan has leased the Property to the Applicant under a written lease (the Lease) dated July 1, 1988.[1] The Lease provides that, in addition to the Applicant, another employee of the Employer, a party in interest with respect to the Plan, may reside at the Property. The Lease term is thirty-six months and permits two optional renewals for five years each. The base monthly rental is $6,000. In addition to the base rent, the Applicant is responsible for utilities, including garbage, water, sewage, electricity and gas. The Applicant has represented that all amounts due under the Lease have been paid.

[1] The Department is not, in this notice, proposing to grant exemptive relief for any prior prohibited transactions involving the Property, including the Lease or any use of the Plan's assets to benefit a party in interest. In this regard, the Applicant has represented that a Form 5330, Return of Initial Excise Tax Relating to Pension and Profit Sharing Plans, will be filed with the Internal Revenue Service and that applicable excise tax in connection with any prior prohibited transactions will be paid by the Applicant within 60 days of the Department's grant of an exemption.

6. Joseph L. Walker, S.R.A., M.A.I., of Joseph L. Walker and Associates, Inc., real estate appraisers and consultants in Atlanta, Georgia, reviewed the monthly rental payment of $6,000 for the Property as of April 7, June 21 and July 13, 1989. He found the Applicant's payment to the Plan to represent the fair market rental value of the Property.

7. The Applicant now proposes to purchase the Property for cash at a price which will be the greater, on the date of the Sale, of either the aggregate cost of the Plan's acquisition, financing and holding of the Property or its appraised fair market value. The Applicant will also pay all fees, commissions and expenses in connection with the Sale.

8. During the course of its ownership of the Property, the Applicant represents that the aggregate cost to the Plan for the acquisition, financing and holding of the Property through April 20, 1989 amounts to $1,191,706.70.

9. The Property was appraised by Terrence L. Love, M.A.I., of the firm of Land Development Analysts. Mr. Love determined the fair market value of the Property to be $1,130,000 as of June 20, 1989.

10. In summary, the Applicant represents that the transaction meets the statutory criteria of section 408(a) of the Act because: (a) The Sale will be a one-time transaction; (b) The Sale will be consumated for cash; (c) The Plan will pay no fees, commissions or expenses in connection with the Sale; (d) The Plan will receive the greater, on the date of the Sale, of either the aggregate cost to the Plan of the acquisition, financing and holding of the Property or its appraised fair market value; (e) The Sale will enable the Plan to divest itself of the Property and pursue alternative investments; and (f) The Applicant will file Form 5330, Return of Initial Excise Tax Relating to Pension and Profit Sharing Plans, with the Internal Revenue Service and pay applicable excise tax in connection with past prohibited transactions concerning the Property within 60 days of the grant of this proposed exemption.

FOR FURTHER INFORMATION CONTACT: Mrs. B.S. Scott of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Howard Simon and Associates, Inc. Profit Sharing Plan (the Plan), Located in Deerfield, IL

[Application No. D-7984]

Proposed exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) the purchase, by the individually-directed accounts (the Rollover Accounts) in the Plan of Mr. Howard Simon (Mr. Simon) and his spouse, Mrs. Elizabeth M. Simon (Mrs. Simon) of certain computer equipment (the Equipment), for the total cash consideration of $14,625; (2) the leasing (the Lease) of the Equipment by the Rollover Accounts to Dudley Enterprises, Inc. (DEI), a party in interest with respect to the Plan; (3) the guarantee of rental payments under the Lease by Mr. and Mrs. Simon; and (4) the future sale of the Equipment by the Rollover Accounts to DEI pursuant to an option to purchase (the Purchase Option), provided the terms of the transactions are at least as favorable to the Rollover Accounts as those obtainable in arm's length transactions with unrelated parties.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with total assets of $121,944 as of March 31, 1989. As of August 14, 1989, the Plan had ten participants. The trustees of the Plan (the Trustees) are Mr. and Mrs. Simon and Mr. Mark Schwechter.

2. Both Mr. and Mrs. Simon have regular accounts (the Regular Accounts) and rollover accounts in the Plan, the latter of which were merged into the Plan from a predecessor plan. As of March 31, 1989, Mr. and Mrs. Simon had $21,001 and $576, respectively, in their Regular Accounts. Also as of March 31, 1989, Mr. and Mrs. Simon had total assets of $55,649 and $2,929, respectively, in their Rollover Accounts. Although Mr. and Mrs. Simon are permitted to direct investments in their Regular Accounts, they and the other participants have elected to have the Trustees make decisions involving Plan investments in the Regular Accounts. Mr. and Mrs. Simon, may, however, direct investments in their Rollover Accounts. Mr. and Mrs. Simons' Rollover Accounts are the only accounts that will be involved in the subject transactions and are described below.

3. Howard Simon and Associates, Inc. (HSAI) is the sponsor of the Plan. HSAI is an actuarial consulting firm that maintains its principal place of business at 425 Huehl Road, Building No. 20, Northbrook, Illinois. DEI, which is located in Des Plaines, Illinois, is in the video rental business. DEI is 100 percent owned by Mrs. Simon.

4. In May 1989, HSAI purchased certain IBM computer hardware and related network items for $33,275 from an unrelated party, Unique Business Systems Corporation of Santa Monica, California. The purchase was made in three separate installments, all of which were related to the delivery of the Equipment. At present, HSAI is not indebted to the seller.

5. To provide the Rollover Accounts with a higher income-yielding investment, HSAI proposes to sell the following Equipment to the Rollover Accounts for cash: 1 IBM PS/2 Model 70, 60 MB Hard Disk, IBM Ram, 1.44 MB Floppy; 3 IBM 8512 Color Monitors; 1 Bar Code Reader; 1 Cash Drawer; 1 Okidata 182 & Printer w/Cable; 1 IBM DOS 3.3; 1 80386 Memory Expansion; 1 Novell ELS Network Software (4-User Limit); 1 Puredata ArcNet Card; 1 RG62 25' Cable; 1 Continuous Power Supply (450 watt); 1 Maynard External Tape Backup (60MB); 1 Hayes 2400 Baud Internal Modem; 2 IBM PS/2 Model 286 W/1 MB RAM, 1.44 MB Floppy. The total sales price for the Equipment will be $14,625. This amount reflects the fair market value of the Equipment as determined on August 15, 1989 by Mr. James Sherwood (Mr. Sherwood), an independent computer dealer who is affiliated with Technical Software Development Company of Des Plaines, Illinois. Both Rollover Accounts will hold proportionate interests in the Equipment and such interests will not exceed 25 percent of the assets that are contained in each account. Thus, Mr. Simon's Rollover Account will invest $13,894 for a 95 percent interest in the Equipment and Mrs. Simon's Rollover Account will invest $731 for a 5 percent interest in the Equipment. In addition, neither Rollover Account will be required to pay any fees or commissions in connection therewith.

6. Following the acquisition, the Rollover Accounts will lease the Equipment to DEI under the provisions of a written lease. The terms of the Lease will be those that are commonly used by commercial leasing companies and will provide for an arm's length dealings between the Rollover Accounts and DEI. The Lease will be for a duration of five years and at a monthly rental of $308 in accordance with Mr. Sherwood's determination of the fair market rental value of such Equipment. The Lease will require that DEI give the Plan a security deposit that will be equal to one month's rent. In addition, the Lease will require that DEI maintain adequate insurance on the Equipment

and designate the Rollover Accounts as the loss payees of such insurance. Further, the Lease will provide that DEI bear all costs that are incidental to the repair and maintenance of the Equipment. In the event DEI makes any improvements to the Equipment, the Lease will provide that such improvements belong to the Rollover Accounts. Finally, because DEI is a start-up business, Mr. and Mrs. Simon propose to guarantee rental payments under the Lease should a rental delinquency or default occur on the part of DEI. As of February 15, 1989, Mr. and Mrs. Simon had a combined net worth that was in excess of $2.3 million.

7. At the end of the Lease term, DEI will have an option to purchase the Equipment, for cash, from the Rollover Accounts. The proposed sales price for the Equipment will be the greater of the fair market value of the Equipment as determined by a qualified, independent appraiser or $1,232 representing the Equipment's salvage value. In calculating the fair market value of the Equipment, the independent appraiser will consider the value of any improvements that are affixed to the Equipment. The Rollover Accounts will not be required to pay any fees or commissions in connection with the Purchase Option transaction. In the event DEI does not exercise the Purchase Option, the Rollover Accounts will sell the Equipment to an unrelated party.

8. In addition to calculating the fair market value and fair market rental value of the Equipment, Mr. Sherwood represents that the Equipment would be a very sound investment for the Rollover Accounts and have a maximum potential resale value. Mr. Sherwood also states that the salvage value of the equipment would equal four months rent.

9. In summary, it is represented that the proposed transactions will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) The Rollover Accounts will purchase the Equipment from HSAI for cash; (b) the sales price for the Equipment that will be acquired by the Rollover Accounts will be based on the independently appraised value of the Equipment as determined by Mr. Sherwood; (c) the Rollover Accounts will receive rent under the Lease that is based upon the fair market rental value of the Equipment as determined by Mr. Sherwood; (d) Mr. and Mrs. Simon will guarantee rental payments under the Lease in the event of a rental default or delinquency by DEI; (e) DEI will purchase the Equipment, for cash, at the conclusion of the Lease pursuant to the Purchase Option for the greater of the Equipment's fair market value as determined by a qualified, independent appraiser or $1,232, representing the Equipment's salvage value; (f) the Rollover Accounts will not be required to pay any fees or commissions in connection with the sale or the exercise of the Purchase Option; and (g) Mr. and Mrs. Simon, who are the only participants in the Plan whose accounts will be affected by the transactions proposed herein, have determined that the proposed transactions will be in the interest of their Rollover Accounts and they desire that such transactions be consummated.

Notice to interested persons: Because Mr. and Mrs. Simon are the only participants in the Plan whose individual accounts will be affected by the proposed transactions, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Therefore, written comments and requests for a public hearing are due 30 days from the date of publication of this notice of proposed exemption in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Ocmulgee Fields, Inc. Profit Sharing Plan and Trust (the Plan) Located in Macon, Georgia

[Application No. D-7996]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406 (a) and (b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the Plan's proposed cash sale (the Sale) ot Ocmylgee Fields, Inc. (the Employer), the Plan's sponsor and, as such, a party in interest with respect to the Plan, of a certain parcel of improved real property (the Property) located in Macon, Georgia; provided that the terms and conditions of the proposed Sale are at least as favorable to those obtainable by the Plan in an arm's-length transaction between unrelated parties.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with approximately 100 participants. As of May 31, 1988, the Plan held total assets of $1,198,535. The trustee (the Trustee) of the Plan is Charles H. Jones, who is also an officer and director of the Employer. He is also the father of Jeff Jones, the president of the Employer. The Employer is in the business of buying, selling, developing and managing real property with a specialization in hotel, motel, restaurant, and convention center developments. The Employer is currently the owner, developer, and manager of several different hotel and motel properties.

2. The Property is located on the western side of Holiday North Drive in Macon, Georgia, and is legally described as Land Lot 346 of the Thirteenth Land District of Bibb County. The Property consists of 7.148 acres of unimproved land. The Employer currently owns two hotels and a conference center on land adjacent to the Property.

3. The Property was purchased by the Plan on October 10, 1985 for a total consideration of $607,560.00 from Clarence S. and Linton S. Lundy, who, the applicant, represents are unrelated parties. The Property was purchased by the Plan as part of a development strategy to create a hotel/motel/conference center complex. The Property has produced no income and the Trustee repesents that it has not been used by any party-in-interest with respect to the Plan. Since its acquisition, the Plan has incurred $129,239.82 in interest costs; $7,479.03 in taxes; $22,738.50 for engineering, legal closing costs, clearing and grading. The Plan's aggregate cost of acquisition and holding the Property $767,037.35 as of July 19, 1989.

4. Robert H. Gerhardt, MAI, SREA, CPM of Gerhardt and Contemporaries, in Macon, Georgia, and his associate James L. Green, (the Appraisers) have appraised the Property. The Appraisers repesent that they are independent of the Trustee, the Employer and the Plan. The Appraisers determined that, as of February 28, 1989, the fair market value of the Property was $715,000.00.

Because the Property is contiguous to other real estate owned by the Employer, Mr. Gerhardt performed an updated appraisal to determine the special value of the Property to the Employer. Mr. Gerhardt determined that, as of May 19, 1989, a special value reflecting an additional 25% premium to the Sale price should be added to the earlier appraisal. Accordingly, the resultant appraised value of the

Property, including the special value to the Employer, totals $893,500 pursuant to Mr. Gerhardt's updated report of July 26, 1989. At its appraised special value, the Property currently constitutes approximately 66% of Plan assets.

5. The Employer now proposes to purchase the Property from the Plan for cash at the greater of $893,500 or the appraised value (including special value to the Employer) as of the date of the Sale. No fees, commissions or expenses will be paid by the Plan in connection with the Sale. The Trustee has determined that the highest and best use of the Property would be development into commerical property and that it is in the Plan's best interest to sell the Property to the Employer rather than attempt to have the Plan develop the Property itself. The Employer intends to build a hotel on the Property.

6. In summary, the Applicant represents that the proposed transaction will meet the statutory criteria of section 408(a) of the Act because: (1) The Sale will be a one-time transaction; (2) The Sale will be consummated for cash; (3) The Plan will receive the greater of $893,500 or the value of the Property (including special value to the Employer) as determined by a qualified independent appraiser as of the date of Sale; (4) The Plan will pay no fees commissions or expenses in connection with the Sale; (5) The Plan will divest itself of an investment which constitutes approximately 66% of Plan assets; and (6) The Trustee has decided that the Sales is in the best interest of the Plan and its participants and beneficiaries.

FOR FURTHER INFORMATION CONTACT: Mrs. B.S. Scott of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Yehudi M. Felman, M.D., P.C. Defined Benefit Pension Plan (the Plan) Located in Brooklyn, New York

[Application No. D-8023]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption if granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the purchase of certain shares in a cooperative corporation by the Plan from Yehudi M. Felman, M.D., P.C. (the Employer), a disqualified person with respect to the Plan, and the subsequent lease of an apartment from the Plan to the Employer, provided that the terms of the transactions are no less favorable than the Plan could obtain in arm's-length transactions with an unrelated party and that the transactions represent no more than 25 percent of the assets of the Plan at the time of purchase.[2]

Summary of Facts and Representations

1. The Employer is a professional corporation, having subchapter S status under the Code, engaged in the practice of medicine since 1971. The Plan is a defined benefit plan having assets of $1,389,841 as of June 30, 1989. Yehudi Felman (Felman) is the sole owner of the Employer and is also a trustee of the Plan. Felman and his wife, Brenda Felman, are the only participants in the Plan.

2. The Employer has entered into a subscription agreement with Bay Parkway Owners Corp. (Bay Parkway), a cooperative corporation owning an apartment building, for the purchase of 1,815 shares of Bay Parkway allocated to a professional apartment. The apartment consists of eight rooms and approximately 1,400 square feet. The subscription price under the agreement is $205,000. The apartment is presently leased to the Employer.

3. The Plan proposes to purchase the 1,815 shares of Bay Parkway by assumption of the subscription agreement for the subscription price of $205,000. The purchase will not account for more than 25 percent of the assets of the Plan at the time of the transaction. The Plan will pay no more than fair market value for the shares at the time of purchase, based on an independent appraisal of the shares to be updated at the time of closing.

The Plan obtained an appraisal on the apartment from Anthony Giuliano (Giuliano), a real estate broker located in Brooklyn, New York. The applicant represents that Giuliano is independent of the Plan and the Employer. According to Giuliano, the fair market value of the apartment as of November 2, 1988, was the same as the subscription price of $205,000. The $205,000 purchase price will be paid in cash by the Plan and no indebtedness will be involved in the purchase. Also, the Plan will pay no fees or commissions in regard to the purchase.

4. Following the purchase of the shares by the Plan, the Plan proposes to lease the apartment to the Employer. The Employer will pay no less than fair market rent as established by independent appraisal. The lease will be net of expenses to the Plan. The initial lease will be for three years, with renewals every three years based on an updated independent appraisal as to fair market rent. The total lease tem will be for nine years, with two renewal options of three years each to be exercised by the Employer. In a letter dated August 31, 1989, Giuliano stated that two comparable facilities to the apartment currently rented for $30 and $25 per square foot. Accordingly, the applicant proposes that the initial lease of the apartment to the Employer will be for no less than $27.70 per square foot, which is a weighted average of the two comparable leases.

5. In summary, the applicant represents that the proposed transactions will satisfy the statutory criteria of section 4975(c)(2) of the Code because: (1) The Plan will pay no more than fair market value for the 1,815 shares of Bay Parkway at the time of purchase; (2) the fair market value of the shares and the fair market rent of the apartment will be established by an appraiser who is independent of the Plan and the Employer; (3) the transactions will account for no more than 25 percent of the assets of the Plan; and (4) the purchase of the shares will be entirely for cash and the Plan will pay no fees or commissions in regard to the transactions.

Notice to Interested Persons: Because Felman is the applicant and he and his wife are the only participants in the Plan, it has been determined that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing must be received by the Department within 30 days of the date of publication of this notice of proposed exemption.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Great Southern Printing and Manufacturing Company Profit Sharing Plan and Trust (the Plan), Located in Frederick, MD

[Application No. D-8093]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section

[2] Because Yehudi Felman is the sole shareholder of the Employer and he and his wife, Brenda Felman, are the only participants in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act under section 4975 of the Code.

406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale by the Plan of certain improved real property (the Property) to Great Southern Printing and Manufacturing Company (the Employer), for $143,000, provided the amount paid for the Property is not less than its fair market value at the time the transaction is consummated.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 225 participants and total assets of $3,597,040 as of December 31, 1988. The trustee of the Plan (the Trustee) is Mr. George B. Delaplaine, Jr., who is an officer of the Employer. Investment decisions for the Plan are made by an administrative committee comprised of eight employee/participants among whom include the Trustee. The Employer, which maintains its headquarters at 438 West Patrick Street, Frederick, Maryland, is engaged, through its various subsidiaries, in newspaper publishing as well as in the provision of cable television services to subscribers in Maryland, West Virginia and Pennsylvania.

2. On April 12, 1978, the Plan purchased, for investment purposes, certain residential property located at 704 East Patrick Street, Frederick, Maryland. The Property, which is contiguous to other unimproved property owned by the Employer, consists of a 12,599 square foot parcel of land on which is situated a two-story masonry dwelling that has been subdivided into two apartments. Also comprising the Property are a small brick building at the rear of the dwelling, a wood frame barn, an asphalt driveway and a chain link fence. The Plan purchased the Property at a public auction from the Estate of Ada Nusbaum, an unrelated party. The Plan paid the seller $35,000 in cash. At present, the Property is not encumbered by a mortgage.

3. Since the Plan has owned the Property, it has incurred operating expenses in excess of $29,000 and it has expended approximately $50,000 in capital improvements, none of which have been financed. Also since the time of acquisition, the Plan has leased the Property to unrelated parties and there has been no use of such Property by parties in interest. With respect to the leasing of the Property, the Plan has received rental income of approximately $60,205. At present, Ms. Louis Anne Morley and Mrs. Eve Tagalang occupy the demised premises and they pay the Plan $320 and $290, respectively, in monthly rent.

4. The Trustee realizes that the Plan's assets that are invested in the Property would be enhanced if they were placed in other investment vehicles. Accordingly, the Trustee requests an administrative exemption from the Department in order to sell the Property to the Employer for the total cash consideration of $143,000. It is believed that the proposed sale will enable the Employer to expand its operations, increase its future revenues and permit greater contributions to the Plan.

5. The Property was appraised by Mr. Leslie U. Hutzell (Mr. Hutzell), Realtor-Appraiser and Certified Appraiser/Senior, an independent appraiser, who is affiliated with Hutzell's Realty Associates and Appraisal Service of Frederick, Maryland. On February 11, 1989, Mr. Hutzell placed the fair market value of the Property at $130,000. In an addendum to the appraisal dated August 25, 1989, Mr. Hutzell represented that the Property would have no unique or special value to the Employer by reason of its proximity to other property owned by the Employer.[3]

6. To evidence the proposed sale transaction, the Plan and the Employer will enter into an agreement of purchase and sale (the Agreement). The Agreement provides that the Property will be sold to the Employer in an "as is" condition for $143,000. The Agreement also requires the Employer to make a $5,000 downpayment and pay the balance of the purchase price in cash, certified check or title company check at closing which will occur within 60 days after the Plan and the Employer execute the Agreement. At the time of closing, the Plan will give exclusive possession of the Property to the Employer. The Agreement further requires the Plan to convey good and merchantable title to the Employer; states that the Employer will accept the existing leases on the Property and insure the premises; and stipulates that real estate taxes, water, rent, sewer charges and other public charges will be apportioned as of the closing. Finally, the Agreement provides that the Employer will pay all expenses and commissions that are associated with the proposed sale.

7. In summary, it is represented that the proposed sale will satisfy the criteria for an administrative exemption under section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the Property has been appraised by Mr. Hutzell, a qualified, independent appraiser; (c) the sales price for the Property will be greater than the fair market value of the Property as determined by Mr. Hutzell; (d) the Plan will not be required to pay any real estate fees or commissions in connection with such sale; and (e) the proposed transaction will allow the Plan to reinvest its assets in higher-yielding investment vehicles.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the Plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

FOR FURTHER INFORMATION CONTACT: Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Bi-County Radiology Medical Group, Inc. Profit Sharing Plan and Trust (the Plan), Located in Yuba City, California

[Application No. D–8113]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale of certain real property (the Property) by the Plan to Bi-County Radiology Medical Group, Inc., (the Employer), a party in interest with respect to the Plan, provided the Plan receives the greater of $149,000 or the fair market value as determined at the time of the sale by an independent qualified appraiser.

Summary of Facts and Representations

1. The Plan, established on February 1, 1970, is a defined contribution profit sharing plan, which as of September 30, 1988, had 21 participants and $3,413,640 in net assets. The current trustees are

[3] The applicant represents that the amount by which the purchase price for the property exceeds its fair market value, if treated as an Employer contribution to the Plan when added to the balance of the annual additions to such Plan, will not exceed the limitation prescribed by section 425 of the Internal Revenue Code.

Robert Wallace, M.D., Lynn Frink, M.D., Robert Wankmuller, M.D., Owen Van Kirk, M.D., and Henry Reimers, CPA (the Trustees). The Trustees, except for Robert Wallace, M.D., and Henry Reimers, CPA are also twenty percent owners of the Employer. The Employer is a California corporation engaged in the practice of radiology.

2. On July 10, 1987, the Plan bought the Property for $145,000 from an unrelated third party The Property consists of three contiguous parcels of unimproved vacant land located in Yuba City, California, and was originally purchased in order to diversify the Plan's investment portfolio and to increase the return to the Plan. The Property is adjacent to property owned by the Employer, however, the applicant maintains that the Property has not been used by any parties in interest since its acquisition by the Plan.

3. The applicant proposes to sell the Property to the Employer for cash with no expenses related to the transfer to be paid by the Plan. An appraisal of the Property was prepared on March 31, 1989, by Forrest C. Geary, M.A.I. (Mr. Geary), an independent and qualified real estate appraiser and consultant. Mr. Geary determined that the fair market value of the Property as of March 16, 1989, was $149,000. An update to this appraisal, prepared on September 1, 1989 also by Mr. Geary, concluded that the adjacency of the Property to the Employer's property does not merit a premium above the fair market value of the original three contiguous parcels.

4. The applicant represents that the transaction is desirable for the Plan as the sale will increase the liquidity of the Plan's investment portfolio. The transaction is protective of the Plan because the fair market value of the Property was determined by a qualified independent appraiser. The applicant maintains that economic hardship will result if the transaction is denied as the Plan will forego an opportunity to invest in vehicles with a higher return.

5. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) The proposed sale will be a one-time cash transaction;

(b) The price paid to the Plan will be the greater of $149,000 or the fair market value as determined at the time of the sale by an independent qualified appraiser;

(c) The Plan will pay no expenses associated with the sale;

(d) The sale will allow the Plan to liquidate its assets and will provide cash for investments with a higher yield.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department telephone (202) 523-8194. (This is not a toll-free number.)

Ed Miller & Sons, Inc. Profit Sharing Plan (the PS Plan) and Ed Miller & Sons, Inc. Money Purchase Pension Plan (the MP Plan; together, the Plans), Located in Omaha, Nebraska

[Application Nos. D-8160 and D-8161]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed loans (the Proposed Loans) of up to 25% of the assets of the PS Plan and of the MP Plan to Miller Developments (the Partnership), a party in interest with respect to the Plans, under the terms and conditions described in this notice of proposed exemption; provided such terms and conditions are not less favorable to the Plans than those obtainable in an arm's-length transaction with an unrelated party.

Temporary nature of exemption: If the proposed exemption is granted it will be effective as to loans entered into within four years from the date of granting of this exemption.

Summary of Facts and Representatives

1. The Plans are both defined contribution plans which are sponsored by Ed Miller & Sons, Inc. (Miller), a corporation engaged in the construction business in Omaha, Nebraska. Each Plan currently has ten participants. As of April 30, 1988, the PS Plan had assets of $1,914,122 and the MP Plan had assets of $514,426.

2. The Proposed Loans are to be made to the Partnership, a Nebraska general partnership, for the purpose of developing real estate. The Partnership is composed of Miller, which has a 55% interest, and three individuals who are officers, directors and employees of Miller. The Partnership is thus a party in interest with respect to the Plans.

3. The applicants have requested an exemption which would permit the Plans to loan up to 25% of their assets to the Partnership. The Proposed Loans will require semi-annual payments of principal and interest such that the loans will be fully repaid over a 15 year term. The interest rate for the first of the Proposed Loans is expected to be at 10% per annum, as this has been determined to be the current fair market rate of interest by the Plans' independent fiduciary (see rep. 6, below). The independent fiduciary will review and, if necessary, renegotiate the interest rate for each of the Proposed Loans at the time such loan is actually made, in order that each Proposed Loan will be at the fair market interest rate.

4. Each Plan participant will be given the opportunity to participate in this investment. Each participant will initially be offered the opportunity to invest a pro rate portion of his or her account balance in the Proposed Loan, up to 25% of his or her account balance. If any participants decline, their share will be offered to those participants who wish to invest, provided that no participant in either plan will be permitted to invest more than 25% of his or her account balance in the Proposed Loans.

5. The Proposed Loans will be secured by a First Trust Deed on improved real property in the Horizon West Industrial Park located at 156th Street and Center Road, Omaha, Nebraska (the Property). The Property consists of three Lots, Lots 10, 11 and 12. Lot 12 has been appraised by Mr. Leon F. Black, an independent real estate appraiser in Omaha, Nebraska, as having a fair market value of $760,000 as of July 22, 1989. The first of the Proposed Loans will be secured by a First Deed of Trust on Lot 12. The applicants represent that the fair market value of Lot 12 as appraised by Mr. Black represents more than 150% of the Proposed Loan on Lot 12. As Lots 10 and 11 are developed, appraisals will be made of those Lots, and the appraised value of the Lots will represent more than 150% of the value of any Proposed Loans with respect to those Lots. The First Trust Deeds will be recorded and otherwise perfected under local law.

6. Norwest Bank Nebraska, N.A. (the Bank) presently acts as trustee of the Plans and has agreed to continue to act as the independent fiduciary for the Plans with respect to the Proposed Loans for their duration and will undertake all actions to protect the Plans and safeguard their interests. Mr. John Atkins is a trust officer with the Bank and has had more than 10 years experience as a plan fiduciary. Mr. Atkins represents that he understands his responsibilities, duties and liabilities as a fiduciary under the Act. The Bank will have the authority to monitor the collateral to ensure that its value remains at least 150% of the outstanding balance of the Proposed Loans, and the

Bank will act on behalf of the Plans to require additional collateral should the existing collateral decrease in value below the 150% limit. The applicants represent that the Bank is independent of Miller, the Partnership and its individual partners, and that less than 1% of the net receipts of the Bank are derived from Miller, the Partnership and its individual partners.

7. Mr. Atkins has reviewed the terms of the Proposed Loans and has determined that the transactions are appropriate for the Plans and in the best interests of the Plans. Mr. Atkins represents that the Proposed Loans would provide a prudent diversification of the Plans' assets and that the interest rate on the Proposed Loans would be at fair market terms and would be favorable to the Plans. Mr. Atkins represents that the Proposed Loans will be adequately secured based upon Mr. Black's appraisal, and because the Property is in a viable commercial area.

8. Mr. John Pearson is a vice president with the Bank and has reviewed the Proposed Loans in his capacity as an experienced loan manager for the Bank. Mr. Pearson represents that the interest rate and other terms of the Proposed Loans, and the security provided, are fair market terms. Mr. Pearson represents that based upon his experience as a corporate bank loan officer of the Bank, he would grant a loan with similar terms and conditions.

9. Prior to the Plans' entering into each of the Proposed Loans, the Bank's trustee and loan officer will each certify by letter to the Plans that such loan would be an appropriate investment for the Plans, and that the terms of each loan are equal to or better than those which the Plans could receive in dealing with an unrelated party. Each loan made will be required to satisfy the terms and conditions described in this notice of proposed exemption.

10. In summary, the applicants represent that the Proposed Loans satisfy the criteria of section 408(a) of the Act because: (1) The Proposed Loans will at no time represnt more than 25% of the assets of either of the Plans or of any individual account of any participant in either of the Plans; (2) the Proposed Loans will be adequately secured at all times by property having an appraised value of at least 150% of the amount of the loans; (3) the Plans' independent fiduciary, the Bank, has reviewed the terms of the Proposed Loans and determined that it would make a loan under similar terms and conditions, (4) the Bank has determined that the Proposed Loans are appropriate for the Plans and in the best interests of their participants and beneficiaries; and (5) the Bank will monitor the Proposed Loans and will take whatever action is necessary to protect the Plans' rights under the loans.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Vinings Chemical Company, Inc. Profit Sharing Plan and Trust (the Vinings Profit Sharing Plan) and Vinings Industries, Inc. Section 401(k) Retirement Savings Plan and Trust (the Vinings 401(k) Plan; collectively, the Vinings Plans), Located in Atlanta, Georgia

[Application Nos. D-8201 through D-8203]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash sale (the Sale) by the Vinings Plans of certain securities (the Securities) to Laporte, Inc., a party in interest with respect to the Vinings Plans, provided that the consideration paid for the Securities is either the greater of the original consideration paid by the Vinings Plans for the acquisition of the Securities or the fair market value of Securities on the date of the Sale.

Summary of Facts and Representations

1. The Vinings Plans are qualified defined contribution plans with the Vinings Profit Sharing Plan having 49 participants and possessing total assets of $1,470,000, as of December 31, 1988, and the Vinings 401(k) Plan having 48 participants and possessing total assets of $1,300,000, as of December 31, 1988. Vinings Industries, Inc. (Vinings) is the sponsor of the Vinings Plans. Mr. J. Robert Carpenter is president of Vinings and the trustee of the Vinings Plans (the Trustee). He has exclusive authority to manage, control, and invest the assets of the Vinings Profit Sharing Plan. As the trustee of the Vinings 401(k) Plan, Mr. Carpenter must invest its assets in accordance with general investment guidelines set forth in the documents and instruments of the Vinings 401(k) Plan. These general investment guidelines provide the Trustee with the authority to buy and sell the assets of the Vinings Plans.

2. Prior to January 31, 1987, Vinings, a Georgia corporation, operated under the corporate and trade name of Vinings Chemical Company, Inc. Its principal offices are located in Atlanta, Georgia and it is engaged in the manufacture and sale of various chemical products to the pulp and paper industry, primarily in the southeastern part of United States. Pursuant to a merger agreement, dated September 1, 1987, Vinings was acquired by Laporte, Inc. (Laporte), a Delaware corporation, which owns 100 percent of Vinings outstanding shares. Laporte has a number of subsidiaries in the United States which are engaged in diverse businesses, involving the manufacture and sale of chemicals, cement products, silicon wafers, and various industrial sealants. Laporte's principal offices are located in Charlotte, North Carolina.

3. On January 1, 1989, Laporte established a qualified profit sharing plan (the Laporte Profit Sharing Plan) and a qualified money purchase plan (collectively, the Laporte Plans) for its employees and the employees of some of its subsidiaries, including Vinings. At the same time Laporte established a master trust agreement (the Master Trust) for the purpose of holding for investment the assets of the Laporte Plans and the assets of retirement plans maintained by certain subsidiaries of Laporte. As a consequence of these activities by Laporte, effective as of January 1, 1989, Vinings became a participating affiliate in the Laporte Plans. Thus, as soon as practicable, Vinings intends to merge the Vinings Plans into the Laporte Profit Sharing Plan in order to maximize administrative efficiency and to assure compliance with the participation requirements of the Code. In anticipation of the pending merger, both Laporte and the Trustee request an exemption for the Sale so as to avoid retaining certain securities in the portfolio of the Vinings Plans that have declined significantly in value since their acquisition. There is a concern by the applicants that the Securities will adversely affect the value of the assets of the Laporte Profit Sharing Plan when commingled in the Master Trust upon the merger. The proposed Sale is designed to avoid a diminution of the value of the benefits which will be available for distribution to the participants and beneficiaries of the Vinings Plans.

4. The Securities that the Vinings Plans propose to discontinue holding and selling to Laporte include certificates of a .05 percent interest in a

limited partnership designated as Enex Program I Partners, L.P. (Enex LP) in which the total sum of $44,446 was invested by the Vinings Profit Sharing Plan, and 12,658 shares of Landsing Pacific Funds (LPF), a real estate investment trust whose shares are traded on the American Stock Exchange, in which the total sum of $326,473 was invested by the Vinings Plans. Enex LP is engaged in the oil and gas businesses, owning wells and gas processing plants in the South and Southwest. LPF holds a variety of real property that is broadly distributed geographically and which includes office buildings, shopping malls, and industrial parks. The Securities have been appraised by a qualified, independent appraiser, Robert A. Stanger & Co., L.P. of Shrewsbury, New Jersey, and determined to have a fair market value, as of September 19, 1989, of $10,000 for the Enex LP certificates and $115,513 for the LPF shares, respectively. The value of the LPF shares was determined by their closing price on the American Stock Exchange.

5. It is represented by the applicants that the proposed Sale of the Securities is in the best interests of the participants and beneficiaries because the Sale will protect their separate accounts from a decline in value and enable the liquid funds received from the Sale to be invested in better quality and higher yielding assets. The Sale will be a one-time transaction with the full purchase price paid in cash by Laporte on the date of the Sale. No commissions or other costs will be incurred by the Vinings Plans with respect to the Sale. For federal income tax purposes, if the consideration for the Sale is greater than the current fair market value of the Securities on the date of the Sale, Laporte intends to treat the difference as a special ocntribution to the Laporte Plans.[4]

6. In summary, the proposed Sale will satisfy the statutory criteria of section 408(a) of the Act because (a) the proposed Sale will be a one time transaction for cash; (b) the Vinings Plans will receive as consideration the greater of either their total investment in acquiring the Enex LP certificates or the current fair market value of the Enex LP certificates on the date of the Sale as determined by a qualified, independent appraiser and the consideration the Vinings Plans will receive for the LPF shares will be the greater of either the total investment in acquiring the LPF shares or the closing price on the American Stock Exchange on the date of the Sale; (c) the Vinings Plans will pay no commissions nor incur any expenses in connection with the proposed Sale; and (d) the separate accounts for the participants and beneficiaries of the Vinings Plans will avoid retaining the Securities which have significantly declined in value.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or an affiliate thereof) results in the plan either paying less or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan, and therefore must be examined under the applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404, and 415.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the follow:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan soley in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 31st day of October, 1989.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc: 89-25973 Filed 11-2-89; 8:45 am]

BILLING CODE 4510-29-M

[4] The applicants represent that the proposed contribution will not cause a violation of section 415 of the Code.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Arts in Education Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Arts in Education Advisory Panel (Arts in Schools Basic Education Grants/ Planning section) to the National Council on the Arts will be held on November 29, 1989, from 1:00 p.m.-5:00 p.m. and on November 30, 1989, from 9:00 a.m.-2:20 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on November 30, 1989, from 9:00 a.m.-2:30 p.m. The topic for discussion will be FY 1991 guidelines, program evaluation and policy issues.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington DC 20506 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

The remaining portion of this meeting on November 29, 1989, from 1:00 p.m.-5:00 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant

applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the pulbic pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained form Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 268–5433.

Yvonne M. Sabine,

Director Council and Panel Operations National Endowment for the Arts.

[FR Doc. 89–25960 Filed 11–2–89; 8:45 am]

BILLING CODE 7537–01–M

Inter-Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Review Committee for Dance on Tour section) to the National Council on the Arts will be held on November 18, 1989, from 9:00 a.m.—6:00 p.m. in room M14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics for discussion will be issues/draft of national plan for regional component of Dance on Tour.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Yvonne M. Sabine,

Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89–25961 Filed 11–2–89; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Orchestra Section) to the National Council on the Arts will be held on November 28, 1989—9:00 a.m.–6:30 p.m., November 29—9:00 a.m.–9:00 p.m., November 30—9:00 a.m.–10:00 p.m., December 1—9:00 a.m.–7:00 p.m., December 2—9:00 a.m.–3:30 p.m., in Rooms M14 and M09 of the Nancy Hanks Center, 1100 Pensylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on December 2, 1989, from 1:30 p.m.—3:30 p.m. The topic for discussion will be FY 1991 Music Ensembles guidelines and policy issues. The remaining portions of this meeting on November 28, 1989—9:00 a.m.–6:30 p.m., November 29—9:00 a.m.–9:00 p.m., November 30—9:00 a.m.–10:00 p.m., December 1—9:00 a.m.–7:00 p.m., December 2—9:00 a.m.–1:30 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89–25962 Filed 11–2–89; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

SUPPLEMENTARY INFORMATION: On September 25, 1989, the National Science Foundation published a notice in the Federal Register of permit applications received. Permits were issued to the following individuals on October 26, 1989: David F. Parmelee, Lowell E. Starr, Anne M. Grunow, R.M. Harler.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 89–25879 Filed 11–2–89; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing in Memphis, TN; Bridge Collapse

In connection with the investigation of the collapse of the U.S. 51 bridge spans over the Hatchie River near Covington, Tennessee, April 1, 1989, the National Transportation Safety Board will convene a public hearing at 9 a.m. (local time), on Tuesday, November 28, at the Omni Memphis Hotel, Tennessee Grand Ballroom, 939 Ridge Lake Boulevard, Memphis, Tennessee 38119. For more information contact Drucella Anderson, Office of Government and Public Affairs, National Transportation Safety Board, 800 Independence Avenue SW., Washington, DC 20594, telephone (202) 382–6603.

Dated: October 30, 1989.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc 89–25931 Filed 11–2–89; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–029]

Yankee Atomic Electric Co., Yankee Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–3 issued to Yankee Atomic Electric Company (the licensee) for operation of the Yankee Nuclear Power Station (YNPS) located in Franklin County, Massachusetts.

Environmental Assessment

Identification of Proposed Action

The licensee is proposing to change its Technical Specifications by eliminating the cycle-specific operating limits from various sections of the YNPS Technical Specifications; listing the approved methods; and describing the Core Operating Limits Report (COLR), which will contain the cycle-specific limits. The changes were in response to the NRC Generic Letter 88–16, which encouraged all licensees and applicants to eliminate the cycle-specific limits from the Technical Specifications.

The proposed action is in accordance with the licensee's application for amendment dated September 14, 1989.

The Need for the Proposed Action

The licensee presently generates the cycle-specific limits for each cycle using NRC-approved methods. For each cycle, the licensee generates and the NRC reviews a proposed Technical Specification change to the cycle-specific limits. This is an administrative burden on the NPC staff and Yankee because the limits are similar and the methods are the same for each cycle. The NRC recognizes this burden and has recommended that all licensees eliminate the cycle-specific limits from their Technical Specifications. Therefore, the licensee proposes these changes following the recommendations in Generic Letter 88–16.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the TS. The proposed revisions remove cycle-specific operating limits form the various sections of the YNPS Technical Specifications. The proposed changes do not increase the probability or consequences of any accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure.

Accordingly, the Commission concludes that this proposed action would result in no significant radiological environment impact.

With regard to potential non-radiological impacts, the proposed change to the Technical Specifications involves systems located within the restricted area as defined in 10 CFR part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the Federal Register on October 13, 1989. No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in not meeting NRC requirements.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in previous reviews for the Yankee Nuclear Power Station. The plant was licensed prior to the requirement for issuance of a Final Environmental Statement.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated September 14, 1989, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Dated at Rockville, Maryland, this 27th day of October 1989.

For the Nuclear Regulatory Commission.

Morton B. Fairtile,

Acting Director, Project Directorate I–3, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–25949 Filed 11–2–89; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–27397; File No. SR–MSTC–89–01]

Self-Regulatory Organizations; Midwest Securities Trust Company; Notice of Withdrawal of a Proposed Rule Change Regarding Limited Purpose Membership

October 27, 1989.

On April 6, 1989, Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] a proposed rule change that would establish a new limited category of MSTC participants who join MSTC for the sole purpose of facilitating settlement at another clearing agency through its Regional Interface Organizations.

Notice of the proposed change was published on April 18, 1989 to solicit comment from interested persons.[2] No letters of comment were received by the Commission. On September 18, 1989, MSTC withdrew the proposal.[3]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–25757 Filed 11–2–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–27396; File No. SR–NASD–89–29]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Amendments to the Examination Specifications and Study Outline for the Direct Participation Programs Limited Representative ("Series 22") Qualifications Examination

The National Association of Securities Dealers, Inc. ("NASD") submitted on July 11, 1989, a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder to amend the Examination Specifications and Study Outline for the Direct Participation

[1] 15 U.S.C. 78s(b)(1).

[2] *See* Securities Exchange Act Release No. 26744 (April 18, 1989 54 FR 18060 (April 26, 1989).

[3] Letter from Jeffrey Lewis, Associate Counsel, MSTC, to Ester Saverson, Jr., Branch Chief, Division of Market Regulation, Commission, dated September 14, 1989.

Programs Limited Representative ("Series 22") qualifications examination.

Notice of the proposed rule change together with its terms of substance was given by the issuance of a Commission release (Securities Exchange Act Release No. 37065, July 26, 1989) and by publication in the Federal Register (54 FR 31907, August 2, 1989). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, That the above-mentioned proposed rule change be, and hereby is, approved, effective January 1, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: October 27, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-25959 Filed 11-2-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27403; File No. SR-NASD-89-28]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Amendments to the Examination Specifications and Study Outline for the Direct Participating Programs Limited Principal ("Series 39") Qualifications Examination

The National Association of Securities Dealers, Inc. ("NASD") submitted on July 11, 1989, a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder to amend the examination specifications and study outline for the Direct Participation Programs Limited Principal ("Series 39") qualifications examination.

Notice of the proposed rule change together with its terms of substance was given by the issuance of a Commission release (Securities Exchange Act Release No. 27066, July 26, 1989) and by publication in the Federal Register (54 FR 31908, August 2, 1989). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved, effective January 1, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: October 30, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-25958 Filed 11-2-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Office of the Under Secretary for Economic and Agricultural Affairs

[Public Notice 1139]

Receipt of Application for a Permit for a Pipeline To Be Constructed and Maintained on the Borders of the United States

AGENCY: Department of State.

The Department of State has received an application from Boise-Cascade Corporation for a permit, pursuant to Executive Order 11423 of August 16, 1968, to construct, connect, operate and maintain at the United States/Canada border one pipeline, in addition to three existing pipelines crossing the Rainy River between International Falls, Minnesota, and Fort Francis, Ontario. Boise-Cascade is a Delaware Corporation having its principal office located in Boise, Idaho. The pipeline to be constructed would be used for the transport of pulp paper.

Dated: October 19, 1989.

Richard T. McCormack,

Under Secretary of State for Economic and Agricultural Affairs.

[FR Doc 89-25934 Filed 11-2-89; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended October 27, 1989

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 46565.

Date filed: October 24, 1989.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 21, 1989.

Description: Application of Mayacarga Internacional, SA. De C.V., pursuant to section 402 of the Act and subpart Q of the Regulations seeks authority to provide charter foreign air transportation of property and mail between Merida, Yucatan, Mexico and Miami, Florida with possible intermediate points in Mexico and the United States and, subject to the regulations of the Department, between points in the United States and other points worldwide.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 89-25930 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RSSI-89-1, Notice No. 1]

Special Safety Inquiry; Railroad Reporting Requirements

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Special Safety Inquiry.

SUMMARY: FRA is initiating a Special Safety Inquiry to examine FRA-imposed railroad safety reporting requirements. The inquiry is meant to explore whether the reporting process results in accurate data and whether there are methods of improving the process.

DATES: (1) A public hearing will be held at 10:00 a.m. on January 16, 1990, in Room 2230 of the Nassif Building, 400 Seventh Street SW., Washington, DC. Any person who desires to make an oral statement at the hearing is requested to notify the Docket Clerk at least five working days prior to the hearing, by phone or by mail and must submit three copies of the oral statement that he or she intends to make at the hearing.

(2) Written comments must be received no later than January 11, 1990. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

ADDRESSES: (1) Written comments should be submitted to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street SW., Washington, DC 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for comments, during regular business hours in Room 8201 of the Nassif Building at the above address.

(2) A public hearing will be held in Room 2230 of the Nassif Building, 400 Seventh Street SW., Washington, DC. Persons desiring to make oral statements at the hearing should notify the Docket Clerk by telephone (202–366–0628) or by writing to the Docket Clerk at the address above.

FOR FURTHER INFORMATION CONTACT: Bruce Fine, Chief, Office of Safety Analysis, Office of Safety, FRA, 400 Seventh Street SW., Washington, DC 20590 (telephone 202–366–0522), or Mark Tessler, Office of Chief Counsel, FRA, 400 Seventh Street SW., Washington, DC 20590 (telephone 202–366–0628).

SUPPLEMENTARY INFORMATION: FRA's primary function is to promote safety within the railroad industry. In order to protect railroad employees, travelers, and the public at large, FRA must have an accurate picture of the safety situation within the industry. FRA's safety mission can only be effective if its regulations and enforcement activities are geared towards real problems, rather than ones merely perceived. Thus, accurate safety data is the cornerstone of an effective rail safety program. Because of that, various FRA rail safety regulations require that reports be filed with the agency, some on a periodic basis, and others upon the occurrence of a specified event.

The General Accounting Office (GAO) recently issued a report (GAO/RCED–89–109 Railroad Safety) regarding the accuracy of railroad injury and accident data and FRA efforts for ensuring the accuracy of that data. GAO has pointed out important areas in need of improvement and FRA plans to make necessary improvements. Towards that end, FRA will, in the very near future, be initiating a separate rulemaking proceeding focusing exclusively on improvements in the accident/injury reporting systems.

This inquiry is being initiated because FRA is concerned that issues similar to those raised by the GAO in the accident reporting context may extend to other required railroad safety-related reports. GAO's concern about accident reporting led it to recommend that FRA: require that railroads establish injury and accident reporting internal control procedures; include an analysis of railroads' internal control procedures for reporting in FRA's inspections; and provide inspectors with the authority to take enforcement actions against railroads with inadequate internal control procedures.

Our paramount concern is that the information received by FRA be accurate and complete. We also want to ensure that only those reporting requirements necessary for the proper performance of FRA's safety function are imposed on the railroads, while minimizing the cost to the railroad of providing the information. If the information is not needed, we should not collect it. Similarly, if the information, while valuable, can be collected and reported on either a different schedule or through a different, less expensive means, we want to know about it.

We urge interested parties to share their views regarding safety-related reporting requirements listed in the Appendix to this notice. As noted above, accident reporting requirements will be the subject of a separate rulemaking in the near future and thus will not be considered in this inquiry. Similarly, because alcohol and drug test reporting is currently the subject of a separate rulemaking (49 FR 39646, September 27, 1989), it will not be addressed in this proceeding.

We encourage interested parties to comment on the following questions and on any other issue falling within the scope of this inquiry—the following list is illustrative, not all-inclusive. Where appropriate, please identify the specific reporting requirement you are referring to.

1. Do the FRA reporting requirements summarized in the Appendix promote the submission of accurate data to FRA? If not, how can the system be improved? What costs would be associated with your suggested improvements?

2. If there are inaccuracies in the reporting system, what improvements in railroads' internal control procedures would reduce or eliminate the problem?

3. Should FRA impose specific internal control procedures on the railroads to assure proper reporting? What should those internal procedures consist of? What additional costs would be incurred?

4. Should deviations from such prescribed procedures render the railroads liable for civil penalties?

5. Intstead of specific, prescribed procedures for internal control, would you favor FRA-established, generic standards for such procedures that would apply regardless of the differences among railroads?

6. A railroad is given a specific period of time to report after the occurrence of an event requiring FRA notification. Are these periods long enough for the railroad to collect accurate information? Are they too long? Please be specific regarding the reporting requirement you are addressing.

7. Should there be a two-tier reporting process, with an initial report followed up by a later, ostensibly more accurate, individual report? Or should there be a later more complete report which consolidates the data of the early individual reports?

8. Are FRA's instructions for filing required data clear and informative? If not, how could the instructions be improved to eliminate any confusion? Please be as specific as possible.

9. Could the method of reporting data to the FRA be improved? How?

10. What is your view as to the availability of electronic transfer of data. Would there be compatibility problems, and if so, how could they be overcome? How would such data transfer affect the speed and accuracy of a railroad's reporting? What would be the short term and long term effect of electronic transfers on the costs required to fulfill the reporting requirements?

11. Would electronic data transfer affect the ability of FRA to determine compliance with the reporting requirements?

Appendix

One-Time Reports

49 CFR part 215—Report regarding freight cars used in dedicated service.

49 CFR part 216—Report when freight cars, locomotives, or track is returned to service following Special Notice for Repairs.

49 CFR part 217—File copy (and each amendment) of operating rules;
File program (and each amendment) for operational testing; and
File program (and each amendment) for instruction on operating rules.

49 CFR part 229—Report (both telephone and written confirmation) of accident due to a locomotive failure or coming into contact with an electrically energized part.
49 CFR part 233—Report within 24 hours of accident/incidents arising from signal system failure.
Report within 15 days of signal system failure.

Periodic Reports

49 CFR part 217—Annual reports regarding operational tests and inspections.
49 CFR part 228—Monthly reports of excess service.
49 CFR part 233—Annual signal system report.

Issued in Washington, DC, on October 27, 1989.

Gilbert E. Carmichael,

Administrator.

[FR Doc. 89-25894 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-06-M

[Order 89-10-62, Docket 46577]

Order Instituting Chicago-Prestwick/Glasgow Service Proceeding

AGENCY: Department of Transportation.

ACTION: Institution of the *Chicago-Prestwick/Glasgow Service Proceeding.*

SUMMARY: By Order 89-9-52, the Department invited applications from U.S. carriers to provide scheduled foreign air transportation between the United States and Prestwick/Glasgow, Scotland. United Air Lines and American Airlines have responded to Order 89-9-52 expressing their interest in serving between Chicago, Illinois, and Prestwick/Glasgow, Scotland. Pursuant to the U.S.-U.K. Air Services agreement, only one U.S. carrier may be designated on the route. Accordingly, the Department has decided to institute the *Chicago-Prestwick/Glasgow Service Proceeding*, Docket 46577, to select a primary and a backup carrier to provide scheduled combination service in the Chicago-Prestwick/Glasgow, Scotland market. The Department has also placed at issue the public convenience and necessity of renewing the certificate authority of Northwest Airlines to serve the Chicago-Glasgow market. The Department has set an expedited schedule for processing this case to facilitate commencement of service in summer 1990.

DATES: Petitions for leave to intervene, and petitions for reconsideration of Order 89-10-62, should be filed by November 7, 1989. Answers should be filed by November 13, 1989.

ADDRESSES: Petitions for leave to intervene, petitions for reconsideration, etc. should be filed in Docket 46577, addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW, Room 4107, Washington, DC 20590, and should be served on all parties in Docket 46577, as well as the Office of Hearings, Room 9228, at the same address.

Date: October 31, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-26069 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Tax on Certain Imported Substances; Notice of Filing of Petition

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance under Notice 89-61, 1989-21 I.R.B. 25, of petitions requesting that *2-ethyl hexanol, bisphenol-A,* and *alpha-methylstyrene* be added to the list of taxable substances in section 6472(a)(3) of the Internal Revenue Code. Publication of this notice is in compliance with Notice 89-61. This is not a determination that the list of taxable substances should be modified.

DATES: Written comments and requests for a public hearing relating to these petitions must be delivered or mailed by January 2, 1989.

ADDRESS: Send comments and requests for a public hearing to the Internal Revenue Service, Attention: CC:CORP:T:R (Petition), Room 4429, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, Office of Assistant Chief Counsel (Passthroughs and Special Industries). Telephone 202-566-4475 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petitions were received on August 18, 1989. The petitioner is Aristech Chemical Corporation, a manufacturer and exporter of these substances. The following is a summary of the information contained in the petitions. The complete petitions are available in the Internal Revenue Service Freedom of Information Reading Room.

2-Ethyl Hexanol

Harmonized Tariff System number: 290516 0010
Schedule B number: 290516 0010
Chemical Abstract Service number: 104-76-7

This substance is derived from the taxable chemical *propylene.* 2-ethyl hexanol is produced by the oxo process.

The stoichiometric material consumption formula for this substance is:

$2\ C_3H_6$ propylene $+ 2$ CO carbon monoxide $+ 4\ H_2$ hydrogen $\rightarrow C_4H_9CHC_2H_5CH_2OH$ 2-ethyl hexanol $+ H_2O$ water

According to the petition, taxable chemicals constitute 59.2 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $3.90 per ton. This is based upon a conversion factor for propylene of 0.80.

Bisphenol-A

Harmonized Tariff System number: 290723 0000
Schedule B number: 290723 0000
Chemical Abstract Service number: not given

This substance is derived from the taxable chemicals *benzene* and *propylene.* Bisphenol-A is produced by the acid catalyzed reaction of phenol with acetone.

The stoichiometric material consumption formula for this substance is:

$2\ C_6H_6$ benzene $+ 2\ C_3H_6$ propylene $+ 2\ O_2$ oxygen $\rightarrow C_{15}H_{16}O_2$ bisphenol-A $+ C_3H_6O$ acetone $+ H_2O$ water

According to the petition, taxable chemicals constitute 78.8 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $6.63 per ton. This is based upon a conversion factor for benzene of 0.885 and a conversion factor for propylene of 0.476.

Alpha-methylstyrene

Harmonized Tariff System number: 290290 0000
Schedule B number: 290290 0000
Chemical Abstract Service number: not given

This substance is derived from the taxable chemicals *benzene* and *propylene.* Alpha-methylstyrene is recovered as a byproduct from the cumene oxidation process for the production of phenol-acetone.

The stoichiometric material consumption formula for this substance is:

C_6H_6 benzene $+ C_3H_6$ propylene $+ \frac{1}{2}\ O_2$ oxygen $\rightarrow C_9H_{10}$ alpha-methylstyrene $+ H_2O$ water

According to the petition, taxable chemicals constitute 79.5 percent by weight of the materials used to produce

this substance. The rate of tax for this substance would be $4.97 per ton. This is based upon a conversion factor for benzene of 0.66 and a conversion factor for propylene of 0.36.

Dale D. Goode,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 89-25874 Filed 1-2-89; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 212
Friday, November 3, 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 44005.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 11:00 a.m., Thursday, November 2, 1989.

CHANGE IN THE MEETING: The Commission has postponed the closed meeting to discuss a rule enforcement review until 11:30 a.m., Friday, November 3, 1989.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, Secretary of the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-26134 Filed 11-1-89; 2:26 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, November 21, 1989.

PLACE: 2033 K St., NW., Washington, DC, 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Applications for contract market designations submitted by Chicago Mercantile Exchange to trade British Pound Sterling, West German Deutschemark, and Japanese Yen Differential options

Application for contract designation submitted by AMEX Commodity Corporation to trade Two-Year Treasury Notes futures

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-26135 Filed 11-1-89; 2:26 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10:00 a.m., Tuesday, November 28, 1989.

PLACE: 2033 K St., NW, Washington, DC., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Program Objectives, Second Quarter, FY 1990.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-26136 Filed 11-1-89; 2:26 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:30 a.m., Tuesday, November 28, 1989.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Objectives.

CONTACT PERSON FOR MORE INFORMATION: Jean A Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-36137 Filed 11-1-89; 2:26 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Tuesday, November 28, 1989.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-26138 Filed 11-1-89; 2:26 pm]

BILLING CODE 6351-01-M

FEDEAL ELECTION COMISSION

"FEDERAL REGISER" NO. 89-26001

PREVIOUSLY ANNOUNCED DATES AND TIMES:

By direction of the Federal Election Commission, the following meetings have been cancelled:

Tuesday, November 7, 1989—Closed Meeting

Thursday, November 9, 1989—Open Meeting

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: (202) 376-3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 89-26107 Filed 11-1-89; 12:51 pm]

BILLING CODE 6715-01-M

LEGAL SERVICES CORPORATION

Board of Directors; Meeting

TIME AND DATE: The Board of Directors meeting will be held on November 10, 1989. The meeting will commence at 9:00 a.m. and continue until all official business is completed.

PLACE: Old Town Holiday Inn, Ballroom Brent I, 840 King St., Alexandria, VA 22314.

STATUS OF MEETING: Open [A portion of the meeting may be closed subject to the recorded vote of a majority of the Board of Directors to discuss privileged or confidential, personal, investigatory and litigation matters under the Government in the Sunshine Act [5 U.S.C. 552b (c) (4), (5), (7), and (10) and 45 CFR 1622.5 (c), (d), (f), and (h)].

MATTERS TO BE CONSIDERED: The meeting may be partly closed for reasons cited above, subject to an advance recorded vote of a majority of the Board of Directors.

1. Approval of Agenda.
2. Approval of Minutes.
   —June 13, 1989
3. Report on President Wear's trip to address the California Legal Services Trust Fund Commission.
4. Report and Accounting of the Use of Outside Law Firms by Corporation Staff.
5. Report and Accounting of the Pursuit of Lobbying Activities by Corporation Staff.
6. Discussion and Approval of Fiscal Year 1991 Budget Mark.
7. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: Maureen R. Bozell, Executive Office, (202) 863-1839.

Date Issued: November 1, 1989.

Maureen R. Bozell,

Corporation Secretary.

[FR Doc. 89-26147 Filed 11-1-89; 3:41 pm]

BILLING CODE 7050-01-M

RESOLUTION TRUST CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that

the Resolution Trust Corporation's Board of Directors will meet in open session at 2:30 p.m. on Tuesday, November 7, 1989, to consider the following matters:

Resolution Program for Minority Institutions

This program implements provisions of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") to encourage the continued minority ownership of failed minority-owned thrift institutions.

Minority and Women Outreach Contracting Program

This program implements provisions of FIRREA to ensure that minority-and women-owned companies or individuals are given the opportunity to participate fully in all contractual activities that the Corporation enters into for the goods and services required to manage and dispose of assets acquired from failed thrift institutions.

The meeting will be held in the Board Room of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. John M. Buckley, Jr., Executive Secretary of the Corporation, at (202) 898–3604.

Dated: October 31, 1989.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 89–26032 Filed 10–31–89; 4:47 pm]

BILLING CODE 6714-01-M

Corrections

Federal Register
Vol. 54, No. 212
day, November 3, 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.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3 and 31

Leverage Transactions

Correction

In rule document 89-23452 beginning on page 41068 in the issue of Thursday, October 5, 1989, make the following corrections:

§ 3.33 [Corrected]

1. On page 41078, in the second column, in the fifth line, "For7-R"should read "Form 7-R".

2. On page 41080, in the first column, in amendatory instruction 14, in the fifth and eighth lines, "bold-face" should read "bold-faced".

§ 31.11 [Corrected]

3. On page 41080, in § 31.11(a)(1), in the first line, "bold-face" should read "bold-faced".

4. On the same page, in the same column, in § 31.11(e)(2), in the first line, "Submit" should read "Subject".

§ 31.12 [Corrected]

5. On page 41081, in the second column, in § 31.12(h), in the 10th line, insert "rules," following "bylaws,".

§ 31.29 [Corrected]

6. On page 41084, in the first column, in § 31.29, in the 12th line, insert "or any employee of a member leverage transaction merchant" following "merchant".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Notice of Annual List of Labor Surplus Areas

Correction

In notice document 89-25020 beginning on page 43353 in the issue of Tuesday, October 24, 1989, make the following corrections:

1. On page 43354, in the third column, under **ARIZONA**, in the left hand column insert "Flagstaff City" after "Balance of Coconino County".

2. On page 43360, in the first column, under "Eligible labor surplus areas" and "Civil jurisdictions included", insert "Wright County" as the last entry.

3. On page 43361, in the third column, under **PUERTO RICO**, after the 29th entry in both columns, insert "Guayama Municipio".

4. On page 43362, in the table, in the third and fourth columns, under **TEXAS**, the fourth entry (in both columns) should read, "Aransas County".

5. On page 43364, the file line at the end of the document was omitted and should have appeared as follows:

[FR Doc. 89-25020 Filed 10-23-89; 8:45am]

BILLING CODE 1505-01-D

federal register

Friday
November 3, 1989

Part II

Department of Housing and Urban Development

Office of the Secretary

24 CFR Parts 200, 215, 221, 236, 247, 290, 760, 813, 880, 881, 882, 883, 884, 885, 886, 887, 900, 904, 905, 913, and 960

Income Verification Procedures for Applicants and Participants in HUD Programs; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 200, 215, 221, 236, 247, 290, 760, 813, 880, 881, 882, 883, 884, 885, 886, 887, 900, 904, 905, 913, and 960

[Docket No. R-89-1445; FR-2588-P-01]

RIN No. 2501-AA80

Income Verification Procedures for Applicants and Participants in HUD Programs

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This rule would govern the collection and use of wage and claim information and the collection of employee income information about applicants and participants in HUD's assisted housing programs. This rule would require these applicants and participants to sign and submit consent forms when they apply for participation in a program subject to this rule, or when their continuing eligibility to participate in a program is determined. These consent forms would permit (1) HUD, the Public Housing Agency (PHA), or the owner responsible for determining eligibility for or level of benefits to verify employee income information with previous or current employers, and (2) HUD or the PHA to request wage and claim information from the State agency responsible for the administration of the State unemployment law (State Wage Information Collection Agency [SWICA]). Failure of any applicant or participant to sign the required consent form would constitute grounds for denying eligibility, or continuing eligibility, under the program involved. The rule would help decrease the incidence of fraud, waste, and abuse in these programs. Covered programs would include housing assistance programs under 24 CFR chapter II, Subchapter B; and the section 8 and Public and Indian Housing programs under 24 CFR chapters VIII and IX.

This rule would provide protections for applicants and participants in HUD programs from improper use of wage and claim information obtained from a SWICA by HUD or a PHA by restricting the use of the information to official purposes. This rule would also prohibit termination, denial, suspension, or reduction of benefits unless the information is independently verified and the applicant or participant has an opportunity to contest adverse findings.

This rule would also provide criminal and civil penalties in certain circumstances.

DATES: Comments must be received by January 2, 1990.

ADDRESSES: Comments on the rule: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of the General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection by interested persons during regular business hours (7:30 a.m. to 5:00 p.m. weekdays) in the Office of the Rules Docket Clerk at the address listed above.

FOR FURTHER INFORMATION CONTACT: For the Section 8 programs administered by the Assistant Secretary for Housing: James Tahash, Director of Planning and Procedures, Office of Multifamily Housing Management, room 6182, 451 7th St., SW., Washington, DC 20410, telephone number (202) 426-3944 (TDD number (202) 755-0455). For the 202 Elderly and Handicapped program administered by the Assistant Secretary for Housing: Robert Wilden, Director, Assisted Elderly and Handicapped Division, room 6116, 451 7th St., SW., Washington, DC 20410, telephone number (202) 426-8730. For the Public Housing program administered by the Assistant Secretary for Public and Indian Housing: Edward C. Whipple, Chief, Occupancy Branch, Office of Public Housing, room 4206, 451 7th St., SW., Washington, DC 20410, telephone number (202) 426-0744 (TTD number (202) 245-0850). For the Indian Housing program administered by the Assistant Secretary for Public and Indian Housing: Dom Nessi, Director, Office of Indian Housing, room 4232, 451 7th St., SW., Washington, DC 20410, telephone number (202) 755-1015 (TDD number (202) 426-0744). For questions concerning the submission and use of consent forms: Dennis Raschka, Director, Fraud Control Division, Office of Inspector General, room 8254, 451 7th St., SW., Washington, DC 20410, telephone (202) 426-6493 (TDD number (202) 426-0015). None of these telephone numbers are toll-free.

As a convenience to commenters, the Rules Docket Clerk will accept brief public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 755-2575. (This is not a toll-free number.) Only public comments of six or fewer *total* pages will be accepted via FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will *not* be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk at (202) 755-7084.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act of 1980

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. Public reporting burden for the collection of information requirements contained in this rule are estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information, and filling out the consent forms. Information on the estimated public reporting burden is provided later in this preamble under the subheading, "Findings and Certifications." Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 7th St., SW., room 10276, Washington, DC 20420; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

II. Statutory Basis

This proposed rule would implement section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628, approved November 7, 1988) ("McKinney Amendments") for a number of HUD programs.

Section 904(a), Definitions, requires HUD to define the terms "applicant" and "participant" by regulation. It specifies, however, that the terms shall include members of an applicant's or participant's household, but not include persons acting purely in their official capacity, such as State or local government officials or officers of lending institutions.

Section 904(b), Applicant and Participant Consent, permits HUD to require applicants and participants (and members of their households) in any HUD program involving initial and periodic review of an applicant's or participant's income, to sign a consent

form authorizing (1) HUD, the PHA, or the owner to verify employee income information from current or previous employers; and (2) HUD or the PHA to request a SWICA to release wage and claim information. This subsection specifies that the consent may not be used to request taxpayer information protected by section 6103 of the Internal Revenue Code of 1986. Signing the consent form is made an explicit condition of initial or continuing eligibility for participation in the covered programs. This requirement is designed to ensure correct determinations of eligibility for and level of benefits are made under these programs.

Section 904(c)(1), Amendments to Social Security Act, adds a new section 303(i) to the Social Security Act, which requires SWICAs to disclose wage and claim information to HUD and PHAs with respect to individuals who are applying for or participating in any covered HUD assisted housing program and who have signed an appropriate consent form. Regulations prescribed by the Secretary of Labor will govern how often and in what form this information may be disclosed. The Department of Labor is required, after notice and hearing, to terminate further payments under the Social Security Act to a State where a SWICA has failed to substantially comply with a request for information. The new subsection 303(i) will expire on October 1, 1994, unless extended.

Section 904(c)(2), Applicant and Participant Protections, protects applicants and participants from the improper use by HUD or a PHA of information obtained under section 303(i) of the Social Security Act by restricting the use of the information to (1) verifying an applicant's or participant's eligibility for or level of benefits, or (2) informing the owner that the applicant's or participant's eligibility is uncertain and needs to be verified. This section prohibits the termination, denial, suspension, or reduction of benefits without prior independent verification of the wage and claim information. The applicant or participant must also be notified of adverse findings and be given an opportunity to contest them.

Section 904(c)(3), Penalty, provides that any person who knowingly and willfully requests or obtains under false pretenses any wage and claim information concerning an applicant or participant from a SWICA under this authority or who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. This penalty applies to officers or employees of HUD, to officers or employees of PHAs, and to any owner (or employee of an owner) responsible for determining eligibility for or level of benefits. This subsection also gives applicants and participants a right of action for damages and other relief against an officer or employee of any public housing agency or owner (or employee of an owner) if the applicant or participant is affected by (1) a negligent or knowing disclosure of information referred to in section 904 of the McKinney Amendents or section 303(i) of the Social Security Act about such person by the officer or employee of the PHA or the owner (or employee of an owner) which is not authorized by section 904, section 303(i), or any implementing regulation or (2) any other negligent or knowing action that is inconsistent with section 904, section 303(i), or any implementing regulation.

Section 904(d), Effective Date, provides for this section to take effect no earlier than September 30, 1989 with one exception. This exception gives a State or an agency of a State, with the approval of the Secretary of Labor, the option of implementating the provisions governing the collection of wage and claim information on any date which is after February 5, 1989 (90 calendar days after November 7, 1988, the date of enactment of the McKinney Amendments), but before September 30, 1989. In the case of any State legislature which has not been in session for at least 30 calendar days (consecutive or not) between November 7, 1988 and September 30, 1989, the provisions governing the collection of wage and claim information shall take effect 30 calendar days after the first day on which the legislature is in session on or after September 30, 1989.

III. Structure of Rule

This proposed rule would implement the requirements governing the collection and use of wage and claim information obtained from a SWICA and of employee income information, including requirements pertaining to the signing and submission of consent forms, through two independent, but parallel, provisions. These are:

1. 24 CFR part 200, subpart V: This subpart would cover the Rent Supplement program; the section 221(d)(3) BMIR and 236 programs; and activity under 24 CFR part 290, Management and Preservation of HUD Multifamily Projects.

2. 24 CFR part 760: This part would cover the public housing and section 8 housing assistance programs administered by HUD under 24 CFR chapters VIII and IX.

The remainder of the rule contains conforming changes that are designed to incorporate the proposed consent form requirements into the existing regulatory provisions to which the rule would apply. Readers should review these changes carefully to determine matters such as the timing and context of the required signing of consent forms and the effect upon eligibility, or continued eligibility, caused by a failure to meet the requirements.

A. Programs Covered by the Rule

The information collection requirements, including consent form requirements, contained in this proposed rule would apply to the following programs:

1. 24 CFR part 200, subpart V, as follows:

(a) Rent Supplement Payments under part 215.

(b) Low Cost and Moderate Income Mortgage Insurance for Below Market Interest Rate (BMIR) Mortgages under part 221.

(c) Mortgage Insurance and Interest Reduction Payments for Rental Projects under part 236.

(d) Management of HUD-Owned Multifamily Housing Projects under part 290.

2. 24 CFR part 760. The Section 8 and Public and Indian Housing programs, as follows:

(a) Section 8 Housing Assistance Payments for New Construction under part 880.

(b) Section 8 Housing Assistance Program for Substantial Rehabilitation under part 881.

(c) Section 8 Housing Assistance Payments for Housing Certificates and Moderate Rehabilitation under part 882.

(d) Section 8 Housing Assistance Payments, State Housing Agencies, under part 883.

(e) Section 8 Housing Assistance Payments, New Construction Set-Aside for section 515 Rural Rental Housing Projects under part 884.

(f) Loans for Housing for the Elderly or Handicapped under part 885.

(g) Section 8 Housing Assistance Payments, Special Allocations under part 886, subpart A (Loan Management) and subpart C (Property Disposition).

(h) Section 8 Housing Vouchers under part 887.

(i) Section 23 Housing Assistance Payments, New Construction and Substantial Rehabilitation, under part 900.

(j) Low Rent Housing Homeownership Opportunities under part 904.

(k) Indian Housing under part 905.

(l) Admission to, and Occupancy of, Public Housing under part 960.

B. "Applicants" Subject to the Rule

The following is a complete list of "applicants" who would be covered under the rule:

1. 24 CFR part 200, subpart V: An individual or family that seeks assistance under part 215, 221 (BMIR), 236, or 290.

2. 24 CFR part 760.

(a) An individual or family wishing to participate, or to receive assistance, as appropriate, under part 880, 881, 882, 883, 884, 885, 886, 887, and 900.

(b) A prospective homebuyer under part 904.

(c) A prospective tenant or homebuyer under part 905.

(d) A prospective tenant under part 960.

C. "Participants" Subject to the Rule

The following is a complete list of "participants" who would be covered under the rule:

1. 24 CFR part 200, subpart V: A tenant or qualified tenant under part 215, 221 (BMIR), 236, or 290.

2. 24 CFR part 760.

(a) A family receiving assistance under parts 880, 881, 882, 883, 884, 885, 886, 887, and 900.

(b) A homebuyer under part 904.

(c) A homebuyer or tenant under part 905.

(d) A tenant under part 960.

D. Exclusion of Certain Individuals and Entities from the Rule's Coverage

Section 904 of the McKinney Amendments excludes from its coverage those persons whose participation in a covered program is limited to their official capacity, such as State or local government officials or officials of lending institutions. The Department believes that this provision is designed to exclude individuals whose sole function with respect to a transaction under a covered program is to *facilitate* the objective of the transaction.

Thus, using the statutory examples, officials and employees of a State Housing Finance Agency that is serving as contract administrator under the Section 8 State Agency program (Part 883) would not have to sign consent forms for purposes of carrying out their responsibilities for the Agency.

These statutory exclusions reflect the fact that the State or local agencies and private owners, as well as their officials, do not *participate* in the program involved: their role is limited to aiding the successful completion of the transaction. Thus, these entities do not have a sufficiently strong link to the transaction to justify execution of consent forms.

The rule would also exclude from the consent requirements public housing agencies (PHAs) that participate in any covered program, irrespective of whether the PHA is acting as a facilitator (for example, as a section 8 contract administrator), or as an actual participant (as where the PHA is a section 8 project owner or the owner or operator of public housing). The rule would also exclude from the consent requirements any "entity applicant" (including its officers or employees) under the covered programs, such as any partnership, corporation, or any other association or entity, either non-profit or for profit, that seeks to participate as a private owner in any of the programs contained in 24 CFR part 215, 221, 236, 880, 881, 882, 883, 884, 885, 886, or 887. It would also exclude any individual who seeks to participate as a private owner in any of the programs contained in 24 CFR part 221, 236, 880, 881, 883, 884, 886, or 887. However, any employee of one of the aforementioned entities who is an applicant for or participant in a covered program would still be subject to the consent form requirements.

The exclusions cited above are based upon the discretion accorded the Department by section 904(a) of the McKinney Amendments to define the terms "applicant" and "participant." The Department does not believe the collection of wage and claim information or employee income information from the officers and employees of these entities or from private owners will be sufficiently useful in combatting fraud, waste, and abuse to justify HUD requiring these persons to sign consent forms.

E. Other Definitions

1. *Claim information.* "Claim information" would be defined as information regarding:

(a) Whether an individual is receiving, has received or has applied for unemployment compensation;

(b) The amount of compensation the individual is receiving or is entitled to receive; and

(c) The period or periods when, or with respect to which, the individual actually received such compensation.

This definition is consistent with the description of information, other than wage information, that HUD or a PHA is explicitly authorized to request from a State agency under section 303(i) of the Social Security Act, as amended by section 904 of the McKinney Amendments. (See the definition of "wage information.") Paragraph (c) of the definition is also properly included as part of the definition since section 904(c)(1)(B) of the McKinney Amendments prohibits the termination, denial, suspension, or reduction of benefits for applicants or participants, as applicable, based on wage and claim information without first independently verifying, among other things, information relating to the period or periods when or with respect to which, the applicant or participant actually received unemployment compensation benefits.

2. *Computer Matching.* "Computer matching" would be defined as the automated comparison of data bases containing records about individuals.

3. *Computer Matching Agreement.* "Computer matching agreement" would be defined as the agreement which describes the responsibilities and obligations of the parties regarding a computer match.

4. *Consent form.* "Consent form" would be defined as a consent form or forms approved by HUD to be signed by applicants and participants for the purpose of obtaining employee income information from employers and wage and claim information from SWICAs. These consent forms may also be used to collect other information, including information which may be obtained under other laws, regulations, and handbooks.

5. *Employee income information.* "Employee income information" would be defined as all the information known to current or previous employers which HUD or the processing entity determines to be necessary for purposes of determining an applicant's or participant's eligibility for or level of benefits in a covered program.

6. *HUD.* "HUD" would be defined as the United States Department of Housing and Urban Development.

7. *Owner.* "Owner" would be defined as the person or entity (or employee of an owner) that leases an assisted dwelling unit to an eligible family.

8. *Public Housing Agency (PHA).* "Public Housing Agency (PHA)" would be defined as any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) that is authorized to engage in or assist in the development or operation of housing for lower income families under 24 CFR Chapters VIII or IX. The term includes Indian housing authorities.

9. *Processing entity.* "Processing entity" would be defined as the person

or entity that is responsible for making eligibility determinations and any interim or regularly scheduled income reexaminations under any of the covered programs. Examples of "processing entity" would include private owners, PHA owners, or management agents under the Section 8 program; PHAs or Indian housing authorities (IHAs) that own and operate Public or Indian Housing projects; PHAs or IHAs that act as section 8 contract administrators for the Certificate, Moderate Rehabilitation, and Housing Voucher programs and owners of section 236, 221(d)(3) BMIR, or Rent Supplement projects.

10. *State Wage Information Collection Agency (SWICA)* means the State agency receiving quarterly wage reports from employers in the State (which may be the agency administering the State's unemployment compensation program), or an alternative system which has been determined by the Secretary of Labor, to be as effective and timely in providing employment related income and eligibility information.

11. *Wage information.* "Wage information" would be defined as information about wages as defined in the State's unemployment compensation law and includes the Social Security Number (or numbers, if more than one) and quarterly wages of an employee, and the name, address, State, and (when known) Federal employer identification number of an employer reporting wages under a State unemployment compensation law.

This definition is adopted from the definition of "wage information" used by the Department of Labor for purposes of the income and eligibility verification system required under section 303(f) of the Social Security Act (see 20 CFR 603.2(b)). We have not included the part of that definition which provides an alternative definition for "wage information" for States in which wages are not required to be reported under the unemployment compensation law. That part of the definition is not applicable to section 303(f)(1)(A) of the Social Security Act, which only requires disclosure of information contained in the records of SWICAs.

F. Interaction with the Social Security Number Regulation

This proposed rule would operate in conjunction with the final rule which implements section 165 of the Housing and Community Development Act of 1987 ("1987 Act") (54 FR 39680; September 27, 1989). Section 165 of the 1987 Act authorizes HUD to require applicants and participants in certain HUD programs, including the ones covered by this rule, to disclose their Social Security Numbers (SSNs) or Employer Identification Numbers (EINs). SSNs obtained under that final rule would be used in computer matching programs to compare income information provided by the family with wage and claim information maintained by SWICAs, the disclosure of which would be authorized by this proposed rule. HUD anticipates that computer matching programs will be the primary method by which HUD and PHAs obtain wage and claim information from SWICAs, although requests relating to one or a few families may be possible depending on the matching agreements entered into between SWICAs and HUD or between SWICAs and individual PHAs. This proposed rule incorporates the changes made by the final SSN regulation.

G. Information to be Covered by Consent Forms

Section 760.3 and § 200.1203 would specify that the information covered by consent forms signed by applicants and participants under this rule would be (a) employee income information; and (b) wage and claim information from a SWICA. The rule would explicitly prohibit the use of the consent forms for requesting taxpayer return information protected by section 6103 of the Internal Revenue Code of 1986. The consent forms could be designed to cover the collection of the information specified in item (a) or item (b) above, or both. Moreover, the consent forms could be used to collect other information which can be obtained under other laws, regulations, and handbooks. General authority to obtain information relating to eligibility is provided in the program specific regulations for the assisted housing programs contained in 24 CFR Chapter II, Subchapter B. More specific guidance is provided through administrative instructions in program handbooks. For the section 8 and Public Housing programs, respectively, 24 CFR 813.109(b) and 24 CFR 913.109(b) authorizes, as a condition of eligibility or continuing eligibility, applicants and participants in the Section 8 and Public Housing (including Indian Housing) programs to sign consent forms authorizing any depository or private source of income, or any Federal, State, or local agency, to furnish or release to the PHA or owner and to HUD such information as the PHA, owner, or HUD determines to be necessary. Information is determined to be necessary if it is to be used to determine or audit a family's eligibility to receive housing assistance, to determine the Family's Adjusted Income or Tenant Rent, to verify related information, or to monitor compliance with equal opportunity requirements.

This regulation is in no way intended to interfere with HUD's current authority to obtain information, including employee income information and wage and claim information, necessary to determine an applicant's or participants eligibility for or level of benefits. Section 904, instead, provides explicit authority to obtain wage and claim information in order to preempt certain State privacy acts which limit the ability of HUD and PHAs to collect wage and claim information from SWICAs. These State privacy acts interfere with HUD's ability to ensure that scarce Federal housing assistance is being provided in the correct amounts to the beneficiaries for which it is intended. Section 904 also explicitly authorizes the collection of employee income information so that wage and claim information can be independently verified before an applicant's or participant's benefits are terminated, denied, suspended, or reduced based on wage and claim information obtained from a SWICA.

H. Consent by Applicants and Participants

Applicants for and participants in the covered programs would have to sign consent forms and submit them to the processing entity. (See § 760.10 and § 200.1210.) Applicants and participants would also be responsible for the signing and submission of consent forms by members of their families. Members of the family under the age of 18 would not be required to sign consent forms, unless that member is the family head or his or her spouse. The consent forms would permit (a) HUD, the PHA, or the owner to verify employee income information; and (b) HUD or the PHA to request a SWICA to release wage and claim information. All applicants, including members of their families, would have to sign the consent forms at the time when the eligibility of the applicant under any of the covered programs is being determined.

Participants, including members of their families, who were not required to sign the consent forms as applicants (*i.e.*, those whose participation was initiated before the effective date of the rule) would have to sign the consent forms at the first regularly scheduled income reexamination held after the effective date of the final rule. Once a participant has signed and submitted a consent form as an applicant or participant, that participant would still have to sign a subsequent consent form at each regularly scheduled income

reexamination to ensure that all consents are timely dated to facilitate their use.

Subsequent consent forms would also be required to be signed at the next interim or regularly scheduled income reexamination under the following circumstances:

(1) Where there has been a change in the composition of the participant's family, any new member of the family would have to sign and submit a consent form at the next interim or regularly scheduled income reexamination.

(2) When a member of a family turns 18 years of age, that member would have to sign and submit a consent form at the next interim or regularly scheduled income reexamination.

(3) Such other circumstances as HUD (and in the case of the Public Housing program, or the Section 8 Certificate, Housing Voucher, or Moderate Rehabilitation program, the PHA) may prescribe in administrative instructions. Examples of these other circumstances might include situations where the consent form has been lost, the signature by the applicant or participant is illegible, or an employer requires a consent form with an original signature before he or she will disclose information.

As noted above, members of a family under 18 years of age would not be required to sign consent forms, unless that member of the family is the family head or his or her spouse. There is no reason for minors, who are not family heads or spouses, to sign consent forms since their income is excluded for purposes of calculating the annual income of a family under the covered programs.

HUD believes that the requirements relating to the signing of consent forms at interim income reexaminations and regularly scheduled income reexaminations are not burdensome and reflect the Department's concern that signing of consent forms be required only where necessary to produce information helpful to its efforts to mitigate abuse in HUD programs.

The exact context for applicants and participants to sign the consent forms would be governed by the specific rules for the program involved. Readers should review the proposed amendments to individual program regulations subject to this rule for more information.

As discussed in the next section, failure to sign consent forms constitutes grounds for denying eligibility of an applicant, or for terminating assistance or tenancy (or both) of a participant, under the covered program.

I. Penalties for Failing To Sign Consent Forms

This rule would permit HUD to require applicants and participants, as well as members of their households, to sign consent forms as a condition of eligibility, or continuing eligibility, for the covered programs. (See § 200.1215 and § 760.15). The Department believes that full implementation of the authority under section 904 for the covered programs is essential to achieve the legislative objective of controlling fraud, waste, and abuse in HUD programs. Each of the individuals required under the rule to sign consent forms are receiving assistance from HUD, thereby justifying the Department's interest in ensuring that they are appropriate program beneficiaries or that they receive the proper level of benefits.

For applicants, the rule would provide that the failure to sign consent forms would be grounds for denying eligibility for the covered program.

For participants, failure to sign consent forms would be grounds for termination of assistance under the covered program and, if authorized under the program, termination of the participant's tenancy. Whether termination of tenancy is authorized depends on the program involved. In some cases, termination of assistance would also require that the family be evicted from the project (see, for example, the Public and Indian Housing programs).

In others, such as the tenant-based Certificate and Housing Voucher programs, assistance can be terminated without terminating the participant's tenancy: the participant simply pays an unsubsidized rental. In still others, failure to meet the proposed rules signing of consent form requirements not only could result in termination of assistance, but also would specifically be made a substantial violation of the lease for which termination of tenancy is the appropriate remedy (see, for example, the Section 8 New Construction and Substantial Rehabilitation programs, as amended by this proposed rule). Readers should carefully review the program-specific amendments to this rule, as well as existing regulatory and administrative guidance for the existing programs, to determine the effects of the proposed rule.

J. Privacy Act Protections

The collection, maintenance, use, and dissemination of information obtained pursuant to this rule may be subject to the requirements of the Privacy Act of 1974, 5 U.S.C. 552a. See § 760.20 and § 200.1220. The provisions of the Privacy Act apply to records on individual U.S. citizens (or aliens lawfully admitted for permanent residence) that are maintained by HUD in a "system of records" whereby information is retrieved by the name of the individual or other identifying number or symbol. Records concerning applicants and participants in most of the housing programs listed in part 760 are maintained in Privacy Act systems of records. (a complete listing of the Department's Privacy Act systems is published in the **Federal Register's** Privacy Act Issuance: 1986 Compilation.)

As noted above, HUD would collect employee income information and wage and claim information about applicants for, or participants in, HUD programs, for purposes of ensuring that they are income-eligible for the covered program and that the level of benefits provided is appropriate. The income information would be used to decrease the incidence of fraud, waste, and abuse in HUD programs.

HUD may disclose information obtained pursuant to this rule and maintained in Privacy Act systems of records only as permitted by the Privacy Act and section 904 of the McKinney Amendments. In general, the information may be disclosed outside the agency to facilitate the administration of the applicable program. (However, as discussed later, this rule would provide specific limitations on the collection, use, and dissemination of wage and claim information.) Permissible routine uses of the information subject to the Privacy Act are listed in the individual Privacy Act notices for each system of records published by the **Federal Register** in its Privacy Act Issuances: 1986 Compilation. Requests for information not contained in a Privacy Act system of records will be governed by the Freedom of Information Act, 5 U.S.C. 552 (FOIA). FOIA permits HUD to withhold information concerning individuals where disclosure would constitute a clearly unwarranted invasion of personal privacy.

For the most part, the Privacy Act applies only to Federal agencies, and does not govern the collection, maintenance, use, or disclosure of information by the processing entity or by other entities or persons. The rule would make it clear that employee income and wage and claim information is subject to all applicable Federal, State and local laws. State and local laws concerning the protection of personal privacy may restrict the use of employee income information obtained from

current or previous employers and wage and claim information obtained from SWICAs.

HUD would not be responsible for the further use of employee income information and wage and claim information that has been properly disclosed outside the Department. However, the requirements of the Privacy Act are applicable to other Federal agencies that may receive the employee income information and wage and claim information from HUD, and that maintain the information in a Privacy Act system of records.

This rule would also provide specific additional limitations on the use of wage and claim information obtained from a SWICA. The rule would also provide criminal penalties for the wrongful collection and use of the wage and claim information, and also provide civil penalties for certain negligent or knowing actions concerning wage and claim information and employee income information. These limitations and penalties are discussed in the following sections.

K. Request for Wage and Claim Information from SWICAs and Restrictions on the Use of the Information

Section 904 explicitly permits HUD to require applicants for and participants in HUD programs to sign consent forms authorizing HUD or the PHA to request wage and claim information from a SWICA. The signed consent forms would be physically maintained by the processing entity. Congress also prescribed certain restrictions on the collection and use of the wage and claim information. The information which could be obtained from SWICAs would be limited to wage and claim information. See § 200.1225 and § 760.25. The Secretary of Labor would prescribe how often and in what form wage and claim information would be obtained from a SWICA.

It is anticipated that HUD and PHAs will obtain wage and claim information from SWICAs subject to individual computer matching agreements between the parties. Computer matching is a term used to describe the automated comparison of data bases containing records about individuals. Computer matching agreements would describe the responsibilities and obligations of the parties to an agreement regarding the computer match. After July 19, 1989, computer matches in which HUD participates will be conducted in conformance with the requirements of the Computer Matching and Privacy Protection Act of 1988.

Under this rule, a PHA could enter into a computer matching agreement to obtain wage and claim information with a SWICA separately from HUD or request HUD to perform the PHA's match request. If the PHA wants to perform the match itself, it must submit the proposed matching agreement with the SWICA to HUD for review and approval. This is to ensure that matching agreements are in compliance with this part and the Department of Labor regulations, and are not burdensome on the SWICAs. The matching agreements would specify, among other things, the purpose and legal authority for the match, a description of the records to be matched, a statement regarding disposition of information generated through the match, a description of the administrative and technical safeguards to be used in protecting the information obtained through the match, a description of the use of the records, duplication and redisclosure restrictions, and the amount a SWICA will charge HUD or a PHA for processing a request.

The Office of the Inspector General (IG) at HUD would be responsible for coordinating initial implementation of computer matches under the regulation. The IG intends to encourage groups of PHAs or individual PHAs who have the capacity to perform computer matches to enter into computer matching agreements with SWICAs. Computer matches subject to these agreements could take several forms. For example, some States are willing to allow PHAs on-line access to their SWICA's wage and claim databases. Subject to any restrictions established by the Department of Labor, these PHAs could perform front-end verification by checking the income of an applicant before he or she becomes a tenant by matching the applicant's Social Security Number with the SWICA's wage and claim database. These PHAs could also verify a participant's wage and claim information in this manner.

PHAs, without on-line access but with computer matching capability, would also be encouraged to enter into computer matching agreements with SWICAs. The IG would be available to provide technical assistance. PHAs without the capability to handle computer matching could request HUD to perform the computer match for them. The IG would be responsible for determining how and when these matches would be performed. In these case, PHAs would be expected to provide the IG with a computer tape or diskette containing all relevant applicant and participant data, including social security numbers. The IG would code the social security numbers onto a separate disk and send it to a SWICA for the computer match. Once a match is completed, the IG would compare the data received from the SWICA with the applicant and participant data received from the PHA. No PHA would be required to perform a computer match itself.

PHAs which currently receive wage and claim information from SWICAs in less formal ways, such as by individual written request or telephone call, would not be prohibited from continuing these practices. However, *all* collection and use of wage and claim information by PHAs from SWICAs would be subject to the Department of Labor regulations and the restrictions and penalties of this part.

In the case of owners where there is no PHA operating as a section 8 contract administrator, the IG would be responsible for establishing computer matching agreements with SWICAs. The IG would also be responsible for accomplishing independent verification with regard to such owners.

HUD and PHAs would only be able to use wage and claim information obtained from a SWICA (1) to verify an applicant's or participant's eligibility for or level of benefits; or (2) to inform the owner that an applicant's or participant's eligibility for or level of benefits is uncertain and needs to be verified. Verification would include the procedures for independent verification discussed in the next section. Neither HUD nor a PHA would be permitted to disclose wage and claim information obtained from a SWICA to an owner.

L. Procedures for Termination, Denial, Suspension, or Reduction of Benefits based on Information Obtained from a SWICA

Section 200.1230 and § 760.30 would permit a Federal, State, or local agency, a PHA, or an owner, as applicable, to terminate, deny, suspend, or reduce any benefits of an applicant or participant based on wage and claim information obtained from a SWICA by HUD or a PHA if (1) the agency takes steps to independently verify wage and claim information relating to (i) the amount of wages or unemployment compensation involved, (ii) whether the applicant or participant actually has (or had) access to the wages or benefits for his or her own use; and (iii) the period or periods when or with respect to which the applicant or participant actually received the wages or benefits; and (2) the applicant or participant has been

given an opportunity to contest any adverse findings. The regulation would not permit an owner to perform independent verification of wage and claim data since section 904 prohibits HUD or a PHA from disclosing wage and claim information to an owner. Moreover, section 552a(p)(1) of title 5, U.S.C., as added by the Computer Matching and Privacy Protection Act of 1988, requires that "an officer or employee" of the Federal agency or non-Federal agency involved to independently verify information obtained through a computer match which may be used as the basis for an adverse determination involving the individual.

The rule would establish separate procedures to meet the requirements of independent verification depending on whether HUD or a PHA is responsible for determining an applicant's or participant's eligibility for or level of benefits or whether an owner has that responsibility.

Where a PHA is responsible for determining an applicant's or participant's eligibility for or level of benefits in a covered program, HUD or the PHA would compare the information received from a SWICA with information about a family's income which is obtained from the applicant or participant or from his or her employer. HUD would compare the information where it has performed the computer match; PHAs would compare the information where they have performed the match. A "hit" occurs where the wage and claim information reveals an employer that was not disclosed by the applicant or participant or where the wage and claim information differs from information received from the applicant or participant or from his or her employer. HUD or the PHA would request the undisclosed employer or other employer disclosed by the "hit" to furnish, in writing to HUD or the PHA, any information HUD or the PHA determines to be necessary to establish an applicant's or participant's eligibility for or level of benefits in a covered program. (In most cases, the employer request letter would ask the employer to provide the information to the responsible PHA.) HUD or the PHA would not be expected to pursue these verification procedures where the sums of money at issue are too small to raise an inference of fraud or justify the expense of independent verification and the procedures related to termination, denial, suspension, or reduction of benefits. Neither HUD nor a PHA would be permitted to disclose wage and claim information obtained from a SWICA to an owner.

Where an owner is responsible for determining an applicant's or participant's eligibility for or level of benefits in a covered program, HUD or a PHA, as the section 8 contract administrator, would be responsible for requesting wage and claim information from a SWICA. Where there is no PHA involved as contract administrator, HUD would be solely responsible for requesting wage and claim information from a SWICA. Upon receiving the wage and claim information, HUD or the PHA, as applicable, would compare the information with the information about a family's income obtained by the owner from the applicant or participant or from his or her employer. Where the wage and claim information reveals a "hit," HUD or the PHA would request the undisclosed employer or other employer to furnish, in writing to the owner, any information that HUD or the PHA determines to be necessary for purposes of having the owner redetermine an applicant's or participant's eligibility for or level of benefits in the covered program. Again, HUD or the PHA would not be expected to pursue these verification procedures where the sums of money at issue are too small to raise an inference of fraud or justify the expense of independent verification and the procedures related to termination, denial, suspension, or reduction of benefits. HUD or the PHA could not directly disclose to the owner wage and claim information received from a SWICA.

HUD or the PHA could inform an owner that an applicant's or participant's eligibility for or level of benefits is uncertain and needs to be verified. The owner would then reverify the applicant's or participant's income information by checking the accuracy of the information with the employer or directly with the family. However, before any benefits could be terminated, denied, suspended, or reduced, HUD or the PHA would have to independently verify the wage and claim information obtained from a SWICA. Neither HUD nor a PHA would be permitted to disclose wage and claim information obtained from a SWICA to any owner.

In addition, HUD or the PHA would be able to independently verify wage and claim information obtained from a SWICA by checking the accuracy of information with the applicant or participant directly in cases where verification cannot be obtained from any other source.

Before any benefits could be terminated, denied, suspended, or reduced, HUD, PHAs and owners would be required to promptly notify any applicant or participant in writing of any adverse findings determined on the basis of the independent verification of the wage and claim information. The applicant or participant would then be given an opportunity to contest the findings in the same manner as applies to other information and findings relating to eligibility factors under the applicable programs. Termination, denial, suspension, or reduction of benefits shall be determined according to the standards, including income standards, applicable to each covered program. Readers should review the requirements of specific programs for more information.

M. Criminal and Civil Penalties

Sections 200.1235 and 760.35 would set forth criminal and civil penalties for certain wrongful or negligent actions under this part.

As for criminal penalties, this section would provide that any person who knowingly and willfully requests or obtains under false pretenses any wage and claim information concerning an applicant or participant from a SWICA pursuant to this part, or who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" for purposes of this section would include an officer or employee of HUD, an officer or employee of any PHA, and any owner (or employee of an owner) responsible for determining eligibility for or level of benefits.

In the case of civil penalties, any applicant or participant affected by (1) a negligent or knowing disclosure of information referred to in section 904 of the McKinney Amendments or section 303(i) of the Social Security Act about such person by an officer or employee of any PHA or owner (or employee of an owner), which disclosure is not authorized by section 904, section 303(i), or any implementing regulation, or (2) any other negligent or knowing action that is inconsistent with section 904, section 303(i), or any implementing regulation may bring a civil action for damages and such other relief as may be appropriate against any officer or employee of any PHA or owner (or employee of an owner) responsible for the unauthorized action. Jurisdiction of such a case would be in the applicable United States District Court for the district in which the affected applicant or participant resides, in which the

unauthorized action occurred, or in which the applicant or participant alleged to be responsible for the unauthorized action resides. (This last grant of jurisdiction appears to be a mistake on the part of the draftors of section 904. What was probably intended was to provide jurisdiction to the U.S. District Court for the district where an individual alleged to be responsible for the unauthorized action resides. The proposed regulation, however, follows the statutory language.) Appropriate relief that may be ordered by the district court would include reasonable attorney's fees and other litigation costs. These civil penalties would apply to certain actions with regard to both employee income information and wage and claim information. However, section 904 does not provide any restrictions on the use of employee income information. Nor does it describe unauthorized disclosure or inconsistent use of such information. Consequently, any lawful use of this information is authorized use and should be considered consistent with section 904 and this part. Lawful use is any use of employee income information determined by HUD, PHAs, or owners to be necessary for determining eligibility for or level of benefits and not prohibited by any Federal or State law.

N. Federal Preemption of State Privacy Acts

The doctrine of Federal preemption of State law recently summarized by the United States Supreme Court, as follows:

> It is familiar and well-established principle that the Supremacy Clause, U.S. Const., Art. VI, cl.2, invalidates state laws that "interfere with, or are contrary to" federal law. *Gibbons* v. *Ogden*, 9 Wheat I. 211 (1824) (Marshall, C.J.). Under the Supremacy Clause, Federal law may supersede state law in several different ways. First, when acting within constitutional limits, Congress is empowered to preempt state law by so stating in express terms. *Jones* v. *Rath Packing Co.*, 430 U.S. 519, 525 (1977). In the absence of express preemptive language, Congress' intent to pre-empt all state law in a particular area may be inferred where the scheme of Federal regulation is sufficiently comprehensive to make reasonable the inference that Congress "left no room" for supplementary state regulation. *Rice* v. *Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947). Pre-emption of a whole field also will be inferred where the field is one in which "the Federal interest is so dominant that the Federal system will be assumed to preclude enforcement of state laws on the same subject." *Ibid;* see *Hines* v. *Davidowitz*, 312 U.S. 52 (1941).
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> Even where Congress has not completely displaced state regulation in a specific area, state law is nullified to the extent that it actually conflicts with Federal law. Such a conflict arises when "compliance with both Federal and state regulations is a physical impossibility," *Federal Lime & Avocado Growers, Inc.* v. *Paul*, 373 U.S. 132, 142–143 (1963), or when State law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress," *Hines* v. *Davidowitz, supra* at 67. (*Hillsborough County, Florida* v. *Automated Medical Laboratories, Inc.*, 471 U.S. 707, 712–13 (1985)).

Under section 4 of Executive Order 12612, *Federalism*, HUD will construe a Federal statute to preempt State law only when (1) the Federal statute in question contains an express preemption provision; (2) there is some other firm and palpable evidence compelling the conclusion that the Congress intended preemption of State law; or (3) the exercise of State authority directly conflicts with the exercise of Federal authority under the statute. (*See* Implementation of Executive Order 12612, *Federalism*, 53 FR 31926 (August 22, 1988).)

Section 904 of the McKinney Amendments provides explicit Federal authority with regard to the collection and use of employee income information and wage and claim information by HUD and PHAs. However, certain State privacy acts limit the ability of HUD and PHAs to collect wage and claim information from SWICAs. Although section 904 does not contain an express preemption provision, it is clearly intended to preempt these State privacy acts under the two other tests noted above.

Under the "firm and palpable" evidence test, the Department will infer preemption where (1) the scheme of Federal regulation is sufficiently comprehensive to provide firm and palpable evidence that Congress intended to leave no room for State regulation, or (2) the field is one in which the Federal interest is sufficiently dominant to provide firm and palpable evidence that Congress intended to preclude enforcement of State laws on the same subject. Here, the Federal interest is sufficiently dominant to provide firm and palpable evidence that Congress intended to preclude the enforcement of State privacy acts which interfere with the collection of wage and claim information from SWICAs by HUD and PHAs. Section 904 of the McKinney Amendments gives the Federal government a paramount interest in the collection and review by HUD and PHAs of wage and claim information about applicants and participants in HUD programs. Section 904's stated purposes are to ensure that scarce Federal housing assistance is being provided in the correct amounts to the beneficiaries for which it is intended, and to help decrease the incidence of fraud, waste, and abuse in these programs.

Thus, section 904 provides compelling evidence that its purposes are to be achieved without interference from State law. State privacy acts must also give way to section 904 under the "direct conflict" test, described above. The Department cannot carry out its responsibilities under section 904 if State privacy acts prevent HUD and PHAs from obtaining the wage and claim information called for under that provision.

Section 904, therefore, preempts any State privacy acts, including restrictions and penalties provided in the acts, to the extent they prohibit the release of wage and claim information to HUD or a PHA or otherwise conflict with section 904.

The proposed regulation has been carefully reviewed to ensure that the extent of preemption is the minimum necessary to accomplish the goals of section 904 in the collection of wage and claim information. Affected officials and organizations should carefully review the proposed regulation as to the effect and the extent of Federal preemption under it.

The proposed rule does not attempt to preempt any Indian tribal law since, in almost all cases, wage and claim information as it relates to members of Indian tribes is covered by State law.

O. Effective Date

For applicants, the proposed rule would apply to all applicant eligibility determinations initiated on or after the date HUD established as the effective date of the rule, which can be no earlier than September 30, 1989. For participants, the rule would apply to each regularly scheduled review of participant income initiated on or after the effective date as established by HUD, and to each future review.

Section 904 also gives a State or an agency of a State, with the approval of the Secretary of Labor, the option of implementing the provisions governing the collection of wage and claim information on any date which is after February 5, 1989 (90 days after November 7, 1988, the date of enactment of the McKinney Amendments) but before September 30, 1989. In the case of any State in which the legislature has not been in session for at least 30 calendar days (whether or not consecutive) between November 7, 1988 and September 30, 1989, the provisions authorizing the obtaining of information from a SWICA would take effect 30 calendar days after the first day on

which the legislature is in session on or after September 30, 1989. This rule would not address these provisions. We believe that certain of section 904's provisions are too complex to be implemented before the regulation is made effective and that the effective date of the regulation will be no earlier than September 30, 1989. Moreover, as of the effective date of the regulation, all State legislatures will have been in session the required length of time.

P. Indian Housing Authorities

For purposes of brevity, this rule encompasses Indian Housing authorized by title II of the 1937 Act under proposed 24 CFR part 760, and provides that PHAs include Indian Housing Authorities.

On June 29, 1988, President Reagan signed into law the Indian Housing Act of 1988 (Indian Housing Act) (Pub. L. 100–358), which created a separate title for Indian Housing under title II of the 1937 Act. Section 201(b)(2) of the Indian Housing Act requires that any provision modifying the public housing program under title I of the 1937 Act must explicitly apply to the Indian Public Housing Program if it is to cover that program. The McKinney Amendments was enacted on November 7, 1988 and is subject to the requirements of the Indian Housing Act. Although the McKinney Amendments modifies the public housing program, HUD believes that section 904 of the McKinney Amendments does not come within coverage of the Indian Housing Act exclusion because it is not a law which specifically modifies the public housing program under title I of the 1937 Act. Section 904 is general legislation modifying all HUD programs, including title I. The requirements of section 904 would, therefore, be applicable to Indian Public Housing Program.

HUD has published a proposed rule to consolidate all Indian Housing regulations from 24 CFR Chapter IX into a revamped part 905. When this rule is made final, appropriate amendments will be inserted in the appropriate place in the reconstituted part 905.

IV. Findings and Certifications

Environment. A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours (7:30 a.m. to 5:00 p.m. weekdays) in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

Major rule. This rule would not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it would not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect 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.

Regulatory Flexibility Act. In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule would require applicants and participants in certain HUD programs to sign consent forms permitting (1) HUD, the PHA, or the owner to verify employee income information, and (2) HUD or the PHA to request wage and claim information from a SWICA. The costs of complying with this requirement and collection of the information would be slight since verification of family income is already required.

Executive Order 12612, Federalism. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this rule would not (if implemented) have federalism implications and, thus, are not subject to review under the Order. Although section 904 preempts certain State privacy acts which interfere with the ability of HUD and PHAs to collect wage and claim information about applicants and participants in HUD programs from SWICAs, the extent of the preemption is the minimum necessary to accomplish the goals of section 904 in the collection of the information. A full discussion of Federal preemption of State privacy acts by section 904 can be found under paragraph N. of the preamble. Moreover, the only entities subject to the rule that are covered by the Order are PHAs and SWICAs. PHAs would be affected in their role as "processing entities." Since PHAs already perform significant functions in this role with respect to providing HUD assistance to applicants and participants, the additional burden of requiring applicants and participants to sign consent forms and of collecting information pursuant to the consent would appear to be insubstantial. SWICAs would be required to provide wage and claim information to HUD and PHAs. Since HUD anticipates the information will be collected through a computer matching program, the burden on the SWICAs should be small. SWICAs would also be reimbursed for this activity.

Executive Order 12606, the Family. The General Counsel, as the Designated Official under Executive Order 12606, *the Family*, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. Applicants and participants, and members of their families, would be required to sign consent forms authorizing the verification or collection of certain information necessary for determining eligibility for or level of benefits under the covered programs. Consent forms to permit verification of information provided by the family are already required. This rule would add an insignificant additional burden for applicants and participants, and will help ensure that scarce housing assistance will be targeted to the truly needy.

Semiannual agenda of regulations. This rule was listed as item number 900 in the Department's Semiannual Agenda of Regulations published on April 24, 1989 (54 FR 16708, 16709) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Catalog of Federal Domestic Assistance. The catalog of Federal Domestic Assistance program numbers are 14.103, 14.135, 14.137, 14.149, 14.156, 14.157, 14.177, 14.850, 14.851, and 14.852.

Information collection requirements. The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Virtually all of the sections of this proposed rule have been determined by the Department to contain collection of information requirements. Information on these requirements is provided as follows:

TABULATION OF ANNUAL REPORTING BURDEN [1] INCOME VERIFICATION PROCEDURES FOR APPLICANTS AND PARTICIPANTS IN HUD PROGRAMS

Description of information collection response	Section of 24 CFR affected hours	Number of respondents	Number of responses per respondent	Total annual	Hours per responses	Total
Consent form allowing: (1) HUD or Public Housing Authority (PHA) or owner to verify employee income information with previous or current employees; (2) HUD or the PHA to request wage and claim information from the State Wage agency responsible for the administration of the State Unemployment Law State Wage Information Collection Agency (SWICA) (2502-0204)	200, 215, 221, 226, 247, 290, 760, 883, 884, 885, 886	2,171,256	4	8,685,024	.016	138,960
Consent form allowing: (1) HUD or PHA or owner to verify employee income information with previous or current employers; (2) HUD or the PHA to request wage and claim information from State Wage Agency responsible for the administration of the State Unemployment Law (SWICA) (2577-0083)	760, 813, 882, 887, 900, 904, 905, 913; 960	2,640,000	4	10,560,000	.016	168,960
OIG request for SWICA to provide wage and claim information (includes computer match agreement and running magnetic tape against State Wage database)		53	1	53	16	848
Total annual burden						308,768

[1] The annual reporting burden for OMB clearance numbers (2502-0204) and (2577-0083) on this table was included in the calculation of annual burden at the most recent approval of each and therefore does not represent an increase in the HUD information collection inventory.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Housing standards, Loan programs: housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum property standards, Incorporation by reference.

24 CFR Part 215

Grant programs: housing and community development, Rent subsidies.

24 CFR Part 221

Condominiums, Low and moderate income housing, Mortgage insurance, Displaced families, Single family housing, Projects, Cooperatives.

24 CFR Part 236

Low and moderate income housing, Mortgage insurance, Rent subsidies, Taxes, Utilities, Projects.

24 CFR Part 247

Low and moderate income housing, Public housing, Tenant eviction.

24 CFR Part 290

Mortgage insurance, Low and moderate income housing.

24 CFR Part 760

Certain housing assistance programs, Income verification procedures.

24 CFR Part 813

Low and moderate income housing.

24 CFR Part 880

Grant programs: housing and community development, Rent subsidies, Low and moderate income housing, New construction.

24 CFR Part 881

Grant programs: housing and community development, Rent subsidies, Low and moderate income housing.

24 CFR Part 882

Grant programs: housing and community development, Housing, Mobile homes, Rent subsidies, Low and moderate income housing.

24 CFR Part 883

Grant programs: housing and community development, Rent subsidies, New construction and substantial rehabilitation, Low and moderate income housing.

24 CFR Part 884

Grant programs: housing and community development, Rent subsidies, Rural areas, Low and moderate income housing.

24 CFR Part 885

Grant programs: housing and community development, Aged, Handicapped, Loan programs: housing and community development.

24 CFR Part 886

Grant programs: housing and community development, Low and moderate income housing, Rent subsidies.

24 CFR Part 887

Grant programs: Housing and community development, Housing, Rent subsidies, Low and moderate income housing.

24 CFR Part 900

Housing assistance payments: new construction and substantial rehabilitation, Guaranteed/insured loans.

24 CFR Part 904

Grant programs: housing and community development, Loan programs: housing and community development, Low and moderate income housing, Public housing, Homeownership.

24 CFR Part 905

Grant programs: housing and community development, Grant programs: Indians, Indian Housing, Loan programs: Indians, Low and moderate income housing, Public housing, Homeownership.

24 CFR Part 913

Public housing, Indian housing.

24 CFR Part 960

Public housing.

Accordingly, 24 CFR Parts 200, 215, 221, 236, 247, 290, 813, 880, 881, 882, 883, 884, 885, 886, 887, 900, 904, 905, 913, and 960 would be amended, and new 24 CFR part 760 would be added, to read as follows:

PART 200—INTRODUCTION

1. The authority citation for part 200 would be revised to read as follows:

Authority: Titles I, II, National Housing Act (12 U.S.C. 1701–1715z–18); sec. 7(d), Department of Housing and Urban Development Act (12 U.S.C. 3535(d)). Subpart V is also issued under sec. 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544), sec. 101, Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), and sec. 203, Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–11).

2. Part 200 is amended by adding new subpart V, to read as follows:

Subpart V—Income Verification Procedures for Applicants and Participants in HUD's Assisted Mortgage and Loan Insurance and Related Programs

Sec.

§ 200.1201 Summary, purpose, and Federal preemption.

(a) *Summary.*

(1) This part implements section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 ("McKinney Amendments") as it pertains to the assisted mortgage and loan insurance and related programs administered by the Department of Housing and Urban Development under Subchapter B of this Chapter. The programs covered by this subpart include the following: Rent Supplements under 24 CFR part 215; management of HUD-acquired multifamily properties under 24 CFR part 290; and the rental assistance programs under sections 221(d)(3)(BMIR) and 236 of the National Housing Act. Section 904 is implemented for most of the housing assistance programs administered by HUD under 24 CFR Chapters VIII and IX, at 24 CFR part 760.

(2) This part requires applicants and participants in the covered programs to sign consent forms authorizing:

(i) HUD or the owner to verify employee income information; and

(ii) HUD to request a SWICA to release wage and claim information. The failure of any person to sign these consent forms constitutes grounds for denial of eligibility, or termination of assistance or tenancy (or both), for the covered program.

(3) This part restricts the use of information received by HUD from a SWICA to

(i) Verifying an applicant's or participant's eligibility for or level of benefits; or

(ii) Informing the owner that an applicant's or participant's eligibility for or level of benefits is uncertain and needs to be verified. This part prohibits termination, denial, suspension, or reduction of benefits without prior independent verification of wage and claim information obtained from a SWICA. The applicant or participant shall then be notified of any adverse findings and given an opportunity to contest them.

(4) This part provides criminal and civil penalties for certain wrongful or negligent actions under this part.

(b) *Purpose.* The purpose of this part is to enable HUD to obtain employee income information and wage and claim information about applicants and participants in the covered programs in order to verify an applicant's or participant's eligibility for or level of benefits and help decrease the incidence of fraud, waste, and abuse in these programs.

(c) *Federal Preemption.* This part preempts any State law, including restrictions and penalties, which governs the collection and use of employee income information and wage and claim information to the extent it is inconsistent with this part.

§ 200.1203 Applicability.

(a) *Information to be Covered by Consent Forms.* The information covered by consent forms described in this part involves employee income information and wage and claim information from a SWICA. In addition, consent forms may authorize the collection of other information, including information which can be obtained under other laws, regulations, and handbooks.

(b) *Programs Covered.* This part applies to the following housing assistance programs contained in subchapter B of this Chapter:

(1) Part 215, Rent Supplement Payments.

(2) Part 221, Low Cost and Moderate Income Mortgage Insurance (BMIR).

(3) Part 236, Mortgage Insurance and Interest Reduction Payments for Rental Projects.

(4) Part 290, Management and Disposition of HUD-Owned Multifamily Housing Projects.

§ 200.1205 Definitions.

As used in this part:

Applicant has the following meaning for the programs referred to in § 200.1203: An individual or family that seeks assistance under 24 CFR part 215, 221 (BMIR), 236, or 290.

Claim information means information regarding:

(a) Whether an individual is receiving, has received, or has applied for unemployment compensation;

(b) The amount of compensation the individual is receiving or is entitled to receive; and

(c) The period or periods when, or with respect to which, the individual actually received such compensation.

Consent form means a consent form or forms approved by HUD to be signed by applicants and participants for the purpose of obtaining employee income information from employers and wage and claim information from a SWICA or other information which can be obtained under other laws, regulations and handbooks.

Employee income information means all the information known to current or previous employers which HUD or the processing entity determines is necessary for purposes of determining an applicant's or participant's eligibility for or level of benefits in a covered program.

HUD means the United States Department of Housing and Urban Development.

Owner means the person or entity (or employee of an owner) that leases an assisted dwelling unit to an eligible family.

Participant has the following meaning for the programs referred to in § 200.1203: A tenant or a qualified tenant under 24 CFR part 215, 221 (BMIR), 236, or 290.

Processing entity means the person or entity that is responsible for making eligibility determinations and any interim or regularly scheduled income reexaminations under any of the programs referred to in § 200.1203.

Scheduled income reexamination has the following meaning for the programs referred to in § 200.1203.

(a) *Parts 215, 221(BMIR), and 236:* The regularly scheduled reexamination of participant income.

(b) *Part 290:* Income certification as provided by § 290.17(e).

State Wage Information Collection Agency (SWICA) means the SWICA receiving quarterly wage reports from employers in the State (which may be the agency administering the State's unemployment compensation program), or an alternative system which has been determined by the Secretary of Labor to be as effective and timely in providing employment related income and eligibility information.

Wage information means information about wages as defined in the State's unemployment compensation law and includes the Social Security Number (or numbers, if more than one) and quarterly wages of an employee, and the name, address, State, and (when known) Federal employer identification number of an employer reporting wages under a State unemployment compensation law.

§ 200.1210 Consent by applicants and participants.

(a) *Required consent by applicants and participants.* The following individuals shall sign consent forms authorizing HUD or the owner to verify employee income information, and HUD to request a SWICA to release wage and claim information:

(1) Each applicant under a program referred to in § 200.1203, including each family head and spouse regardless of age, and every other member of the household of the applicant who is at least 18 years of age; and

(2) Each participant in a program referred to in § 200.1203, including each family head and spouse regardless of age, and every other member of the participant's household who is at least 18 years of age.

(b) *Consent authorization: To whom and when—*

(1) Consent by applicants. Applicants shall sign the consent forms and submit them to the processing entity when their eligibility under a program referred to in § 200.1203 is being determined. Applicants shall be responsible for the signing and submitting of consent forms by members of their household.

(2) Initial consent by participants. If participation for a program referred to in § 200.1203 was initiated before the effective date of the part, participants, including members of their family, shall sign and submit consent forms at the next interim or regularly scheduled income reexamination. Participants shall be responsible for the signing and submitting of consent forms by members of their households.

(3) Subsequent consent forms to be signed at each regularly scheduled income reexamination by participants who have signed initial consent forms under this section. Once a participant has submitted signed consent forms as an applicant or as a preexisting participant, subsequent consent forms are required to be signed and submitted at each regularly scheduled income reexamination.

(4) Subsequent consent forms to be signed at the next interim or regularly scheduled income reexamination—special cases. Consent forms are required under the following circumstances:

(i) Where there has been a change in the composition of the participant's family, any new member of the family shall sign and submit a consent form at the next interim or regularly scheduled reexamination;

(ii) When a member of a family turns 18 years of age, that member shall sign and submit a consent form at the next interim or regularly scheduled reexamination; and

(iii) Such other circumstances as HUD may prescribe in administrative instructions.

§ 200.1215 Penalties for failing to sign consent forms.

(a) *Denial of Eligibility.* The processing entity shall deny the eligibility of an applicant, in accordance with the provisions governing the program involved, if the applicant, or any member of the applicant's household, does not sign and submit the consent forms as required in § 200.1210.

(b) *Termination of assistance or tenancy.* It shall be considered grounds for termination of assistance, and (as provided by the individual program covered by this part) the tenancy of a participant, in accordance with the provisions governing the program involved, if the participant, or any member of the participant's household, fails to sign and submit the consent forms as required in § 200.1210.

(c) *Cross references.* Individuals should consult the regulations and administrative instructions for the programs referred to in § 200.1203 for further information on the use of employee income information and wage and claim information in determining the eligibility of applicants and the continued eligibility of participants.

§ 200.1220 Compliance with the Privacy Act and other requirements.

Compliance with the Privacy Act. The collection, maintenance, use, and dissemination of employee income information and wage and claim information under this part shall be conducted, to the extent applicable, in compliance with the Privacy Act (5 U.S.C. 552a) and all other provisions of Federal, State, and local law.

§ 200.1225 Request for wage and claim information from SWICAs and restrictions on the use of the information.

(a) *Information Available from SWICA—to whom and what.* HUD may, after signed consent forms have been submitted to the processing entity by an applicant or participant, request wage and claim information from a SWICA. Regulations prescribed by the Secretary of Labor govern how often and in what form information may be disclosed by a SWICA.

(b) *Restrictions on Use of Wage and Claim Information Obtained from SWICA.* HUD may only use wage and claim information obtained from a SWICA:

(1) To verify an applicant's or participant's eligibility for or level of benefits; or

(2) In the case of an owner, to inform the owner that an applicant's or participant's eligibility for or level of benefits is uncertain and needs to be verified.

§ 200.1230 Procedures for termination, denial, suspension, or reduction of benefits based on information obtained from a SWICA.

(a) *Termination, Denial, Suspension, or Reduction of Benefits.* A Federal, State, or local agency or an owner may terminate, deny, suspend, or reduce any benefits of an applicant or participant based on wage and claim information obtained from a SWICA if:

(1) the agency has taken the steps contained in paragraph (b) of this section to independently verify wage and claim information relating to—

(i) The amount of the wages or unemployment compensation involved;

(ii) Whether such applicant or participant actually has (or had) access to such wages or benefits for his or her own use; and

(iii) The period or periods when, or with respect to which, the applicant or participant actually received the wages or benefits; and

(2) The applicant or participant has been given an opportunity to contest any adverse findings in accordance with paragraph (c) of this section.

(b) *Procedures for Independent Verification.*—(1) *Verification by HUD.* Upon receiving wage and claim information from a SWICA, HUD shall compare this information with the information about a family's income obtained by the owner from the

applicant or participant or from his or her employer. Where the wage and claim information reveals an employer that was not disclosed by the applicant or participant or where the wage and claim information differs from the information received from the applicant or participant or from his or her employer, HUD may request the undisclosed employer or other employer to furnish, in writing to the owner, any information HUD determines to be necessary for purposes of having the owner redetermine an applicant's or participant's eligibility for or level of benefits in a covered program. Based on the wage and claim information, HUD may inform an owner that an applicant's or participant's eligibility for or level of benefits is uncertain and needs to be verified. The owner shall then reverify the applicant's or participant's income information by checking the accuracy of the information with the employer or directly with the family. However, before any benefits are terminated, denied, suspended, or reduced, HUD shall independently verify the accuracy of the wage and claim information obtained from a SWICA as described in this paragraph. HUD may not disclose wage and claim information directly to an owner.

(2) *Verification by Applicant or Participant.* Where independent verification cannot be obtained from any other source, HUD may independently verify wage and claim information obtained from a SWICA by checking the accuracy of the information with the applicant or participant directly.

(c) *Opportunity to Contest.* HUD or the owner shall promptly notify any applicant or participant, in writing, of any adverse findings made on the basis of the information verified in accordance with paragraph (b) of this section. Termination, denial, suspension, or reduction of benefits shall be determined according to the standards, including the income standards, applicable to the individual covered program. The applicant or participant shall be given an opportunity to contest the findings in the same manner as applies to other information and findings relating to eligibility factors under the applicable housing assistance program.

§ 200.1235 Criminal and civil penalties.

(a) *Criminal Penalties.* Any person who knowingly and willfully requests or obtains under false pretenses any wage and claim information concerning an applicant or participant from a SWICA pursuant to this part, or who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" for purposes of this paragraph shall include an officer or employee of HUD and any owner (or employee of an owner) responsible for determining eligibility for or level of benefits.

(b) *Civil Penalties.* Any applicant or participant affected by:

(1) A negligent or knowing disclosure of information referred to in section 904 of the McKinney Amendments or section 303(i) of the Social Security Act about such person by an officer or employee of any PHA or owner (or employee of an owner), which disclosure is not authorized by section 904, section 303(i), or any implementing regulation, or

(2) Any other negligent or knowing action that is inconsistent with section 904, section 303(i), or any implementing regulation may bring a civil action for damages and such other relief as may be appropriate against any owner (or employee of an owner) responsible for any such unauthorized action. Authorized use of employee income information includes any use of the information determined by HUD or an owner to be necessary for determining eligibility for or level of benefits in a covered program and not prohibited by any Federal or State law. Jurisdiction of such a case is in the United States district court in the district in which the affected applicant or participant resides, in which the unauthorized action occurred, or in which the applicant or participant alleged to be responsible for the unauthorized action resides. Appropriate relief that may be ordered by the district court shall include reasonable attorney fees and other litigation costs.

§ 200.1240 Implementation.

(a) *Applicants.* The provisions of this part, and the conforming changes made with respect to consent forms in the regulations governing the programs referred to in § 200.1203 apply to all applicant eligibility determinations initiated on or after the effective date of this rule.

(b) *Participants.* The provisions of this part and the conforming changes made with respect to the execution of consent forms for participants in the regulations governing the programs referred to in § 200.1203 apply to:

(1) Each interim or regularly scheduled reexamination of the income of a participant initiated by the processing entity on or after the effective date of this rule; and

(2) Each such reexamination thereafter.

PART 215—RENT SUPPLEMENT PAYMENTS

3. The authority citation for part 215 would continue to read as follows:

Authority: Sec. 101(g), Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

4. In § 215.20, paragraph (b)(2) would be revised to read as follows:

§ 215.20 Qualified tenant.

* * * * *

(b) * * *

(2) For requirements covering the disclosure and verification of Social Security Numbers by individuals and families, see part 200, subpart T, of this chapter. For requirements covering the signing and submitting of consent forms by individuals and families, see part 200, subpart V, of this chapter.

* * * * *

5. Section 215.55 would be revised to read as follows:

§ 215.55 Reexamination of family income and composition.

(a) *Regular reexaminations.* The owner must reexamine the income and family composition of all Qualified Tenants at least once every 12 months. After consultation with the Qualified Tenant and upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with § 215.45 and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Rent Supplement payment to reflect any change in Total Tenant Payment and must carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the Qualified Tenant to meet the disclosure and verification requirements for Social Security Numbers, as provided by part 200, subpart T of this chapter, and to sign and submit consent forms, as provided by part 200, subpart V, of this chapter.

(b) *Interim reexaminations.* The Qualified Tenant must comply with provisions in its lease regarding interim reporting of changes in income or family composition. If the owner receives information concerning a change in the Qualified Tenant's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the Qualified Tenant and make adjustments determined to be

appropriate. Any change in the Qualified Tenant's income or other circumstances that would result in an adjustment in the Total Tenant Payment, Tenant Rent, and the Rent Supplement Payment must be verified. At the time of the interim reexamination, the owner must require the Qualified Tenant to sign and submit consent forms, as required by part 200, subpart V of this chapter. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers for interim reexaminations involving new family members.

(c) *Termination of assistance.* A Qualified Tenant's eligibility for Rent Supplement Payments continues until the Total Tenant Payment equals the Gross Rent. The rent charged at that point may not exceed the market rent approved by the Secretary. The termination of eligibility at such point will not affect the Qualified Tenant's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the contract. However, assistance also may be terminated in accordance with any requirements of the lease or with HUD requirements, including the failure of the Qualified Tenant to meet the disclosure and verification requirements for Social Security Numbers, as provided by part 200, subpart T of this chapter, and the failure of the Qualified Tenant to sign and submit consent forms, as provided by part 200, subpart V of this chapter.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

6. The authority citation for part 221 would continue to read as follows:

Authority: Secs. 211, 221 National Housing Act (12 U.S.C. 1715b, 1715*l*; sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); sec. 221.544(a)(3) is also issued under sec. 201(a), National Housing Act (12 U.S.C. 1707(a)).

7. In § 221.537, a new paragraph (f) would be added, to read as follows:

§ 221.537 Additional occupancy requirements; preferred purchasers or tenants.

* * * * *

(f) *Signing of Consent Forms for Income Verification.* Upon determining an individual's or family's eligibility for initial occupancy under paragraph (a) of this section, and at any subsequent reexamination of a tenant's income for continued occupancy under paragraph (b) of this section, the mortgagor must require the individual or family, or the tenant (as appropriate), to sign and submit consent forms as provided by part 200, subpart V, of this chapter. Failure of the individual or family, or the tenant (as appropriate), to meet such requirements will constitute grounds for denying its eligibility for initial occupancy, or for terminating its tenancy, in accordance with the Commissioner's administrative instructions and, if applicable, part 200, subpart V, of this chapter.

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

8. The authority citation for part 236 would continue to read as follows:

Authority: Secs. 211, 236, National Housing Act (12 U.S.C. 1715b, 1715z–1); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

9. In § 236.70, paragraph (a)(1) would be revised to read as follows:

§ 236.70 Occupancy requirements.

(a)(1) In processing applications for admission, the housing owner will

(i) Establish to the satisfaction of the Commissioner that it qualifies as a group practice unit, as that term is defined in 24 CFR 244.1(c);

(ii) Meet the requirements for the disclosure and verification of Social Security and Employer Identification Numbers, as provided by part 200, subpart U, of this chapter; and

(iii) Meet the requirements for the signing and submitting of consent forms as provided by part 200, subpart V, of this chapter.

* * * * *

10. Section 236.80 would be revised to read as follows:

§ 236.80 Reexamination of income.

(a) *Regular reexaminations.* The owner must reexamine the income and family composition of all Qualified Tenants at least once every 12 months. After consultation with the Qualified Tenant and upon verification of the information, the owner must make appropriate adjustments in the Tenant Rent (or Total Tenant Payment for tenants receiving the benefit of Rental Assistance Payments) in accordance with § 236.55 or § 236.735, and determine whether the Qualified Tenant's unit size is still appropriate. The owner must adjust Tenant Rent and the Rental Assistance Payment, if applicable, to reflect any change in Total Tenant Payment, and must carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to sign and submit consent forms, as provided by part 200, subpart V, of this chapter.

(b) *Interim reexaminations.* The Qualified Tenant must comply with provisions in its lease regarding interim reporting of changes in income or family composition. If the owner receives information concerning a change in the Qualified Tenant's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the Qualified Tenant and make adjustments determined to be appropriate. Any change in the Qualified Tenant's income or other circumstances that would result in an adjustment in the Rental Assistance Payment or Tenant Rent must be verified. At the time of the interim reexamination, the owner must require the Qualified Tenant to sign and submit consent forms, as required by part 200, subpart V of this chapter.

(c) *Termination of assistance.* A Qualified Tenant loses eligibility for assistance when the Tenant Rent (Total Tenant Payment for tenants receiving the benefit of Rental Assistance Payments) equals the Basic Rent (Gross Rent for RAP tenants). The termination of eligibility at such point will not affect the Qualified Tenant's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the contract. However, assistance or eligibility to pay below Market Rent also may be terminated in accordance with any requirements of the lease or with HUD requirements, including failure to sign consent forms, as provided by part 200, subpart V, of this chapter.

11. Section 236.710 would be revised to read as follows:

§ 236.710 Qualified tenant.

The benefits of rental assistance payments are available only to an individual or a family renting a dwelling unit in a project that is subject to a contract under this subpart or occupying such a dwelling unit as a cooperative member. To qualify for such benefits, the individual or family must satisfy the definition of Qualified Tenant found in § 236.2 of subpart A. In order to receive rental assistance under this Subpart, it must have been determined that the income of the individual or family is too low to permit the individual or family to pay the approved Gross Rent with 30 percent of such individual's or family's Adjusted Monthly Income, as defined in subpart A. For requirements concerning the signing and submitting of consent

forms, see part 200, subpart V, of this chapter.

PART 247—EVICTIONS FROM CERTAIN SUBSIDIZED AND HUD-OWNED PROJECTS

12. The authority citation for Part 247 would continue to read as follows:

Authority: Sec. 101, Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); secs. 211, 221, 236, National Housing Act (12 U.S.C. 1715b, 1715*l*, 1715z–1); sec. 202, Housing Act of 1959 (12 U.S.C. 1701q); secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

13. In § 247.3, paragraph (c) would be revised to read as follows:

§ 247.3 Entitlement of tenants to occupancy.

* * * * *

(c) *Material noncompliance.* The term "material noncompliance with the rental agreement" includes:

(1) One or more substantial violations of the rental agreement;

(2) Repeated minor violations of the rental agreement that:

(i) Disrupt the livability of the project,

(ii) Adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related project facilities,

(iii) Interfere with the management of the project, or

(iv) Have an adverse financial effect on the project;

(3) Failure of the tenant to timely supply all required information on the income and composition, or eligibility factors, of the tenant household (including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 200, subpart T, or 24 CFR part 750 (as appropriate), or failure to sign and submit consent forms, as provided by 24 CFR part 200, subpart V, or 24 CFR part 760 (as appropriate)) will constitute a substantial violation of the rental agreement; and

(4) Non-payment of rent or any other financial obligation due under the rental agreement (including any portion thereof) beyond any grace period under State law, except that the payment of rent or any other financial obligation due under the rental agreement after the due date, but within the grace period permitted under State law, constitutes a minor violation.

PART 290—MANAGEMENT AND DISPOSITION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS

14. The authority citation for part 290 would continue to read as follows:

Authority: Secs. 202, 203, 204, Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1b, 1701z–11, 1701z–12); secs. 207, 211, National Housing Act (12 U.S.C. 1713, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

15. In § 290.17, a new paragraph (h) would be added, to read as follows:

§ 290.17 Rental rates during ownership by HUD.

* * * * *

(h) *Signing of consent forms for income verification.* Any certifications or reexaminations of the income of tenants or prospective tenants in connection with tenancy under this section are subject to the requirements for the signing and submitting of consent forms, as provided by part 200, subpart V, of this chapter.

16. 24 CFR chapter VII would be amended by adding a new part 760, to read as follows:

PART 760—INCOME VERIFICATION PROCEDURES FOR APPLICANTS AND PARTICIPANTS IN HUD'S SECTION 8 AND PUBLIC HOUSING PROGRAMS

Subpart A—General

Sec.

Subpart B—Conditions Governing Collection and Use of Information Obtained Pursuant to Consent Forms

Subpart C—Implementation

Authority: Sec. 904, Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544), sec. 3, 6, 8, 205, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437d, 1437f, 1437ee); sec. 202, Housing Act of 1959 (12 U.S.C. 1701q); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General

§ 760.1 Summary, purpose, and Federal preemption.

(a) *Summary.* (1) This part implements section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 ("McKinney Amendments") as it pertains to the section 8 Housing Assistance Payments program and the Public and Indian Housing programs. Section 904 is implemented for the assisted mortgage and loan insurance and related programs administered by HUD under 24 CFR chapter II, subchapter B, at 24 CFR part 200, subpart V.

(2) This part requires applicants and participants in the covered programs to sign consent forms authorizing:

(i) HUD, the PHA, or the owner to verify employee income information; and

(ii) HUD or the PHA to request a SWICA to release wage and claim information.

The failure of any person to sign these consent forms constitutes grounds for denial of eligibility, or termination of assistance or tenancy (or both), for the covered program.

(3) This part restricts the use of information received by HUD or a PHA from a SWICA to:

(i) Verifying an applicant's or participant's eligibility for or level of benefits; or

(ii) In the case of an owner, informing the owner that an applicant's or participant's eligibility for or level of benefits is uncertain and needs to be verified.

This part prohibits termination, denial, suspension, or reduction of benefits without prior independent verification of wage and claim information obtained from a SWICA. The applicant or participant shall then be notified of any adverse findings and given an opportunity to contest them.

(4) This part provides criminal and civil penalties for certain wrongful or negligent actions under this part.

(b) *Purpose.* The purpose of this part is to enable HUD and PHAs to obtain employee income information and wage and claim information about applicants and participants in the covered programs in order to verify an applicant's or participant's eligibility for or level of benefits and help decrease the incidence of fraud, waste, and abuse in these programs.

(c) *Federal Preemption.* This part preempts any State law, including restrictions and penalties, which governs the collection and use of employee income information and wage

and claim information to the extent it is inconsistent with this part.

§ 760.3 Applicability.

(a) *Information to be Covered by Consent Forms.* The information covered by consent forms described in this part involves employee income information, and wage and claim information from a SWICA. In addition, consent forms may authorize the collection of other information, including information which can be obtained under other laws, regulations, and handbooks.

(b) *Programs Covered.* This part applies to the following housing assistance programs contained in Chapters VIII and IX of this title:

(1) Part 880, Section 8 Housing Assistance Payments for New Construction.

(2) Part 881, Section 8 Housing Assistance Payments for Substantial Rehabilitation.

(3) Part 882, Section 8 Housing Assistance Payments Program for Housing Certificates and Moderate Rehabilitation.

(4) Part 883, Section 8 Housing Assistance Payments Program for State Housing Agencies.

(5) Part 884, Section 8 Housing Assistance Payments Program, New Construction Set-aside for Section 515 Rural Rental Housing Projects.

(6) Part 885, Loans for Housing for the Elderly or Handicapped.

(7) Part 886, Section 8 Housing Assistance Program Special Allocations (Subpart A, Loan Management, and Subpart C, Property Disposition).

(8) Part 887, Housing Vouchers.

(9) Part 900, Section 23 Housing Assistance Payments Program—New Construction and Substantial Rehabilitation.

(10) Part 904, Low Income Housing Homeownership Opportunities.

(11) Part 905, Indian Housing.

(12) Part 960, Admission to, and Occupancy of, Public Housing.

§ 760.5 Definitions.

As used in this part:

Applicant has the following meaning for the programs referred to in § 760.3:

(a) 24 CFR parts 880, 881, 882, 883, 884, 885, 886, 887 and 900: An applicant for assistance or participation, as appropriate, under the covered program.

(b) 24 CFR part 904: A prospective homebuyer.

(c) 24 CFR part 905: A prospective tenant or homebuyer under the program.

(d) 24 CFR part 960: A prospective tenant.

Claim information means information regarding:

(a) Whether an individual is receiving, has received, or has applied for unemployment compensation;

(b) The amount of compensation the individual is receiving or is entitled to receive; and

(c) The period or periods when, or with respect to which, the individual actually received such compensation.

Computer match means the automated comparison of data bases containing records about individuals.

Computer matching agreement means the agreement which describes the responsibilities and obligations of the parties regarding a computer match.

Consent form means a consent form or forms approved by HUD to be signed by applicants and participants for the purpose of obtaining employee income information from employers and wage and claim information from a SWICA or other information which can be obtained under other laws, regulations and handbooks.

Employee income information means all the information known to current or previous employers which HUD or the processing entity determines is necessary for purposes of determining an applicant's or participant's eligibility for or level of benefits in a covered program.

HUD means the United States Department of Housing and Urban Development.

Owner means the person or entity (or employee of an owner) that leases an assisted dwelling unit to an eligible family.

Participant has the following meaning for the programs referred to in § 760.3.

(a) 24 CFR parts 880, 881, 882, 883, 884, 885, 886, 887, and 900: A family receiving assistance under the covered program.

(b) 24 CFR part 904: A homebuyer under the program.

(c) 24 CFR part 905: A tenant or homebuyer under the program.

(d) 24 CFR part 960: A tenant under the program.

Public Housing Agency (PHA) means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) that is authorized to engage in or assist in the development or operation of housing for lower income families under 24 CFR chapters VIII or IX. The term includes Indian housing authorities.

Processing entity means the person or entity that is responsible for making eligibility determinations and any interim or regularly scheduled income reexaminations under any of the programs referred to in 24 CFR 750.3.

State Wage Information Collection Agency (SWICA) means the SWICA, including any Indian tribal agency, receiving quarterly wage reports from employers in the State (which may be the agency administering the State's unemployment compensation program), or an alternative system which has been determined by the Secretary of Labor, to be as effective and timely in providing employment related income and eligibility information.

Wage information means information about wages as defined in the State's unemployment compensation law and includes the Social Security Number (or numbers, if more than one) and quarterly wages of an employee, and the name, address, State, and (when known) Federal employer identification number of an employer reporting wages under a State unemployment compensation law.

Subpart B—Conditions Governing Collection and Use of Information Obtained Pursuant to Consent Forms

§ 760.10 Consent by applicants and participants.

(a) *Required consent by applicants and participants.* The following individuals shall sign consent forms authorizing HUD, the PHA, or the owner to verify employee income information, and HUD or the PHA to request a SWICA to release wage and claim information:

(1) Each applicant under a program referred to in § 760.3, including each family head and spouse regardless of age, and every other member of the household of the applicant who is at least 18 years of age; and

(2) Each participant in a program referred to in § 760.3, including each family head and spouse regardless of age, and every other member of the participant's household who is at least 18 years of age.

(b) *Consent authorization: to whom and when—*

(1) Consent by applicants. Applicants shall sign the consent forms and submit them to the processing entity when their eligibility under a program referred to in § 760.3 is being determined. Applicants shall be responsible for the signing and submitting of consent forms by members of their household.

(2) Initial consent by participants. If participation for a program referred to in § 760.3 was initiated before the effective date of the part, participants, including members of their family, shall sign and submit consent forms at the next regularly scheduled income reexamination. Participants shall be responsible for the signing and submitting of consent forms by members of their households.

(3) Subsequent consent forms to be signed at each regularly scheduled income reexamination by participants who have signed initial consent forms under this section. Once a participant has submitted signed consent forms as an applicant or as a preexisting participant, subsequent consent forms are required to be signed and submitted at each regularly scheduled income reexamination.

(4) Subsequent consent forms to be signed at the next interim or regularly scheduled income reexamination—special cases. Consent forms are required under the following circumstances:

(i) Where there has been a change in the composition of the participant's family, any new member of the family shall sign and submit a consent form at the next interim or regularly scheduled income reexamination;

(ii) When a member of a family turns 18 years of age, that member shall sign and submit a consent form at the next interim or regularly scheduled reexamination; and

(iii) Such other circumstances as HUD (and in the case of the Public Housing program, or the Section 8 Certificate, Housing Voucher, or Moderate Rehabilitation program, the PHA) may prescribe in administrative instructions.

§ 760.15 Penalties for failing to sign consent forms.

(a) *Denial of Eligibility.* The processing entity shall deny the eligibility of an applicant, in accordance with the provisions governing the program involved, if the applicant, or any member of the applicant's household, does not sign and submit the consent forms as required in § 760.10.

(b) *Termination of assistance or tenancy.* It shall be considered grounds for termination of assistance, and (if provided by the individual program covered by this part) the tenancy of a participant, in accordance with the provisions governing the program involved, if the participant, or any member of the participant's household, fails to sign and submit the consent forms as required in § 760.10.

(c) *Cross references.* Individuals should consult the regulations and administrative instructions for the programs referred to in § 760.3 for further information on the use of employee income information and wage and claim information in determining the eligibility of applicants and the continued eligibility of participants.

§ 760.20 Compliance with the Privacy Act and other requirements.

Compliance with the Privacy Act. The collection, maintenance, use, and dissemination of employee income information and wage and claim information under this part shall be conducted, to the extent applicable, in compliance with the Privacy Act (5 U.S.C. 552a) and all other provisions of Federal, State, and local law.

§ 760.25 Request for wage and claim information from SWICA and restrictions on the use of the information.

(a) *Information Available from SWICA—to whom and what.* HUD or the PHA may, after signed consent forms have been submitted to the processing entity by an applicant or participant, request wage and claim information from a SWICA. Regulations prescribed by the Secretary of Labor govern how often and in what form information may be disclosed by a SWICA. Wage and claim information will generally be obtained through computer matching agreements between HUD or a PHA and a SWICA, as described in paragraph (c) of this section.

(b) *Restrictions on Use of Wage and Claim Information Obtained from SWICA.* HUD or a PHA may only use wage and claim information obtained from a SWICA:

(1) To verify an applicant's or participant's eligibility for or level of benefits; or

(2) In the case of an owner, to inform the owner that an applicant's or participant's eligibility for or level of benefits is uncertain and needs to be verified.

(c) *Computer Matching Agreements between PHAs and SWICA.* Before entering into a computer matching agreement with a SWICA for wage and claim information, the PHA shall submit the agreement to HUD for review and approval. Computer matching agreements shall specify, among other things, the purpose and the legal authority for the match, a description of the records to be matched, a statement regarding disposition of information generated through the match, a description of the administrative and technical safeguards to be used in protecting the information obtained through the match, a description of the use of records, duplication and redisclosure restrictions, and the amount a SWICA will charge HUD or a PHA for processing a request.

§ 760.30 Procedures for termination, denial, suspension, or reduction of benefits based on information obtained from a SWICA.

(a) *Termination, Denial, Suspension, or Reduction of Benefits.* A Federal, State, or local agency, a PHA or an owner may terminate, deny, suspend, or reduce any benefits of an applicant or participant based on wage and claim information obtained from a SWICA if:

(1) The agency or owner has taken the steps contained in paragraph (b) to independently verify wage and claim information relating to—

(i) The amount of the wages or unemployment compensation involved;

(ii) whether such applicant or participant actually has (or had) access to such wages or benefits for his or her own use; and

(iii) the period or periods when, or with respect to which, the applicant or participant actually received the wages or benefits; and

(2) the applicant or participant has been given an opportunity to contest any adverse findings in accordance with paragraph (c) of this section.

(b) *Procedures for Independent Verification.*

(1) *Where HUD or a PHA is responsible for determining eligibility for or level of benefits.* The following procedure constitutes independent verification for purposes of paragraph (a) of this section where a PHA is responsible for determining an applicant's or participant's eligibility for or level of benefits in a covered program.

(i) Where HUD receives wage and claim information from a SWICA, HUD shall compare the information with applicant and participant information about a family's income provided by the PHA to HUD. Where the wage and claim information reveals an employer that was not disclosed by the applicant or participant or where the wage and claim information differs from the information received from the applicant or participant or from his or her employer, HUD shall have the PHA request the undisclosed employer or other employer to furnish in writing to the PHA any information necessary to establish an applicant's or participant's eligibility for or level of benefits in a covered program. Neither HUD nor the PHA may disclose wage and claim information to an owner.

(ii) Where a PHA receives wage and claim information from a SWICA, the PHA shall compare the information with applicant and participant information about a family's income provided by the applicant or participant or from his or

her employer. Where the wage and claim information reveals an employer that was not disclosed by the applicant or participant or where the wage and claim information differs from the information received from the applicant or participant or from his or her employer, the PHA shall request the undisclosed employer or other employer to furnish in writing to the PHA any information necessary to establish an applicant's or participant's eligibility for or level of benefits in a covered program. Neither HUD nor the PHA may disclose wage and claim information to an owner.

(2) *Where an owner is responsible for determining eligibility for or level of benefits.* The following procedure constitutes independent verification for purposes of paragraph (a) of this section if an owner is responsible for determining an applicant's or participant's eligibility for or level of benefits in a covered program. Upon receiving wage and claim information from a SWICA, HUD or the PHA, as applicable, shall compare the wage and claim information with the information about a family's income obtained by the owner from the applicant or participant or from his or her employer. Where the wage and claim information reveals an employer that was not disclosed by the applicant or participant or where the wage and claim information differs from the information received from the applicant or participant or from his or her employer, HUD or the PHA shall request the undisclosed employer or other employer to furnish in writing to the owner any information HUD or the PHA determines to be necessary for purposes of having the owner redetermine an applicant's or participant's eligibility for or level of benefits in a covered program. Based on the wage and claim information, HUD or the PHA may inform an owner that an applicant's or participant's eligibility for or level of benefits is uncertain and needs to be verified. The owner shall then reverify the applicant's or participant income information by checking the accuracy of the information with the employer or directly with the family. However, before any benefits are terminated, denied, suspended, or reduced, HUD or the PHA shall independently verify the wage and claim data obtained from a SWICA as descibed in this paragraph. Neither HUD nor the PHA may disclose wage and claim information to an owner.

(3) *Verification by Applicant or Participant.* Where independent verification cannot be obtained from any other source, HUD or a PHA may independently verify wage and claim informatiom obtained from a SWICA by checking the accuracy of the information with the applicant or participant directly.

(c) *Opportunity to Contest.* HUD, the PHA, or the owner shall promptly notify any applicant or participant in writing of any adverse findings made on the basis of the information verified in accordance with paragraph (b) of this section. Termination, denial, suspension, or reduction of benefits shall be determined according to the standards, including income standards, applicable to each individual program. The applicant or participant shall be given an opportunity to contest the findings in the same manner as applies to other information and findings relating to eligibility factors under the applicable housing assistance program.

§ 760.35 Criminal and civil penalties.

(a) *Criminal Penalties.* Any person who knowingly and willfully requests or obtains under false pretenses any wage and claim information concerning an applicant or participant from a SWICA pursuant to this part, or who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" for purposes of this paragraph shall include an officer or employee of HUD, an officer or employee of any PHA, and any owner (or employee of an owner) responsible for determining eligibility for or level of benefits.

(b) *Civil Penalties.* Any applicant or participant affected by:

(1) A negligent or knowing disclosure of information referred to in section 904 of the McKinney Amendments or section 303(i) of the Social Security Act, about such person by an officer or employee of any PHA or owner (or employee of an owner), which disclosure is not authorized by section 904, section 303(i), or any implementing regulation, or

(2) Any other negligent or knowing action that is inconsistent with section 904, section 303(i), or any implementing regulation may bring a civil action for damages and such other relief as may be appropriate against any officer or employee of any PHA or owner (or employee of an owner) responsible for any such unauthorized action. Authorized use of employee income information includes any use of the information determined by HUD, a PHA, or an owner to be necessary for determining eligibility for or level of benefits in a covered program and not prohibited by any Federal or State law. Jurisdiction of such a case is in the United States district court in the district in which the affected applicant or participant resides, in which the unauthorized action occurred, or in which the applicant or participant alleged to be responsible for the unauthorized action resides. Appropriate relief that may be ordered by the district court shall include reasonable attorney fees and other litigation costs.

Subpart C—Implementation

§ 760.40 Effective date of rule.

(a) *Applicants.* The provisions of this part, and the conforming changes made with respect to consent forms in the regulations governing the programs referred to in § 760.3, apply to all applicant eligibility determinations initiated on or after the effective date of this rule.

(b) *Participants.* The provisions of this part, and the conforming changes made with respect to the execution of income verification consent forms for participants in the regulations governing the programs referred to in § 760.3, apply to:

(1) Each interim or regularly scheduled reexamination of the income of a participant initiated by the processing entity on or after the effective date of the rule; and

(2) Each such reexamination thereafter.

PART 813—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM AND RELATED PROGRAMS

17. This authority citation for part 813 would continue to read as follows:

Authority: Secs. 3, 5(b), 8, 16, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f, 1437n); Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

18. In § 813.109, paragraph (a) would be revised to read as follows:

§ 813.109 Initial determination, verification, and reexamination of family income and composition.

(a) *Responsibility for initial determination and reexamination.* The owner or PHA shall be responsible for determination of eligibility for admission; for determination of Annual Income, Adjusted Income and Total Tenant Payment; and for reexamination of Family income and composition at least annually, as provided in pertinent

program regulations and handbooks (see, *e.g.*, part 880, subpart F and part 881, subpart F which for purposes of this part shall apply (as appropriate) to projects developed under 24 CFR part 885, subpart B; 24 CFR part 882, subparts B and E; 24 CFR part 883, subpart G; 24 CFR part 884, subpart B; 24 CFR part 885, subpart C; 24 CFR part 886, subpart A and C; 24 CFR part 887, subpart H; 24 CFR part 750 for the disclosure and verification of Social Security Numbers; and 24 CFR part 760 for the signing and submission of consent forms). As used in this Part, the "effective date" of an examination or reexamination refers to

(1) In the case of an examination for admission, the effective date of initial occupancy; and

(2) In the case of a reexamination of an existing tenant, the effective date of the redetermined housing assistance payment with respect to the Housing Voucher program (24 CFR part 887) and the effective date of the redetermined Total Tenant Payment.

* * * * *

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

19. The authority citation for 24 CFR Part 880 would continue to read as follows:

Authority: Secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

20. In § 880.601, paragraph (b) would be revised to read as follows:

§ 880.601 Responsibilities of owner.

* * * * *

(b) *Management and maintenance.* The owner is responsible for all management functions (including provision of Federal selection preferences in accordance with § 880.613, selection of tenants, obtaining and verifying Social Security Numbers submitted by families (as provided by 24 CFR part 750), obtaining signed consent forms from families (as provided by 24 CFR part 760), reexamination of family income, evictions and other terminations of tenancy, and collection of rents and all repair and maintenance functions (including ordinary and extraordinary maintenance and replacement of capital items). All these functions must be performed in compliance with applicable Equal Opportunity requirements.

* * * * *

21. In § 880.603, the introductory text of paragraph (b), and paragraphs (b)(3) and (c), would be revised to read as follows:

§ 880.603 Selection and admission of assisted tenants.

* * * * *

(b) *Determination of eligibility and selection of tenants.* The owner is responsible for determining whether the applicant is eligible, in accordance with parts 812 and 813 of this chapter, and parts 750 and 760 of chapter VII. The owner is also responsible for the selection of families, including giving a Federal selection preference in accordance with § 880.613.

* * * * *

(3) If the owner determines that an applicant is ineligible on the basis of income or family composition, or because of failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 750), or because of failure by an applicant to sign and submit consent forms (as provided by 24 CFR part 760), or that the owner is not selecting the applicant for other reasons, the owner will promptly notify the applicant in writing of the determination and its reasons, and that the applicant has the right to meet with the owner or managing agent in accordance with HUD requirements. Where the owner is a PHA, the applicant may request an informal hearing. If the PHA determines that the applicant is not eligible, the PHA will notify the applicant and inform the applicant that he or she has the right to request HUD review of the PHA's determination. The applicant may also exercise other rights if the applicant believes that he or she is being discriminated against on the basis of race, color, creed, religion, sex, or national origin. The informal review provisions for the denial of a Federal preference under § 880.613 are contained in paragraph (k) of that section.

* * * * *

(c) *Reexamination of family income and composition.* (1) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least every 12 months. Upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and must carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(2) *Interim reexaminations.* The family must comply with provisions in its lease regarding interim reporting of changes in income. If the owner receives information concerning a change in the Family's income or other circumstances between regularly scheduled reexaminations, the Owner must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the owner must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(3) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760.

22. In § 880.607, paragraph (b)(3) would be revised to read as follows:

§ 880.607 Termination of tenancy and modification of lease.

* * * * *

(b) * * *

(3) *Material noncompliance.* Material noncompliance with the lease includes:

(i) One or more substantial violations of the lease; or

(ii) Repeated minor violations of the lease that disrupt the livability of the building; adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related facilities; interfere with the management of the

building or have an adverse financial effect on the building.

Failure of the family to timely submit all required information on family income and composition or eligibility factors (including failure to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, failure to sign and submit consent forms, as provided by 24 CFR part 760, or knowingly providing incomplete or inaccurate information) will constitute a substantial violation of the lease. Nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period permitted under State law will constitute a substantial violation of the lease. The payment of rent or any other financial obligation due under the lease after the due date but within the grace period permitted under State law will constitute a minor violation.

* * * * *

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

23. The authority citation for part 881 would be revised to read as follows:

Authority: Secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

24. In § 881.601, paragraph (b) would continue to read as follows:

§ 881.601 Responsibilities of owner.

* * * * *

(b) *Management and maintenance.* The owner is responsible for all management functions (including provision of Federal selection preferences in accordance with § 881.613, selection of tenants, obtaining and verifying Social Security Numbers submitted by families (as provided by 24 CFR part 750), obtaining signed consent forms from families (as provided by 24 CFR part 760), reexamination of family incomes, evictions and other terminations of tenancy, and collection of rents and all repair and maintenance functions (including ordinary and extraordinary maintenance and replacement of capital items). All these functions must be performed in compliance with applicable Equal Opportunity requirements.

* * * * *

25. In § 881.603, the introductory text of paragraph (b), and paragraphs (b)(3) and (c), would be revised to read as follows:

§ 881.603 Selection and admission of assisted tenants.

* * * * *

(b) *Determination of eligibility and selection of tenants.* The owner is responsible for determining whether the applicant is eligible, in accordance with parts 812 and 813 of this chapter, and parts 750 and 760 of chapter VII. The owner is also responsible for the selection of families, including giving a Federal selection preference in accordance with § 881.613.

* * * * *

(3) If the owner determines that an applicant is ineligible on the basis of income or family composition, or because of failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 750), or because the applicant fails to sign and submit consent forms (as provided by 24 CFR part 760), or that the owner is not selecting the applicant for other reasons, the owner will promptly notify the applicant in writing of the determination and its reasons, and that the applicant has the right to meet with the owner or managing agent in accordance with HUD requirements. Where the owner is a PHA, the applicant may request an informal hearing. If the PHA determines that the applicant is not eligible, the PHA will notify the applicant and inform the applicant that he or she has the right to request HUD review of the PHA's determination. The applicant may also exercise other rights if the applicant believes that he or she is being discriminated against on the basis of race, color, creed, religion, sex, or national origin. The informal review provisions for the denial of a Federal preference under § 881.613 are contained in paragraph (k) of that section.

* * * * *

(c) *Reexamination of family income and composition.* (1) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least once every 12 months. After consultation with the family and upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and must carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(2) *Interim reexaminations.* The family must comply with provisions in its lease regarding interim reporting of changes in income. If the Owner receives information concerning a change in income between regularly scheduled reexaminations, the Owner must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the Owner must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(3) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the contract. However, eligibility also may be terminated in accordance with HUD requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760.

26. In § 880.607, paragraph (b)(3) would be revised to read as follows:

§ 880.607 Termination of tenancy and modification of lease.

* * * * *

(b) * * *

(3) *Material noncompliance.* Material noncompliance with the lease includes:

(i) One or more substantial violations of the lease; or

(ii) Repeated minor violations of the lease that disrupt the livability of the building; adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related facilities; interfere with the management of the building; or have an adverse financial effect on the building. Failure of the family to timely submit all required

information on family income and composition or eligibility factors (including failure to disclose and verify Social Security Numbers (as provided by 24 CFR part 750), failure to sign and submit consent forms (as provided by 24 CFR part 760), or knowingly provide incomplete or inaccurate information) will constitute a substantial violation of the lease. Nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period permitted under State law will constitute a substantial violation of the lease. The payment of rent or any other financial obligation due under the lease after the due date but within the grace period permitted under State law will constitute a minor violation.

* * * * *

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

27. The authority citation for part 882 would continue to read as follows:

Authority: Secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

28. In § 882.116, paragraphs (c) and (m) would be revised to read as follows:

§ 882.116 Responsibilities of the PHA.

* * * * *

(c) Receipt and review of applications for Certificates of Family Participation; provision of a Federal preference in selecting applicants for participation in accordance with § 882.219; verification of family income and other factors relating to eligibility and amount of assistance (including obtaining and verifying Social Security Numbers submitted by families, as provided by 24 CFR part 750, and requiring families to sign and submit consent forms, as provided by 24 CFR part 760); and maintenance of a waiting list in accordance with this part;

* * * * *

(m) Reexamination of family income, composition, and extent of medical or child care expenses; redeterminations, as appropriate, of the amount of Total Tenant Payment and amount of housing assistance payment in accordance with part 813 of this chapter; obtaining and verifying Social Security Numbers submitted by families, as provided by 24 CFR part 750; and requiring families to sign and submit consent forms, as provided by 24 CFR part 760;

* * * * *

29. In § 882.118, paragraph (a)(1) would be revised to read as follows:

§ 882.118 Obligations of the Family.

(a) The family must:

(1) Supply such certification, release, information, or documentation as the PHA or HUD determine to be necessary, including the submission of Social Security Numbers and verifying documentation (as provided by 24 CFR part 750), the submission of signed consent forms (as provided by 24 CFR part 760), and submissions required for an annual or interim reexamination of family income and composition.

* * * * *

30. In § 882.209, paragraph (a)(2) would be revised to read as follows:

§ 882.209 Selection and participation.

(a) * * *

(2) The PHA must determine whether an applicant for participation:

(i) Qualifies as a family;

(ii) Has disclosed and verified Social Security Numbers, as provided by 24 CFR part 750;

(iii) Has signed and submitted consent forms, as provided by 24 CFR part 760; and

(iv) Is income-eligible.

* * * * *

31. In § 882.210, new paragraph (e) would be added:

§ 882.210 Grounds for denial or termination of assistance.

* * * * *

(e) The PHA shall deny the eligibility of an applicant, if the applicant, or any member of the applicant's household does not sign and submit consent forms as provided by 24 CFR 760. It shall be considered grounds for termination of assistance, if the participant, or any member of the participant's household fails to sign and submit consent forms, as provided by 24 CFR 760.

32. In § 882.212, paragraphs (a), (b), and (c) would be revised to read as follows:

§ 882.212 Reexamination of family income and composition.

(a) *Regular reexaminations.* The PHA must reexamine the income and composition of all families at least once every 12 months. After consultation with the family and upon verification of the information, the PHA must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate (see § 882.213). The PHA must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment. At the time of the annual reexamination of family income and composition, the PHA must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(b) *Interim reexaminations.* The family must comply with provisions in § 882.118 regarding interim reporting of changes in income. If the PHA receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the PHA must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the PHA must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent, and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(c) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments shall continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760.

* * * * *

33. In § 882.514, paragraph (a)(1) would be revised to read as follows:

§ 882.514 Family participation.

(a) *Initial determination of family eligibility.* (1) The PHA is responsible for receipt and review of applications, and determination of family eligibility for participation in accordance with HUD regulations (see 24 CFR parts 812 and 813, and 24 CFR parts 750 and 760). The PHA is responsible for verifying the sources and amount of the family's income and other information necessary

for determining income eligibility and the amount of the assistance payments. The PHA is also responsible for giving a Federal selection preference in accordance with § 822.517.

* * * * *

34. Section 882.515 would be revised to read as follows:

§ 882.515 Reexamination of family income and composition.

(a) *Regular reexaminations.* The PHA must reexamine the income and composition of all families at least once every 12 months. After consultation with the family and upon verification of the information, the PHA must make appropriate adjustments in the Total Tenant Payment in accordance with Part 813 of this chapter and determine whether the family's unit size is still appropriate (see § 882.213). The PHA must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment. At the time of the annual reexamination of family income and composition, the PHA must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(b) *Interim reexaminations.* The family must comply with provisions in § 882.118 regarding interim reporting of changes in income. If the PHA receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the PHA must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the PHA must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent, and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(c) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments shall continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760.

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—STATE HOUSING AGENCIES

35. The authority citation for Part 883 would continue to read as follows:

Authority: Secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

36. In § 883.702, paragraph (b) would be revised to read as follows:

§ 883.702 Responsibilities of owner.

* * * * *

(b) *Management and maintenance.* The owner is responsible for all management functions (including provision of Federal selection preferences in accordance with § 883.714, selection of tenants, obtaining and verifying Social Security Numbers submitted by families (as provided by 24 CFR part 750), obtaining signed consent forms (as provided by 24 CFR part 760), reexamination of family income, evictions and other terminations of tenancy, and collection of rents) and all repair and maintenance functions (including ordinary and extraordinary maintenance and replacement of capital items). All these functions must be performed in compliance with applicable Equal Opportunity requirements.

* * * * *

37. In § 883.704, the introductory text of paragraph (b), and paragraphs (b)(3) and (c), would be revised to read as follows:

§ 883.704 Selection and admission of tenants.

* * * * *

(b) *Determination of eligibility and selection of tenants.* The owner is responsible for determining whether the applicant is eligible, in accordance with parts 812 and 813 of this chapter, and parts 750 and 760 of chapter VII. The owner is also responsible for the selection of families, including giving a Federal preference in accordance with § 883.714.

* * * * *

(3) If the owner determines that an applicant is ineligible on the basis of income or family composition, or because of failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 750), or because of failure to sign and submit consent forms (as provided by 24 CFR part 760), or that the owner is not selecting the applicant for other reasons, the owner will promptly notify the applicant in writing of the determination and its reasons, and that the applicant has the right to meet with the owner or managing agent in accordance with HUD requirements. Where the owner is a PHA, the applicant may request an informal hearing. If the PHA determines that the applicant is not eligible, the PHA will notify the applicant and inform the applicant that he or she has the right to request a review by the Agency and HUD of the PHA's determination. The applicant may also exercise other rights if the applicant believes that he or she is being discriminated against on the basis of race, color, creed, religion, sex, or national origin. The informal review provisions for the denial of a Federal preference are contained in § 883.714(k).

* * * * *

(c) *Reexamination of family income and composition.* (1) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least once every 12 months. After consultation with the family and upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and must carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(2) *Interim reexaminations.* The family must comply with provisions in its lease regarding interim reporting of changes in income. If the Owner receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the Owner must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the Owner must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or

other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent, and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(3) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the contract. However, eligibility also may be terminated in accordance with HUD requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760.

38. In § 883.708, paragraph (b)(3) would be revised to read as follows:

§ 883.708 Termination of tenancy and modification of lease.

* * * * *

(b) * * *

(3) *Material noncompliance.* Material noncompliance with the lease includes:

(i) One or more substantial violations of the lease; or

(ii) Repeated minor violations of the lease that disrupt the livability of the building, adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related facilities; interfere with the management of the building; or have an adverse financial effect on the building or project. Failure of the family to timely submit all required information on family income and composition or eligibility factors (including failure to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, failure to sign and submit consent forms, as provided by 24 CFR part 760, or knowingly provide incomplete or inaccurate information) will constitute a substantial violation of the lease. Nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period permitted under State law will constitute a substantial violation of the lease. The payment of rent or any other financial obligation due under the lease after the due date but within the grace period permitted under State law will constitute a minor violation.

* * * * *

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

39. The authority citation for part 884 would continue to read as follows:

Authority: Secs. 3, 5, 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

40. In § 884.118, paragraphs (a)(3) and (a)(7) would be revised to read as follows:

§ 884.118 Responsibilities of the owner.

(a) * * *

(3) Performance of all management functions, including the taking of applications; selection of families, including verification of income, provision of Federal selection preferences in accordance with § 884.226, obtaining and verifying Social Security Numbers submitted by applicants (as provided by 24 CFR part 750), obtaining signed consent forms from applicants (as provided by 24 CFR part 760), and other pertinent requirements; and determination of eligibility and amount of tenant rent in accordance with HUD-established schedules and criteria.

* * * * *

(7) Reexamination of family income and composition; redetermination, as appropriate, of the amount of Tenant Rent and the amount of housing assistance payment in accordance with part 813; obtaining and verifying Social Security Numbers submitted by participants, as provided by 24 CFR part 750; and obtaining signed consent forms from participants, as provided by 24 CFR part 760.

* * * * *

41. Section 884.216 would be revised to read as follows:

§ 884.216 Termination of tenancy.

The Owner shall be responsible for termination of tenancies, including evictions. However, conditions for payment of housing assistance payments for any resulting vacancies must be as set forth in § 884.106(c)(1). Failure of the family to sign and submit consent forms, as provided by 24 CFR part 760, shall be grounds for termination of tenancy.

42. Section 884.218 would be revised to read as follows:

§ 884.218 Reexamination of family income and composition.

(a) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least once each year. Upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(b) *Interim reexaminations.* The family must comply with provisions of its lease regarding interim reporting of changes in income. If the owner receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the owner must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(c) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments continues until the Total Tenant Payment equals the Gross Rent, or until the family loses eligibility for continued occupancy under Farmer's Home Administration regulations. However, eligibility also may be terminated in accordance with HUD requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760.

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

43. The authority citation for part 885 would continue to read as follows:

Authority: Sec. 202, Housing Act of 1959 (12 U.S.C. 1701q); sec. 8, United States Housing Act of 1937 (42 U.S.C. 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

44. In § 885.950, paragraphs (a) and (c) would be revised to read as follows:

§ 885.950 Selection and admission of tenants.

(a) *Application for admission.* The Borrower must accept applications for admission to the project in the form prescribed by HUD. Applicant families applying for assisted units (or residential spaces in a group home) must complete a certification of eligibility as part of the application for admission. Applicant families must meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750. Applicant families must sign and submit consent forms, as provided by 24 CFR part 760. Both the Borrower and the applicant family must complete and sign the application for admission. On request, the Borrower must furnish copies of all applications for admission to HUD.

* * * * *

(c) *Reexamination of family income and composition*—(1) *Regular reexaminations.* If the family occupies an assisted unit (or residential space in a group home), the Borrower must reexamine the income and composition of the family at least every 12 months. Upon verification of the information, the Borrower shall make appropriate adjustments in the Total Tenant Payment in accordance with 24 CFR part 813, as modified by § 885.5 and determine whether the family's unit size is still appropriate. The Borrower must adjust Tenant Rent and the Project Assistance Payment and must carry out any unit transfer in accordance with HUD standards. At the time of the annual reexamination of family income and composition, the Borrower must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(2) *Interim reexaminations.* If the family occupies an assisted unit (or residential space in a group home) the family must comply with provisions in the lease regarding interim reporting of changes in income. If the Borrower receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the Borrower must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the Borrower must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Project Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(3) *Continuation of project assistance payment.* (i) A family occupying an assisted unit (or residential space in a group home) shall remain eligible for Project Assistance Payment until the Total Tenant Payment equals or exceeds the Gross Rent (or a pro rata share of the Gross Rent in a group home). The termination of subsidy eligibility will not affect the family's other rights under its lease. Project Assistance Payment may be resumed if, as a result of changes in income, rent or other relevant circumstances during the term of the PAC, the family meets the income eligibility requirements of 24 CFR part 813 (as modified in § 885.5) and project assistance is available for the unit or residential space under the terms of the PAC. The family will not be required to establish its eligibility for admission to the project under the remaining requirements of paragraph (b) of this section.

(ii) A family's eligibility for Project Assistance Payment also may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 750) or failure to sign and submit consent forms (as provided by 24 CFR part 760).

45. In § 885.955, paragraph (a)(2) would be revised to read as follows:

§ 885.955 Obligations of the family.

(a) * * *

(2) Supply such certification, release, information or documentation as the Borrower or HUD determines to be necessary, including information relating to the disclosure and verification of Social Security Numbers, as provided by 24 CFR part 750, and the signing and submission of consent forms, as provided by 24 CFR part 760.

* * * * *

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

46. The authority citation for part 886 would continue to read as follows:

Authority: Sections 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

47. In § 886.119, paragraphs (a)(3) and (7) would be revised to read as follows:

§ 886.119 Responsibilities of owner.

(a) * * *

(3) Performance of all management functions, including the taking of applications; selection of families, verification of income, provision of Federal selection preferences in accordance with § 886.132, obtaining and verifying Social Security Numbers submitted by applicants (as provided by 24 CFR part 750), obtaining signed consent forms from applicants (as provided by 24 CFR part 760), and other pertinent requirements; and determination of eligibility and amount of Tenant Rent in accordance with part 813 of this chapter.

* * * * *

(7) Reexamination of family income and composition, redetermination, as appropriate, of the amount of Tenant Rent and the amount of housing assistance payment in accordance with Part 813; collection of rent; obtaining and verifying participant Social Security Numbers, as provided by 24 CFR part 750; and obtaining signed consent forms from participants, as provided by 24 CFR part 760.

* * * * *

48. Section 886.124 would be revised to read as follows:

§ 886.124 Reexamination of family income and composition.

(a) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least once each year. Upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign

and submit consent forms, as provided by 24 CFR part 760.

(b) *Interim reexaminations.* The Family must comply with provisions in its lease regarding interim reporting of changes in income. If the Owner receives information concerning a change in the Family's income or other circumstances between regularly scheduled reexaminations, the Owner must consult with the Family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the Owner must require the Family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the Family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(c) *Continuation of housing assistance payments.* A Family's eligibility for housing assistance payments will continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with program requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760.

49. In § 886.318, paragraphs (a)(3) and (a)(6) would be revised to read as follows:

§ 886.318 Responsibilities of the owner.

(a) * * *

(3) Performance of all management functions, including the taking of applications; selection of families in accordance with the owner's tenant selection factors approved by HUD and the Federal preferences in accordance with § 886.337; obtaining and verifying Social Security Numbers submitted by applicants, as provided by 24 CFR part 750; obtaining signed consent forms from applicants, as provided by 24 CFR part 760; verification of income and other pertinent requirements; and determination of eligibility and amount of tenant rent in accordance with part 813 of this chapter;

* * * * *

(6) Reexamination of family income, composition, and extent of exceptional medical or other unusual expenses; redeterminations, as appropriate, of the amount of Tenant Rent and amount of housing assistance payment in accordance with part 813 of the chapter; obtaining and verifying Social Security Numbers submitted by participants, as provided by 24 CFR part 750; and obtaining signed consent forms from participants, as provided by 24 CFR part 760.

* * * * *

50. Section 886.324 would be revised to read as follows:

§ 886.324 Reexamination of family income and composition.

(a) *Regular reexaminations.* The owner must reexamine the income and composition of all families at least once each year. Upon verification of the information, the owner must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate. The owner must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment and carry out any unit transfer required by HUD. At the time of the annual reexamination of family income and composition, the owner must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(b) *Interim reexaminations.* The family must comply with provisions in its lease regarding interim reporting of changes in income. If the owner receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the owner must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the owner must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent and Housing Assistance Payment must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

(c) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments will continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances during the term of the contract. However, eligibility also may be terminated in accordance with HUD requirements, for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760.

PART 887—HOUSING VOUCHERS

51. The authority citation for part 887 would continue to read as follows:

Authority: Secs. 3, 5, 8, U.S. Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

52. In § 887.105, paragraph (b)(1) is revised to read as follows:

§ 887.105 PHA responsibilities.

* * * * *

(b) * * *

(1) Publish and disseminate information concerning the availability and nature of housing assistance for lower income families (see § 887.107); invite owners to make units available for leasing in the program and develop working relationships with real estate associations and other appropriate groups (see § 887.109); explain program procedures to owners, including those who have been approached by housing voucher holders; obtain and verify Social Security Numbers submitted by families, as provided by 24 CFR part 750; obtain signed consent forms from families, as provided by 24 CFR part 760; comply with equal opportunity requirements, including efforts to provide opportunities for recipients to seek housing outside areas of economic and racial concentration.

* * * * *

53. In section 887.355, paragraph (a) would be revised to read as follows:

§ 887.355 Regular reexamination of family income and composition.

(a) The PHA must reexamine family income and family size and composition at least annually, and in accordance

with Part 813 of this chapter. At the time of the annual reexamination of family income and composition, the PHA must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

* * * * *

54. Section 887.357 would be revised to read as follows:

§ 887.357 Interim reexamination of family income and composition.

A family may request a redetermination of the housing assistance payment at any time, based on a change in the family's income, adjusted income, size or composition. At the time of interim reexamination, the PHA must require the family to sign and submit consent forms, as provided by 24 CFR part 760. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

55. In § 887.401, paragraph (a)(1) would be revised to read as follows:

§ 887.401 Family responsibilities.

(a) * * *

(1) Supply any certificate, release, information, or documentation that the PHA or HUD determines to be necessary in the administration of the program (including the disclosure and verification of Social Security Numbers (as provided by 24 CFR part 750) and the signing and submitting of consent forms (as provided by 24 CFR part 760)), and other information required for use by the PHA in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements;

* * * * *

56. In § 887.403, new paragraph (d) would be added:

§ 887.403 Grounds for PHA denial or termination of assistance.

* * * * *

(d) *Requirement to sign consent forms.* The PHA must deny eligibility of applicant's admission to participate in the Housing Voucher program, if the applicant, or any member of the applicant's household, does not sign and submit the consent forms, as provided by 24 CFR part 760. With respect to a current participant a PHA may terminate housing voucher assistance payments, refuse to issue another housing voucher for a move to another unit, approve a new lease, or execute a new housing voucher contract, if the participant, or any member of the participant's household, fails to sign and submit consent forms, as provided by 24 CFR part 760.

PART 900—SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM—NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION

57. The authority citation for Part 900 would continue to read as follows:

Authority: Sec. 10(b), United States Housing Act, of 1937 (42 U.S.C. 1410(b)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

58. In section 900.103, paragraphs (i) and (j) would be revised to read as follows:

§ 900.103 Basic policies.

* * * * *

(i) *Responsibilities of the LHA.* The LHA is responsible for determining family eligibility for assistance in accordance with provisions of 24 CFR parts 912 and 913, and family eligibility and continuing eligibility for assistance in accordance with 24 CFR parts 750 and 760; determining the amount of adjusted income, the amount of rent payable by the family, and housing assistance payments in accordance with 24 CFR part 913; issuing Certificates of Family Participation to eligible families; notifying families determined eligible; approving owner-family leases; making housing assistance payments on behalf of eligible families; reexamining family eligibility at least annually; inspecting units before leasing, and at least annually thereafter, to determine that the units are maintained in decent, safe and sanitary condition (failure to do so shall constitute a Substantial Default by the LHA under the Annual Contributions Contract); authorizing evictions; and complying with equal opportunity requirements. The LHA must provide advice and guidance to eligible families in finding suitable housing, including advice and guidance to families experiencing discrimination, in an affirmative manner to further the policies of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968 and Executive Order 11063.

(j) *Responsibilities of the family.* A family receiving housing assistance under this program is responsible for fulfilling all its obligations under both the lease with the owner and the Certificate of Family Participation issued to it by the LHA: for cooperating with reexamination requirements; for disclosing and verifying Social Security Numbers, as provided by 24 CFR part 750; and for signing and submitting consent forms at the time that the family's eligibility is determined and at the time of any interim or regularly scheduled income reexamination, as provided by 24 CFR part 760.

* * * * *

59. In § 900.202, paragraphs (d)(3) and (f)(2)(iii) would be revised to read as follows:

§ 900.202 Project operation.

* * * * *

(d) * * *

(3) That the request cannot be approved because the family is not eligible (including ineligibility caused by the family's failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or failure to sign and submit consent forms, as provided by 24 CFR part 760), or the dwelling unit or the proposed lease does not meet program requirements.

* * * * *

(f) * * *

(2) * * *

(iii) The LHA determines that the family continues to be eligible for such assistance (including continued eligibility under 24 CFR parts 750 and 760).

* * * * *

PART 904—LOW RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES

60. The authority citation for part 904 would continue to read as follows:

Authority: United States Housing Act of 1937 (42 U.S.C. 1437–1437(r); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

61. In section 904.104, paragraph (c) would be revised to read as follows:

§ 904.104 Eligibility and selection of homebuyers.

* * * * *

(c) *Determination of eligibility and preparation of list.* The LHA, without participation of a recommending committee (see paragraph (e)(1) of this section), must determine the eligibility of each applicant family in respect to the income limits for the development (including the requirement that the applicant family disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and sign and submit consent forms, as provided by 24 CFR part 760), and must then assign each eligible applicant its appropriate place on a waiting list for the development, in sequence based upon the date of the application, suitable type or size of unit, qualification for a Federal preference in accordance with § 904.122, and factors affecting preference or priority established by the LHA's regulations. Notwithstanding the fact that the LHA

may not be accepting additional applications because of the length of the waiting list, the LHA may not refuse to place an applicant on the waiting list if the applicant is otherwise eligible for participation and claims that he or she qualifies for a Federal preference as provided in § 904.122(c)(2), unless the LHA determines, on the basis of the number of applicants who are already on the waiting list and who claim a Federal preference, and the anticipated number of admissions to housing under Turnkey III, that—

(1) There is an adequate pool of applicants who are likely to qualify for a Federal preference, and

(2) It is unlikely that, on the basis of the LHA's system for applying the Federal preferences, the preference or preferences that the applicant claims, and the preferences claimed by applicants on the waiting list, the applicant would qualify for admission before other applicants on the waiting list.

* * * * *

62. In § 904.107, paragraph (m)(1) would be revised to read as follows:

§ 904.107 Responsibilities of homebuyer.

* * * * *

(m) *Termination by LHA.* (1) If the homebuyer breaches the Homebuyers Ownership Opportunity Agreement by failure to make the required monthly payment within 10 days after its due date, by misrepresentation or withholding of information (including the failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR part 750, or the failure to sign and submit consent forms as provided by 24 CFR part 760) in applying for admission or in connection with any subsequent reexamination of income and family composition, or by failure to comply with any of the other homebuyer obligations under the Agreement, the LHA may terminate the Agreement. No termination under this paragraph may occur less than 30 days after the LHA gives the homebuyer notice of its intent to do so in accordance with paragraph (m)(3) of this section.

* * * * *

PART 905—INDIAN HOUSING

63. The authority citation for 24 CFR Part 905 would continue to read as follows:

Authority: Secs. 201, 202, 203, 205, United States Housing Act of 1937 (42 U.S.C. 1437aa, 1437bb, 1437cc, 1437ee); sec. 7(b), Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

64. In § 905.302, a new paragraph (b)(2)(vi) would be added, to read as follows:

§ 905.302 Admission policies.

* * * * *

(b) * * *

(2) * * *

(vi) To achieve compliance with 24 CFR part 760, which requires applicants and participants to sign and submit consent forms at the time eligibility is determined and at later income reexaminations.

65. In § 905.406, a new paragraph (a)(4) would be added to read as follows:

§ 905.406 Selection of MH homebuyers.

(a) * * *

(4) All admissions under this part are subject to the signing and submission of consent form requirements, as provided by 24 CFR part 760.

* * * * *

PART 913—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE PUBLIC HOUSING AND INDIAN HOUSING PROGRAMS

66. The authority citation for part 913 would continue to read as follows:

Authority: Secs. 3, 6, 16, 201, 202, 203, 205, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437d, 1437n, 1427aa, 1437bb, 1437cc, 1437ee); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

67. In § 913.109, paragraph (a) would be revised to read as follows:

§ 913.109 Initial determination, verification, and reexamination of family income and composition.

(a) *Responsibility for initial determination and reexamination.* The PHA is responsible for determination of eligibility for admission; for determination of Annual Income, Adjusted Income and Total Tenant Payment, and for reexamination of family income and composition at least annually, as provided in pertinent program regulations and handbooks (24 CFR part 960, Subpart B, and 24 CFR parts 750 and 760). As used in this part, the "effective date" of an examination or reexamination refers to:

(1) In the case of an examination for admission, the effective date of initial occupancy, and

(2) In the case of a reexamination of an existing tenant, the effective date of the redetermined Total Tenant Payment.

* * * * *

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

68. The authority citation for 24 CFR part 960 would continue to read as follows:

Authority: Secs. 3, 5, 6, 16, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437d, 1437n); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

69. In § 960.204, paragraph (c)(5) would be revised to read as follows:

§ 960.204 PHA tenant selection policies.

* * * * *

(c) * * *

(5) Be in compliance with State, local and Federal laws and regulations, including the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, the provisions of the ACC, and 24 CFR parts 750 and 760.

* * * * *

70. In § 960.206, paragraph (a) would be revised to read as follows:

§ 960.206 Verification procedures.

(a) *General.* Adequate procedures must be developed to obtain and verify information with respect to each applicant. (See part 913 of this chapter and 24 CFR parts 750 and 760.) Information relative to the acceptance or rejection of an applicant or the grant or denial of a Federal preference under section 960.211, must be documented and placed in the applicant's file.

* * * * *

71. Section 960.209 would be revised to read as follows:

§ 960.209 Reexamination of family income and composition.

(a) *Regular reexaminations.* The PHA must reexamine the income and composition of all tenant families at least once every 12 months and determine whether the family's unit size is still appropriate. After consultation with the family and upon verification of the information, the PHA must make appropriate adjustments in the Total Tenant Payment and Tenant Rent in accordance with part 913 of this chapter. At the time of the annual reexamination of family income and composition, the PHA must require the family to disclose and verify Social Security Numbers, as provided by 24 CFR part 750, and to sign and submit consent forms, as provided by 24 CFR part 760.

(b) *Interim reexaminations.* The Family must comply with provisions in its lease regarding interim reporting of changes in income. If the PHA receives information concerning a change in the family's income or other circumstances

between regularly scheduled reexaminations, the PHA must consult with the family and make any adjustments determined to be appropriate. At the time of the interim reexamination, the PHA must require the family to sign and submit consent forms, as provided by 24 CFR part 760. Any change in the family's income or other circumstances that results in adjustment in the Total Tenant Payment or Tenant Rent must be verified. See 24 CFR 750.10(d)(2)(i) for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members.

* * * * *

Dated: August 22, 1989.

Jack Kemp,

Secretary.

[FR Doc. 89-25285 Filed 11-02-89; 8:45 am]

BILLING CODE 4210-32-M

federal register

Friday
November 3, 1989

Part III

Department of Education

34 CFR Part 668

Student Assistance General Provisions; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1840-AB18

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends § 668.12 of the Student Assistance General Provisions regulations. These amendments help implement the Secretary's initiative to reduce the potential for abuse in the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended (title IV, HEA programs). They require that certain officials of educational institutions seeking to begin participation in a title IV, HEA program for the first time complete appropriate training provided by the Secretary.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. A document announcing the effective date will be published in the **Federal Register**. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Ms. Sibyl K. Bowie, Division of Policy and Program Development, U.S. Department of Education, 400 Maryland Avenue, SW., (Regional Office Building 3, Room 4318), Washington, DC 20202. Telephone number: (202) 732-4888.

SUPPLEMENTARY INFORMATION: On March 17, 1989, the Secretary published a notice of proposed rulemaking for the regulations governing Institutional Eligibility under the HEA and the Student Assistance General Provisions regulations in the **Federal Register** (54 FR 11354-11358). These final regulations are being published separately from the final regulations corresponding to other provisions in the NPRM so that they will be effective for the 1989-90 award year. Final regulations corresponding to other provisions contained in the NPRM will be published at a later date.

These final regulations require that in order for an institution to begin participation in a title IV, HEA program, both (1) the institution's chief administrator or, except for a for-profit institution, another administrative official designated by the chief administrator, and (2) the designated individual who will be responsible for administering that title IV, HEA program at that institution must complete title IV, HEA program training offered by the Secretary. This change applies to any institution applying for participation in a title IV, HEA program for the first time. There is only one significant change between the NPRM and these final regulations, based upon public response to the proposed regulations in the NPRM. The regulations have been modified to provide that if either one of the two individuals designated under § 668.12(a)(1)(ii) of the Student Assistance General Provisions has previously completed title IV, HEA program training offered by the Secretary, the institution may elect to request an on-site certification review instead of requiring that individual to complete again the title IV, HEA program training.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, twenty-one parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

Major issues are grouped according to subject.

Support of Training Requirement

Comments: Most commenters supported the Secretary's initiative to reduce the potential for abuse in the student aid programs administered by the Department of Education by requiring certain institutional officials to complete training offered by the Secretary prior to participation in a new title IV, HEA program. However, one commenter stated that the training requirement was time consuming and costly, adding that requiring an institution to complete training each time the institution wishes to begin participation in a program seems inefficient.

Discussion: The Secretary appreciates the positive response from the commenters and believes that the merit of the knowledge to be gained by the training will far outweigh the factors of additional time and financial costs that may be incurred by institutions.

Changes: None.

Clarification of Training Requirement

Comment: One commenter suggested that the training be required only in the case of an institution applying for initial participation in the title IV, HEA programs, but not for an institution that has participated in one title IV, HEA program and is seeking to begin participation in another. Another commenter asked for clarification on whether an institution that is currently eligible to participate in the Pell Grant Program but is seeking to participate in a campus-based program would have to send staff for the training.

Discussion: The Secretary is concerned that many institutional personnel that have not previously participated in a specific title IV, HEA program may lack experience and adequate knowledge concerning the administration of that program. The Secretary believes that the requirement that certain institutional administrators complete training offered by the Secretary will ensure that the institution will have knowledgeable personnel to properly administer the title IV, HEA programs. Further, the Secretary recognizes the similarities that exist among the campus-based programs and believes that the personnel of an institution participating in one campus-based program can acquire the knowledge and proficiency to administer another campus-based program without completing additional training. However, since there are major differences among the Pell Grant Program, the campus-based programs, and the title IV, part B programs [Stafford Loan (formerly Guaranteed Student Loan (GSL)), Supplemental Loans for Students (SLS), and PLUS] an institution participating, for example, only in the Pell Grant Program must satisfy the training requirement in order to begin participation in one of the campus-based programs. If the institution would like to begin participation in the Stafford Loan, SLS, and PLUS programs at a later date, that institution must also satisfy the training requirement for those programs because of the major differences in administration of those programs as compared with the Pell Grant Program.

Changes: Paragraph (a)(2) has been modified to allow institutions participating in one campus-based program to begin participation in another campus-based program without additional training. Another modification to paragraph (a)(2) reflects the fact that an institution that participates in one of the programs authorized under part B of title IV of the HEA is considered to be a participant in all of the programs authorized under part B.

Duplication of Effort

Comments: Two commenters expressed concern that due to the high rate of turnover in the financial aid profession, it is possible that financial aid administrators may be required to be trained under this provision even though they may already have received

that training as employees of other institutions. The commenters suggested that an institution be exempted from the training requirement if the appropriate individuals received such training at a previous institution. Another commenter suggested that persons who have completed the training be certified as having been trained by the Department to administer title IV, HEA program funds.

Discussion: The Secretary enters into a written participation agreement with an institution in order for that institution to participate in a title IV, HEA program. The Secretary does not regulate the activities of individuals, since the Department does not have contractual agreements with individuals. Accordingly, it would be inappropriate for the Secretary to issue regulations governing these individuals. However, to ensure that an institution seeking to participate in a title IV, HEA program for the first time is institutionally capable of administering the title IV, HEA program properly, the final regulations require that the institution send certain personnel to complete training offered by the Department, unless that individual previously completed title IV, HEA program training provided by the Secretary.

Changes: In response to these comments, these final regulations have been modified to provide the institution with an option if either one of the two individuals designated under § 668.12 of the Student Assistance General Provisions has previously received title IV, HEA program training offered by the Secretary. The institution may either satisfy the training requirement or may elect to request an on-site certification review in lieu of the training requirement. If the institution requests the on-site certification review, it may not begin participation in the new title IV, HEA program or programs until the Secretary conducts the review and notifies the institution that it is in compliance with title IV, HEA statutory and regulatory requirements.

Personnel Required To Complete Training

Comments: Although most commenters agreed that training in the proper administration of the title IV, HEA programs is essential, commenters differed with regard to which institutional personnel should be required to complete the training. One commenter questioned why for-profit institutions have been singled out as being required, without exception, to have the chief administrator complete the training offered, stating that this provision appears to constitute discrimination. Another commenter stated that only the individual responsible for administering the title IV, HEA program in which the institution has applied to participate should be required to complete training. Several commenters concurred that the institution's chief administrator as well as the financial aid administrator should receive that training.

Discussion: The majority of institutions that are seeking to participate in the title IV, HEA programs for the first time are for-profit institutions. These institutions frequently do not have the third-party oversight (*e.g.*, State department of education, Board of Trustees) that is found in the nonprofit and public sectors. In addition, the chief administrator of a for-profit institution is often actively involved in the decision-making process concerning the financial management of the institution. Further, for-profit institutions receive a significant percentage of their total revenue from the title IV, HEA programs. Accordingly, a failure to properly administer the title IV, HEA programs, resulting in an institution owing a substantial liability to the Secretary, could jeopardize the solvency of the institution. The Secretary therefore believes that it is imperative that the chief administrator of these institutions, as well as the financial aid administrator, be cognizant of the institution's responsibilities to properly administer the title IV, HEA programs.

Changes: None.

Expansion of Training Requirement

Comments: While two commenters suggested that the training requirement be expanded to include all financial aid officers or all professional employees responsible for matters related to the administration of the title IV, HEA programs at an institution, one of those commenters suggested that the training requirement not be limited to institutions participating in a title IV, HEA program for the first time. Another commenter suggested that the chief fiscal officer of the institution or a designee of the chief fiscal officer also be required to complete the training offered by the Secretary. One commenter suggested that the Secretary require that the individuals responsible for the administration of title IV, HEA programs at an institution be required to demonstrate competency every five years by completing training; and another commenter stated that refresher courses should be required every two years for continued program participation. One commenter suggested that the individuals responsible for administering the title IV, HEA programs at an institution should also be required to agree to complete training offered by any guarantee agency that guarantees loans authorized under part B of title IV of the HEA within the institution's State.

Discussion: Although the Secretary supports training for all institutional personnel, he believes that to require all institutions participating in the title IV, HEA programs to complete training or to require individuals other than the financial aid administrator and chief administrator at the institution to complete training would be overly burdensome. The Secretary does encourage financial aid administrators and other institutional officials to attend training sessions offered by the Department, guarantee agencies, and professional associations. Furthermore, the Secretary does not believe that it is necessary at this time to require refresher courses or updated training for financial aid personnel and chief administrative officers.

Logistics of Training

Comments: Eight commenters expressed concerns regarding the logistics of the training sessions, raising questions regarding the availability, frequency and location of training, and regarding whether the training would be professionally developed.

Discussion: The Secretary plans to offer training several times a year at various locations across the country. Professionals within the Department with expertise in training techniques and policies governing the Title IV, HEA programs are developing the training.

Changes: None.

Timing of Completion of Training Requirement

Comments: One commenter was concerned that compliance with the training requirement might delay an institution's certification for participation in the title IV, HEA programs and therefore prove to be a disservice to needy students. Two commenters suggested that the Department allow institutions to begin participation, but specify the deadline by which the designated individuals from the institution must have completed the training program.

Discussion: Training is one step in the process an institution must complete in order to participate in a title IV, HEA program. An institution may satisfy the training requirement during the period that the application for participation is being processed. However, the Secretary believes that it would be a

disservice to students to allow an institution to begin participation in a title IV, HEA program and subsequently for the Secretary to withdraw the institution's participation agreement because the institution failed to complete the training requirement.

Changes: None.

Mandatory Training

Comment: One commenter asked whether an institution would be denied participation in the programs if the institution's officials did not complete the training offered by the Secretary.

Discussion: An institution will be denied participation in a new title IV, HEA program if it fails to comply with the requirement that certain institutional officials complete the training offered by the Secretary.

Changes: None.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid.

Dated: August 1, 1989.

Lauro F. Cavazos,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: 84.007 Supplemental Educational Opportunity Grant Program; 84.032 Guaranteed Student Loan Program; 84.032 PLUS Program; 84.032 Supplemental Loans for Students Program; 84.033 College Work-Study Program; 84.038 Perkins Loan Program; 84.038 Income Contingent Loan Program; 84.063 Pell Grant Program; 84.069 State Student Incentive Grant Program; 84.185 Robert C. Byrd Honors Scholarship Program)

The Secretary amends part 668 of title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, and 1141, unless otherwise noted.

2. Section 668.12 is amended by revising paragraph (a) to read as follows:

§ 668.12 Institutional participation agreement.

(a)(1) An institution may participate in any title IV, HEA program, other than the SSIG Program, only if—

(i) The Secretary determines that the institution meets the standards established in this subpart;

(ii) Except as provided in paragraph (a)(2) of this section, in the case of an institution seeking to participate for the first time in the Pell Grant Program, or the campus-based programs, or the GSL, SLS, or PLUS programs, the institution requires the following individuals to complete title IV, HEA program training provided by the Secretary:

(A) The individual designated by the institution under § 668.14(a); and

(B)(*1*) In the case of a for-profit institution, the chief administrator of the institution; or

(*2*) In the case of an institution other than a for-profit institution, the chief administrator of the institution, or another administrative official of the institution designated by the chief administrator; and

(iii) The institution enters into a written participation agreement with the Secretary, on a form approved by the Secretary.

(2) If either one of the two individuals who is otherwise required to complete training under paragraph (a)(1)(ii) of this section has previously completed title IV, HEA program training provided by the Secretary, the institution may elect to request an on-site title IV, HEA certification review by the Secretary instead of requiring that individual to complete again the title IV, HEA program training provided by the Secretary. If the institution requests the on-site review, it may not begin participation in the new title IV, HEA program or programs until the Secretary conducts the review and notifies the institution that it is in compliance with title IV, HEA statutory and regulatory requirements.

* * * * *

[FR Doc. 89-25913 Filed 11-2-89; 8:45 am]

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Federal Register

Friday
November 3, 1989

Part IV

Committee for Purchase From the Blind and Other Severely Handicapped

Procurement List 1990; Notice of Establishment

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1990; Establishment

The Committee for Purchase From the Blind and Other Severely Handicapped was established by Public Law 92–28, June 23, 1971 (85 Stat. 77, 41 U.S.C. 46–48c) (hereinafter the Act) for the purpose of directing the procurement of selected commodities and services by the Federal Government to qualified workshops serving blind and other severely handicapped individuals with the objectives of increasing the employment opportunities for these individuals. The Committee is required to establish and publish in the **Federal Register** a procurement list of:

(1) Commodities produced by any qualified nonprofit agency for the blind or by any qualified nonprofit agency for other severely handicapped, and

(2) The services provided by any such agency

which the Committee determines are suitable for procurement by the Government pursuant to the Act.

The Act further provides that any entity of the Government which intends to procure any commodity or service on the procurement list, shall procure such commodity or service, at the price established by the Committee, from a qualified nonprofit agency for the blind or such agency for the other severely handicapped if the commodity or service is available within the normal period required by that Government entity. However, this requirement shall not apply to the procurement of any commodity which is available from Federal Prison Industries, Inc.

A Government entity is defined as any entity of the legislative branch or judicial branch, any executive agency or military department (as such agency and department are respectively defined by sections 102 and 105 of title 5, United States Code), the U.S. Postal Service, and any nonappropriated fund instrumentality under the jurisdiction of the Armed Forces.

Notice is hereby given pursuant to section 2 of the Act that Procurement List 1990 is established as set forth below. Procurement List 1990 supersedes Procurement List 1989, November 15, 1988 (53 FR 46018) and subsequent changes thereto through October 31, 1989.

Any proposed additions or deletions to Procurement List 1989 pending on this date shall be considered as pending and applicable to Procurement List 1990.

By the Committee.

Jeffrey R. Kurtz,

Management Analyst.

Assignment Codes

Central nonprofit agency	Code
National Industries for the Blind	IB
National Industries for the Severely Handicapped.	SH

Class 1005

Adapter Kit, Top Sling (IB)

1005–00–406–1570

Cover, Spare Barrel (SH)

1005–00–659–1031

Firing Attachment, Blank (SH)

1005–00–118–6192

Index, Elevation (IB)

1005–01–134–3621

Sling, Adjustable, Small Arms (IB)

1005–01–216–4510

Sling, Padded, Adjustable (IB)

1005–00–312–7177

Swab, Small Arms Cleaning (IB)

1005–00–912–4248
1005–00–288–3565

Class 1015

Staff Section (SH)

1015–00–699–0633

Class 1025

Staff Section (SH)

1025–00–563–7232
1025–01–044–2587

Class 1055

Webbing (SH)

1055–01–141–5205

Class 1080

Assembly of Kit Camouflage Support System (IB)

1080–00–108–1173
1080–00–179–6024
1080–00–179–6025
1080–00–556–4954

Lanyard, Camouflage (IB)

1080–00–571–5015

Class 1095

Case, Revolver (SH)

1095–00–491–8487

Scabbard, Bayonet-Knife (IB)

1095–00–508–0339

Class 1220

Case, Carrying (IB)

1220–00–765–5870
1220–00–937–8286

Class 1260

Back Pack, Tripod (SH)

1260–01–046–2840

Pouch, Cover (SH)

1260–01–244–2833

Class 1350

Arming Wire (SH)

1350–00–889–8165

Class 1420

Cover, Protective (SH)

1420–01–049–5358

Class 1430

Strap, Webbing (SH)

1430–01–164–4930
1430–01–174–5095

Bag, Storage (SH)

1430–01–133–8435

Cover, Protective (SH)

1430–00–992–9254
1430–00–994–3086

Cover, Telescope Mounting (SH)

1430–00–773–2030

Insulation (SH)

1430–01–134–7893

Class 1440

Cover, Protective (SH)

1440–01–132–7799

Bag, Shroud Assembly (SH)

1440–00–078–1641

Cover, Fire Extinguisher (SH)

1440–00–410–2296

Kit, Tiedown (SH)

1440–01–132–9719

Straps (SH)

1440–00–478–0334

Tarpaulin (SH)

1440–01–126–8966

Class 1450

Strap, Webbing (SH)

1450—00–001–1266
1450—01–147–3366

Class 1560

Cover Assembly, Pitot (SH)

1560–01–208–7831

Maintenance Kit, Window (SH)

1560–00–450–3622

Class 1660

Harness Assembly (SH)

1660–00–066–2078

Class 1670

Bag, Cargo (SH)

1670–01–065–3748

Harness, Parachutist (SH)

1670-01-227-7992

Message Dropper (SH)

1670-00-797-4495

Strap, Quick Release (SH)

1670-01-074-1210

Class 1680

Belt, Aircraft Safety (SH)

1680-00-725-5927
1680-00-407-5335

Strap Assembly, Litter (SH)

1680-00-878-6964

Wire Bundle Assemblies (SH)

1680-00-881-4215
1680-00-884-0409
1680-00-894-3991
1680-01-125-9646
1680-00-919-3706
1680-00-883-4487
1680-00-222-3876
1680-00-826-7752
1680-00-974-5275
1680-00-974-5276
1680-00-998-8594

Class 1730

Chock Wheel, Codit Reflecting (IB)

1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4×6×24")
1730-00-NIB-001A 2×4×8" STD
1730-00-NIB-001B 6×8×18" STD
1730-00-NIB-001C 6×8×76" STD
1730-00-NIB-001D (8×12") U-SHAPED
1730-00-NIB-001E (10×20") U-SHAPED

Chock Wheel, Painted (IB)

1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4×6×24")
1730-00-NIB-001A (2×4×8") STD
1730-00-NIB-001B (6×8×18") STD
1730-00-NIB-001C (6×8×76") STD
1730-00-NIB-001D (8×12" U-SHAPED)
1730-00-NIB-001E (10×20") U-SHAPED

Chock Wheel, Reflective Tape (IB)

1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4×6×24")
1730-00-NIB-001A (2×4×8") STD
1730-00-NIB-001B (6×8×18") STD
1730-00-NIB-001C (6×8×76") STD
1730-00-NIB-001D (8×12") U-SHAPED
1730-00-NIB-001E (10×20") U-SHAPED

Chock Wheel, Unpainted (IB)

1730-00-294-3694
1730-00-063-4095
1730-00-294-3696
1730-00-294-3695
1730-00-945-8450
1730-00-163-8317 (4×6×24")
1730-00-NIB-001A (2×4×8") STD
1730-00-NIB-001B (6×8×18") STD
1730-00-NIB-001C (6×8×76") STD
1730-00-NIB-001D (8×12") U-SHAPED
1730-00-NIB-001E (10×20") U-SHAPED

Class 2090

Weight, Canvas Bag (IB)

2090-00-845-9150

Class 2510

Side Rack, Vehicle (SH)

2510-00-535-6797
2510-00-860-0517
2510-00-860-0523

Class 2540

Belt, Automobile, Safety (IB)

2540-00-894-1273
2540-00-894-1275
2540-00-894-1274
2540-00-894-1276

Cover, Cushion Assembly (SH)

2540-01-245-2524
2540-01-245-2525
2540-01-245-2526
2540-01-246-6212

Cushion Assembly, Back Rest (SH)

2540-00-737-3308

Cushion Assembly, Seat Back (SH)

2540-01-065-6288

Cushion Seat, Vehicular (SH)

2540-00-808-3811
2540-00-904-5680
2540-01-074-6363
2540-00-831-6948

Cushion, Seat Back, Vehicular (SH)

2540-00-880-3925
2540-01-065-6289

Kit, Deep Water Fording (SH)

2540-00-473-0111
2540-00-780-0844
2540-00-181-8109

Mirror and Bracket Assembly (SH)

2540-00-575-8392
2540-00-575-8391

Strap Assembly, Webbing (SH)

2540-00-894-9545

Class 2990

Starter Rope, Engine (SH)

2990-00-972-7950

Class 3510

Net, Laundry (IB)

3510-00-273-9738
3510-00-273-9739

Class 3740

Trap, Roach, Monitor (SH)

3740-01-096-1632

Class 3920

Truck, Hand (IB)

3920-00-847-1305

Class 3990

Pallet, Material Handling (SH)

3990-01-M00-0075 Pine Bluff Arsenal, AR only
3990-00-892-4394 Mechanicsburg, PA; Memphis, TN; Richmond, VA and Columbus, OH Depots only

Pallet, Wood (SH)

3990-00-X77-1721 New Cumberland Army Depot Only
3990-00-NSH-0001 48×40×36' Social Security Administration, Baltimore, MD only
3990-00-NSH-0005 24×20' New Cumberland Army Depot only
3990-00-366-6806

Pallet, Corrugated Fiberboard, Material Handling (SH)

3990-00-L77-0044 Navy Ships Parts Control Center, Mechanicsburg, PA only

Class 4130

Filter, Air Conditioning (IB)

4130-00-870-8796
4130-00-274-7800
4130-00-541-3220
4130-00-756-1840
4130-00-720-4143
4130-00-249-0966
4130-00-203-3318
4130-00-203-3321
4130-00-542-4482
4130-00-959-4734
4130-00-756-0978
4130-00-951-1208

Class 4240

Bag, Waterproofing (IB)

4240-00-377-9401

Harness, Head (SH)

4240-00-961-1064
4240-01-M14-0174

Modification Kit, Head Harness (SH)

4240-01-220-3201

Winterization Kit (SH)

4240-00-065-0319 (40% of Gov't Rqmt)

Class 4610

Bag, Drinking Water Storage (SH)

4610-00-268-9890
4610-01-117-8271

Class 4730

Fitting Kit (SH)

4730-00-470-6625

Class 4820

Valve, Ball (SH)

4820-00-052-4651
4820-00-052-4653

Class 4910

Creeper, Mechanic's (SH)

4910-00-251-6981
4910-00-106-7834
4910-00-NSH-0001

Class 4935

Strap, Webbing (SH)

4935-00-784-0118
4935-00-889-5595
4935-00-922-2480
4935-00-928-6097
4935-00-956-4489

Strap Set, Webbing (SH)

4935-00-776-2724
4935-00-805-3522
4935-00-824-5469

Strap, Assembly (SH)

4935-00-888-7207
4935-00-784-0141

Strap, Set (SH)

4935-00-888-7208

Class 5120

Screwdriver Set, Cross Tip (SH)

5120-00-357-7175
5120-00-580-0334

Screwdriver, Cross-Tip (SH)

5120-00-060-2004
5120-00-820-2995
5120-00-224-7370
5120-00-227-7293
5120-00-542-3438
5120-00-224-7375

Screwdriver, Flat-Tip (SH)

5120-00-287-2504
5120-00-278-1267
5120-00-288-7803
5120-00-278-1270
5120-00-227-7356
5120-00-596-8502
5120-00-062-0813
5120-00-293-3311
5120-00-293-0315
5120-00-227-7377
5120-00-236-2140

Vise, Multiposition (SH)

5120-00-991-1907

Wrench, Pipe (IB)

5120-00-277-1485
5120-00-277-1488
5120-00-277-1461

Class 5140

Bag, Tool (IB)

5140-00-772-4142

Bag, Tool (Satchel) (SH)

5140-00-473-6256

Belt, Tool, Repairman's (SH)

5140-00-529-2517
5140-00-529-2694
5140-00-529-2691

Tool Box, Portable (SH)

5140-00-289-8911
5140-00-289-8910

Class 5340

Clamp, Loop (SH)

5340-00-103-2945
5340-00-104-5060
5340-00-500-0403
5340-00-254-5025
5340-01-156-5483
5340-00-375-2091
5340-01-160-0398
5340-01-156-5482

MSL TECH-INTEG-PDAMS (SH)

5340-00-NSH-0004

Panel, Side Flex (SH)

5340-00-NSH-0005

Strap (SH)

5340-00-235-4433

Strap, Webbing (SH)

5340-00-286-6895
5340-00-477-3700
5340-00-494-8238
5340-00-494-8239
5340-00-NSH-0006
5340-00-939-7062
5340-01-130-6020
5340-01-139-3197
5340-01-219-2887
5340-01-231-3750
5340-01-248-2119

Class 5350

Cloth, Abrasive (IB)

5350-00-187-6270
5350-00-187-6275
5350-00-187-6272
5350-00-187-6269
5350-00-187-6268
5350-00-187-6286
5350-00-187-6285
5350-00-187-6284
5350-00-187-6283
5350-00-187-6281
5350-00-187-6280
5350-00-187-6297
5350-00-187-6296
5350-00-229-3088
5350-00-229-3085
5350-00-187-6295
5350-00-187-6294
5350-00-187-6293
5350-00-187-6292
5350-00-187-6291
5350-00-274-6209
5350-00-187-6290
5350-00-187-6289
5350-00-187-7986
5350-00-229-3097
5350-00-229-3094
5350-00-229-3095
5350-00-229-3080
5350-00-229-3081
5350-00-229-3092
5350-00-192-9325

Mat, Abrasive (IB)

5350-00-967-5089
5350-00-967-5093
5350-00-967-5092

Class 5440

Ladder, Extension (Wood) (IB)

5440-00-223-6025
5440-00-242-1000
5440-00-223-6026
5440-00-242-0998
5440-00-223-6027

Ladder, Straight (Wood) (IB)

5440-00-242-7151
5440-00-816-2585
5440-00-814-5084
5440-00-242-0995
5440-00-816-2575
5440-00-223-6029
5440-00-223-6030

Stepladder (IB)

5440-00-514-4483
5440-00-514-4485
5440-00-171-9836
5440-00-514-4487
5440-00-227-1592
5440-00-227-1593
5440-00-227-1594
5440-00-227-1595
5440-00-227-1596
5440-00-531-2589

Class 5510

Lath, Wood (SH)

5510-00-NSH-0002 (⅜×1½×36')
5510-00-NSH-0003 (⅜×½×48')
BLM and U.S. Forest Service in Washington and Oregon only

Stake, Wood (SH)

5510-00-NSH-0001
BLM at 5 Oregon locations only U.S. Forest Service in Washington and Oregon only

Stakes, Wood, Hub (SH)

5510-00-171-7733
5510-00-171-7732

Stakes, Wood, Location (SH)

5510-00-171-7701
5510-00-171-7700
5510-00-171-7734

Wedge, Wood (SH)

5510-00-640-9237

Class 5660

Fasteners, Fence Post (SH)

5660-00-148-7251

Stay, Fence (SH)

5660-00-943-9927
5660-00-904-8023
5660-00-607-0286
5660-00-607-0287

Class 5680

Weather Strip (SH)

5680-01-227-7577

Class 5831

Amplifier Subassembly (SH)

5831-00-087-3408

Class 5855

Strap Assembly (SH)

5855-00-137-7767
5855-00-125-0762
5855-00-125-0713

Class 5940

Adapter, Battery Terminal (SH)

5940-00-549-6583
5940-00-549-6581

Class 5975

Rod, Ground (SH)

5975-00-878-3791

Class 6115

Cover, Generator Set (IB)

6115-00-960-2703
6115-00-945-7545
6115-00-941-1655

Class 6150

Cable Assembly, Electrical (IB)

6150-01-027-0125 (50% of Gov't Rqmt)

Class 6210

Fixture, Lighting Industrial (IB)

6210-00-688-4929

Class 6230

Flashlight (SH)

6230-00-163-1856
6230-00-781-3671

Lantern, Electric, Head (SH)

6230-00-643-3562

Light, Desk (SH)

6230-00-299-7771
6230-00-682-3423

Light, Marker, Distress (SH)

6230-00-892-5192

Light-Marker, -Distress (without pouch) (SH)

6230-00-938-1778

Light-Marker, Distress (with pouch) (SH)

6230-00-067-5209

Class 6260

Candle, Illuminating (IB)

6260-00-840-5578

Class 6505

Ammonia Inhalant Solution, Aromatic (SH)

6505-00-106-0875

Class 6508

Shampoo, Medicated (SH)

6508-00-116-1362
6508-00-116-1367

Class 6510

Dressing, First Aid, Field, White (SH)

6510-00-083-5573

Bandage, Gauze, Compressed, Camouflaged (SH)

6510-00-200-3180
6510-00-200-3190

Bandage, Gauze, Elastic (SH)

6510-00-913-7906

Bandage, Muslin, Compressed Camouflaged (SH)

6510-00-201-1755

Compress and Bandage, Camouflaged (SH)

6510-00-200-3075
6510-00-200-3080

Compress and Skullcap, Head Dressing (SH)

6510-00-201-7680

Cotton, Purified (SH)

6510-00-201-3000

Dressing, First Aid, Field, Camouflaged (SH)

6510-00-201-7425
6510-00-201-7430
6510-00-159-4883

Sponge, Surgical, Gauze, Compressed (SH)

6510-00-926-9062

Class 6515

Bag, Tube Feeding (SH)

6515-00-481-2049

Case, Ear Plug (SH)

6515-01-212-9452 (80 percent of Government's Requirement)

Kit, Suture Removal (IB)

6515-00-690-6911

Surgical Pack, Disposable (IB)

6515-00-103-6659

Tourniquet, Non-Pneumatic (IB)

6515-00-383-0565

Class 6530

Bag, Urine Collection (SH)

6530-00-057-0953
6530-00-761-0932
6530-00-761-0936
6530-01-074-6600

Cover, Litter (IB)

6530-00-784-1250

Drape, Surgical (IB)

6530-00-299-9608
6530-00-299-9607
6530-00-299-9605
6530-00-299-9604

Drape, Surgical, Disposable (IB)

6530-01-032-4089

Kit, Shaving Surgical Preparation (IB)

6530-00-676-7372

Litter, Folding (IB)

6530-00-783-7905 (Canvas Cover)
6530-00-783-7905 (Nylon Cover)

Pad, Cooling, Chemical (SH)

6530-00-133-4299

Pad, Litter (IB)

6530-00-137-3016

Pad, Pre-Operative Preparation (IB)

6530-00-457-8193

Paper Sheeting, Examination Table (IB)

6530-01-092-3914
6530-00-269-3598
6530-00-786-4790

Spineboard (SH)

6530-01-119-0011
6530-01-119-0012

Spreader Bar and Stirrups, Litter (IB)

6530-00-784-3450

Strap, Webbing Patient Securing (IB)

6530-00-784-4205

Strap, Webbing, Litter Securing (IB)

6530-00-784-4335

Surgical Dressing Set (IB)

6530-00-105-5826

Surgical Pack, Disposable (IB)

6530-01-174-8844

Towel Pack, Surgical (IB)

6530-00-110-1854

Urinal, Incontinent (IB)

6530-01-004-8969
6530-00-290-8292
6530-01-081-5303
6530-01-081-5304

Urinary Drainage Set (SH)

6530-01-056-3659

Wrapper, Sterilization (IB)

6530-00-299-9603
6530-00-197-9223
6530-00-197-9283
6530-00-926-4902
6530-00-926-4903
6530-00-926-4904
6530-00-296-4905
6530-00-197-9228
6530-01-246-1935
6530-01-248-4813
6530-01-244-2776
6530-01-244-9946
6530-01-246-0156

Class 6532

Cap—Operating, Surgical (SH)

6532-00-250-5042
6532-00-083-6545
6532-00-250-5041
6532-00-122-0468

Clothing, Operating Room (SH)

6532-00-172-3509
6532-00-172-3507
6532-00-172-3506
6532-00-158-9890
6532-00-009-7174

Coat, Women's Pajama (SH)

6532-01-216-3199
6532-01-215-8093
6532-01-222-6565
6532-01-222-3116

Gown, Hospital (SH)

6532-00-104-9895

Gown, Hospital, Patient's Bedshirt (SH)

6532-01-005-8411
6532-01-005-8412

Gown, Hospital, Personnel (SH)

6532-01-045-5380
6532-01-045-5381

Gown, Operating, Surgical (SH)

6532-00-009-2034
6532-00-009-2035

Gown, Patient Examining (SH)

6532-00-421-7828

Gown, Operating, Surgical (IB)

6532-01-058-2518
6532-01-058-2519
6532-01-058-2520
6532-01-058-2521
6532-01-058-2522
6532-01-058-2523
6532-01-058-2524
6532-01-058-2525

Pillowcase—Disposable (IB)

6532-01-125-3269

Robe, Dressing, Men's (SH)

6532-01-215-7963
6532-01-215-7964

Robe, Dressing, Women's (SH)

6532-01-215-7966
6532-01-215-7965

Shirt, Operating, Surgical (IB)

6532-00-299-9627
6532-00-299-9634
6532-00-299-9633
6532-00-299-9632

Shirt, Operating, Surgical (SH)

6532-00-149-0322
6532-00-149-0323
6532-00-149-0324
6532-00-149-0325

Smock, Man's Dental Operating (SH)

6532-00-159-4881
6532-00-926-9964
6532-00-926-9975
6532-00-926-9976

Suit, Convalescent (SH)

6532-01-076-8684
6532-01-076-8683
6532-01-076-7369
6532-01-076-9769

Trousers, Operating, Surgical (SH)

6532-00-299-9628
6532-00-299-9629
6532-00-299-9630
6532-00-299-9631

Trousers, Operating, Surgical (SH)

6532-00-149-0327
6532-00-149-0328
6532-00-149-0329
6532-00-149-0330

Trousers, Women's Pajama (SH)

6532-01-216-2425
6532-01-216-2426
6532-01-226-2961
6532-01-226-2962

Class 6540

Case, Spectacles (IB)

6540-01-131-7919
6540-01-131-7918

Class 6545

First Aid Kit, Eye Dressing (SH)

6545-00-853-6309

Medical Packet, Individual Survival Kit, Airman's (SH)

6545-00-231-9421

Class 6625

Test Set, Lead (SH)

6625-00-553-1442
6625-00-395-9313
6625-01-121-0510
(50% of Gov't Rqmt)

Class 6630

Micro Bleeder (IB)

6630-01-NIB-0002

Tube, Bleeding (IB)

6630-01-NIB-0001

Class 6645

Clock, Wall (IB)

6645-00-514-3523
6645-00-530-3342
6645-01-046-8848
6645-01-046-8849

Class 6695

Sampling Kit, Spectrometric Oil Analysis (IB)

6695-01-045-9820

Class 6840

Disinfectant, Detergent (IB)

6840-00-687-7904
6840-00-584-3129
6840-00-551-8346

Class 6850

Sea Marker, Fluorescein Dye (IB)

6850-00-270-9986

Class 6920

Enclosure, Ballistic Protective (SH)

6920-01-089-4401

Class 7105

Assembly, Support Panel (SH)

7105-00-NSH-0004

Base, Grooming Unit (SH)

7105-01-019-0375
7105-01-007-1830
7105-01-019-0376
7105-01-019-0379
7105-00-NSH-0001

Bookcase, Drop-Lid (SH)

7105-01-005-8409
7105-01-005-8408
7105-01-007-1760
7105-01-009-2567
7105-01-047-3559
7105-01-047-3557

Bookcase, Open-Shelf (SH)

7105-01-007-9798
7105-01-047-3558
7105-01-047-3556

Box, Vanity (SH)

7105-01-007-1831

Bracket, Overchest Support (SH)

7105-00-NSH-0003

Chest, Five-Drawer (SH)

7105-01-011-8397
7105-01-005-8403
7105-01-005-8404
7105-01-007-9797
7105-01-047-3555

Chest, Six-Drawer (SH)

7105-01-005-8407
7105-01-005-8405
7105-01-023-4636
7105-01-005-8406
7105-01-049-9587

Chest, Stereo (SH)

7105-01-019-0378
7105-01-005-8474
7105-01-017-6104
7105-01-019-0377
7105-01-047-3575
7105-01-047-3573

Chest, Three-Drawer (SH)

7105-01-046-8855

Frame, Picture (SH)

7105-00-053-0170
7105-00-061-5834
7105-00-052-8697
7105-00-052-8695
7105-00-465-6199
7105-00-297-3398
7105-00-903-1842
7105-00-903-1843
7105-00-149-1282
7105-00-149-1281
7105-00-641-4385
7105-00-297-3397
7105-00-052-8696
7105-00-149-1276
7105-00-051-1212
7105-00-052-8686
7105-00-052-8698
7105-01-282-0630
7105-01-282-0631
7105-01-282-0632
7105-01-282-0633

Mirror, Glass (SH)

7105-00-496-9866
7105-00-133-4846

Overchest (SH)

7105-01-005-8475
7105-01-047-3576
7105-01-047-3574

Table, Coffee (SH)

7105-00-139-7573
7105-00-139-7601

Table, End (SH)

7105-00-139-7598

Table, Lamp (SH)

7105-00-139-7600

Top, Grooming Unit (SH)

7105-01-005-8476

Class 7110

Blackboard (IB)

7110-00-132-6650
7110-00-843-7917

Blackboard (SH)

7110-00-132-6651

Bookcase, Steel, Contemporary (SH)

7110-00-601-9823
7110-00-149-1621

Bookcase, Wood, Executive (SH)

7110-00-973-5127

Credenza (SH)

7110-00-762-5513
7110-00-128-0096
7110-00-128-0546

Table Leg (SH)

7110-00-NSH-0023

Table, Office, Wood (SH)

7110-00-958-0780
7110-00-823-7675
7110-00-903-3061
7110-00-902-3052

Table, Steel (SH)

7110-00-113-0448
7110-00-113-0454
7110-00-149-2044
7110-00-149-2045
7110-00-149-2046

Class 7125

Cabinet, Storage (SH)

7125-00-449-6862
7125-00-378-4261 (50% of Gov't Rqmt)
7125-00-693-4352

Class 7195

Bulletin Board (IB)

7195-00-989-2370
7195-00-844-9036
7195-00-989-2371
7195-00-844-9037
7195-00-989-2372
7195-00-844-9038
7195-00-990-0615
7195-00-843-7938

Costumer, Wood, Executive (SH)

7195-00-132-6642

Class 7210

Bedspread (SH)

7210-00-728-0180
7210-00-728-0181
7210-00-728-0182
7210-00-728-0183
7210-00-728-0184
7210-00-728-0185

Bedspring (IB)

7210-00-728-0186
7210-00-728-0187
7210-00-728-0188
7210-00-728-0189
7210-00-728-0190
7210-00-728-0191
7210-00-728-0173
7210-00-728-0175
7210-00-728-0176
7210-00-728-0177
7210-00-728-0178
7210-00-728-0179
7210-00-408-2800

Bedspring (IB)

7210-00-582-7540
7210-00-582-0984
7210-00-110-8104
7210-00-582-7541
7210-00-110-8105

Blanket, Bed (SH)

7210-00-177-4986

Blanket, Bed/Bath (Flame Resistant) (IB)

7210-01-141-2458

Boxspring (IB)

7210-01-228-5735
7210-01-228-5736
7210-01-228-5737
7210-01-228-5738
7210-01-291-9511
7210-01-291-9512

Cover, Bed (IB)

7210-01-116-7860
7210-01-120-0679
7210-01-116-7858
7210-01-116-7859
7210-01-118-4085
7210-01-116-7855
7210-01-116-7856
7210-01-116-7857
7210-01-116-7854
7210-01-116-7853
7210-01-120-8015
7210-01-124-7626
7210-01-120-8013
7210-01-120-8014
7210-01-120-8011
7210-01-120-8010
7210-01-122-5015
7210-01-120-8012
7210-01-125-9250
7210-01-120-8009
7210-01-123-5148
7210-01-120-8017
7210-01-120-8021
7210-01-120-8022
7210-01-120-8018
7210-01-124-8303
7210-01-120-8019
7210-01-120-8020
7210-01-123-5149
7210-01-120-8016

Cover, Mattress (IB)

7210-00-205-3083
7210-00-291-8419
7210-00-205-3082
7210-00-067-7969
7210-00-998-7745
7210-00-883-8492
7210-00-140-4231
7210-00-140-4234
7210-00-543-6001
7210-00-171-1091
7210-00-935-6619
7210-00-230-1041
7210-00-241-9718
7210-00-543-6002
7210-00-140-4233
7210-01-245-4392
7210-01-245-4393
7210-00-082-2081
7210-00-715-9130

Cover, Mattress (Plastic) (IB)

7210-00-082-5739

Insect Bar, Cot (SH)

7210-00-266-9740

Insect Bar, Nylon (SH)

7210-00-266-9736

Mattress, Innerspring (Nonappropriated Fund) (IB)

7210-01-228-5726
7210-01-228-5727
7210-01-228-5728
7210-01-228-5729
7210-01-292-2551
7210-01-292-2552

Mattress, Cotton-Felt (IB)

7210-00-139-6517
7210-00-139-6555
7210-00-139-6538

Mattress, Foam (IB)

7210-00-290-8300
7210-00-275-5873
7210-00-275-5874
7210-00-290-8298
7210-00-290-8297
7210-00-052-7327
7210-00-889-3733
7210-00-290-8299
7210-00-682-6503
7210-00-682-6504
7210-01-244-9734
7210-01-244-9735

Mattress, Innerspring (IB)

7210-00-205-3585
7210-00-139-6424
7210-00-716-0706
7210-00-139-6411
7210-00-205-3534
7210-00-139-6434
7210-00-139-6428
7210-00-110-8102
7210-00-110-8103
7210-01-177-3627
7210-01-177-3628
7210-01-177-1491
7210-01-177-1492
7210-01-177-1494
7210-01-177-1495
7210-01-177-1496
7210-01-177-1497
7210-01-177-1498
7210-01-177-1499
7210-01-177-1500
7210-01-177-1501
7210-01-177-1503
7210-01-177-1504
7210-01-177-1505
7210-01-177-1506
7210-01-177-1507
7210-01-177-1508
7210-01-177-1509
7210-01-177-1510
7210-01-177-1512
7210-01-177-1513
7210-01-177-1514
7210-01-177-1515
7210-01-076-9031
7210-01-076-1087
7210-01-078-2593
7210-01-076-1082
7210-01-076-1089
7210-01-076-9029
7210-01-076-1083
7210-01-076-1085
7210-01-076-8730
7210-01-076-1086
7210-01-077-9358
7210-01-075-8358
7210-01-076-1088

7210-01-076-8359
7210-01-076-1084
7210-01-076-9030

Mattress, Plastic Coated Innerspring (IB)

7210-00-995-1093
7210-00-682-7146
7210-00-529-3709
7210-01-138-8177

Pad, Mattress (IB)

7210-00-227-1526
7210-00-753-3042

Pillow, Bed (IB)

7210-00-753-6228
7210-01-035-3342
7210-00-894-1144
7210-01-015-5190
7210-00-119-5358

Pillow, Bed (Feather) (IB)

7210-00-205-3205

Pillow, Passenger, Headrest (IB)

7210-00-682-6601

Pillowcase (SH)

7210-00-119-7357
7210-01-030-5311

Pillowcase, Cotton/Cotton Polyester (IB)

7210-00-054-7910
7210-00-259-9005
7210-00-259-9006
7210-00-119-7356
7210-00-231-2373
7210-00-259-9004
7210-00-259-8897
7210-00-081-1380

Pillowcase, Disposable (IB)

7210-00-883-8494
7210-00-852-3417

Pole, Folding Cot Insect Bar (SH)

7210-00-267-5641

Protector, Hospital Bed, Pillow (IB)

7210-00-958-9118

Protector, Mattress, Hospital Bed (IB)

7210-00-761-1471
7210-00-761-1470

Sheet, Bed (IB)

7210-00-229-9611

Sheet, Bed—Disposable (SH)

7210-00-144-6082

Sheet, Bed, Disposable (IB)

7210-00-498-0512
7210-00-139-6376
Memphis, TN and Tracy, CA Depots only

Tablecloth (SH)

7210-00-492-8381

Towel, Bath, Disposable (IB)

7210-01-029-0370

Washcloth (IB)

7210-01-013-2824

CLASS 7220

Mat, Floor (IB)

7220-00-205-3192
7220-00-205-3182
7220-00-151-6518
7220-00-457-6046
7220-00-457-6054

Mat, Floor (IB)

7220-00-205-3099
7220-00-224-6487
7220-00-238-8852
7220-00-224-6486
7220-00-238-8854
7220-00-165-7020
7220-01-023-9489

CLASS 7230

Curtain, Blackout (SH)

7230-00-997-1488
7230-01-136-7054

Curtain, Shower (IB)

7230-00-205-1762
7230-00-247-1280
7230-00-849-9838
7230-00-849-9839

CLASS 7290

Cover, Ironing Board (IB)

7290-00-130-3271

CLASS 7330

Pad, Bakery (IB)

7330-00-379-4439

Peeler, Potato, Hand (IB)

7330-00-238-8316

Tongs, Food Serving (SH)

7330-00-616-0997
7330-00-616-0998
7330-00-616-1000

CLASS 7340

Flatware, Plastic, Heavy Duty (IB)

7340-00-022-1315
7340-00-022-1316
7340-00-022-1317
7340-00-401-8041

Flatware, Plastic, Picnic (IB)

7340-00-170-8374
7340-00-205-3187
7340-00-205-3342

Medium Weight Plastic Cutlery (IB)

7340-00-NIB-0005
7340-00-NIB-0006
7340-00-NIB-0007
7340-00-NIB-0008
Army and Air Force Exchange Service only

Spoon, Picnic, Plastic (IB)

7340-00-J19-1300

CLASS 7360

Dining Packet (IB)

7360-00-935-6407
7360-00-935-6408
7360-00-935-6409
7360-00-935-6410
7360-00-935-6411
7360-00-935-6412
7360-00-935-6413
7360-01-J19-2026
7360-01-J19-2030

Dining Packet (Dietetic) (IB)

7360-00-177-4958
7360-00-177-4959
7360-00-177-4960
7360-00-177-4961
7360-00-177-4962
7360-00-177-4963
7360-00-935-6416
7360-00-935-6417
7360-00-935-6420
7360-00-935-6421

Dining Packet, Inflight (IB)

7360-00-660-0526
7360-01-167-2610

Flatware Set, Plastic (IB)

7360-00-634-4800

CLASS 7510

Binder, Awards Certificate (IB)

7510-00-115-3250
7510-00-482-2994
7510-00-755-7077
7510-01-056-1927

Binder, Looseleaf, (Pressboard) (IB)

7510-00-281-4309
7510-00-281-4314
7510-00-582-4201
7510-00-281-4310
7510-00-281-4311
7510-00-281-4313
7510-00-281-4315
7510-00-286-7792
7510-00-286-7794
7510-00-582-5488
7510-00-286-7791
7510-00-582-3807

Binder, Looseleaf, Flight Crew (SH)

7510-00-766-4269
7510-00-240-6012

Binder, Looseleaf, Presentation (IB)

7510-00-582-5398
7510-00-582-5399
7510-00-582-5400

Binder, Looseleaf, Three Ring (IB)

7510-00-782-2663
7510-00-409-8646
7510-00-409-8647
7510-00-984-5787

Binder, Looseleaf, Printout (IB)

7510-00-965-2443

Binder, Looseleaf, Three Ring (SH)

7510-00-889-3494

Binder, Note Pad (IB)

7510-00-286-6954
7510-00-145-0296
7510-00-728-8060
7510-01-053-5591

Board, Wall Calendar (IB)

7510-00-789-2455

Calendar Pad (SH)

7510-01-225-9214 (1990)
7510-01-225-9215 (1991)

Clip, Binder (SH)

7510-00-282-8201

7510-00-223-6807
7510-00-285-5995

Clip, Paper (SH)

7510-00-161-4292

Correction Fluid (IB)

7510-01-020-2806

Envelope, Crystal Clear Vinyl (IB)

7510-00-NIB-0003
7510-00-NIB-0004
7510-00-NIB-0005
7510-00-NIB-0006

Envelope, Transparent (IB)

7510-00-782-6274
7510-00-782-6275
7510-00-782-6276

Eraser, Blackboard (IB)

7510-00-244-9145

Eraser, Mechanical Pencil (IB)

7510-00-307-7885

File Back (IB)

7510-00-NIB-0002

File Backer, Paper (IB)

7510-00-285-2567

File Front (IB)

7510-00-NIB-0001

Inking Pad, Rubber Stamp (SH)

7510-00-224-7676
7510-00-526-1741

Pad, Typewriter (IB)

7510-00-257-2576
7510-00-530-6412
7510-00-849-1137

Paperweight, Shotfilled (IB)

7510-00-286-6985

Pencil (IB)

7510-00-286-5757
7510-00-281-5234
7510-00-281-5235

Pencil, Fine-Line Writing (IB)

7510-00-286-5755
7510-00-286-5750
7510-00-286-5751

Pencil, Woodcased, with Imprinting (IB)

7510-050-8LP-6521

Pocket Planning Set (SH)

7510-01-226-2954 (1990)
7510-01-226-2955 (1991)

Portfolio, Double Pocket (IB)

7510-00-584-2489
7510-00-584-2490
7510-00-584-2491
7510-00-584-2492

Portfolio, Plastic Envelope (IB)

7510-00-558-1572
7510-00-558-1573
7510-00-995-4856
7510-00-995-4852

Refill, Ballpoint Pen (IB)

7510-00-543-6792
7510-00-543-6793
7510-00-754-2687
7510-00-543-6795
7510-00-754-2688
7510-00-754-2689
7510-00-754-2690
7510-00-754-2691

Sheath, Pen and Pencil (IB)

7510-00-052-2664

Solvent, Correction Fluid (IB)

7510-01-013-9215

CLASS 7520

Arch Board File (IB)

7520-00-240-5498
7520-00-191-1075
7520-00-255-7081

Ballpoint Pen (IB)

7520-00-935-7136
7520-00-935-7135
7520-00-543-7149

Ballpoint Pen, Stick-type (IB)

7520-01-058-9978
7520-01-058-9977
7520-01-058-9976
7520-01-059-4125
7520-01-060-5820
7520-01-058-9975
7520-01-060-8513
7520-01-060-5821

Ballpoint Pen, with Imprinting (IB)

7520-00-8LP-6520

Book Ends (IB)

7520-00-264-5479
7520-00-139-6158

Box, Filing (SH)

7520-00-285-3147
7520-00-285-3143
7520-00-285-3144
7520-00-285-3145
7520-00-285-3146
7520-00-285-3148
7520-00-139-3734
7520-00-240-4830
7520-00-240-4831
7520-00-139-3743
7520-00-240-4839

Case, Maintenance & Operational Manuals (IB)

7520-00-559-9618

Clipboard File (IB)

7520-00-254-4610
7520-00-281-5918
7520-00-240-5503

Easel, Display & Training (IB)

7520-00-579-7013

File, Horizontal Desk (SH)

7520-00-139-4869
7520-00-728-5761

File, Work Organizer (SH)

7520-00-286-1722
7520-00-286-1723
7520-00-833-7343

Holder, Desk Memorandum (IB)

7520-00-139-3802
7520-00-290-6445

Marker, Tube Type, Broad Tip (IB)

7520-00-973-1059
7520-00-973-1060
7520-00-079-0285
7520-00-973-1061
7520-00-079-0286
7520-00-079-0287
7520-00-973-1062
7520-00-079-0288
7520-00-904-4476
7520-00-558-1501

Marker, Tube Type, Fine Tip (IB)

7520-00-904-1265
7520-00-904-1268
7520-00-935-0979
7520-00-904-1267
7520-00-935-0981
7520-00-935-0982
7520-00-904-1266
7520-00-935-0980
7520-00-051-5031
7520-00-051-5035
7520-00-116-2888
7520-00-051-5036
7520-00-116-2886
7520-00-116-2889
7520-00-051-5033
7520-00-116-2887
7520-00-138-7981

Pad, Desk, Paperboard (SH)

7520-00-224-7238

Pen Set, Desk (IB)

7520-00-106-9840

Pencil, Mechanical (IB)

7520-00-223-6672
7520-00-223-6673
7520-00-268-9913
7520-00-223-6675
7520-00-223-6676
7520-00-285-5826
7520-00-285-5822
7520-00-285-5823
7520-00-161-5664
7520-00-164-8950
7520-00-268-9915
7520-00-268-9916
7520-00-724-5606
7520-00-590-1878
7520-01-132-4996

Perforator, Paper, Desk (SH)

7520-00-139-4101
7520-00-263-3425

Stamp, Rubber (SH)

7520-00-NSH-0004
7520-00-NSH-0001
7520-00-NSH-0002
7520-00-NSH-0003
7520-00-NSH-0005
7520-00-NSH-0006
7520-00-NSH-0007
7520-00-NSH-0008
7520-00-NSH-0009
7520-00-NSH-0010
7520-00-NSH-0011
7520-00-NSH-0012
7520-00-NSH-0013
7520-00-NSH-0014
7520-00-NSH-0015

7520-00-NSH-0016
7520-00-NSH-0017

Stand, Calendar Pad (IB)

7520-00-162-6153
7520-00-162-6156
7520-00-139-4277
7520-00-139-4341

Tray, Desk (SH)

7520-00-232-6828
7520-00-286-5801
7520-00-285-5043

Trimmer, Paper (IB)

7520-00-224-7620, Rgns 1,2,3,W,4,5,6,7
7520-00-224-7621
7520-00-163-2568
7520-00-634-4675
7520-00-282-2137

CLASS 7530

Book, Memorandum (IB)

7530-00-286-6952

Card Set, Guide, File (IB)

7530-00-989-0698
7530-00-989-0697
7530-00-989-0683
7530-00-082-2635
7530-00-989-0684
7530-00-989-0686
7530-00-989-0692
7530-00-989-0694
7530-00-989-0693
7530-00-989-0695
7530-00-249-5969
7530-00-261-3813
7530-00-261-3801
7530-00-261-3804
7530-00-261-3818
7530-00-261-3819
7530-00-861-1263
7530-00-861-1270
7530-01-175-1553
7530-00-861-1272
7530-00-861-1275
7530-00-574-7172

Card, Guide, File (IB)

7530-00-989-0184
7530-00-989-2425
7530-00-988-6541
7530-00-988-6542
7530-00-988-6543
7530-00-988-6549
7530-00-988-6550
7530-00-988-6551
7530-00-988-6544
7530-00-988-6545
7530-00-988-6546
7530-00-988-6547
7530-00-988-6548
7530-00-988-6515
7530-00-988-6516
7530-00-988-6520
7530-00-988-6521
7530-00-988-6517
7530-00-988-6518
7530-00-988-6522

Card, Index (IB)

7530-00-238-4316
7530-00-244-7453
7530-00-244-7456
7530-00-244-7451
7530-00-244-7459
7530-00-238-4319
7530-00-949-2787
7530-00-238-4331
7530-00-243-9436
7530-00-247-0310
7530-00-281-1315
7530-00-247-0318
7530-00-264-3723
7530-00-247-0311
7530-00-244-7447
7530-00-247-0315
7530-00-243-9437

Envelope, Wallet (IB)

7530-00-281-5976
7530-00-281-4844
7530-00-281-4846
7530-00-268-3993

Folder, File (IB)

7530-00-985-7097

Folder, File (SH)

7530-00-205-3613
7530-00-290-2009
7530-00-634-1785
7530-00-985-7009
7530-00-985-7010

Folder, File, Kraft (IB)

7530-00-889-3555
7530-00-559-4512
7530-00-281-5907
7530-00-281-5908
7530-00-926-8978
7530-00-926-8980

Folder, File, Manila (IB)

7530-00-273-9845

Folder, File, Pressboard (IB)

7530-00-926-8981
7530-00-286-6924
7530-00-926-8982
7530-00-926-8983
7530-00-926-8984
7530-00-043-1194
7530-00-739-7723
7530-00-990-8884
Chicago, IL Supply Distribution Facility only

Folder, File, Military Personnel Records Jacket (IB)

7530—DA Form 201

Folder, File, Special-Purpose (IB)

7530-00-811-7169

Folder-Set, File, Pressboard (IB)

7530-00-286-6923
7530-00-286-7080
7530-00-286-7244
7530-00-286-7253
7530-00-286-7286
7530-00-286-7287
7530-00-286-8570
7530-00-286-8571
7530-00-286-6925
7530-00-286-6926

Index Sheet Set, Looseleaf Binder (IB)

7530-00-160-8476
7530-00-160-8474
7530-00-160-8475
7530-00-959-4441

Jacket, Filing, Wallet (IB)

7530-00-285-2913
7530-00-285-2914
7530-00-285-2915

Notebook, Stenographer's (IB)

7530-00-223-7939

Pad, Writing Paper (Repositionable) (IB)

7530-01-116-7865
7530-01-116-7866
7530-01-116-7867

Pad, Writing Paper (IB)

7530-00-285-3090
7530-00-239-8479
7530-01-131-1889
7530-01-124-5660, W, 1, 3, 4, 5, 6, 7, 8, 9, 10&NC
7530-01-131-0091, W, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10&NC
7530-01-124-7632, Rgns W, 1, 2, 3, 4, 5, 6, 7

Pad, Writing Paper (Easel) (IB)

7530-00-619-8880

Paper Set, Manifold and Carbon (IB)

7530-00-401-6910 Rgns W, 4, 6
7530-01-072-2536 Rgns W, 4, 6
7530-01-072-2537 Rgns W, 4, 6
7530-01-072-2538 Rgns W, 4, 6
7530-01-072-2539 Rgns W, 4, 6

Paper, Looseleaf, Blank (IB)

7530-00-286-6983
7530-00-286-6984

Paper, Carbon, Typewriter (IB)

7530-00-244-4035 Rgns 1, 2, 3, 6, 7, 8

Paper, Looseleaf, Blank (IB)

7530-00-286-5777
7530-00-286-5778
7530-00-286-5782
7530-00-286-5780
7530-00-286-5781
7530-00-286-5779

Paper, Looseleaf, Ruled (IB)

7530-00-286-6368
7530-00-286-4332
7530-00-286-4331
7530-00-286-4333
7530-00-286-4334
7530-00-286-4335
7530-00-198-6265
7530-00-286-4336
7530-00-286-4337
7530-00-286-4338
7530-00-286-4339

Paper, Teletypewriter, Roll (IB)

7530-00-019-6674
7530-00-019-6931
7530-00-019-7267
7530-00-019-7463
7530-00-223-7966
7530-01-056-2900
7530-00-721-9691
7530-00-223-7969
7530-00-262-9178
7530-00-142-9037
7530-00-943-7076
7530-00-272-9811
7530-00-285-3054
7530-00-285-5030

7530-00-286-7766
7530-00-019-7837
7530-00-019-7849
7530-00-019-7850
7530-00-019-8608
7530-00-019-8810
7530-00-142-9038

Paper, Writing (IB)

7530-00-285-5836
7530-01-047-3738

Refill, Appointment Book (SH)

7530-01-228-9703 (1990)
7530-01-231-6226 (1991)

Tape, Paper, Computing Machine (IB)

7530-00-286-9052
7530-00-222-3455
7530-00-286-9053
7530-00-286-9054
7530-00-238-8352
7530-00-222-3456
7530-00-286-9055

Tape, Postage Meter (IB)

7530-00-912-3924
7530-00-912-3925

CLASS 7670

Microfiche, Subject Headings & Name Authorities (SH)

7670-00-NSH-0001
Library of Congress only

CLASS 7690

Microfiche Programs (SH)

7690-00-NSH-0007 B212-S
7690-00-NSH-0008 B214-S
Library of Congress only

Pamphlets (3229-S) (SH)

7690-00-NSH-0010, Government Printing Office, Philadelphia, Pennsylvania DLA Requisitions only

CLASS 7699

Innerspring Mattress Rehab (w/o handles) (IB)

Group I: Less than 36" wide
Group II: 36" to 41" wide
Group III: Over 41" to 49" wide
Group IV: Over 49" wide

Innerspring Mattress Rehabilitation (w/ handles) (IB)

Group I: Less than 36" wide
Group II: 36" to 41" wide
Group III: Over 41" to 49" wide
Group IV: Over 49" wide

CLASS 7910

Pad, Floor Polishing Machine (IB)

7910-00-685-6686
7910-00-685-6687
7910-00-685-3908
7910-00-685-6671
7910-00-685-3909
7910-00-685-6672
7910-00-685-3910
7910-00-685-6656
7910-00-685-6657
7910-00-685-3912
7910-00-685-6659
7910-00-685-3915
7910-00-685-6660
7910-00-685-3914
7910-00-685-4239
7910-00-685-4240
7910-00-685-4242
7910-00-685-4243
7910-00-685-4241
7910-00-685-4244
7910-00-685-4245
7910-00-820-7991
7910-00-820-7989
7910-00-820-7990
7910-00-820-9926
7910-00-820-9925
7910-00-820-9924
7910-00-820-9898
7910-00-820-7997
7910-00-820-7996
7910-00-820-9903
7910-00-820-9904
7910-00-820-9905
7910-00-820-9900
7910-00-820-9901
7910-00-820-9899
7910-00-820-9922
7910-00-820-9918
7910-00-820-9917
7910-00-820-9916
7910-00-820-9915
7910-00-820-9914
7910-00-820-9913
7910-00-820-9912
7910-00-820-9911
7910-00-820-9910

CLASS 7920

Applicator, Wax (SH)

7920-00-633-8774

Broom, Push (IB)

7920-00-267-2967

Broom, Upright (IB)

7920-00-292-4371
7920-00-292-4375
7920-00-292-4372
7920-00-291-8305

Broom, Whisk (IB)

7920-00-240-6350

Brush, Chassis and Running Gear (IB)

7920-00-255-7536

Brush, Cleaning, Aircraft (IB)

7920-00-051-4384

Brush, Dusting (IB)

7920-00-178-8315

Brush, Floor Sweeping (IB)

7920-00-243-3407
7920-00-292-2363
7920-00-292-2367
7920-00-264-4638
7920-00-292-2362
7920-00-292-2365

Brush, Plater's, Hand (IB)

7920-00-267-1215
7920-00-267-1213

Brush, Sanitary (IB)

7920-00-772-5800
7920-00-234-9317

Brush, Scrub (IB)

7920-00-240-7174
7920-00-951-8795
7920-00-282-2470, Tampico Fibers
7920-00-282-2470, Styrene Fibers
7920-00-297-1511
7920-00-061-0038

Brush, Shoe and Stove (IB)

7920-00-852-8170

Brush, Wire, Scratch (IB)

7920-00-291-5815
7920-00-282-9246
7920-00-246-8501
7920-00-223-7649
7920-00-269-1259
7920-00-255-5135
7920-00-269-0933

Brush, Wire, Stainless Steel (IB)

7920-00-958-1157

Brush-Set, Shoe and Stove (IB)

7920-00-205-0200

Cloth, Polishing (IB)

7920-00-205-1656

Cloth, Wiping ("Jean Cotton") (SH)

7920-LL-L01-0013
7920-LL-L01-0014
Portsmouth Naval Shipyard, Portsmouth, NH only

Handle, Mop (IB)

7920-00-205-1168
7920-00-267-1218
7920-00-205-1167
7920-00-550-9902
7920-00-550-9911
7920-00-550-9912
7920-00-998-2485
7920-00-998-2486
7920-00-851-0140
7920-00-851-0142
7920-00-246-0930
7920-00-205-1170

Handle, Paint Roller (IB)

7920-00-682-6512

Handle, Wood (IB)

7920-00-177-5106
7920-00-141-5452
7920-00-263-0328

Kit, Aircraft Cleaning (IB)

7920-00-490-6046

Mop, Dusting, Cotton (IB)

7920-00-205-0481
7920-00-205-0483
7920-00-205-0484

Mop, Wet (IB)

7920-00-224-8726

Mop, Wet, Cellulose (Sponge Refill) (IB)

7920-00-471-2876

Mop, Wet, Cellulose, Complete (IB)

7920-00-432-7117

Mophead, Dusting, Cotton (IB)

7920-00-998-2482
7920-00-998-2483

7920-00-998-2484
7920-00-205-0485
7920-00-851-0141
7920-00-205-0487
7920-00-205-0488

Mophead, Wet (IB)

7920-00-205-0425
7920-00-205-0426
7920-00-141-5549
7920-00-171-1148
7920-00-141-5550
7920-00-141-5547
7920-00-141-5548
7920-00-141-5544
7920-00-926-5492
7920-00-926-5493
7920-00-926-5494
7920-00-926-5495
7920-00-926-5496
7920-00-926-5497
7920-00-926-5498
7920-00-926-5499
7920-00-926-5501
7920-00-926-5502

Pad, Scouring (IB)

7920-00-753-5242
7920-00-151-6120

Pad, Wax Applicator (SH)

7920-00-633-9274

Rag, Wiping (SH)

7920-00-205-1711
Warner Robins, Georgia only

Scraper and Squeegee (IB)

7920-00-045-2556

Sponge, Cellulose (IB)

7920-00-161-6219
7920-00-633-9928
7920-00-240-2559
7920-00-884-1116
7920-00-884-1115
7920-00-633-9905
7920-00-240-2555
7920-00-633-9906

Sponge, Plastic (IB)

7920-00-633-9908
7920-00-633-9911
7920-00-633-9915
7920-00-685-4152

Squeegee (SH)

7920-00-224-8339

Squeegee, Window-Cleaning (IB)

7920-00-577-4744
7920-00-577-4745
7920-00-577-4746

Towel, Machinery Wiping (IB)

7920-00-260-1279

Towel, Paper (IB)

7920-00-823-9772
7920-00-823-9773

CLASS 7930

Cloth, Wiping (SH)

7930-LL-COO-3782, Mare Island Naval Shipyard, CA only
7930-LL-COO-2768, Mare Island Naval Shipyard, CA only
7930-00-NSH-0003, (w/o Lanyard) Charleston Naval Supply Center, SC only
7930-00-NSH-0004, (w/ Lanyard) Charleston Naval Supply Center, SC only
7930-00-NSH-0003, (w/o Lanyard) Pearl Harbor Naval Shipyard, HI only
7930-00-NSH-0004, (w/ Lanyard) Pearl Harbor Naval Shipyard, HI only

Detergent, General Purpose (IB)

7930-00-926-5280
7930-00-357-7386
7930-00-068-1669
7930-00-055-6122
7930-00-177-5243
7930-00-985-6945
7930-00-985-9646
7930-00-530-8067
7930-00-527-1207
7930-00-527-1237
7930-01-055-6121
7930-00-282-9700
7930-00-282-9699
7930-00-985-6911

Detergent, General-Purpose (IB)

7930-00-531-9715
7930-00-531-9716

Detergent, Laundry (IB)

7930-01-045-3515
7930-01-045-3517

Dishwashing Compound, Hand (IB)

7930-00-880-4454
7930-01-055-6136
7930-00-899-9534

Glass Cleaner (IB)

7930-00-664-6910

Rinse Additive, Dishwashing (IB)

7930-00-619-9573
7930-00-619-9575

CLASS 8010

Aerosol Paint, Lacquer (IB)

8010-00-721-9742
8010-00-079-2754
8010-00-141-2952
8010-00-721-9743
8010-00-584-3148
8010-00-721-9479
8010-00-141-2950
8010-00-721-9744
8010-00-721-9745
8010-00-965-2389
8010-00-079-2756
8010-00-141-2951
8010-00-584-3149
8010-00-584-3154
8010-00-721-9483
8010-00-883-5329
8010-00-965-2390
8010-00-965-2392
8010-00-721-9746
8010-00-721-9747
8010-00-721-9748
8010-00-721-9753
8010-00-141-2958
8010-00-721-9749
8010-00-721-9750
8010-00-721-9754
8010-00-835-7215
8010-00-965-2391
8010-00-290-6983
8010-00-290-6984
8010-00-582-5382
8010-00-584-3150
8010-00-721-9487
8010-00-721-9751
8010-00-721-9752
8010-00-515-2487
8010-00-958-8147
8010-00-958-8148
8010-00-958-8151
8010-00-598-5455
8010-00-936-8369
8010-00-936-8371

Aerosol Paint, Primer Coating (IB)

8010-00-067-5434
8010-00-616-9181

Enamel (B)

8010-00-067-5436
8010-00-067-5437
8010-00-079-2750
8010-00-079-2752
8010-01-203-7803
8010-01-203-7804
8010-00-079-3750
8010-00-079-3752
8010-00-079-3754
8010-00-079-3756
8010-00-079-3758
8010-00-079-3760
8010-00-079-3762
8010-00-079-3764
8010-00-159-4519
8010-00-159-4520
8010-00-159-4521
8010-00-159-4522
8010-01-060-6461
8010-00-935-7156

Enamel, Alkyd (IB)

8010-00-948-7388

Enamel, Lacquer (IB)

8010-00-664-1914
8010-00-702-1053
8010-00-582-4743
8010-00-851-5525
8010-00-941-8712
8010-00-133-5901
8010-00-181-7791
8010-00-935-6609
8010-00-935-7064
8010-00-935-7075
8010-00-935-7079
8010-00-935-7085
8010-00-598-5936
8010-00-846-5117
8010-00-852-9033
8010-00-852-9034
8010-00-988-1458
8010-00-764-8434
8010-00-848-9272
8010-00-878-5761
8010-00-910-8154
8010-01-167-1139
8010-00-348-7715
8010-00-616-9143
8010-00-616-9144
8010-00-782-9356
8010-00-181-7371
8010-00-936-8366
8010-00-936-8367
8010-00-936-8370

Enamel, Primer Coating (IB)

8010–00–584–2426
8010–00–159–4518
8010–00–297–0593
8010–00–899–8825

Lacquer (SH)

8010–00–085–0559

CLASS 8105

Bag, Assembly, Crew Relief (IB)

8105–00–922–9469

Bag, Cloth (IB)

8105–00–282–8183

Bag, Cotton (IB)

8105–00–183–6981
8105–00–281–3924
8105–00–183–6982
8105–00–179–0089
8105–00–271–1511
8105–00–183–6985
8105–00–174–0836
8105–00–183–6989
8105–00–290–3360

Bag, Currency (IB)

8105–00–NIB–0006
Bureau of Engraving and Printing, Washington, DC

Bag, Evidence (IB)

8105–00–NIB–0001
8105–00–NIB–0002
8105–00–NIB–0003
8105–00–NIB–0004
8105–00–NIB–0005

Bag, Motion Sickness (IB)

8105–00–835–7212

Bag, Plastic (IB)

8105–00–837–7753
8105–00–837–7754
8105–00–837–7755

Coin Bags (SH)

8105–00–NSH–0005
8105–00–NSH–0006
8105–00–NSH–0008
8105–00–NSH–0009
8105–00–NSH–0010
8105–00–NSH–0011
8105–00–NSH–0012

CLASS 8115

Box, Set-Up, Mailing Dental (IB)

8115–00–511–5750

Box, Shipping (IB)

8115–00–787–2142
8115–00–787–2147
8115–00–101–7647
8115–00–101–7638
8115–00–787–2146
8115–00–787–2148
8115–01–019–4085
8115–01–019–4084
8115–01–057–1244
8115–01–057–1243
8115–01–057–1245
8115–00–192–1603
8115–00–192–1604
8115–00–192–1605
8115–01–093–3730

Box, Wood (SH)

8115–00–935–5887
8115–00–935–6525
8115–00–935–6526
8115–00–935–6527
8115–00–935–6528
8115–00–935–6530
8115–00–935–6532
8115–00–935–6531

Box, Wood, Nailed (SH)

8115–01–M00–0081
Pine Bluff Arsenal, AR only

Wood Container (SH)

8115–L1–599–7220
8115–L1–599–7320
8115–L1–599–8020
8115–L1–599–7920
8115–L1–465–1020
Robins Air Force Base, Georgia only

Block, Currency Packing (IB)

BEP Stock #L–1391

CLASS 8135

Chipboard (IB)

8135–00–290–0336
8135–00–782–3948
8135–00–782–3951
8135–00–579–8457

CLASS 8140

Pallet Assembly (SH)

8140–01–050–9789

Strap Assembly (SH)

8140–01–134–6654

CLASS 8305

Cloth, Filter (SH)

8305–LL–N01–7278
Naval Supply Center, WA only

CLASS 8315

Buckle, Belt (SH)

8315–00–598–6278
8315–00–664–9126
8315–01–069–4982
8315–00–275–4513
8315–01–075–1818

Sewing Kit (SH)

8315–01–090–5823
8315–01–222–0680
8315–01–222–0679

CLASS 8340

Tarpaulin (SH)

8340–00–485–3012

Cover, Tent (SH)

8340–00–262–2397

Line, Tent (SH)

8340–00–263–0254
8340–00–263–0255
8340–00–252–2268
8340–00–252–2271
8340–00–252–2273
8340–00–252–2291
8340–00–556–9689
8340–00–252–2280
8340–00–252–2282
8340–00–252–2297
8340–00–252–2293

Pin, Tent, Aluminum (SH)

8340–00–261–9749

Pin, Tent, Metal (SH)

8340–00–985–7461

Pin, Tent, Wood (SH)

8340–00–261–9750
8340–00–261–9751

Pole Section, Tent (SH)

8340–00–223–7849

Shelter Half, Tent, Incomplete (SH)

8340–00–577–4168

Shelter Half, Tent, Complete (SH)

8340–01–026–6096

CLASS 8345

Case, Flag, Interment (IB)

8345–00–782–3010

Flag, Signal (IB)

8345–00–935–0588
8345–00–935–0589
8345–00–935–0590
8345–00–935–0591
8345–00–935–0592
8345–00–935–0594
8345–00–935–0595
8345–00–935–0597
8345–00–935–0598
8345–00–935–0599
8345–00–935–0602
8345–00–935–0604
8345–00–935–0607
8345–00–935–0608
8345–00–935–0633
8345–00–935–1840
8345–00–935–0634
8345–00–935–0638
8345–00–935–0639
8345–00–935–0640
8345–00–926–9977
8345–00–926–9216
8345–00–926–9978
8345–00–926–6804
8345–00–926–6806
8345–00–926–9979
8345–00–926–6807
8345–00–926–6809
8345–00–926–9980
8345–00–926–9219
8345–00–935–0582
8345–00–926–9984
8345–00–926–6003
8345–00–926–9985
8345–00–935–0619
8345–00–935–1839
8345–00–935–0620
8345–00–935–0623
8345–00–935–0409
8345–00–935–0624
8345–00–935–0445
8345–00–926–6803
8345–00–935–0446
8345–00–926–6805
8345–00–935–0447
8345–00–926–9987
8345–00–935–0448
8345–00–926–6810
8345–00–926–9988

8345-00-935-0450
8345-00-935-0451
8345-00-935-0453
8345-00-926-6002
8345-00-926-6814
8345-00-935-0436
8345-00-935-0437
8345-00-935-0438
8345-00-935-0408
8345-00-935-0441
8345-00-935-0442
8345-00-935-0464
8345-00-935-0465
8345-00-935-0466
8345-00-935-0467
8345-00-935-0468
8345-00-935-0470
8345-00-935-0471
8345-00-935-0473
8345-00-935-0474
8345-00-935-0475
8345-00-935-0478
8345-00-935-0480
8345-00-935-0483
8345-00-935-0484
8345-00-935-0626
8345-00-935-1838
8345-00-935-0627
8345-00-935-0407
8345-00-935-0630
8345-00-935-0631

Flag, Signal, Vehicle, Danger Red (IB)

8345-00-260-2724

Flagstaff, Wood (SH)

8345-00-242-3650

Panel Marker, Aerial Liaison (SH)

8345-00-174-6865

Pennant, Signal, and Special Flags (IB)

8345-00-935-0420
8345-00-935-0517
8345-00-935-4755
8345-00-825-1847
8345-00-935-3201
8345-00-935-4756
8345-00-935-0522
8345-00-914-6086
8345-00-935-4753
8345-00-935-4754
8345-00-935-0404
8345-00-935-0514
8345-00-825-1868
8345-00-935-0406
8345-00-935-0509
8345-00-926-5988
8345-00-935-0512
8345-00-921-4497
8345-00-935-3199
8345-00-825-1839
8345-00-935-0526
8345-00-914-6076
8345-00-914-6080
8345-00-914-6083
8345-00-935-0524
8345-00-926-5987
8345-00-926-5989
8345-00-935-0539
8345-00-926-5991
8345-00-825-1840
8345-00-935-0521
8345-00-914-6087
8345-00-926-6026
8345-00-935-0403
8345-00-935-0536
8345-00-926-9210
8345-00-926-9213
8345-00-926-6028
8345-00-935-0508
8345-00-935-0519
8345-00-935-0415
8345-00-914-6085
8345-00-926-9215
8345-00-935-0411
8345-00-926-9212
8345-00-914-7411
8345-00-914-6079
8345-00-914-6082
8345-00-935-0523
8345-00-935-0417
8345-00-926-5990
8345-00-935-0421
8345-00-926-9207
8345-00-935-0542
8345-00-935-0520
8345-00-935-0492
8345-00-935-0493
8345-00-926-9214
8345-00-935-0513
8345-00-935-0490
8345-00-935-0495
8345-00-926-9208
8345-00-935-0518
8345-00-935-0511
8345-00-914-6084
8345-00-935-0405
8345-00-935-0410
8345-00-935-0525
8345-00-914-6075
8345-00-914-6077
8345-00-914-6081
8345-00-935-0419
8345-00-935-0416
8345-00-935-0537
8345-00-935-0538
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8345-00-935-0541
8345-00-926-9211
8345-00-935-0499
8345-00-935-0500
8345-00-935-0501
8345-00-825-1818
8345-00-935-0497
8345-00-935-0504
8345-00-935-1841
8345-00-935-0418
8345-00-825-1819
8345-00-926-1551
8345-00-935-0503
8345-00-935-0534
8345-00-935-1843
8345-00-926-1548
8345-00-926-1549
8345-00-926-1552

Streamer, Warning, Aircraft (IB)

8345-00-863-9170

CLASS 8405

Cap, Utility, Camouflage (SH)

8405-01-246-4176
8405-01-246-4177
8405-01-246-4178
8405-01-246-4179
8405-01-246-4180

Cover, Service Cap (IB)

8405-01-046-8544
8405-01-046-8545

Liner, Poncho, Wet Weather (IB)

8405-00-889-3683

Memphis, TN Depot only

Poncho, Wet Weather (SH)

8405-01-100-0976

CLASS 8410

Pants, Woman's (SH)

8410-01-189-9909
8410-01-189-9910
8410-01-189-9911
8410-01-189-9912
8410-01-189-9913
8410-01-189-9914
8410-01-189-9915
8410-01-189-9919
8410-01-189-9920
8410-01-189-9921
8410-01-189-9916
8410-01-189-9917
8410-01-190-9274
8410-01-190-9271
8410-01-190-9272
8410-01-190-9273
8410-01-190-9276
8410-01-190-9277
8410-01-189-9918
8410-01-189-9922
8410-01-189-9923
8410-01-189-9924
8410-01-189-9925
8410-01-190-4257
8410-01-190-9278
8410-01-190-9279
8410-01-190-9280
8410-01-190-9281
8410-01-189-9926
8410-01-190-9275
8410-01-189-9927
8410-01-189-9928
8410-01-189-9929
8410-01-189-9930
8410-01-189-9931
8410-01-189-9932

Shirt, Woman's (SH)

8410-01-104-7947
8410-01-104-7948
8410-01-104-7949
8410-01-104-7950
8410-01-104-7951
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8410-01-069-6626
8410-01-069-6627

Skirt, Woman's (SH)

8410-01-187-1415
8410-01-187-1416
8410-01-187-1417
8410-01-187-1418
8410-01-187-1419
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8410-01-187-1437
8410-01-187-1438
8410-01-187-1439
8410-01-187-1440
8410-01-187-1441

Slacks, Utility, Woman's (SH)

8410-01-074-6193
8410-01-074-6194
8410-01-074-6195
8410-01-074-6196
8410-01-074-6197
8410-01-074-6198
8410-01-074-6199
8410-01-074-6200
8410-01-074-7868
8410-01-074-7869
8410-01-074-7870
8410-01-074-7871
8410-01-074-7872
8410-01-074-7873
8410-01-074-7874
8410-01-074-7003
8410-01-074-7004

Slacks, Woman's (SH)

8410-01-029-6690
8410-00-591-1165
8410-00-591-1181
8410-00-591-1182
8410-00-591-1185
8410-00-591-1186
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8410-00-591-1320
8410-00-591-1337
8410-00-591-1352
8410-00-591-1357
8410-00-591-1358

Topper, Woman's (SH)

8410-01-187-9636
8410-01-187-9637
8410-01-187-9628
8410-01-187-9629
8410-01-187-9630
8410-01-187-9631
8410-01-187-9642
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8410-01-187-9686
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8410-01-187-9681
8410-01-187-9701
8410-01-187-9702
8410-01-187-9703
8410-01-187-9704

CLASS 8415

Apron, Construction Worker's (IB)

8415-00-205-3895
8415-00-257-4290

Apron, Food Handler's (IB)

8415-00-255-8577
8415-00-634-0205
8415-00-051-1173
8415-01-045-0587

Apron, Food Handler's (SH)

8415-00-899-3026

Apron, Impermeable (SH)

8415-00-082-6108

Apron, Laboratory (SH)

8415-00-634-5023

Band, Helmet, Camouflage (IB)

8415-01-110-9981

Cap, Food Handler's (IB)

8415-00-234-7677
8415-00-234-7678
8415-00-234-7679

Cover, Helmet (IB)

8415-00-105-0605

Cover, Helmet, Camouflage Pattern (IB)

8415-01-092-7514
8415-01-092-7515
8415-01-303-8945

Cover, Helmet, Chemical Protective (IB)

8415-01-111-9028 (75,000 each annually)

Cover, Helmet, Desert Camouflage (SH)

8415-01-103-1349
8415-01-103-1350

Cover, Toxicological Agents Protective (SH)

8415-00-261-6443

Coveralls, Disposable (SH)

8415-00-601-0792
8415-00-601-0793
8415-00-601-0794
8415-00-601-0797
8415-00-601-0801
8415-00-601-0802

Drawers, Cold Weather (SH)

8415-01-227-9542
8415-01-227-9543
8415-01-227-9544
8415-01-227-9545
8415-01-227-9546

Hood, Anti-Flash, Flame Resistant (SH)

8415-01-268-3473

Hood, Spray Painter's Protective (SH)

8415-00-NSH-0001
Pearl Harbor Naval Shipyard, HI only

Liner, Flyer's Jacket (IB)

8415-00-844-9811
8415-00-844-9812
8415-00-844-9813
8415-00-844-9814

Liner, Coat, Cold Weather (IB)

8415-00-782-2886
8415-00-782-2887
8415-00-782-2888
8415-00-782-2889
8415-00-782-2890
8415-01-062-0679
Mechanicsburg, PA Depot only

Liner, Flyer's Trousers (IB)

8415-00-844-9815
8415-00-844-9816
8415-00-844-9817
8415-00-844-9818

Liner, Trousers, Cold Weather (IB)

8415-01-180-0370
8415-01-180-0371
8415-01-180-0372
8415-01-180-0373
8415-01-180-0374
8415-01-180-0375
8415-01-180-0376
8415-01-180-0377

Mask, Extreme Cold Weather (SH)

8415-01-006-3468

Pad, Helmet, Flight Deck Crewman's (IB)

8415-00-178-6830
8415-00-178-6831

Smock, General Purpose (SH)

8415-00-117-7487
8415-00-117-7542
8415-00-117-7543
8415-00-117-7546

Socks, Extreme Cold Weather (SH)

8415-00-177-7992
8415-00-177-7993
8415-00-177-7994
8415-01-057-3503

Sweatpants (IB)

8415-01-234-4409
8415-01-234-4410
8415-01-234-4411
8415-01-234-4412
8415-01-234-4413

Sweatshirt (IB)

8415-01-234-4420
8415-01-234-4421
8415-01-234-4422
8415-01-234-4423
8415-01-234-4424

Traffic Safety Clothing (See Class 8465 also) (IB)

8415-00-177-4978
8415-00-177-4974

Undershirt, Cold Weather (SH)

8415-01-227-9547
8415-01-227-9548
8415-01-227-9549
8415-01-227-9550
8415-01-227-9551

CLASS 8430

Footwear Cover (IB)

8430-01-196-8394
8430-00-580-1205
8430-00-580-1206
8430-00-591-1359
8430-01-162-4453

Slide Fastener Unit, Laced Boot (IB)

8430-00-465-1888
8430-00-465-1889
8430-00-465-1890

CLASS 8440

Belt, Coat (IB)

8440-00-261-4965
8440-00-261-4966

Belt, Trousers (IB)

8440-00-270-0535

8440-00-573-1666
8440-01-052-9738
8440-00-634-5632
8440-00-270-0541
8440-00-270-0536
8440-00-573-1765
8440-01-052-9739
8440-00-577-4177
8440-00-270-0542
8440-01-175-7850
8440-01-204-2610
8440-01-181-4410
8440-01-175-7851
8440-01-175-7854
8440-00-270-0537
8440-00-573-3727
8440-01-052-9740
8440-00-577-4178
8440-00-270-0543

Handkerchief, Man's (SH)

8440-00-261-4246
8440-01-288-2178

Neckerchief (IB)

8440-01-198-5175

Neckerchief, Camouflage, Desert (IB)

8440-01-148-4549

Necktie (IB)

8440-01-156-0373
8440-01-171-7571
8440-01-190-0066
8440-00-555-7194

Scarf, Man's, Wool (SH)

8440-01-005-2558
8440-00-160-6843
8440-00-823-7520

Suspenders, Trousers (IB)

8440-00-221-0852

CLASS 8445

Belt, Trousers, Cotton (IB)

8445-01-068-8339
8445-01-068-8340
8445-01-075-0013
8445-01-075-0014
8445-01-075-0015

Scarf, Neckwear (IB)

8445-00-549-5363

CLASS 8455

Brassard, Army, Military (SH)

8455-01-236-1174

Decoration Sets (SH)

8455-00-680-0617
8455-01-122-0120

Holder, Identification (IB)

8455-00-898-9730

Medal (SH)

8455-00-261-4501

Medal Sets (SH)

8455-00-082-5528
8455-00-269-5761
8455-00-269-5783
8455-00-269-5763
8455-00-269-5764
8455-00-269-5782

Scarf, Branch of Service (IB)

8455-00-916-8398
8455-00-405-2294
8455-00-985-7336
8455-01-078-0745

CLASS 8460

Briefcase (SH)

8460-01-193-9769

Case, Map and Photograph (SH)

8460-00-368-4281

Cover, Map (SH)

8460-00-287-2137
8460-00-287-2140

Kit Bag, Flyer's (IB)

8460-00-606-8366

CLASS 8465

Bag, Soiled Clothes (IB)

8465-00-122-0362
8465-00-122-0363
8465-00-122-0364

Bag, Barrack (IB)

8465-00-530-3692

Bag, Chemical Protective Clothing Outfit (IB)

8465-01-216-6259

Bag, Laundry (SH)

8465-00-616-9576

Bag, Laundry, Self-Closing, Ropeless (SH)

8465-00-656-0816

Bag, Personal Effects (SH)

8465-00-174-0808

Bag, Sleeping, Firefighter's (IB)

8465-00-081-0798

Bag, Soiled Clothes (SH)

8465-00-122-3869

Bag, Soiled Clothes, Submarine (IB)

8465-00-762-7671

Belt, Individual, Equipment, Nylon, LC-1 (IB)

8465-00-001-6487
8465-00-001-6488
8465-01-120-0674
8465-01-120-0675

Belt, M.P. (IB)

8465-00-527-8843

Binding, Snowshoe, Universal (IB)

8465-00-965-2175

Canteen, Water, Plastic (IB)

8465-01-115-0026
Mechanicsburg, PA; Tracy, CA; & Oakland, CA DLA Depots only

Carrier, Intrenching Tool (IB)

8465-00-001-6474

Case, Field, First Aid (IB)

8465-00-935-6814

Case, Maintenance Equipment, Small Arms (IB)

8465-00-781-9564

Clipboard, Pilot's (SH)

8465-01-012-9174

Clothes Stop (IB)

8465-00-377-5701

Cover, Field Pack, Camouflage (IB)

8465-01-103-0659

Cover, Field Pack, Camouflage, White (SH)

8465-00-001-6478

Cover, Water, Canteen (IB)

8465-00-118-4956

Fieldpack, Canvas (SH)

8465-00-205-3493

Kit, Maintenance (SH)

8465-00-753-6335

Lanyard, Pistol (SH)

8465-00-262-5237
8465-00-965-1705

Mat, Sleeping, Cold Weather (SH)

8465-01-109-3369

Necklace, Personnel, Identification (SH)

8465-00-261-6629

Pack, Personal Gear (SH)

8465-01-141-2321

Pocket, Ammunition Magazine (IB)

8465-00-782-2239
8465-00-261-4983

Protector, Trousers, Pistol Holster (IB)

8465-00-682-6741

Sheath, Ax (SH)

8465-01-110-2078

Sheath, Brush Hook (Bush) (SH)

8465-01-136-4720

Sheath, McLeod Tool (SH)

8465-01-136-4718

Sheath, Pulaski Tool (SH)

8465-01-067-9999

Sheath, Shovel, Hand (SH)

8465-01-136-4719

Stand, Canteen Cup (IB)

8465-01-250-3632

Strap, Shoulder, Quick Release, Right Hand (IB)

8465-01-078-9282
Mechanicsburg, PA & Richmond, VA Depots only

Strap, Waist, with Pad, LC-2 (IB)

8465-01-075-8164

Strap, Webbing, Cargo, Tie-Down (IB)

8465-00-001-6477

Strap, Webbing, Frame Attaching (IB)

8465-01-151-2891

Strap, Webbing, Waist, LC-1 (IB)

8465-00-269-0481

Strap, Shoulder, Quick Release, Left Hand (IB)

8465–00–269–0482
Richmond, VA Depot only

Suspenders, Individual Equipment Belt (IB)

8465–00–001–6471

Traffic-Safety Clothing (IB)

8465–00–177–4975
8465–00–177–4976
8465–00–177–4977

Water Bag, Nylon Duck (SH)

8465–01–185–5511

Whistle, Ball, Plastic (IB)

8465–00–254–8803

CLASS 8470

Headband, Ground-Troop/Parachutists' Helmet (IB)

8470–01–092–8493
8470–01–092–8492

Neckband, G.T., Helmet Liner (IB)

8470–00–753–6166

Pad, Parachutists' Helmet (IB)

8470–01–092–8494

Strap, Chin, Parachutist Steel Helmet (IB)

8470–00–032–2737

Strap, Retention, Parachutists' Helmet (IB)

8470–01–092–7524

Strap, Soldier's Steel Helmet M–1 (IB)

8470–00–030–8003

Strap, Chin, Ground Troops/Parachutists Helmet (IB)

8470–01–092–7534

Suspension—Assembly, GT/Parachutist (IB)

8470–01–092–7516
8470–01–092–7517
8470–01–092–7518
8470–01–092–7519
8470–01–303–8947

Suspension Assembly, Liner, Helmet (IB)

8470–00–680–8814

CLASS 8520

Soap, Toilet (IB)

8520–00–228–0598
8520–01–058–7463
8520–00–141–2519

CLASS 8540

Paper, Toilet Tissue (IB)

8540–00–530–3770 GSA Zone 1 only
8540–01–055–6094
8540–00–J19–1421

CLASS 8915

Potatoes, White, Fresh (SH)

8915–00–456–6111 Whole
8915–00–228–1945 Diced
DLA in North Carolina & South Carolina only

CLASS 9905

Holder, Card-Label (IB)

9905–00–866–0334

Plate, Marking, Blank (SH)

9905–00–473–6336

Sign-Kit, Vehicle (SH)

9905–00–565–6267

Tag, Key (SH)

9905–00–245–7826

Tag, Marker (SH)

9905–00–537–8954
9905–00–537–8955
9905–00–537–8956
9905–00–537–8957

Tree Shade (SH)

9905–00–NSH–0001 8" x 12"
9905–00–NSH–0153 8" x 16"
BLM and U.S. Forest Service, Washington and Oregon only

CLASS 9920

Ash Receiver, Tobacco (IB)

9920–00–682–6757

Cleaner, Tobacco Pipe (SH)

9920–00–292–9946

Divider, Separation (SH)

P.S. #01037–A
P.S. #01037–B

Lead Seal with Cord Attachment (SH)

P.S. #0815

Marker, I.D., Plastic (SH)

P.S. #01036
P.S. #01036–A
P.S. #01036–B
P.S. #01036–C
P.S. #01036–D
P.S. #01036–E
P.S. #01036–F

Pad, Shoulder Strap (SH)

P.S. #D–1212

Pallet, P.S., Material Handling (SH)

3990–00–NSH–0008 (62 x 48")
Postal Service, Western Area Supply Center only

Pocket, Imitation Leather (SH)

P.S. #D–1200–G

Safety Guard (SH)

P.S. #1075–B

Seal, Metal Band (SH)

P.S. #0816–A
P.S. #0816–B

Seat Assembly, Complete (SH)

P.S. #054–A

Seat Cover (SH)

P.S. #054–B

Stool (SH)

P.S. #127–A
P.S. #127–B
P.S. #127–C
P.S. #127–D

Strap, Mail Tray (IB)

P.S. Item #01067

Strap, Tie, Mail Carrier's, with buckle (IB)

P.S. #D1216–D
P.S. #D1216–E
P.S. #D1216–F

Tray, Fiberboard, Three-Sided (SH)

P.S. #D–3915

Military Resale Commodities

Procedures for ordering military resale commodities are contained in Section 51–5.6, Code of Federal Regulations, Title 41.

Item No. and Item name:

020 Mouse pad, computer
040 Pen, twist action, black ink (IB)
041 Pen, twist action, blue ink (IB)
060 Roller ball pen, red (IB)
061 Roller ball pen, blue (IB)
062 Roller ball pen, black (IB)
063 Retractable pen, black (IB)
064 Retractable pen, blue (IB)
065 Ultra fine tip marker, red (IB)
066 Ultra fine tip marker, blue (IB)
067 Ultra fine tip marker, black (IB)
068 Pencil, mechanical, 0.5 mm lead (IB)
204 Cleaner, tobacco, pipe (SH)
500 Room air freshener (IB)
501 Deodorizer, toilet bowl (IB)
503 Bowl deodorizer (IB)
504 Bowl deodorizer (IB)
506 Air deodorizer, push-up type, floral spring (IB)
507 Air deodorizer, push-up type, lemon (IB)
510 Cleaner, all purpose (IB)
519 Fabric softener sheets, reusable, 8¾ x 4" (60 count) (IB)
520 Fabric softener sheets, reusable, 8¾ x 4" (40 count) (IB)
521 Candle, air freshening, fruit (IB)
522 Candle, air freshening, holiday (IB)
523 Candle, air freshening, floral (IB)
524 Candle, air freshening, berry (IB)
525 Candle, air freshening, forest (IB)
526 Candle, air freshening, carnival (IB)
527 Candle, air freshening, festival (IB)
528 Candle, air freshening, herbal (IB)
529 Candle, air freshening, assorted scents with holders (IB)
541 Scrubber, bathroom, with handle (IB)
542 Scrubber, kitchen, with handle (IB)
543 Scrubber, grill & garage, with handle (IB)
544 Scrubber, nylon net over polyurethane pad (IB)
554 Scrubber, nylon, rectangular (IB)
555 Scrubber, kitchen, 4⅝ x 3 1/16 x 1 3/16" (IB)
556 Scrubber, Cookware, 4⅝ x 3 1/16 x 1 3/16" (IB)
557 Scrubber, general household, 6⅜ x 3 1/16 x 1" (IB)
559 Scrubber, bathroom
563 Scrubber, plastic, for teflon (IB)
564 Scrubber, stainless steel (IB)
568 Board, ironing, table top (IB)
570 Clothespins, plastic (IB)
574 Clothesline, plastic, rayon reinforced, 100-ft. (IB)
575 Sponge, cellulose, 5½ x 3⅝ x 1⅛" (IB)
576 Sponge, cellulose, 7⅜ x 4 x 1¾" (IB)
577 Sponge, cellulose, 5½ x 3⅝ x 1" (IB)
578 Sponge, cellulose, 5½ x 3⅝ x ⅝" (IB)
581 Flatware, assorted, PG of 24 (IB)
583 Flatware, forks, PG of 24 (IB)
584 Flatware, spoons, PG of 24 (IB)
593 Sponge, bath, circular (IB)
594 Swatter, fly, plastic (IB)

596 Cutlery set, plastic, heavy duty (8 ea knives, forks, spoons) (IB)
597 Knives, plastic, heavy duty (IB)
598 Forks, plastic, heavy duty (IB)
599 Spoons, plastic, heavy duty (IB)
620 Vest, safety, joggers, small (IB)
621 Vest, safety, joggers, medium (IB)
622 Vest, safety, joggers, large (IB)
650 Dryer, sweater (IB)
721 Paint roller cover, economy, 9" (IB)
723 Paint roller cover, all purpose, 9" (IB)
727 Paint roller cover, high pile, 9" (IB)
730 Paint roller cover, for rough surfaces, 9" (IB)
750 Desk, lap
754 Pillow, Standard, 20" x 26" (IB)
755 Pillow, Queen, 20" x 30" (IB)
756 Pillow, King, 20" x 36" (IB)
820 Opener, can and bottle (IB)
824 Slicer, cheese (IB)
826 Peeler, vegetable (IB)
828 Cutter, pizza (IB)
832 Spatula, plate and bowl (IB)
834 Spoon, basting, plastic
835 Spoon, slotted, plastic
836 Fork, Plastic
837 Turner, small, plastic
838 Turner, large, plastic
839 Server, spaghetti, plastic
840 Scoop, ice cream, plastic
845 Bag clip, plastic
850 Bib, baby, cotton (IB)
860 Hooks, laundry, plastic (IB)
862 Brush, lint, plastic (IB)
901 Broom, mixed fiber (IB)
902 Broom, push, indoor/outdoor, 54" handle (IB)
903 Broom, parlor, corn, medium weight (IB)
904 Broom, corn, plastic cap (IB)
905 Broom, plastic filament, flagged ends (IB)
906 Broom, push, 18", indoor/outdoor (IB)
907 Broom, plastic filament, angle cut (IB)
908 Broom, plastic filament, angle tilt (IB)
909 Broom, whisk, corn (IB)
912 Brush, lint, plastic filament (IB)
914 Brush, barbecue, with scraper (IB)
915 Brush, counter, plastic (IB)
916 Brush, bowl, sanitary, nylon filament (IB)
918 Brush, scrub, household (IB)
919 Brush, scrub, plastic block, vinyl filament (IB)
920 Handle, mop, spring lever, for wet mopheads (IB)
921 Mop, anglematic (IB)
922 Applicator, wax, foam block (IB)
923 Mop, automatic, block sponge (IB)
924 Mop, block sponge, with scrub strip brush (IB)
925 Mop, dusting, nylon (IB)
926 Mop, stick, orlon/rayon yarn, wet (IB)
927 Mop, stick, rayon yarn, wet (IB)
928 Mop, stick, cotton yarn, wet (IB)
929 Mop, stick, foam/nonwoven
931 Refill, for #921 (IB)
933 Refill, mop, automatic, block sponge, for 923 (IB)
934 Refill, mop, block sponge, for 924 (IB)
936 Mophead, orlon/rayon yarn, wet (IB)
937 Mophead, cotton yarn, wet (IB)
941 Cloth, dish, knitted cotton (IB)
943 Towel, modern design (IB)
944 Dish cloth, modern design (IB)
945 Towel, kitchen, cotton (IB)
946 Potholder, quilted, cotton (IB)
947 Oven mitt, modern design (IB)
948 Potholder, modern design (IB)
949 Mitt, oven, quilted, cotton (IB)
950 Mop, dish and bottle, wood handle (IB)
955 Brush, vegetable/utility, plastic filament (IB)
956 Brush, bottle, nylon filament (IB)
957 Brush, dish and pan, nylon filament (IB)
959 Brush, pastry and basting (IB)
962 Cover, ironing board, silicone and pad, poly foam (IB)
964 Cover, ironing board, silicone, double coated (IB)
965 Cover, ironing board, color coated (IB)
970 Bag, washing machine, nylon with zipper (IB)
971 Towel, dish, traditional design (IB)
972 Dish cloth, traditional design (IB)
973 Towel, contemporary design (IB)
974 Dish cloth, contemporary design (IB)
975 Oven mitt, traditional design (IB)
977 Oven mitt, contemporary design (IB)
978 Pot holder, contemporary design (IB)
979 Pot holder, traditional design (IB)
980 Cloth, all purpose, cotton (IB)
981 Towel, fashion design (IB)
982 Potholder, fashion design (IB)
983 Cloth, dusting (IB)
986 Cloth, wash, face (IB)
995 Dustpan, plastic (IB)

Services

Administrative Services

Department of Commerce: Herbert Hoover Building, 14th & Constitution Avenue, NW., Washington, DC (SH)
Department of Defense: DCASR Building B-95, 805 Walker Street, Marietta, Georgia (SH)
Department of Transportation: Library and Distribution Services, 400 7th Street, SW., Washington, DC (SH)
FAA Regional Office, East Point, Field Facilities and Accounting Office, Hapeville, Georgia (SH)
Environmental Protection Agency: 1860 Lincoln Street, Denver, Colorado (SH)
Marfair/Fairchild Building, Washington, DC (SH)
Waterside Mall Complex, Washington, DC (SH)
345 Courtland Street, NE., Atlanta, Georgia (SH)
General Services Branch, 230 South Dearborn Street, Chicago, Illinois (SH)
26 Federal Plaza, New York, New York (SH)
6th and Walnut Street, Philadelphia, Pennsyvlania (SH)
Crystal Mall Complex, Arlington, Virginia (SH)

Assembly

Department of Army: Kit Camouflage Support System, U.S. Army Troop Support Command, St. Louis, Missouri (IB)
Kit Camouflage Support System, Red River Army Depot, Texarkana, Texas (IB)
Department of Defense: Belt, Trousers (IB)
Food Packet, Survival, Abandon Ship (8970-00-299-1365) (IB)
Food Packet, Survival, General-Purpose, Individual (8970-00-082-5665) (IB)
General Services Administration: Belt Weather Kit (6660-01-024-2638) (SH)
Canteen, Water Disposable (8465-01-062-5854) (SH)
Dinnerware Kit (7360-00-139-0480) (SH)
Living Kit, Basic and Supplemental (SH)
Mop-up Kit, Lateral Line (4210-01-029-0369) (SH)

Brick Joint Cleaning

Department of the Army: Andersonville National Historic Site, Andersonville, Georgia (SH)

Bursting and Packaging of Commemorative Stamps

U.S. Postal Service: Washington, DC (SH)

Cage Cleaning

Department of Health and Human Services: Food and Drug Administration, Federal Office Building #8, 200 C Street SW., Washington, DC (SH)

Cardboard and Paper Scrap Recovery

Department of Army: New Cumberland Army Depot, Pennsylvania (SH)
Department of Energy: Bonneville Power Administration, Portland, Oregon (SH)

Carpet Cleaning

General Services Administration: Portland, Oregon, plus 10-mile radius (SH)

Carwash

Department of Interior: Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon (SH)

Catering Service

Department of Air Force: Military Entrance Processing Station, Jackson, Mississippi (SH)
Department of Army: New Cumberland Army Depot, Military Entrance Processing Station, Building 521, New Cumberland, Pennsylvania (SH)

Commissary Shelf Stocking

Department of Navy: Naval Air Station, Alameda, California (SH)
Naval Outlying Landing Field, Imperial Beach, California (SH)
Naval Air Station, Long Beach, California (SH)
Naval Air Station, Miramar, San Diego, California (SH)
Naval Air Station, North Island, San Diego, California (SH)
Naval Station, San Diego, California (SH)
Naval Training Center, San Diego, California (SH)
Mare Island Naval Shipyard, Vallejo, California (SH)
Naval Air Station, Cecil Field, Florida (SH)
Commissary Branch Store, Mayport, Florida (SH)
Naval Air Station, Pensacola, Florida (SH)
Naval Air Station, Barbers Point, Oahu, Hawaii (SH)
Naval Base, Pearl Harbor, Hawaii (SH)
Naval Training Center, Great Lakes, Illinois (SH)
Naval Air Station, Brunswick, Maine (SH)
U.S. Naval Academy, Annapolis, Maryland (SH)
Naval Air Station, Patuxent River, Maryland (SH)
Naval Administrative Unit, Scotia, New York (SH)
Naval Station, Roosevelt Roads, Puerto Rico (SH)

Naval Education Training Center, Newport, Rhode Island (SH)
Naval Station and Naval Weapons Station, Charleston, South Carolina (SH)
Branch Commissary Store, Little Creek Naval Amphibious Base, Building 3324, Norfolk, Virginia (SH)
Naval Station, Norfolk, Virginia (SH)
Branch Commissary Store, Building 350, Norfolk Naval Shipyard, Portsmouth, Virginia (SH)
Naval Air Station, Oceana, Virginia Beach, Virginia (SH)
Naval Submarine Base, Bangor, Washington (SH)
Naval Air Station, Whidbey Island, Oak Harbor, Washington (SH)
Naval Support Activity, Sand Point, Seattle, Washington, (SH)

Commissary Shelf Stocking and Custodial Service

Department of Air Force: Gunter Air Force Station, Alabama (SH)
Maxwell Air Force Base, Alabama (SH)
Elelson Air Force Base, Alaska (SH)
Elmendorf Air Force Base, Alaska (SH)
Little Rock Air Force Base, Arkansas (SH)
George Air Force Base, California (SH)
Lowry Air Force Base, Colorado (SH)
Homestead Air Force Base, Florida (SH)
Hickam Air Force Base, Hawaii (SH)
Mountain Home Air Force Base, Idaho (SH)
Scott Air Force Base, Illinois (SH)
Nellis Air Force Base, Nevada (SH)
Kirtland Air Force Base, New Mexico (SH)
Griffiss Air Force Base, New York (SH)
Minot Air Force Base, North Dakota (SH)
Altus Air Force Base, Oklahoma (SH)
Shaw Air Force Base, South Carolina (SH)
Goodfellow Air Force Base, Texas (SH)
Lackland Air Force Base, Texas (SH)
Langley Air Force Base, Virginia (SH)
Francis E. Warren Air Force Base, Wyoming (SH)
Department of Army: Fort Gillem, Georgia (SH)
Fort Benjamin Harrison, Indiana (SH)
Fort Monumouth, New Jersey (SH)
Fort Bragg and Malonee Village, Fayetteville, North Carolina (SH)
Fort Sam Houston, Texas (SH)
Department of Navy: Branch Commissary Store, Naval Support Activity, New Orleans, Louisiana (SH)

Commissary Warehousing Service

Department of Air Force: Little Rock Air Force Base, Arkansas (SH)
Mountain Air Force Base, Idaho (SH)
Columbus Air Force Base, Mississippi (SH)
Minot Air Force Base, North Dakota (SH)
Altus Air Force Base, Oklahoma (SH)
Shaw Air Force Base, South Carolina (SH)
Langley Air Force Base, Virginia (SH)
Francis E. Warren Air Force Base, Wyoming (SH)

Commissary Shelf Stocking/Custodial/ Warehousing

Department of Air Force: McClellan Air Force Base, California (SH)
Robins Air Force Base, Georgia (SH)
McConnell Air Force Base, Kansas (SH)
Cannon Air Force Base, New Mexico (SH)
Ellsworth Air Force Base, South Dakota (SH)
Randolph Air Force Base, Texas (SH)
Sheppard Air Force Base, Texas (SH)
Hill Air Force Base, Utah (SH)
Department of Air Force: Robins Air Force Base, Georgia (SH)

Computer Tape Verification

Department of Air Force: Tinker Air Force Base, Oklahoma (SH)

Currency Packaging

Department of Treasury: Bureau of Engraving and Printing, Washington, DC (SH)

Document Destruction

Department of Treasury: Internal Revenue Service, Cincinnati Service Center, 200 West Fourth Street, Covington, Kentucky (SH)

Drill Sharpening

Department of Navy: Naval Supply Center, San Diego, California (SH)

Elevator Operation Service

General Services Administration: Wyoming Valley Veterans Building, 19 North Main Street, Wilkes-Barre, Pennsylvania (SH)

File Maintenance

Department of the Treasury: Bureau of Public Debt, Parkersburg, West Virginia (SH)

Food Service:

Department of Air Force: Sheppard Air Force Base, Texas (SH)

Food Service Attendant

Department of Air Force: Little Rock Air Force Base, Arkansas (SH)
Homestead Air Force Base, Florida (SH)
914th Tactical Airlift Group (AFRFES), Niagara Falls International Airport, Niagara Falls, New York (SH)
Department of Army: Consolidated Enlisted Dining Facility, Building 61, Fort McPherson, Georgia (SH)
Seneca Army Depot, Romulus, New York (SH)

Forms/Publication Storage and Distribution

Department of Agriculture: Landover, Maryland (SH)
Department of Treasury: Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC (SH)

Furniture Rehabilitation (Metal)

Department of Navy: Naval Ordnance Station, Louisville, Kentucky (IB)

Grounds Maintenance

Department of Air Force: 26 Buildings, 1 Area, and 4 Athletic Fields, Edwards Air Force Base, California (SH)
Mare Island Naval Complex and Roosevelt Terrace, (Except the Combat Systems Technical School Command), Mare Island Naval Shipyard, Vallejo, California (SH)
Hill Air Force Base, Utah (SH)
Naval Weapons Station, Areas 13–22, Yorktown, Virginia (SH)
Air Route Traffic Control Center, Auburn, Washington (SH)
Department of Army: 5 Buildings and 6 Fields, Fort Ord, California (SH)
Lewiston Levee Parkway, Nez Perce County, Idaho (SH)
Bonneville Lock and Dam, Bonneville, Oregon (SH)
U.S. Army Reserve Facility—Portland (South), Sears Hall, 2731 SW Multnomah Boulevard, Portland, Oregon (SH)
U.S. Army Reserve Facility—Portland (West), Sharff Hall, 8801 N. Chautauqua Boulevard, Portland, Oregon (SH)
Asotin Recreation Area, Asotin County, Washington (SH)
Cemetery Grounds (includes opening and closing of graves), Fort Lawton, Washington (SH)
U.S. Army Reserve Facility, Building 4306, Grant County Airport, Moses Lake, Washington (SH)
U.S. Army Reserve Facility, Mann Hall, N. 4415 Market Street, Spokane, Washington (SH)
U.S. Army Reserve Facility, N. 3800 Sullivan Road, Trentwood, Washington (SH)
Vancouver Army Barracks, Vancouver, Washington (SH)
Department of Commerce: National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 2725 Montlake Boulevard East, Seattle, Washington (SH)
Department of Energy: Morgantown Energy Technology Center, Morgantown, West Virginia (SH)
Department of Interior: Wheeler National Wildlife Refuge, Decatur, Alabama (SH)
Ash Woods, French Drive & Independence Avenue to 17th Street & Independence Avenue, Washington, DC (SH)
National Park Service, LBJ Memorial Grove, Constitution Gardens, Washington, DC (SH)
Department of Navy: Marine Corps Air Station, Yuma, Arizona (SH)
Naval Weapons Center, China Lake, California (SH)
Mare Island Naval Shipyard, Combat Systems Technical School Command, Vallejo, California (SH)
Naval Air Station Miramar, 15 Parcel Areas, San Diego, California (SH)
U.S. Naval Security Activity, Skaggs Island, Sonoma, California (SH)
Naval Ordnance Station, Nonindustrial Area, Indian Head, Maryland (SH)
Naval Weapons Station, 2 Parks, 5 Buildings, and 7 Areas, Yorktown, Virginia (SH)
Naval Air Station, Whidbey Island, Washington (SH)
Department of Transportation: Federal Aviation Administration, AFSFO, 55 Midway Avenue, Daytona Beach, Florida (SH)
Federal Aviation Administration, Airway Facilities Sector, 1100 South Service Road, Atlanta, Georgia (SH)
Federal Aviation Administration, Air Route Traffic Control Center, Ronkonkoma, New York (SH)
Federal Aviation Administration, New York TRACON Facility, Westbury, New York (SH)
Federal Aviation Administration, Air Route Traffic Control Center, Leesburg, Virginia (SH)
Department of Treasury: U.S. Secret Service, Special Training Building and Complex, Beltsville, Maryland (SH)

General Services Administration: Federal Center, 620 Central Avenue, Alameda, California (SH)
Federal Building and U.S. Post Office, 11000 Wilshire Boulevard, Los Angeles, California (SH)
U.S. Geological Survey, 345 Middlefield Road, Menlo Park, California (SH)
Federal Building, 2800 Cottage Way, Sacramento, California (SH)
U.S. Court of Appeals, 7th and Mission Streets, San Francisco, California (SH)
Social Security Administration Complex, 6401 Security Boulevard, Baltimore, Maryland (SH)
Social Security Administration Computer Center, 6201 Security Boulevard, Baltimore, Maryland (SH)
Internal Revenue Service Center, 310 Lowell Street, Andover, Massachusetts (SH)
Federal Building, 1002 N.E. Holladay, Portland, Oregon (SH)
Pioneer Courthouse, 520 S.W. Morrison, Portland, Oregon (SH)
U.S. Courthouse, 620 S.W. Main, Portland, Oregon (SH)
Wyatt Federal Building, 1220 S.W. Third, Portland, Oregon (SH)
Federal Building, 500 West 12th, Vancouver, Washington (SH)
National Aeronautics and Space Administration: Goddard Space Flight Center, Greenbelt, Maryland (SH)
U.S. Postal Service: 1088 Nandino Boulevard, Lexington, Kentucky (SH)
Veterans Administration: Medical Center, Palo Alto, California (SH)

Grounds Maintenance and Sprinkler System Maintenance

Department of the Air Force: Part 2 Bldgs: 1250, 1260, 1633, 2410, 2419, 2453, 2600, 2850, 3535 offsite, 3950, 5601, 6441, 6443, 6459, 8251, 8252, 8255, T–38 and 1200 Parking Islands
Part 3 Bldgs: 2500, 2665, 3535, 5600, 5602, 5603, 5604, 5605, 6445, 6447, 420, 6000, 7220, 2421, 5211, Desert Villa Complex, Edwards Air Force Base, California (SH)

Janitorial/Custodial

Department of Agriculture: Forest Service, Coeur d'Alene Nursery, 3600 Nursery Road, Coeur d'Alene, Idaho (SH)
Forest Service, Fernan Ranger Station, 2502 E. Sherman Avenue, Coeur d'Alene Idaho (SH)
Wallace Ranger District of the Panhandle National Forest, Coeur d'Alene, Idaho (SH)
Targhee National Forest Supervisor's Office Building, 420 North Bridge Street, St. Anthony, Idaho (SH)
National Finance Center, NASA Facility, 13800 Old Gentilly Road, Building 350, New Orleans, Louisiana (SH)
The Rexnord Building, 4277 Poche Court West, New Orleans, Louisiana (SH)
Umpqua National Forest-Radio Shop, 2691 N.E. Diamond Lake Boulevard, Roseburg, Oregon (SH)
Umpqua National Forest, Supervisor's Office, 2900 N.W. Stewart Parkway, Roseburg, Oregon (SH)
Department of Air Force: Buildings 46, 228 and 963, Robins Air Force Base, Georgia (SH)
Newark Air Force Base, Ohio (SH)
910 Tactical Airlift Group (AFRES), Except Building 540, Youngstown Municipal Airport, Vienna, Ohio
Buildings 280 and 281, Area A, Wright-Patterson Air Force Base, Ohio (SH)
911th Tactical Airlift Group (AFRES), Greater Pittsburgh International Airport, Pittsburgh, Pennsylvania (SH)
5 Buildings, Bergstrom Air Force Base, Texas (SH)
Ellsworth Air Force Base, South Dakota (SH)
Fairchild Air Force Base, Washington (excluding USAF Hospital, Air National Guard and Commissary) (SH)
Griffiss Air Force Base, New York, exept for buildings 3, 104, 105, 106, 120, 240, 247, 248, 346, 510. All RADC Test Sites, and building 112 (other than the Biological Environmental Office and the hallway leading to that office) (SH)
Building 891, Logistics Systems Operations Center, Hill Air Force Base, Utah (SH)
Building 1293, Hill Air Force Base, Utah (SH)
Building 1400, Hill Air Force Base, Utah (SH)
Department of Army: Pueblo Army Depot Activity, Colorado (SH)
New Castle U.S. Army Reserve Center, New Castle, Delaware (SH)
Kirkwood U.S. Army Reserve Center, Wilmington, Delaware (SH)
National Defense University, Health Fitness, Fort McNair, Washington, DC (SH)
Pentagon Officers Athletic Center, The Pentagon, Washington, DC (SH)
Southern Maryland Memorial USAR Center, Dower House Road, Washington, DC (SH)
Fort Gillem, Georgia (SH)
Lexington Blue Grass Army Depot at the following locations: Lexington Activity, Avon, Kentucky (SH)
Blue Grass Activity, Richmond, Kentucky (SH)
Prince Georges County Memorial USAR Center, 6600 Baltimore Avenue Riverdale, Maryland (SH)
U.S. Army Reserve Center, John Williams Street, Attleboro, Massachusetts (SH)
U.S. Army Reserve Center, Belmont & Manley Streets, Brockton, Massachusetts (SH)
U.S. Army Reserve Center, 915 W. Chestnut Street, Brockton, Massachusetts (SH)
U.S. Army Reserve Center, 675 American Legion Highway, Roslindale, Massachusetts (SH)
U.S. Army Reserve Center, 130 Eldridge Street, Taunton, Massachusetts (SH)
U.S. Army Reserve Center, Fort Snelling, Minnesota (SH)
U.S. Readiness Group, Fort Snelling, Minnesota (SH)
Waterways Experiment Station, Vicksburg, Mississippi (SH)
U.S. Army Reserve Center #1, 4350 Kingshighway Boulevard, St. Louis, Missouri (SH)
U.S. Army Reserve Center #3, 4301 Goodfellow Boulevard, St. Louis, Missouri (SH)
U.S. Army Reserve Center, 111 Finney Boulevard, Malone, New York (SH)
U.S. Army Reserve Center, Burrstone Road, Utica, New York (SH)
U.S. Army Reserve Center, Watertown, New York (SH)
U.S. Army Reserve Facility, Salem, Oregon (SH)
U.S. Army Reserve Center, 2501 Ford Road, Bristol, Pennsylvania (SH)
U.S. Army Reserve Center, 500 W. 24th Street, Chester, Pennsylvania (SH)
U.S. Army Reserve Center, DePace Building, Boot and Chestnut Streets, Downingtown, Pennsylvania (SH)
U.S. Army Reserve Center, 6th & Kedron Avenue, Folsom, Pennsylvania (SH)
U.S. Army Reserve Center, 2997 North 2nd Street, Harrisburg, Pennsylvania (SH)
U.S. Army Reserve Center, RD3, Rt. 22 East, Huntington, Pennsylvania (SH)
U.S. Army Reserve Center, Lock Haven, Pennsylvania (SH)
U.S. Army Reserve Center, 7 West Delaware Avenue, Marcus Hook, Pennsylvania (SH)
U.S. Army Reserve Center, 1020 Sandy Street, Norristown, Pennsylvania (SH)
U.S. Army Reserve Center, 1522–24 E. Wingohocking Street, Philadelphia, Pennsylvania (SH)
U.S. Army Reserve Center, 5200 Wissahickon Avenue, Philadelphia Pennsylvania (SH)
U.S. Army Reserve Center, 2838–98 Woodhaven Road, Philadelphia, Pennsylvania (SH)
U.S. Army Reserve Center, 547 Philadelphia Avenue, Reading, Pennsylvania (SH)
U.S. Army Reserve Center, 1250 Fox Hollow Road, State College, Pennsylvania (SH)
Lycoming Memorial USARC, 1605 Four Mile Drive, Williamsport, Pennsylvania (SH)
U.S. Army Reserve Center, Potshop and Berks Road, Worchester, Pennsylvania (SH)
U.S. Army Reserve Center, 3273rd U.S. Army Reserve Hospital, Suites B & C, 1003 Grove Road, Greenville, South Carolina (SH)
U.S. Army Reserve Center, Center No. 1, 2201 Laurens Road, Greenville, South Carolina (SH)
U.S. Army Reserve Center, Kukowski-Donaldson Center, Perimeter Road, Greenville, South Carolina (SH)
U.S. Army Reserve Center, 360 West California Avenue, Memphis, Tennessee (SH)
U.S. Army Reserve Center, 2562 Avery Avenue, Memphis, Tennessee (SH)
Headquarters, Building 1001, Fort Hood, Texas (SH)
Lewisville Lake Park, Lewisville, Texas (SH)
Fort Belvoir Billeting Building #505, Forth Belvoir, Virginia (SH)
Resources Management Office Building, 400 Riverside Drive, Clarkston, Washington (SH)
U.S. Army Reserve Facility, Grant County Airport, Moses Lake, Washington (SH)
U.S. Army Reserve Facility, 14631 S.E. 1092nd Street, Renton, Washington (SH)
Hiram M. Chittenden Locks, Seattle, Washington (SH)
U.S. Army Reserve Facility, Mann Hall, North 4415 Market Street, Spokane, Washington (SH)
U.S. Army Reserve Facility, 3800 North Sullivan Road, Trentwood, Washington (SH)
Vancouver Army Barracks, Vancouver, Washington (SH)
U.S. Army Corps of Engineers at the following Yakima, Washington locations:

Fort Lewis Resident Office (SH), Project Office adjacent to Building 810 (SH), Yakima Firing Center (SH)
Departments of Army and Air Force: Army and Air Force Exchange System, Fort Bliss Exchange, Main Store, Building 1735, Fort Bliss, Texas (SH)
Army and Air Force Exchange, Alamo Exchange Region, 5315 Summit Parkway, San Antonio, Texas (SH)
Waco Distribution Center, 1801 Exchange Park, Waco, Texas (SH)
AAFES Distribution Center, Newport News, Virginia (SH)
Department of Defense: DCASR Building B–95, 2 Buildings, Marietta, Georgia (SH)
Department of Energy: The Computer Sciences Building (CSC), 1155 Foote Drive, Idaho Falls, Idaho (SH)
The Technical Support Building (TSB), 1580 Sawtelle, Idaho Falls, Idaho (SH)
The Technical Support Addition (TSA), 1520 Sawtelle, Idaho Falls, Idaho (SH)
Airport Building, 9120 NE 47th, Portland, Oregon (SH)
Bonneville Power Administration, 710 NE Hassalo Street, 5640 NE Hassalo Street, Portland, Oregon (SH)
Ross Complex, 5411 NE Highway 99, Vancouver, Washington (SH)
Morgantown Energy Technology Center, Morgantown, West Virginia (SH)
Department of Health and Human Services: Roth Building, Social Security Administration Complex, 5536 Caswell Road, Baltimore, Maryland (SH)
Social Security Administration, Operations Building, Third and Fourth Floors, 6401 Security Boulevard, Baltimore, Maryland (SH)
Social Security Administration Computer Center, 6201 Security Boulevard, Woodlawn, Maryland (SH)
National Institute for Occupational Safety and Health, 5555 Ridge Avenue, Cincinnati, Ohio (SH)
National Institute for Occupational Safety and Health, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio (SH)
Department of Interior: Indiana Dunes National Lakeshore, 1100 North Mineral Springs Road, Porter, Indiana (SH)
Bureau of Land Management, District Building, Roseburg, Oregon (SH)
Bureau of Land Management, Salem District Office, 1717 Fabry Road, SE., Salem, Oregon (SH)
Department of Navy: Marine Corps Air Station, Yuma, Arizona (SH)
Naval Weapons Station, Concord, California (SH)
Naval Air Facility, El Centro, California (SH)
12 Buildings, Naval Research Laboratory, Washington, DC (SH)
Naval Communications Unit (Cheltenham), Washington, DC (SH)
Commissary Store, Naval Air Station, Pensacola, Florida (SH)
Naval Resale and Support Office, Fort Wadsworth, Staten Island, New York (SH)
Naval Propulsion Training Unit Complex (NPTU), Naval Weapons Station, Charleston, South Carolina (SH)
Naval and Marine Corps Reserve Center, Newport News, Virginia (SH)
Building 3504, Naval Amphibious Base, Little Creek, Norfolk, Virginia (SH)
Naval Amphibious Base, Little Creek, (except Building 3504), Norfolk, Virginia (SH)
Building 1019, Marine Corps Combat Development Command, Quantico, Virginia (SH)
Marine Corps Development and Education Command, Quantico, Virginia for All Family Housing Units and 38 Buildings (SH)
Marine Corps Development and Education Command, MCCDPA Building 3041A, SABRS Annex, Quantico, Virginia (SH)
Marine Corps Development and Education Command, Buildings 2034, 2079, 2035, 3098, and 3400, Quantico, Virginia (SH)
Puget Sound Naval Shipyard, Equipment Maintenance Shops, Bremerton, Washington (SH)
Building 2700, Naval Air Station, Whidbey Island, Washington (SH)
Naval Air Station, 37 Buildings, Whidbey Island, Washington (SH)
Department of Transportation: Federal Aviation Administration, Air Traffic Control Tower, Atlanta, Georgia (SH)
Federal Aviation Administration Facilities, Air Route Traffic Control Center, Hampton, Georgia (SH)
Federal Aviation Administration Facilities, Albany County Airport, Albany, New York (SH)
Federal Aviation Administration, TRACON Facility, Westbury, New York (SH)
FAA Facility, Williamsport Lycoming Airport, Montoursville, Pennsylvania (SH)
Federal Aviation Administration Facilities, 7 Buildings, Spokane, Washington (SH)
Department of Treasury: Bureau of Engraving and Printing, Annex Building, 14th & C Streets, SW., Washington, DC (SH)
Bureau of Engraving and Printing, Main Building, 14th & C Streets, SW., Washington, DC (SH)
General Services Administration: Federal Building, 3rd Avenue and 1st Street, Cullman, Alabama (SH)
Federal Building, 109 St. Joseph Street, Mobile, Alabama (SH)
GSA Motor Pool and Parking Garage, St. Joseph Street, Mobile, Alabama (SH)
John A. Campbell U.S. Courthouse, 113 St. Joseph Street, Mobile, Alabama (SH)
Federal Building and U.S. Courthouse, 15 Lee Street, Montgomery, Alabama (SH)
Federal Building, 4th and F Street, Anchorage, Alaska (SH)
Federal Building, 115 South Denver Street, Russellville, Arkansas (SH)
Henry R. Koen Federal Building, W. Main and Fargo Street, Russellville, Arkansas (SH)
Federal Building, 55 East Broadway, Tucson, Arizona (SH)
U.S. Post Office and Courthouse, Sixth and Rogers Avenue, Fort Smith, Arkansas (SH)
U.S. Post Office, Courthouse and Social Security Administration District Office, Hot Springs, Arkansas (SH)
Federal Building and U.S. Courthouse, 1130 Oll Street, Fresno, California (SH)
Federal Building, 801 I Street, Sacramento, California (SH)
John E. Moss Federal Building, 650 Capitol Mall, Sacramento, California (SH)
U.S. Court of Appeals and Post Office, 7th and Mission Streets, San Francisco, California (SH)
Denver Federal Center, Building 85, Denver, Colorado (SH)
Central, East and South Buildings, 2430 E Street, NW., Washington, DC (SH)
Federal Building, 1724 F Street, NW., Washington, DC (SH)
Potomac Annex Buildings 1–7, 23rd & E Streets, NW., Washington, DC (SH)
Federal Building—U.S. Courthouse, 401 SE. First Avenue, Gainesville, Florida (SH)
Brickell Plaza Federal Building, Miami, Florida (SH)
Federal Building, 51 SW First Avenue, Miami, Florida (SH)
Federal Building, U.S. Courthouse, U.S. Post Office, 601 North Florida Avenue, Tampa, Florida (SH)
Federal Building, 355 Hancock Avenue, Athens, Georgia (SH)
Federal Building, 275 Peachtree Street, NE., Atlanta, Georgia (SH)
U.S. Court of Appeals, Forsyth & Walton Streets, Atlanta, Georgia (SH)
U.S. Courthouse, Ford and Walker Streets, Augusta, Georgia (SH)
IRS Center, 4800 Buford Highway, Chamblee, Georgia (SH)
Federal Building—U.S. Courthouse, 125 Bull Street, Savannah, Georgia (SH)
Juliette Gordon Low Federal Buildings, Building A—120 Bernard Street, Building B—124 Bernard Street, Building C—100 W. Oglethorpe Avenue, Savannah, Georgia (SH)
Federal Building, U.S. Post Office and U.S. Courthouse, Thomasville, Georgia (SH)
Federal Regional Center, Pinetree Boulevard, Thomasville, Georgia (SH)
U.S. Courthouse, 300 Ala Moana Boulevard, Honolulu, Hawaii (SH)
Federal Building, U.S. Post Office, 304 N. 8th, Boise, Idaho (SH)
Federal Building and U.S. Courthouse, 205 4th Street, Coeur d'Alene, Idaho (SH)
Federal Building, 536 South Clark Street, Chicago, Illinois (SH)
Federal Supply Service Depot, 4100 West 76th Street, Chicago, Illinois (SH)
Federal Parking Facility, 450 South Federal Street, Chicago, Illinois (SH)
Interagency Motor Pool, 701 South Clinton Street, Chicago, Illinois (SH)
U.S. Customhouse, 610 South Canal Street, Chicago, Illinois (SH)
OSHA Training Center, 1555 Times Drive, Des Plaines, Illinois (SH)
Federal Building and U.S. Courthouse, 121 W. Spring Street, New Albany, Indiana (SH)
Federal Building and U.S. Courthouse, 101 First Street, SE., Cedar Rapids, Iowa (SH)
Federal Building and U.S. Courthouse, 131 East Fourth Street, Davenport, Iowa (SH)
Federal Building, 210 Walnut Street, Des Moines, Iowa (SH)
Leased Spaced, 603–11 East 2nd Street, Des Moines, Iowa (SH)
U.S. Courthouse, 123 East Walnut Street, Des Moines, Iowa (SH)
Federal Building, 400 South Clinton, Iowa City, Iowa (SH)

Federal Building, U.S. Post Office and Courthouse, 330 Shawnee, Leavenworth, Kansas (SH)
U.S. Post Office-Courthouse, 601 Broadway, Louisville, Kentucky (SH)
Federal Building and Interagency Motor Pool, Louisville, Kentucky (SH)
Federal Building, U.S. Post Office, U.S. Courthouse, Frederica and 5th Streets, Owensboro, Kentucky (SH)
Hale Boggs Federal Building and U.S. Courthouse, 500 Camp Street, New Orleans, Louisiana (SH)
Federal Building and U.S. Courthouse, 500 Fannin Street, Shreveport, Louisiana (SH)
Federal Building and U.S. Post Office, 40 Western Avenue, Augusta, Maine (SH)
Garmatz Courthouse and Federal Building, 101 W. Lombard Street, Baltimore, Maryland (SH)
Social Security Complex, Woodlawn Annex and Supply Buildings, 6401 Security Boulevard, Baltimore, Maryland (SH)
Phillips Building Complex, 7900 and 7920 Norfolk Avenue, 4915 St. Elmo Avenue, Bethesda, Maryland (SH)
Washington National Records Center Complex, Suitland and Silver Hill Roads, Suitland, Maryland (SH)
John F. Kennedy Federal Building-Low Rise, Boston, Massachusetts (SH)
John W. McCormack Post Office and Courthouse, Post Office Square, Boston, Massachusetts (SH)
U.S. Appraiser's Stores, 408 Atlantic Avenue, Boston, Massachusetts (SH)
Philip J. Philbin Federal Building, 885 Main Street, Fitchburg, Massachusetts (SH)
Springfield Federal Building, Main and Bridge Streets, Springfield, Massachusetts (SH)
Federal Records Center, 380 Trapelo Road, Waltham, Massachusetts (SH)
Waltham Federal Center, 424 Trapelo Road, Waltham, Massachusetts (SH)
Federal Building, 600 Church Street, Flint, Michigan (SH)
Gerald R. Ford Museum, 303 Pearl Street, N.W., Grand Rapids, Michigan (SH)
U.S. Border Station, International Bridge Plaza, Sault Ste. Marie, Michigan (SH)
Federal Building, 212 3rd Avenue South, Minneapolis, Minnesota (SH)
Federal Building and U.S. Courthouse, 110 S. 4th Street, Minneapolis, Minnesota (SH)
Social Security Building, 1811 Chicago Avenue South, Minneapolis, Minnesota (SH)
Federal Building and U.S. Courthouse, 316 N. Robert Street, St. Paul, Minnesota (SH)
Federal Building, U.S. Post Office, and U.S. Courthouse, Main and Poplar Streets, Greenville, Mississippi (SH)
Federal Building, U.S. Post Office, 200 East Washington Street, Greenwood, Mississippi (SH)
William M. Colmer Federal Building-Courthouse, 701 Main Street, Hattiesburg, Mississippi (SH)
Federal Building, 100 West Capitol Street, Jackson, Mississippi (SH)
U.S. Post Office and U.S. Courthouse, 245 East Capitol Street, Jackson, Mississippi (SH)
Durward G. Hall Federal Building and Courthouse, 302 Joplin Street, Joplin, Missouri (SH)
Social Security Administration Building, Main and Second, Joplin, Missouri (SH)
Federal Building, 601 East 12th Street, Kansas City, Missouri (SH)
Federal Records Center, 9700 Page Boulevard, Overland, Missouri (SH)
Federal Building, Post Office and Courthouse, 200 East Broadway, Missoula, Montana (SH)
Federal Building & U.S. Courthouse, 100 Centennial Mall North, Lincoln, Nebraska (SH)
Social Security Administration District Office Building, 22 Morris Street, Hackensack, New Jersey (SH)
Social Security Administration District Office Building, 686 Nye Avenue, Irvington, New Jersey (SH)
Social Security Administration District Office Building, 396 Bloomfield Avenue, Montclair, New Jersey (SH)
Federal Building, 20 Washington Place, Newark, New Jersey (SH)
Federal Building, 3rd & Hill Avenue, Gallup, New Mexico (SH)
Leo W. O'Brien Federal Building, Clinton Avenue & N. Pearl Street, Albany, New York (SH)
U.S. Post Office and Courthouse, 455 Broadway, Albany, New York (SH)
Federal Building and U.S. Courthouse, 15 Henry Street, Binghamton, New York (SH)
Federal Building, 111 West Huron, Buffalo, New York (SH)
U.S. Courthouse, 68 Court Street, Buffalo, New York (SH)
Internal Revenue Service, 120 Church Street, New York, New York (SH)
Jacob K. Javits Federal Building, including U.S. Court of International Trade, 26 Federal Plaza and Centre Street Garage, 203–209 Centre Street, New York, New York (SH)
U.S. Courthouse Annex, 1 St. Andrews Plaza, New York, New York (SH)
U.S. Courthouse, 40 Foley Square, New York, New York (SH)
U.S. Mission to the United Nations, 799 U.N. Plaza, New York, New York (SH)
Kenneth B. Keating Federal Building and U.S. Courthouse, 100 State Street, Rochester, New York (SH)
Federal Building, 45 Bay Street, Staten Island, New York (SH)
U.S. Courthouse and Federal Building, Broad and Catherine Streets, Utica, New York (SH)
Federal Building, U.S. Post Office and Courthouse, Bryson City, North Carolina (SH)
Federal Building, 401 West Trade Street, Charlotte, North Carolina (SH)
Social Security Administration Building, 215 West Third Avenue, Gastonia, North Carolina (SH)
U.S. Courthouse and Customhouse, 1716 Spielbusch Avenue, Toledo, Ohio (SH)
Federal Building, 125 South Main Street, Muskogee, Oklahoma (SH)
Federal Building and Courthouse, 5th and Okmulgee, Muskogee, Oklahoma (SH)
Federal Building Complex in the following Oklahoma City, Oklahoma locations:
U.S. Post Office/U.S. Courthouse, 215 Dean A. McGee Avenue (SH)
Federal Building/U.S. Courthouse, 200 North West Fourth Street (SH)
Alfred P. Murrah Federal Building, 200 North West Fifth Street (SH)
Federal Parking Facility, 200 North West Fifth Street (SH)
Federal Building, U.S. Courthouse, 211 East 7th Avenue, Eugene, Oregon (SH)
Edith-Green-Wendell Wyatt Federal Building, 1220 SW 3rd Avenue, Portland, Oregon (SH)
Federal Building, 511 N.W. Broadway, Portland, Oregon (SH)
Federal Building, Bonneville Power Administration, 1002 N.E. Holladay Street, Portland, Oregon (SH)
Federal Warehouse, 2760 NW Yeon Avenue, Portland, Oregon (SH)
Lloyd Group Buildings, 5 locations, Portland, Oregon (SH)
Pioneer Courthouse, 520 SW Morrison, Portland, Oregon (SH)
U.S. Courthouse, Broadway and Maine, Portland, Oregon (SH)
U.S. Customs House, 220 NE 8th Avenue, Portland, Oregon (SH)
Federal Building, 6th & State Streets, Erie, Pennsylvania (SH)
Federal Building and Courthouse, 228 Walnut Street, Harrisburg, Pennsylvania (SH)
William J. Green, Jr. Federal Building, 600 Arch Street, Philadelphia, Pennsylvania (SH)
Federal Building, 240 West Third Street, Williamsport, Pennsylvania (SH)
L. Mendel Rivers Federal Building, 334 Meeting Street, Charleston, South Carolina (SH)
U.S. Post Office-Courthouse, Broad and Meeting Street, Charleston, South Carolina (SH)
C.F. Haynesworth Federal Building and U.S. Courthouse, 300 East Washington Street, Greenville, South Carolina (SH)
Federal Building/U.S. Courthouse, 515 9th Street, Rapid City, South Dakota (SH)
Federal Building-U.S. Courthouse, 400 South Phillips Street, Sioux Falls, South Dakota (SH)
Armed Forces Examining Station and Bureau of Mines Building, 1100 Filmore Street, Amarillo, Texas (SH)
J. Marvin Jones Federal Building and U.S. Courthouse, 295 E. 5th Street, Amarillo, Texas (SH)
3 Bridges and 1 Building, El Paso, Texas (SH)
U.S. Courthouse, 511 E. San Antonio Avenue, El Paso, Texas (SH)
Federal Building, U.S. Post Office and Courthouse, 211 West Ferguson Avenue, Tyler, Texas (SH)
Forest Service Building, 507 25th Street, Ogden, Utah (SH)
Federal Executive Institute, Route #29 North, Charlottesville, Virginia (SH)
U.S. Customs House, 101 E. Main Street, Norfolk, Virginia (SH)
U.S. Post Office and Courthouse, 600 Granby Mall, Norfolk, Virginia (SH)
Federal Building, 400 N. 8th Street, Richmond, Virginia (SH)
U.S. Courthouse Annex, 1100 East Main Street, Richmond, Virginia (SH)
U.S. Courthouse, 10th and Main Streets, Richmond, Virginia (SH)
GSA Center, 2 Buildings, Auburn, Washington (SH)

Food & Drug Administration Laboratory, Canyon Park Business Center, Bothell, Washington (SH)
Federal Building, 3002 Colby Avenue, Everett, Washington (SH)
Federal Center, 25th and Dover Streets, Moses Lake, Washington (SH)
Federal Building, U.S. Post Office, 403 West Lewis Street, Pasco, Washington (SH)
Federal Building, U.S. Post Office and Courthouse, 825 Jadwin Avenue, Richland, Washington (SH)
Federal Archives and Records Center, 6125 Sandpoint Way, Seattle, Washington (SH)
Federal Building, Immigration and Naturalization Services, 815 Airport Way, Seattle, Washington (SH)
Federal Center South, 4735 E. Marginal Way, Seattle, Washington (SH)
U.S. Courthouse, 1010 Fifth Avenue, Seattle, Washington (SH)
Federal Building, U.S. Post Office, W. 904 Riverside, Spokane, Washington (SH)
U.S. Courthouse, West 920 Riverside Avenue, Spokane, Washington (SH)
Federal Building, 500 W. 12th Street, Vancouver, Washington (SH)
Federal Center, 14 Buildings, Walla Walla, Washington (SH)
U.S. Courthouse, 120 North Henry Street, Madison, Wisconsin (SH)
Federal Building, 500 Quarrier Street, West Virginia (SH)
Federal Office Building, 225 W. King Street, Martinsburg, West Virginia (SH)
Federal Office Building and Joseph C. O'Mahoney Federal Center, Cheyenne, Wyoming (SH)
Smithsonian Institution: National Zoological Park, Washington, DC (SH)
Smithsonian Institution Service Center, 1111 North Carolina Street, NE., Washington, DC (SH)
Paul E. Garber Complex, 3904 Old Silver Hill Road, Suitland, Maryland (SH)
U.S. Postal Service: Mailbag Facility, 7600 West Roosevelt Road, Forest Park, Illinois (SH)
Veterans Administration: Domiciliary Buildings 8A, 10A, 14 A&B, 16 A&B, 25 and 34, VA Medical Center, Dublin, Georgia (SH)
Veterans Administration Medical Center, Building #32, Dublin, Georgia (SH)

Janitorial/Grounds Maintenance

Department of Navy: Naval Aviation Depot, Naval Air Station, Jacksonville, Florida (SH)

Janitorial/Mechanical

General Services Administration: The Carter Presidential Library, Atlanta, Georgia (SH)
Federal Office Building, 591 Park Avenue, Idaho Falls, Idaho (SH)

Janitorial/Elevator Operator

Department of Treasury: Bureau of Engraving and Printing, Public Debt Building, Washington, DC (SH)
General Services Administration: 3 Buildings, Navy Yard Annex, 2nd and M Streets, SE., Washington, DC (SH)
Navy Yard Annex, Buildings 74, 158, 167, 191, 197 and 202, Washington, DC (SH)
Veterans Administration Clinic Building, 17 Court Street, Boston, Massachusetts (SH)
Federal Building, 35 Ryerson Street, Brooklyn, New York (SH)
Federal Building, 201 Varick Street, New York, New York (SH)
Veterans Administration Building, 252 Seventh Avenue, New York, New York (SH)

Laundry

Department of Air Force: Hill Air Force Base, Utah (Wiping Rags only) (SH)
Department of Army: U.S. Army Medical Materiel Agency, Fort Detrick, Maryland (SH)
Department of Health and Human Services: (Excluding Dry Cleaning and Rental), Uniformed Services, University of the Health Sciences, F. Hebert School of Medicine, Bethesda, Maryland (SH)
Acoma/Canoncito/Laguna PHS Indian Hospital, Acomita, New Mexico (SH)
Zuni PHS Indian Hospital, Zuni, New Mexico (SH)
Department of Navy: Naval Training Center, Great Lakes, Illinois (SH)

Litter Pick-Up

Department of Air Force: Edwards Air Force Base, California (SH)
Tinker Air Force Base, Oklahoma (SH)

Machining Parts

Department of Navy: Naval Supply Center, Charleston, South Carolina (IB)

Mailing

Department of Agriculture: Washington, DC (Metropolitan area) (SH)
Department of Commerce: National Oceanic and Atmospheric Administration, 5 Offices, Rockville, Maryland (SH)
National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia (SH)
Department of Defense: Defense Supply Service, National Committee for Employer Support for Guard and Reserve, 1117 N. 19th Street, Arlington, Virginia (SH)
Department of Education: Office for Civil Rights, Office of Program Review & Assistance, 300 C Street, SW., Washington, DC (SH)
Department of Energy: Distribution, 12th & Pennsylvania, NW., Washington, DC (SH)
Department of Health and Human Services: Office of the Secretary, Washington, DC (SH)
National Institutes of Health, Bethesda, Maryland (SH)
Alcohol, Drug Abuse, and Mental Health Administration, Rockville, Maryland (SH)
Food and Drug Administration, Rockville, Maryland (SH)
Health Resources Administration, Rockville, Maryland (SH)
Health Services Administration, Rockville, Maryland (SH)
Office of Assistant Secretary for Health, Rockville, Maryland (SH)
Department of Housing and Urban Development: Washington, DC (SH)
Department of Interior: 18th & C Streets, NW., Washington, DC (SH)
U.S. Geological Survey, 2 Divisions, Reston, Virginia (SH)
Department of Labor: 200 Constitution Avenue, NW., Washington, DC (SH)
Manpower Administration, Washington, DC (SH)
President's Committee on Employment of the Handicapped, Washington, DC (SH)
Department of Transportation: National Highway Traffic Administration, 400 7th Street, SW., Washington, DC (SH)
Office of the Secretary, Distribution Unit, 400 7th Street, SW., Washington, DC (SH)
Department of Treasury: Bureau of Public Debt, 14th & C Streets, SW., Washington, DC (SH)
Architectural and Transportation Barriers Compliance Board: 330 C Street, SW., Washington, DC (SH)
Bureau of Public Debt, Parkersburg, West Virginia (SH)
Environmental Protection Agency: Specialized Procurement Unit, 401 M Street, SW., Washington, DC (SH)
Federal Election Commission: 1325 K Street, NW., Washington, DC (SH)
Federal Trade Commission: Pennsylvania Avenue & 6th Street, NW., Washington, DC (SH)
General Services Administration: National Archives & Records Services, 7th & Pennsylvania Avenue, NW., Washington, DC (SH)
Library of Congress: Washington, DC (SH)
Merit Systems Protection Board: Office of Special Counsel, 1120 Vermont Avenue, NW., Washington, DC (SH)
National Credit Union Administration: Printing Service, 1375 K Street, NW., Washington, DC (SH)
National Endowment for the Humanities: 1100 Pennsylvania Avenue, NW., Room 202, Washington, DC (SH)
National Science Foundation; 1800 G Street, NW., Washington, DC (SH)
Office of Personnel Management: 1900 E Street, NW., Washington, DC (SH)
Smithsonian Institution: Supply Division, Washington, DC (SH)
U.S. Commission on Civil Rights: 1211 Vermont Avenue, NW., Washington, DC (SH)
U.S. Consumer Product Safety Commission: Washington, DC (SH)
U.S. Information Agency: 400 C Street, SW., Washington, DC (SH)

Mailroom service

Department of Defense: Defense Logistics Agency-DCASR, 495 Summer Street, Boston, Massachusetts (SH)
Department of the Interior: U.S. Geological Survey, Sunrise Valley Drive, Reston, Virginia (SH)

Mattress and Box Spring Rehabilitation

General Services Administration: Orders for renovated mattresses may be arranged through GSA regional offices. IB will provide requirements for mattress and box spring renovation for GSA Regions W,2,3,4,5,6,7 and 8 only. (IB)

Microfiche Reproduction

Department of Navy: Headquarters, USMC (Navy Annex), Washington, DC (SH)

Microfilming and Related Services

Department of the Treasury: Internal Revenue Service, Western Region, Seattle, Washington (SH)

Microfilm reproduction

Department of Navy: Naval Submarine Base Bangor, Silverdale, Washington (SH)

Operation of USDA Central shipping and receiving facility

Department of Agriculture: South Building, 12th & C Streets, SW., Washington, DC (SH)

Operation of the Postal Service Center

Department of Air Force: Maxwell Air Force Base, Alabama (SH)
Elmendorf Air Force Base, Alaska (SH)
Barksdale Air Force Base, Louisiana (SH)
Minot Air Force Base, North Dakota (SH)
Sheppard Air Force Base, Texas (SH)
Gunter Air Force Base, Alabama (SH)

Operation of Visitors Center Gift Shop

Department of Treasury: Bureau of Engraving and Printing, 14th & C Streets, SW., Washington, DC (SH)

Packaging of Solicitations

Department of the Army: Little Rock District, U.S. Army Corps of Engineers, Little Rock, Arkansas (SH)

Pallet Repair

Department of Navy: Naval Supply Center, Norfolk, Virginia (SH)
Naval Supply Center, Puget Sound, Bremerton, Washington (SH)

Parts Sorting

Department of Air Force: McClellan Air Force Base, California (SH)
Robins Air Force Base, Georgia (SH)
Kelly Air Force Base, Texas (SH)
Hill Air Force Base, Utah (SH)

Photocopying

Department of Agriculture: National Agricultural Library Building, Beltsville, Maryland (SH)

Preservation and Packaging

Department of Army: New Cumberland Army Depot, Pennsylvania (SH)

Publications Distribution

Department of Navy: Naval Construction Battalion Center, Gulfport, Mississippi (SH)

Rehabilitation of Recorder Covers

Department of Interior: U.S. Geological Survey, Bay St. Louis, Mississippi (SH)

Removal of Tool Identification Numbers

Department of Air Force: Tinker Air Force Base, Oklahoma (SH)

Repair and Maintenance of Electric Typewriters Only

General Services Administration: Syracuse, New York (including Onondaga County) (SH)

Repair and Maintenance of Manual Typewriters Only

General Services Administration: Federal Court House Building, Syracuse, New York (SH)

Repair of Air Cargo Pallet Top and Side Nets

Department of Air Force: Norton Air Force Base, California (SH)
Wright-Patterson Air Force Base, Ohio (SH)

Repair of Small Hand Tools

Department of Air Force: Robins Air Force Base, Georgia (SH)

Repair of Tool Box and Rollaway

Department of Air Force: Robins Air Force Base, Georgia (SH)

Repair Service

Department of Air Force: Strap, Air Cargo (1670–00–725–1437), Robins Air Force Base, Georgia (SH)
Department of Army: Bag, Sleeping (8465–00–242–7855 and 8465–01–049–0088), Fort Bliss, Texas (SH)
Case, Sleeping Bag (8465–00–237–8719), Fort Bliss, Texas (SH)
Liner, Field Jacket (8415–00–782–2888), Fort Bliss, Texas (SH)
Bag, Barracks (8465–00–530–3692), Fort Bliss, Texas (SH)
Bag, Duffel (8465–00–141–0932), Fort Bliss, Texas (SH)
Department of Navy: Electrode Holder Assemblies, Bremerton, Washington (SH)

Reproduction Service

Department of Army: Army Materiel Command Headquarters, Alexandria, Virginia (SH)
Department of Navy: Headquarters, U.S. Marine Corps, Clarendon Square Office Building, 3033 Wilson Boulevard, Arlington, Virginia (SH)

Restocking Parts

Department of Air Force: Kelly Air Force Base, Texas (SH)

Sewing

Department of Army: Redstone Arsenal, Alabama (Provide specified end items produced through use of customized, heavy-duty sewing service) (SH)

Sponge Rubber Mattresses Rehabilitation

General Services Administration: Requirements for GSA Region 3 (SH)

Tape Cleaning

Department of Air Force: Robins Air Force Base, Georgia (SH)
Wright-Patterson Air Force Base, Ohio (SH)

[FR Doc. 89–25872 Filed 11–2–89; 8:45 am]
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Federal Register

Friday
November 3, 1989

Part V

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 90
Comprehensive Homeless Assistance Plan; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 90

[Docket No. R-89-1455; FR-2386-F-05]

RIN 2506-AA96

Comprehensive Homeless Assistance Plan

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule codifies the requirements for the Comprehensive Homeless Assistance Plan, as authorized by subtitle A of title IV of the Stewart B. McKinney Homeless Assistance Act (the McKinney Act). The rule applies to Plan submissions made after its effective date.

The Plan requirements govern the provision of assistance for each of title IV's homeless assistance authorities that are administered by HUD. These are the Emergency Shelter Grants (ESG) program, the Supportive Housing Demonstration program (both the Transitional Housing and the Permanent Housing for the Handicapped Homeless programs), the Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program, and the section 8 Housing Assistance Payments program for the Moderate Rehabilitation of Single Room Occupancy (SRO) Units for the Homeless. Under subtitle A of the McKinney Act, HUD may not make assistance available under any of these authorities to, or within the jurisdiction of, States or certain larger metropolitan cities or urban counties (ESG formula cities or counties), unless the jurisdiction has a HUD-approved Plan. In addition, applications for assistance under these programs must include certifications from the relevant State or ESG formula cities or counties that the proposed activities are consistent with the Plan.

The Plan provisions also apply to States receiving assistance under the Department of Labor's Job Training for the Homeless authority under subtitle C of title VII of the McKinney Act. These States are required to describe how they will coordinate job training projects with other services for the homeless assisted under the Act.

EFFECTIVE DATE: Under section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)), this final rule cannot become effective until after the first period of 30 calendar days of continuous session of Congress that occurs after the date on which the rule is published. HUD will publish a Notice announcing the effective date of this rule after the completion of the session-day waiting period. Whether or not the statutory waiting period has expired, the rule will not become effective until HUD's separate Notice announcing the effective date is published.

FOR FURTHER INFORMATION CONTACT: For provisions administered by HUD under title IV of the Stewart B. McKinney Homeless Assistance Act: James N. Forsberg, Coordinator; Special-Needs Assistance Programs; Department of Housing and Urban Development; Room 7228; 451 Seventh Street SW.; Washington, DC 20410; telephone (202) 755-6300.

Hearing or speech impaired individuals may call HUD's TDD number: (202) 755-5965.

None of the telephone numbers listed above are toll-free.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The collection of information requirements contained in this final rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The requirements have been assigned OMB control number 2506-0093, expiration date January 31, 1992. Public reporting burden for the collection of information requirements contained in this final rule include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading, "Information of collection requirements." Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development; Rules Docket Clerk; 451 Seventh Street SW; Room 10276; Washington, DC 20410; and to the Office of Regulatory Affairs; Office of Management and Budget; Washington, DC 20503.

Background

Subtitle A of title IV of the Stewart B. McKinney Homeless Assistance Act (the McKinney Act) (42 U.S.C. 11361) establishes requirements for the Comprehensive Homeless Assistance Plan (the Plan). The Plan requirements govern the provision of assistance under the four homeless assistance authorities administered by HUD under title IV of the McKinney Act. These are:

(1) The Emergency Shelter Grants (ESG) program under subtitle B of title IV of the Act (42 U.S.C. 11371 *et seq.*) (24 CFR part 576);

(2) The Supportive Housing Demonstration program under subtitle C of title IV of the Act (42 U.S.C. 11381 *et seq.*) (24 CFR part 577 (Transitional Housing) and part 578 (Permanent Housing for Handicapped Homeless Persons));

(3) The Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program under subtitle D of title IV of the Act (42 U.S.C. 11391 *et seq.*); and

(4) The Section 8 Housing Assistance Payments program for the Moderate Rehabilitation of Single Room Occupancy (SRO) Units for the Homeless under section 441 of the Act (42 U.S.C. 11401).

Under subtitle A of the McKinney Act, HUD may not make assistance available under any of these authorities to, or within the jurisdiction of, States or certain larger metropolitan cities or urban counties (ESG formula cities or counties), unless the jurisdiction has a HUD-approved Plan. In addition, applications for assistance under these programs must include a certification from the State or ESG formula city or county that the proposed activities are consistent with the Plan.

Subtitle A of title IV of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628, approved November 7, 1988) (the 1988 Amendments) made a number of changes to the Plan requirements originally enacted in the McKinney Act. These changes provide for:

(1) Annual submission of the Plan;

(2) Sharing of information copies of the Plan among States and ESG formula cities and counties;

(3) Consideration of available facilities to assist the homeless in preparing the Plan;

(4) Identification of a contact point for information on the contents of the jurisdiction's Plan;

(5) An assurance in the Plan that the State or ESG formula city or county will carry out a policy to ensure that facilities assisted under the Act are free from the illegal use, possession, or distribution of drugs and alcohol;

(6) A substantive response by the State or ESG formula city or county to timely HUD recommendations on the annual Plan performance report; and

(7) Information from Federal agencies to help coordinate State homeless efforts.

Section 485 of the 1988 Amendments required the Department to publish a Notice in the **Federal Register** by January 9, 1989 to implement the revisions made to the Plan by the 1988 Amendments. The provisions of the Notice would govern the Plan's requirements until publication of a final rule based on the Notice—required by section 485 to be published no later than November 7, 1989.

On December 28, 1988, the Department published the required Notice in the **Federal Register** (53 FR 52600). The Notice stated that it had two purposes: to announce the Plan requirements, as amended by the 1988 Amendments; and to request public comments on the requirements. This final rule completes the Department's implementation of section 485 of the 1988 Amendments, and codifies the Plan's requirements.

Readers should be aware that the Department is reviewing the Plan requirements contained in this final rule, and intends to undertake notice and comment rule making in the near future to revise the Plan requirements in this final rule. The proposed rule will address a number of areas, including the content, timing, and review/approval of the Plan and the annual performance report.

Job Training for the Homeless

For the job training for the homeless provisions administered by the Department of Labor (Title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act) the public is advised to contact: John D. Heinberg, Office of Strategic Planning and Policy Development; Employment and Training Administration; Room N–5629; Frances Perkins Building; 200 Constitution Avenue; Washington, DC 20210; telephone (202) 535–0682.

Discussion of Public Comments

The Department received two public comments on the December 28, 1988 Notice: One from a State Department of Social Services, the other from a handicapped advocacy group. A summary of the comments follows, along with the Department's disposition of them.

The State Department of Social Services suggested that the performance report required by section 401(d)(2) of the McKinney Act be included in the annual CHAP submission, instead of being a separate submission. Under the December 28, 1988 Notice, HUD must receive all CHAP submissions for the upcoming year by Octobr 1. Performance reports are due by May 31 of each year, and must cover the one-year period ending on April 30 of the year in question. The commenter stated that this change would significantly reduce the administrative burden on CHAP jurisdictions.

As noted above, the Department intends to issue a proposed rule revising the Plan requirements, including the content and timing of the annual performance report, its review by the Department, and its relationship to the Plan. The commenter's concerns will be addressed in the proposed rule.

The same commenter urged that each CHAP submission after the initial approved CHAP include only information relevant to the period ending with the last CHAP submission. Under the December 28, 1988 Notice, annual CHAP submissions must include a complete CHAP that addresses each of the required elements. Submissions in the nature of amendments to existing CHAPS are permitted only after approval of the entire CHAP. The commenter argued that moving to an "amendment" approach after the initial CHAP approval would clearly delineate the most current information and activities, and would ease the time required to prepare, review, and approve CHAP submissions.

The Department does not believe that the McKinney Act authorizes the "amendment" approach suggested by the commenter. Section 401(a)(1) of the McKinney Act requires the annual submission of a "comprehensive homeless assistance plan." Section 401(b) specifies that each Plan must contain all the required elements. Section 401(c)(2) of the McKinney Act refers to Plan "amendments," but only if the Department has disapproved a Plan submission. The Department believes that these provisions make clear that the Plan submission requirement can only be met if the Plan addresses each of the required elements.

In addition, the Plan is designed to reflect a comprehensive approach to the jurisdiction's homelessness problem, by setting forth its homeless needs and resources, and a strategy for addressing its unmet needs. The "amendment" process suggested by the commenter would tend to fragment the Plan's elements, thereby undercutting the Plan's comprehensive nature. Finally, section 401(a)(2) of the McKinney Act requires Plan jurisdictions to share their Plans with other Plan jurisdictions. The "amendment" approach would make it difficult for the receiving jurisdictions to integrate the "amendments" into a complete Plan. This would tend to frustrate the statute's very purpose in requiring the sharing of Plans.

The commenter also requested HUD guidance as to the level of detail necessary to comply with the statutory requirement that the CHAP contain a brief inventory of facilities and services that assist the homeless population within the jurisdiction. The commenter argued that given the large number of shelter and service providers in its State, HUD's policy of requiring an "itemized listing" of the services and facilities places an unnecessary administrative burden on the State. It also noted that because of the changing population of providers, an "itemized listing" at best affords a snapshot of the provider universe at only one time, and urged that the inventory provided not be treated as the total universe of entities eligible to receive McKinney Act funds. The Department intends to address in the proposed rule referred to earlier, the level of detail that the required inventory of homeless facilities and services will have to provide.

Finally, the commenter requested clarification on two points. First, section 401(b)(6) of the McKinney Act requires that each recipient and project sponsor administer, in good faith, a policy designed to ensure that assisted homeless facilities are free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries. The commenter expressed support for this requirement, but asked HUD to make clear that it does not preclude serving or sheltering individuals and family members who demonstrate an alcohol or substance abuse problem. The commenter stated that these individuals are in critical need of intensive, specialized services in order to be stabilized. Unless shelters are allowed to accept these persons into their facilities, the commenter contended that the most logical point of crisis intervention would be lost.

The Department agrees with the commenter. The mere demonstration of a drug or alcohol problem does not, in and of itself, preclude the person from participating in the McKinney Act programs administered by the Department.

Second, the commenter asked clarification of section 103(c) of the McKinney Act. This provision excludes from the terms "homeless" or "homeless individual"

> an individual imprisoned or otherwise detained pursuant to an Act of Congress or a State law.

The commenter asked the Department to make clear that this exclusion does not apply to former prison inmates who are

otherwise "homeless persons" under section 103.

Again, the Department agrees with the commenter. Former prison inmates who otherwise meet the definition of a "homeless person" are eligible to participate in the McKinney Act programs administered by the Department.

The handicapped advocacy organization made two recommendations. The first concerned section 401(b)(3)(B) of the McKinney Act. This provision requires CHAPs to contain a strategy to recognize the special needs of the various types of homeless individuals, particularly families with children, the elderly, the mentally ill, and veterans. The commenter suggested that because of their special needs, severely mobility-impaired individuals be added to the provision's preferred categories.

Section 401(b)(3)(B) of the McKinney Act requires Plan jurisdictions to formulate a strategy that recognizes "the special needs of the various types of homeless individuals," and lists several areas of special need to be accorded particular recognition. The Department shares the commenter's belief that Plan jurisdictions should consider and, as appropriate, include the special needs of the severely mobility impaired in their homeless strategies, and strongly encourages them to do so. However, given the fact that the statute does not require that the severely mobility impaired be provided special recognition, the Department is reluctant to alter the congressionally mandated system of priority areas by imposing such a requirement on Plan jurisdictions in the final rule.

Second, the commenter expressed concern over the pace of existing efforts to ensure the accessibility of emergency shelters for the homeless. As a way of focusing additional attention on this need, the commenter suggested that the CHAP contain an assessment of the accessibility problems in the facilities covered by the CHAP, and set forth a transition plan to make all assisted facilities barrier-free.

It should be noted that each of the homeless authorities contained in Title IV of the McKinney Act is subject to section 504 of the Rehabilitation Act of 1973 and the implementing regulations at 24 CFR part 8. Part 8 contains the rules governing the steps to be taken to ensure that facilities funded under Title IV are accessible to the handicapped. The Department believes that part 8 sets forth a reasoned approach to the accessibility of federally assisted structures, and that accessibility issues for facilities funded under Title IV should be governed solely by part 8. Accessibility questions for facilities beyond the reach of part 8 are best addressed by the jurisdiction involved.

In addition, each of the authorities contained in title IV of the McKinney Act is subject to provisions of the Fair Housing Act, as amended, 42 U.S.C. 3601–19, and the implementing regulations published on January 23, 1989 at 54 FR 3283 (to be codified at 24 CFR part 100). For the benefit of handicapped persons, these provisions include reasonable modification and accommodation requirements for existing premises and design and construction requirements for accessibility in certain new dwellings.

Other Matters

The final rule sets the following Plan submission dates:

—July 15 of each year, beginning with July 15, 1990, for ESG formula cities and counties; and

—August 30 of each year, beginning with August 30, 1990, for States. This reflects the changed Plan submission dates announced in a Notice in the **Federal Register** (54 FR 35436, published August 25, 1989).

Findings and Certifications

Environmental Requirements

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk; Office of the General Counsel; Department of Housing and Urban Development; Room 10276, 451 Seventh Street, SW.; Washington, DC 20410.

Regulatory Impact

This rule does not constitute a major rule as that term is defined in Section 1(b) of Executive Order 12291, Federal Regulation. Analysis of the rule indicates that it does not (1) have an annual impact on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions; or (3) have a significant adverse impact on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in domestic or export markets.

Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601), HUD certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule's requirements do not impose significant burdens on any covered jurisdiction, and in any event, the rule is based almost exclusively on statutory requirements.

Semiannual Agenda of Regulations

This rule was listed as item number 902 in the Department's Semiannual Agenda of Regulations published on April 24, 1989 (54 FR 16708, 16709) under Executive Order 12291 and the Regulatory Flexibility Act.

Information Collection Requirements

The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980, and have been assigned OMB control number 2506–0093. The following provisions of the rule have been determined by the Department to contain collection of information requirements. Information on these requirements is provided as follows:

TABULATION OF ANNUAL REPORTING BURDEN; FINAL RULE—COMPREHENSIVE HOMELESS ASSISTANCE PLAN

Description of information collection	Section of final rule affected	Number of respondents	Number of responses per respondents	Total annual reponses	Hours per response	Total hours
Annual submission of CHAPs	90.10	375	1	375	31.00	11,625.00
Sharing of information copies of CHAPs	90.10(a)(2)	375	1	375	.75	281.25
Assurance of drug-free homeless facility	90.20(g)	375	1	375	.25	93.75
Annual performance report	90.40(a)	375	1	375	16.00	6,000.00

TABULATION OF ANNUAL REPORTING BURDEN; FINAL RULE—COMPREHENSIVE HOMELESS ASSISTANCE PLAN—Continued

Description of information collection	Section of final rule affected	Number of respondents	Number of responses per respondents	Total annual reponses	Hours per response	Total hours
Substantive response to HUD recommendations on annual performance report.	90.40(b)	375	1	125	3.00	375.00
Total burden hours						18,375.00

Federalism and Family Impacts

The General Counsel, as the designated official for Executive Orders 12612, Federalism, and 12606, The Family, has determined that the provisions of this rule do not raise significant issues under either Order. For the justification for this finding, see the December 28, 1988 Notice at 53 FR 52607.

Catalog of Federal Domestic Assistance Programs

The Catalog of Federal Domestic Assistance Programs numbers are 14.178 and 14.231.

List of Subjects in 24 CFR Part 90

Grant programs: Housing and Community Development, Emergency shelter grants, Reporting and recordkeeping requirements.

Accordingly, title 24, Code of Federal Regulations, is amended by adding a new part 90, to read as follows:

PART 90—COMPREHENSIVE HOMELESS ASSISTANCE PLANS

Subpart A—General

Sec.
90.1 Scope and applicability.
90.3 Definitions.
90.5 Waivers.

Subpart B—Prohibition of Assistance

90.10 Plan approval as a condition of assistance.

Subpart C—Content of the Plan

90.20 Required elements of the Plan.

Subpart D—Submission, Review, and Approval of the Plan

90.30 Plan submission.
90.32 Plan review and approval.
90.34 Plan amendment and resubmission.

Subpart E—Performance Under the Plan

90.40 Plan performance.
90.42 Coordination.

Subpart F—Relationship Between the Plan and Applications for Homeless Assistance

90.50 Relationship between the Plan and applications for assistance.

Authority: Sec. 485, Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 11301 *note*); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General

§ 90.1 Scope and applicability.

(a) This part establishes the requirements for the Comprehensive Homeless Assistance Plan, as authorized by subtitle A of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361).

(b)(1) The requirements of this part govern the provision of assistance for each of the homeless assistance authorities administered by the Department under title IV of the Act. These authorities are—

(i) The Emergency Shelter Grants (ESG) program under subpart B of title IV of the Act,

(ii) The Supportive Housing Demonstration program under subpart C of title IV of the Act (Transitional Housing and Permanent Housing for Handicapped Homeless Persons),

(iii) The Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program under subpart D of title IV of the Act, and

(iv) The Section 8 Housing Assistance Payments program for the Moderate Rehabilitation of Single Room Occupancy (SRO) Units for the Homeless under section 441 of the Act.

HUD may not make assistance available under any of these programs to, or within the jurisdiction of, States or certain larger metropolitan cities or urban counties (ESG formula cities and counties), unless the jurisdiction has a HUD-approved CHAP. In addition, HUD may not approve an application for assistance under the authorities of title IV of the Act, unless the public official responsible for submitting the CHAP for the jurisdiction in which the proposed activities are to be located certifies that the activities are consistent with the Plan.

(2) The provisions of this part also apply to States receiving assistance under the Job Training for the Homeless authority administered by the Secretary of Labor pursuant to subtitle C of title VII of the Act. Participating States must describe how they will coordinate job training projects with other services for the homeless under the Act.

§ 90.3 Definitions.

For purposes of this part:

Act means the Stewart B. McKinney Homeless Assistance Act.

Authorities of Title IV of the Act means:

(a) The Emergency Shelter Grants (ESG) program under subtitle B of title IV of the Act (42 U.S.C. 11371 *et seq.*) (24 CFR part 576);

(b) The Supportive Housing Demonstration program under subtitle C of title IV of the Act (42 U.S.C. 11381 *et seq.*) (24 CFR part 577 (Transitional Housing) and part 578 (Permanent Housing for Handicapped Homeless Persons));

(c) The Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program under subtitle D of title IV of the Act (42 U.S.C. 11391 *et seq.*); and

(d) The Section 8 Housing Assistance Payments program for the Moderate Rehabilitation of Single Room Occupancy (SRO) Units for the Homeless under section 441 of the Act (42 U.S.C. 11401).

CHAP or *Plan* means the Comprehensive Homeless Assistance Plan authorized by subtitle A of title IV of the Act (42 U.S.C. 11361).

CHAP jurisdiction. A State or an ESG formula city or county.

ESG. Emergency Shelter Grants (ESG).

ESG formula city or county means a metropolitan city or an urban county that is eligible to receive a formula allocation of emergency shelter grants under 24 CFR 576.43.

Homeless or *homeless individual* includes—

(a) An individual who lacks a fixed, regular, and adequate nighttime residence; and

(b) An individual who has a primary nighttime residence that is—

(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate

shelters, and transitional housing for the mentally ill);

(2) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

The terms do not include any individual imprisoned or otherwise detained pursuant to an Act of Congress or a State law.

HUD or *Department* means the United States Department of Housing and Urban Development.

Indian tribe means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638) or under chapter 67 of title 31, United States Code.

State means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, Palau, Trust Territory of the Pacific, and any other territory or possession of the United States. For purposes of the Job Training for the Homeless authority administered by the Secretary of Labor under subtitle C of title VII of the Act (42 U.S.C. 11441 *et seq.*), *State* means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

§ 90.5 Waivers.

The Secretary of HUD may waive any requirement of this part that is not required by law, whenever it is determined that undue hardship will result from applying the requirement, or where application of the requirement would adversely affect the purposes of this part.

Subpart B—Prohibition of Assistance

§ 90.10 Plan approval as a condition of assistance.

(a) *In general.* Except as provided by paragraph (c) of this section, HUD may not make assistance available under any of the authorities of title IV of the Act:

(1) To a State or to an ESG formula city or county, or

(2) Within the jurisdiction of a State or of an ESG formula city or county, unless—

(i) The jurisdiction annually submits and receives HUD approval of a CHAP, in accordance with §§ 90.30 and 90.32; and

(ii) At the time of submission of the CHAP to HUD for approval—

(A) A State submits an information copy of the CHAP to each ESG formula city and county located in the State; or

(B) An ESG formula city or county submits an information copy of the CHAP to the State in which it is located.

(b) *Area covered by State CHAP.* The CHAP for States must cover the entire geographic area of the State, including areas within the jurisdiction of ESG formula cities and counties.

(c) *Special rules for certain nonprofit organizations.* HUD may provide assistance under 24 CFR part 577 (Transitional Housing) or the Supplemental Assistance for Facilities to Assist the Homeless program to a private nonprofit organization that proposes to locate a project in an ESG formula city or county that does not have a CHAP approved under this part, as long as the State in which the project is to be located has an approved CHAP.

(d) *Indian tribes.* The requirements of paragraph (a) of this section do not apply to an Indian tribe seeking assistance under 24 CFR part 577 (Transitional Housing) or the Supplemental Assistance for Facilities to Assist the Homeless program for a project to be located within its reservation. These requirements, and the certification of consistency with the CHAP contained in § 90.50(a), apply to an Indian tribe seeking such assistance for a project to be located outside its reservation.

(e) **Federal Register** Notice of CHAP jurisdictions. The Department will provide and update lists of CHAP jurisdictions by Notice in the **Federal Register** at such times as the Department deems appropriate.

(Approved by the Office of Management and Budget under control number 2506–0093.)

Subpart C—Content of the Plan

§ 90.20 Required elements of the Plan.

The CHAP must include the following elements:

(a) *Need for assistance.* A statement describing the need, or lack thereof, in the CHAP jurisdiction for assistance provided under each of the authorities of title IV of the Act.

(b) *Inventory of facilities and services.* A brief inventory of facilities and services that assist the homeless population in the CHAP jurisdiction.

(c) *Needs/resources strategy.* A strategy:

(1) To match the needs of the homeless population with available facilities and services in the CHAP jurisdiction; and

(2) To recognize the special needs of various types of homeless individuals, particularly families with children, the elderly, the mentally ill, and veterans.

(d) *Relation between assistance under the Act and other available resources.* An explanation of how assistance under each of the authorities of title IV of the Act will complement and enhance the available facilities and services.

(e) *Contact point.* An identification of the appropriate person or agency in the CHAP jurisdiction to contact for information on the contents of the CHAP, including the address and telephone number of the person or agency.

(f) *Information copies.* A certification from the CHAP jurisdiction that it has submitted the information copies of its CHAP in accordance with § 90.10(a)(2).

(g) *Assurance of drug- and alcohol-free facilities.* (1) *Assistance to CHAP jurisdictions.* In the case of assistance under any of the authorities of Title IV of the Act that is made available to a CHAP jurisdiction, an assurance that the CHAP jurisdiction will administer, in good faith and for the period for which the facility must be used as a homeless facility under the applicable program regulations, a policy for drug- and alcohol-free facilities, irrespective of whether the facilities are operated by the CHAP jurisdiction or another entity.

(2) *Assistance to other jurisdictions.* In the case of assistance under any of the authorities of title IV of the Act that is made available to an entity that is not a CHAP jurisdiction, an assurance that the CHAP jurisdiction will take such steps as may be necessary to ensure that the grantee or recipient will administer, in good faith and for the period for which the facility must be used as a homeless facility under the applicable program regulations, a policy for drug- and alcohol-free facilities. The steps must include, at a minimum, an assurance that the CHAP jurisdiction will satisfy itself that the grantee or recipient will adhere to the policy for drug- and alcohol-free facilities as a condition of providing the certification of consistency with CHAP, as provided by in § 90.50(a).

(3) *Definition.* For purposes of this paragraph (g), a "policy for drug- and alcohol-free facilities" is one that is designed to ensure that the homeless facility is free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.

(h) *Coordination.* If a State designates an agency or person to coordinate homeless assistance efforts in the State,

an identification of the person or agency, along with the address and telephone number of the contact.

(i) *Department of Labor Job Training Demonstrations.* In the case of States, a description of how the jurisdiction will coordinate job training demonstration projects for the homeless under subtitle C of title VII of the Act with other services for the homeless assisted under the Act.

(Approved by the Office of Management and Budget under control number 2506–0093.)

Subpart D—Submission, Review, and Approval of the Plan

§ 90.30 Plan submission.

CHAPs must be sent to the responsible HUD Field Office. CHAPs from ESG formula cities and counties must be received or postmarked no later than July 15 of each year, beginning with July 15, 1990. CHAPs from States must be received or postmarked no later than August 30 of each year, beginning with August 30, 1990.

§ 90.32 Plan review and approval.

(a) *In general.* HUD will approve a CHAP, unless HUD determines that it plainly fails to address each of the elements referred to in § 90.20(a) through (g), including the need for, and effect of, assistance under paragraphs (a) and (d) of that section for each of the authorities of title IV of the Act.

(b) *Job training element.* Failure of a State plainly to address the job training element referred to in § 90.20(i) will not result in disapproval of an otherwise approvable CHAP. It may, however, affect the State's participation in the Job Training for the Homeless authority in subpart C of title VII of the Act. Questions regarding § 90.20(i), and the effect of failing plainly to address that provision in the CHAP, should be referred to the Department of Labor.

(c) *Failure to carry out drug/alcohol assurance.* If HUD determines that a drug- and alcohol-free assurance under § 90.20(g) has not been carried out in accordance with the requirements of that paragraph, HUD may require the CHAP jurisdiction to take additional actions, or to provide further assurances, before approving subsequent CHAP submissions.

(d) *Notice of approval.* HUD will provide written notification to each jurisdiction whose CHAP is approved within 30 days after HUD receives it.

(e) *Notice of disapproval.* If HUD determines to disapprove a CHAP, it will notify the jurisdiction of the disapproval within 15 days of the determination. The notification will inform the jurisdiction of the reasons for the disapproval, as well as the steps needed to be taken to make the CHAP approvable.

(f) *Effect of failure to notify of disapproval.* If HUD fails to notify a CHAP jurisdiction of the disapproval of its CHAP within the 15 days referred to in paragraph (e) of this section, the CHAP will be deemed approved. In all cases, a CHAP jurisdiction may assume that its CHAP has been approved if it has not received notification of disapproval from HUD within 45 days after HUD received the CHAP.

§ 90.34 Plan amendment and resubmission.

HUD will permit amendments to, or the resubmission of, any CHAP, including a CHAP that has been disapproved. The provisions of § 90.32 govern CHAP amendments and resubmissions.

Subpart E—Performance under the Plan

§ 90.40 Plan performance.

(a) *Performance reports.* Each jurisdiction that has an approved CHAP must conduct an annual review of its progress in carrying out its CHAP. The jurisdiction must report the results of its review to HUD no later than May 31 of each year. The reporting period must cover the 12-month period ending with April 30 of the year in which the report is due.

(b) *Responses to recommendations.* Each jurisdiction that has submitted a performance report under paragraph (a) of this section must provide a substantive response to any recommendations that HUD makes on the report, provided that the jurisdiction receives the recommendations by July 31 of the year in which the report is submitted.

(c) *Effect of failure to report or respond.* HUD may not make assistance under any of the authorities of Title IV of the Act available to, or within the jurisdiction of, any CHAP jurisdiction that fails to—

(1) Review and report its performance to HUD, in accordance with paragraph (a) of this section; or

(2) Make a substantive response to HUD's recommendations, in accordance with paragraph (b) of this section.

(Approved by the Office of Management and Budget under control number 2506–0093.)

§ 90.42 Coordination.

If a State CHAP designates a State agency or a State contact person to coordinate homeless assistance efforts in the State, HUD will provide the designee with such program information as HUD deems appropriate to facilitate the coordination.

Subpart F—Relationship Between the Plan and Applications for Homeless Assistance

§ 90.50 Relationship between the Plan and applications for assistance.

(a) *Certification of consistency with CHAP.* Any application for assistance under the authorities of title IV of the Act must contain, or be accompanied by, a certification by the public official responsible for submitting the CHAP for the jurisdiction in which the proposed activities are to be located, that the activities are consistent with the CHAP. For further information on this requirement, the regulations for each of the authorities of title IV of the Act should be consulted.

(b) *Indication of need for assistance in Plan.* If a CHAP fails to indicate a need (as required by § 90.20(a)) for assistance under any of the authorities of Title IV of the Act, a subsequent application for assistance under any such authority will be disapproved on grounds that it is inconsistent with the CHAP.

Dated: October 26, 1989.

Jack Kemp,

Secretary.

[FR Doc. 89–25882 Filed 11–2–89; 8:45 am]

BILLING CODE 4210–32–M

federal register

Friday
November 3, 1989

Part VI

Oversight Board

Strategic Plan for the Resolution Trust Corporation

OVERSIGHT BOARD

Strategic Plan for the Resolution Trust Corporation

AGENCY: Oversight Board.

ACTION: Proposed Strategic Plan.

SUMMARY: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989, requires the Oversight Board to develop a strategic plan for the Resolution Trust Corporation's functions and activities. The Oversight Board is seeking public comment on the proposed strategic plan for the Resolution Trust Corporation. The strategic plan establishes overall goals and objectives for the RTC in six areas: case resolution, asset disposition, affordable housing, conflicts of interest and ethical standards, external relations, and administration.

DATES: Comments must be submitted on or before December 4, 1989. The strategic plan must be submitted to Congress by December 31, 1989.

ADDRESSES: Comments may be mailed to the Policy and Financial Analysis Unit, Oversight Board, Room 906, 1825 Connecticut Avenue NW., Washington, DC 20232.

FOR FURTHER INFORMATION CONTACT: Johathan L. Fiechter, the Policy and Financial Analysis Unit, Oversight Board, 202–376–5464.

SUPPLEMENTARY INFORMATION:

Background and Statutory Requirements

The Resolution Trust Corporation (RTC) and the Oversight Board of the Resolution Trust Corporation (Oversight Board) were established as instrumentalities of the United States on August 9, 1989, by the enactment of section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) as added thereto by section 501(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (Pub. L. No. 101–73, section 501(a), 103 Stat. 183, 363–393). Throughout this document, all references to section 21A are to section 21A of the Federal Home Loan Bank Act as amended by section 501(a) of FIRREA.

FIRREA requires the Oversight Board, in consultation with the RTC, to develop a strategic plan for the RTC's functions and activities, and to submit the plan to Congress no later than December 31, 1989. FIRREA establishes the minimum contents required for the strategic plan, which are listed in the Appendix to this Preamble. FIRREA further requires the Oversight Board to appear with the RTC, by January 31, 1990, before the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate to describe the strategic plan established for the RTC.

At its public meeting on September 21, 1989, the Oversight Board determined that it would be beneficial at an early stage in the development of the strategic plan to make a draft available for public comment. Accordingly, this preliminary, draft strategic plan is being published for comment. The Oversight Board wishes to emphasize that this is an early draft that will be revised in response to comments received and in the course of the Board's own further review and deliberation. The Board recognizes that certain aspects of this preliminary draft might be regarded by some as controversial or that others might recommend the inclusion of matters that are omitted. That is, of course, the purpose of soliciting comment on this proposed strategic plan. The Board will consider all comments received as it shapes the final plan for submission to Congress.

Duties of Resolution Trust Corporation and Oversight Board

The mission of the RTC is to carry out a program, under the general oversight of the Oversight Board, to manage and resolve institutions that come under its jurisdiction and to dispose of any residual assets in a manner that:

- Maximizes return and minimizes loss;
- Minimizes the impact on local real estate and financial markets; and
- Maximizes the preservation of the availability and affordability of residential property for low- and moderate-income individuals.

The duties of the Oversight Board are to oversee and be accountable for the RTC. The Oversight Board is required, in consultation with the RTC, to develop and establish overall strategies, policies, and goals for the RTC's activities, including the RTC's overall financial goals, plans and budgets. The Oversight Board is also required to review the overall performance of the RTC on a periodic basis, including its work, management activities, and internal controls and the performance of the RTC relative to approved budget plans pursuant to the terms of FIRREA.

Purpose and Contents of the Strategic Plan

The purpose of the strategic plan is to set forth the RTC's goals and objectives in support of its mission. The RTC will develop specific procedures for implementing the general guidance provided by the strategic plan. Until such specific procedures are developed by the RTC, the Oversight Board has directed the RTC to operate in accordance with existing FDIC procedures.

The strategic plan elaborates on the mission of the RTC through goals, objectives, and implementation procedures. The strategic plan's goals establish broad, general direction for the RTC in six areas: Case resolution, asset disposition, conflicts of interest and ethical standards, external relations, and administration.

The strategic plan's objectives provide more specific statements with respect to the goals set forth. Subject to the review of the Oversight Board, the RTC is responsible for adopting the rules, regulations, standards, policies, procedures, guidelines, and statements necessary to implement the strategic plan established by the Oversight Board.

The strategic plan will be refined and strengthened through experience and ongoing review. Additionally, the National and Regional Advisory Boards will provide input to the policies and procedures developed by the Oversight Board and RTC for the sale or disposition of real property assets.

Strategic Plan Development

The strategic plan was developed by Oversight Board staff in consultation with the staff of the RTC. At its first meeting, on August 9, 1989, the Oversight Board established a Joint Policy Development Task Force with staff from both the Oversight Board and the RTC to make recommendations to the Oversight Board on overall strategies, policies and goals for the RTC and the strategic plan.

In addition, the strategic plan reflects input from staff of the Treasury Department, the Department of Housing and Urban Development, the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.

Furthermore, the strategic plan incorporates individual policies that have been adopted by the Oversight Board during the period between the Oversight Board and the RTC's creation on August 9, 1989, and publication of this proposed strategic plan.

Request for Comment

At its September 21, 1989 Board meeting, the members of the Oversight Board decided unanimously to invite public participation in the development of the strategic plan before submitting it to Congress. The Oversight Board is seeking comments on all aspects of the strategic plan, and particularly on the

questions posed by the Oversight Board. Public comment should contribute to a more effective strategic plan. It is hoped that publication of an early and preliminary draft of the strategic plan will promote participation in formulating the RTC's goals, objectives and implementation procedures.

In addition, the Board wants the strategic plan to reflect expertise available in the private as well as the public sector. The private sector has extensive expertise in matters of loan workouts, asset management and disposition, which would be invaluable to the Oversight Board in formulating the strategic plan. Furthermore, FIRREA requires the RTC to utilize the private sector in carrying out its duties, including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services, to the extent that those services are available and their utilization by the RTC would be practicable and efficient. Because it is expected that the RTC will utilize the private sector in carrying out its mission, the Oversight Board believes it is important to receive comment from that sector in developing the strategic plan.

Appendix to the Preamble—FIRREA-Mandated Contents of the Strategic Plan

Section 21A(a)(14)(B) requires the strategic plan and implementing policies and procedures to contain, at a minimum, the following:

1. Factors for determining the order of resolutions.
2. Standards to select the type of resolution.
3. Factors to consider in deciding treatment of nonperforming assets in assisted acquisitions.
4. Plan for the disposition of assets.
5. Management objectives for measuring progress.
6. Plan for organizational structure, staffing, and use of third-party contracts.
7. Consideration of incentives to promote efficient asset management.
8. Standards for competition among and fair treatment of offerors.
9. Standards to prohibit discrimination in solicitation and consideration of offers.
10. Procedures for active solicitation of offers from minorities and women.
11. Procedures for notification of rejected offers.
12. Procedures for establishing the market value of assets.
13. Procedures requiring timely evaluation of purchase offers.
14. Procedures for bulk sales and auction marketing of assets.
15. Guidelines for determining which assets have no reasonable recovery value and may, therefore, be considered for public purposes.
16. Guidelines for conveyance of assets to state and local government agencies for use in HUD urban homesteading programs.
17. Policies and procedures for avoiding political favoritism and undue influence in contracts and decisions made by the Oversight Board and RTC.

Table of Contents

I. Mission Statement

The Resolution Trust Corporation should carry out a program, under the general oversight of the Oversight Board, to manage and resolve institutions that come under the jurisdiction of the RTC and to dispose of any residual assets in a manner that:

- Maximizes return and minimizes loss;
- Minimizes the impact on local real estate and financial markets; and
- Maximizes the preservation of the availability and affordability of residential property for low- and moderate-income individuals.

II. Background

A. Case Resolution

FIRREA gives the Resolution Trust Corporation (RTC or the Corporation) the responsibility for managing and resolving all cases involving depository institutions previously insured by the Federal Savings and Loan Insurance Corporation (FSLIC) for which a conservator or receiver is appointed from January 1, 1989 through August 8, 1992. As of September 30, 1989 there were 256 institutions holding $101 billion in assets under RTC jurisdiction. Additional insolvent institutions are expected to be transferred to the RTC over the next three years.

Resolution Schedule

Given the expected costs associated with resolving the institutions under RTC jurisdiction, the large backlog of insolvent institutions and the potential disruption these resolutions could impose on the financial and real estate markets, it is important to carefully consider the process by which these institutions are resolved. Furthermore, given that institutional, financial, and human resource constraints preclude simultaneous resolution of insolvent institutions presently under RTC jurisdiction, it is important to establish a prioritization schedule for case resolutions. FIRREA stipulates that the strategic plan for the RTC will include the "factors the Corporation shall consider in deciding the order in which failed institutions or categories of failed institutions will be resolved."

There are numerous factors to consider in deciding which institutions to resolve first. For example, of primary importance is the deterioration at an institution, a measure of the cost savings the RTC could achieve by resolving an institution immediately. As such, institutions with the highest operating losses (both in absolute terms and relative to the expected cost of resolution) should be given first priority in order to save the RTC these additional losses.

Additionally, the estimated loss in franchise value due to eroding customer bases and the loss of key personnel and systems is important in determining deterioration and therefore, should also be evaluated in deciding the priority of resolutions. Likewise, the ongoing risk exposure to the RTC should be considered. Institutions posing the greatest risk to the RTC should be given priority. Also, the order of resolutions should reflect the most efficient use of RTC resources and staff. The strategic plan requires the RTC to evaluate all of these factors in establishing a case resolution schedule.

Many of the factors that need to be considered in establishing a priority schedule are not easily quantified. It would not be cost effective, however, to devote inordinate time and resources to developing a precise priority schedule if such an effort delays the resolution process. Therefore, in evaluating the various factors, the RTC may consider establishing priority deciles or quartiles rather than attempting to establish the order of resolution for each institution.

Method of Resolution

In addition to establishing resolution priorities, the RTC will need to select a method of resolution for each institution. Resolutions generally take the form of either liquidations accompanied by the payment of insured deposits, or assisted acquisitions. In paying insured deposits, the FDIC has generally paid cash to depositors, either directly, or indirectly

through a "paying agent." An insured depositor may choose to take the cash or use it to open a deposit account with the paying agent. The RTC may use the same techniques. Use of a paying agent is often referred to as an insured deposit transfer.

In an assisted acquisition, the acquiring entity assumes some portion of the assets and liabilities of the failed institution. The RTC provides sufficient cash to the acquiring institution to offset the difference between the amount of liabilities assumed and the market value of assets acquired from the failed institution—net of any premium paid by the acquiring institution. To the extent the acquiring institution acquires substantially all of the assets of the failed institution, the transaction is termed a "whole thrift" purchase and assumption. If the acquiring institution acquires only the "good" assets (e.g., cash, securities, and performing loans), the transaction is termed a "clean thrift" purchase and assumption.

There is no precise line of demarcation between a whole-thrift transaction and a clean-thrift transaction. Rather, they run on a continuum. In fact, the results of a deposit transfer can be similar to a purchase and assumption transaction. For example, if in its role as the paying agent, an institution is able to attract and retain the deposits from the failed institution and uses the deposits to purchase the good assets of the failed institution, the net result resembles a clean-thrift purchase and assumption. If the paying agent further purchases the problem assets, the net result resembles a whole-thrift purchase and assumption.

In selecting a method of resolution, FIRREA, by cross referencing the Federal Deposit Insurance Act, prohibits the RTC from providing assistance in an amount in excess of that required to liquidate an institution, unless the RTC determines that the continued operation of the institution is essential to provide adequate banking services in its community. FIRREA also stipulates that the RTC conduct its operations in a manner which "maximizes the net present value return from the sale or other disposition of institutions," and "minimizes the amount of any loss realized in the resolution of cases." Finally, FIRREA stipulates that the RTC's strategic plan and its implementing policies and procedures must include "standards the Corporation shall use to select the appropriate resolution action for a failed institution," and "factors the Corporation shall consider in deciding whether nonperforming assets of the failed institution will be transferred to the acquiring institution rather than retained by the Corporation for management and disposal." This latter requirement regarding the treatment of nonperforming assets draws attention to the whole-thrift versus clean-thrift decision. The strategic plan requires the RTC to consider each of these statutorily imposed criteria in selecting the preferred method of resolution.

One policy issue that arises in the selection of a resolution method is whether the RTC should sell an individual institution as a whole or in parts. For example, some have suggested that the RTC could obtain a higher price if it were to sell individual branches to separate acquirers rather than attempting to sell all the branches to one acquirer. It has been further argued that selling smaller pieces, such as individual branches, might also increase the pool of eligible bidders, thereby increasing the competitiveness of the bidding. A counter to these arguments is the amount of time and administrative costs associated with attempting to evaluate and compare multiple combinations of offers. Also, in deciding whether to pursue the sale of individual branches, consideration must be given to the effect of this policy on cash outlays, the expected volume of assets to be liquidated and the disruption payoffs of insolvent branches could cause.

Financial Assistance

Another area of policy debate is the type of assistance that the RTC may provide in order to facilitate an assisted acquisition. In the past, various forms of assistance have been used including, but not limited to, cash, notes, yield-maintenance agreements, capital-loss coverage, asset puts, and regulatory forbearances.

Yield maintenance was sometimes given to an acquirer that accepted problem assets (or assets with below market contract rates due to interest rate changes) in lieu of immediately paying the institution for the capital losses on the assets. The guaranteed yield for these assets was generally based on a cost-of-funds index, plus a spread to cover operating expenses associated with managing the asset and, in some cases, a profit margin. Capital-loss coverage effectively guarantees that the acquiring institution will not sustain any further capital losses on specified or "covered" assets after the sale of these assets to the institution. When capital loss coverage is offered in conjunction with yield maintenance, the provider (e.g., the RTC) effectively retains all the risks associated with problem assets and the acquiring institution may have disincentives to minimize the losses in the assets.

Asset-puts as a form of assistance can be used when the acquirer has not had sufficient time to evaluate the condition of all the assets in the portfolio or mark them to market. If an asset that has been sold to an institution becomes "bad" or non-performing, does not have clear title, or there is some litigation liability, the association may sell or "put" the asset back to the RTC in exchange for cash or other assets. An "asset-put" provision reduces the discount a purchaser would otherwise require on accepting assets of unknown quality and allows for more expedient disposition of institutions with problem assets. Asset-puts can be thought of as a form of capital loss coverage and, like the capital loss coverage and yield maintenance, creates a financial contingent liability for the RTC and reduces the incentive for acquiring institutions to maximize recoveries.

Ownership interests in resolved institutions allow the RTC to protect its interests when at the time of resolution there is continued uncertainty regarding the value of the resolved institution and, therefore, the appropriate amount of assistance. This uncertainty creates the potential for large upside gains for the acquirer. Equity participations, such as common stock, give the RTC a direct ownership position in a thrift and allow the RTC to share in upside gains. Equity participations, however, may create a conflict if the RTC assumes a controlling position and thereby becomes a competitor with other financial institutions. Warrants are passive equity instruments that allow the RTC to share in the profits of a resolved institution, but if structured properly, can avoid the control issue.

Regulatory forbearances occur when a merging institution is granted non-cash assistance by having the regulator abstain from enforcing certain regulatory requirements. In the past, regulators have granted forbearances from complying with capital requirements, liquidity requirements, and asset restrictions. In most, but not all, situations, forbearances do not reduce the requirement but merely preclude the regulator from taking action as a result of noncompliance. Forbearances were usually granted only for a limited period of time. Granting forbearances may reduce the resolution cost to the RTC and unlike other forms of assistance, often do not involve a direct financial outlay or immediate risk to the RTC. They may, however, transfer

risk to the insurance funds and are inherently difficult to value.

Each of these forms of assistance entails different costs and levels of ongoing risk exposure for the RTC. The Oversight Board has already adopted policies that: (1) Limit the period of assistance involving a financial contingency (e.g., asset-puts, asset guarantees, capital loss coverage, yield maintenance guarantees) for the RTC to the lesser of 6 months or the time necessary to complete due diligence; and (2) limit the RTC from taking an active equity positions in resolved institutions. The strategic plan requires the RTC to develop written guidelines for the use of various forms of financial assistance.

Bidding Procedures

A significant way to reduce the cost of resolutions is to encourage active participation in the resolution process by all qualified bidders. Also, FIRREA explicitly requires the RTC to develop standards for fair, non-discriminatory treatment and competition among prospective bidders and requires the RTC to encourage the active participation of women and minorities.

These requirements can best be fulfilled by having an open and widely publicized bidding procedure and a broad dissemination of information regarding institutions being marketed and the terms of previous transactions. This need for openness has been highlighted by the public reaction to the transactions completed by the Federal Home Loan Bank Board in December 1988. In addition, providing sufficient time to disseminate the pertinent information to a wide range of bidders and allowing adequate time for carefully constructing competitive bids, should assure that the RTC receives the best offer. Finally, the fair and consistent evaluation of all bids and the timely notification of rejected bids should encourage continued participation in future marketing efforts by prospective purchasers. The strategic plan identifies each of these items as an area for the RTC to develop implementation procedures.

Use of Private Sector

FIRREA requires the RTC to use the services of private persons if such services are available and the RTC determines that the utilization of such services are practicable and efficient. While the statute appears to presume that this will occur primarily in the asset disposition process, the RTC might use the services of private sector entities in activities related to the resolution of institutions. These services could include managing institutions or performing due diligence for the RTC. The strategic plan directs the RTC to identify areas where private sector services could be used in resolving institutions.

B. Asset Disposition

Assets not sold as a part of a thrift institution resolution will have to be disposed of separately by the RTC. The volume of assets the RTC will dispose of is uncertain and will depend in part on the method chosen by the RTC to resolve thrift institutions.

Whatever the eventual volume, most of the assets under RTC jurisdiction will fall into one of three categories: (1) Cash and readily marketable loans, servicing rights, and securities; (2) high risk or otherwise undesirable, but performing, loans; or (3) real estate owned and nonperforming loans, including loans in foreclosure. Most of the policy issues relate to the disposition of the second and third groups; accordingly, these assets are the focus of this section.

The task facing the RTC for asset disposition is unprecedented in magnitude and complexity. The RTC will need to try alternative approaches, learning from experience what works and what does not work. Nothing in this plan is intended to preclude that flexibility.

Use of the Private Sector to Maximize Net Present Value

The sheer number of assets to be worked out will require that the RTC rely heavily on private sector contractors for the management and disposition of these assets, subject to general oversight and audit by the RTC. In addition, the private sector's expertise and the opportunity for the RTC to utilize incentive-based contracts argue for the RTC to use private contractors whenever practicable and efficient, as called for in FIRREA.

The RTC should develop and employ incentive structures tailored to maximizing the net present value of the assets to the RTC. While the RTC staff will be monitoring its contractors, it will be the contractors who, in most instances, manage the assets and negotiate their disposition, subject to appropriate RTC approval. The RTC should, therefore, rely on incentive schemes for contractors as a means of assuring that the government receives the maximum net present value return on its assets. No incentive structure, however, can eliminate the need for managerial oversight by RTC staff.

Neither the eventual proceeds from asset disposition nor the interim operating returns will be known to the RTC or the contractor at the time the assets are placed under private control. Therefore, when practical, the RTC should enter into contracts that have the RTC and the contractor sharing in better-than-expected returns, as well as sharing the risk that net proceeds will fall short of expectations (i.e., yielding the contractor less than a market rate of return).

Competitive Procurement

Depending on the structure of the contract, a variety of procurement designs may be appropriate for promoting competition consistent with the objective of maximizing net present value. In all instances, the RTC must make available, in writing and to all requesting parties, its procurement policies and procedures.

Sales Methods

As a general rule, bulk contracts for management and disposition of a large block of assets should be used if the RTC deems that this is the strategy that will maximize the net present value of the proceeds. Furthermore, the administrative constraints on the number of separate transactions that can be directly executed by the RTC suggests that bulk transactions may be an efficient method for disposing of assets. The RTC should experiment with alternative methods of structuring bulk transactions. In bulk sales, modest discounting in price may be appropriate because of the reduction in the RTC's sales costs per unit.

The RTC can delegate many of the decisions regarding choice of disposition methods to private contractors, subject to guidelines established by the RTC. However, there may be instances in which the RTC should override the recommendation of its contractors. For example, using large-volume auctions to dispose of single-family homes or raw land in distressed areas may maximize near-term returns to the RTC but could have adverse market effects that could be avoided through an alternative sales method.

Continuing RTC Involvement with Assets

As with resolutions of insolvent thrifts, the RTC should avoid retaining long-term equity interests in assets under its jurisdiction. These assets should be sold expeditiously following orderly and thorough marketing. The RTC should explore ways, however, in which it can participate in any extraordinary gains realized at the time of disposition.

The RTC will have to develop criteria that must be met for the RTC to undertake major capital improvements (i.e., buildouts of incomplete properties and major rehabilitation of completed structures) prior to marketing. There may be some special cases in which the net present value of properties to the RTC will be enhanced by capital improvements prior to sale, but in most instances properties should be sold in "as is" condition (exclusive of minor cosmetic repairs).

Financing of Asset Sales

If the RTC were to provide financing of asset sales, it should do so only when necessary to complete transactions that maximize the present value return to the RTC, net of the value of any concessions provided in the financing. Unless directed otherwise by the Oversight Board, the RTC should, in general, offer financing only as a marketing tool. If private sector lenders are unwilling to finance a proposed purchase on terms as favorable to the buyer as those offered by the RTC, then the RTC is providing a subsidy that should be recouped through a higher purchase price.

Data Base Development

To assure the RTC's capability to respond to future data requests, the database system developed to inventory RTC assets should be flexible and contain as many descriptors of assets as is practicable. As required by FIRREA, the data base should identify those properties with natural, cultural, recreational, or scientific values of special significance. Compliance with this requirement will be difficult, but the RTC should develop procedures and guidelines for determining these designations as quickly as practicable.

Ethics and Conflicts of Interest

Ongoing enforcement of ethics and conflicts of interest requirements will complement the incentive schemes and regular audits as methods of assuring that contractors promote the objectives of the RTC. The interim statement of Principles of Ethical Conduct for Independent Contractors to the RTC, on which public comment has been solicited, will be succeeded by regulations on this subject.

The ethics standards should not preclude asset managers from acting in more than one capacity for the RTC, if the RTC determines that no conflicts or potential conflicts of interest exist with respect to the services performed for the RTC by RTC contractors. For example, if appropriate, asset managers should be allowed to sell RTC properties in one region of the country and buy properties in another.

Asset Disposition in Distressed Areas

RTC will be a significant holder of real estate in some local real estate markets already beset by economic problems and experiencing declining real estate values. FIRREA notes this fact and calls for special asset disposition procedures to protect against the dumping of assets while not restricting the flexibility RTC needs to make sound business decisions. The RTC will consider providing seller financing in distressed areas.

FIRREA specifies that in distressed areas the RTC should not sell at less than a specified minimum disposition price. The legislation sets this price at 95 percent of market value and gives the RTC Board of Directors the authority to change this percentage if a change is deemed consistent with the overall objectives of the RTC. Outside of distressed areas, the RTC should strive as well to sell only at prices at or near market value, unless otherwise directed by the Oversight Board. The term "market value" is defined in FIRREA to mean "the most probable price which a property should bring in a competitive and open market if: (1) All conditions requisite to a fair sale are present, (2) the buyer and seller are acting prudently and are knowledgeable, and (3) the price is not affected by any undue stimulus."

Thorough marketing of properties will be particularly important in distressed areas for the RTC to secure offers near market value. But even with careful and comprehensive marketing, market value and, therefore, the disposition price of RTC properties in distressed areas may often be a small fraction of book value.

The RTC should avoid deferring the marketing of properties, subject to the right of first refusal marketing provisions in FIRREA. Holding properties off the market for an extended period of time will generally not serve the interests of either the local community or the taxpayer.

The uncertainty caused by an overhang of properties held off the market may depress local property values more than would their sale. Furthermore, holding rental housing off the market increases rents and, therefore, may place renters at a disadvantage. Properties held off the market especially vacant properties—can deteriorate and lose value, raising the cost to the RTC and ultimately to the taxpayer. Even properties that do not deteriorate impose carrying costs on the RTC. The RTC should not attempt to "outguess the market" by speculating on future developments not reflected in the current market values of properties.

The ongoing resolution of insolvent thrift institutions during the next several years, together with delays in securing clear title to properties that come under the RTC's control, will result in the disposition of RTC's assets over a multi-year period, even if individual properties are marketed expeditiously. If the RTC were to delay disposition of currently marketable properties, it would only concentrate the peak load problem, and place pressure on local markets in years to come.

While the RTC should dispose of properties expeditiously following thorough marketing, in some instances certain marketing methods may have adverse consequences for local property values that could be avoided. For example, in areas where the RTC is a large holder of similar properties, including raw land, disposition according to a pre-advertised multi-month marketing schedule may be preferable to disposing of a large number of properties by auction on a single day.

Keep the Market Informed

The RTC should keep market participants and other interested parties fully informed, to the extent practical, on RTC's plans for asset sales. Uncertainty increases the risk of investing in real estate and thereby depresses real estate values. The "overhang" of RTC properties in local real estate markets increases uncertainty and depresses real estate values for two reasons: (1) Market participants do not know the RTC's plans for these properties, and (2) even if RTC's plans were known, the resulting market effects are uncertain. RTC can eliminate at least part of this uncertainty by providing as much information as practical about its inventory and general policies and strategies for asset disposition to all interested parties in the local market areas where RTC has properties.

C. Affordable Housing Provisions

FIRREA mandates maximizing the preservation of the availability and affordability of residential real property for low and moderate-income individuals. One mechanism that FIRREA provides for meeting this mandate is to require a specified right of first refusal period for qualified purchasers of certain eligible single and multi-family properties.

The RTC's implementing procedures for housing disposition should be designed to maximize the effectiveness

of this initial marketing or right of first refusal period. Eligible properties are to be offered to qualifying households, public agencies, or nonprofit organizations so that the properties may be available for purchase or occupancy by lower-income families. To assure that its disposition strategies for low and moderate income housing are effectively implemented, the RTC should consult on an ongoing basis with local and state housing finance agencies, other governmental agencies, and local and national nonprofit organizations with specialized knowledge of low-income housing.

No later than March 30, 1990, the RTC will submit to the Oversight Board comprehensive guidelines and procedures to implement the low- and moderate-income housing provisions of FIRREA. (The specific coverage of these guidelines and procedures is detailed in a subsequent section of this strategic plan.) To avoid keeping needed housing off the market and to avoid any further deterioration of the eligible properties involved while comprehensive guidelines are developed by the RTC and reviewed by the Oversight Board, the RTC may sell eligible properties in accordance with the housing provisions of FIRREA prior to the delivery to the Oversight Board of these comprehensive guidelines. Prior to commencing such disposition, however, the RTC will prepare interim guidelines for disposition that are in accordance with the lower- and moderate-income housing provisions of FIRREA. The RTC will provide its interim guidelines to the Oversight Board and will keep the Board apprised of its disposition procedures. (Public comment is specifically invited on whether the RTC should begin disposing of eligible properties prior to development of comprehensive housing program guidelines.)

In order to facilitate the Oversight Board's review of the low- and moderate-income housing program as it evolves and to assist in identifying any areas needing special attention, the RTC will keep records on eligible properties and their disposition. As the RTC begins marketing eligible properties, it will compile data on the number of eligible properties offered for sale, the number of these properties that are purchased for low- and moderate-income housing, and any other pertinent data related to the effectiveness of the initial marketing period in meeting the FIRREA's housing goals. The RTC will report regularly to the Oversight Board on its experience in meeting its low- and moderate-income housing objectives under FIRREA, including providing any relevant data.

Marketing

Marketing eligible residential properties may require special techniques that differ from the RTC's normal marketing methods. The RTC should develop marketing strategies in consultation with state housing finance agencies, other government agencies, and non-profit organizations for implementation, either directly or through contractors (including government agencies and non-profit organizations). The RTC should also consider assigning low-income housing specialists to its field offices.

Clearinghouses

FIRREA requires that the RTC shall provide information on eligible properties to clearinghouses to make such information available to public agencies, non-profit organizations, and qualifying households. FIRREA authorizes state housing finance agencies and the Federal Housing Finance Board to act as clearinghouses. The RTC can also authorize national non-profit organizations as clearinghouses. The RTC shall develop guidelines for entering into contracts or other arrangements with clearinghouses to carry out their responsibilities.

To assure a maximum level of operating efficiency by all clearinghouses, RTC personnel should work with organizations, including the FHFB, to develop general strategies, including agreement on both the form and content of the information the RTC will provide regarding eligible properties. The information provided should be in a form suitable for immediate dissemination by the clearinghouses to eligible purchasers and include as much information as necessary to assure the most informed possible basis for judgement by the eligible purchasers.

The RTC should also investigate the extent to which information about eligible properties may be provided to clearinghouses before the RTC has clear title to the properties.

Disposition of Eligible Properties

FIRREA directs the RTC to determine a market value for each eligible residential property and sell eligible properties at the net realizable market value. The net realizable market value is the price below the market value that takes into account any reduction in certain holding and transactions costs resulting from expedited and direct sale of a property. Consequently, the price reduction represents an economic discount, not a price subsidy.

The costs that can be avoided through an expedited sale include, but are not limited to, foregone real estate taxes, insurance, maintenance expenses, security costs and the loss of use of its funds as well as the avoidance, if applicable, of fees paid to real estate brokers, auctioneers, or other individuals usually involved in the sale of property.

The RTC should consider selling eligible properties in bulk to capable non-profit organizations and state and local housing finance agencies. The reduction in transaction costs to the RTC resulting from a bulk sale may permit the RTC to sell properties at a below-market price and still maximize net present value.

Subsidies

FIRREA authorizes the RTC to provide subsidies such as concessionary financing and price discounts in the furtherance of FIRREA's housing objectives. If subsidies are deemed necessary to meet the housing objectives, the appropriate form of the subsidies, as well as the total amount of subsidy provided for this program, will be determined by the Oversight Board. Under section G of this strategic plan, Specific Questions for Public Comment, the staff of the Oversight Board specifically seek comment on subsidies and other issues related to the affordable housing provisions in FIRREA.

Qualifying Purchasers

The legislation specifies which households and organizations are eligible to bid on properties during the right of first refusal period. The RTC should investigate the feasibility of contracting for the service of qualifying households and institutions, in light of the relevant experience outside the RTC that could be drawn upon from such agencies and organizations as state housing finance agencies, other government agencies, and non-profit organizations.

Competing Bids

When selling single family properties, the RTC may have to choose between substantially similar competing offers from low- and moderate-income households. In the case of multi-family housing, the conference report directs the RTC to give preference to offers that propose to house more lower income families for longer periods of time and the RTC will establish guidelines to implement this directive. Given the RTC's mandate to maximize the affordability and availability of low-

income housing, the RTC will establish guidelines that among substantially similar offers for single family properties give preference to bids from lower-income families.

Consultation with Other Agencies

FIRREA directs the Secretary of Housing and Urban Development and the Secretary of Agriculture to expedite the processing of applications for assistance under a number of specified programs, including FHA mortgage insurance. To the extent practical, the RTC should consult with those parties, as well as with other organizations that can financially assist qualified households and organizations in purchasing and renting housing. These organizations include the federally sponsored housing credit agencies and corporations, and state and local housing finance agencies.

The legislation requires the Federal Housing Finance Board (FHFB) to establish an Affordable Housing Program to subsidize interest rates on advances to member savings institutions for lending for low- and moderate-income owner occupied and rental housing. The RTC should work with the FHFB as the FHFB designs its Affordable Housing Program to maximize the mutual effectiveness of the RTC's and FHFB's respective programs.

Use of Secondary Market Agencies

As required in FIRREA, the RTC shall, in consultation with the Secretary of HUD, explore opportunities to work with secondary market entities to provide housing for lower- and moderate-income households. The Secretary of HUD is authorized to work with the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other secondary market entities to develop risk-sharing structures, mortgage insurance, and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for lower- and moderate-income families.

Enforcement of Low-Income Residency Requirements

FIRREA requires purchasers of qualifying multi-family property to make available a certain number of units for low- and very low-income residents during the remaining useful life of the property. (The requirements may be reduced for a temporary period if HUD or the applicable state housing finance agency determines that compliance is no longer financially feasible.) The residency requirements must be recorded in a deed or other legal instrument. FIRREA provides that the lower-income occupancy requirements shall be judicially enforceable against the purchasers of property by affected very low- and lower-income families.

Regional Advisory Boards

FIRREA directs the Oversight Board to select members of the regional advisory boards who will represent the views of low- and moderate-income consumers and small businesses, or who have knowledge and experience regarding business, financial, and real estate matters. These groups can advise the RTC about implementation strategies in specific regions.

D. Conflicts of Interest and Ethical Standards

Conflicts of Interest

Within 180 days from the date of enactment, FIRREA requires the RTC to promulgate rules and regulations applicable to independent contractors governing conflicts of interest, ethical responsibilities and use of confidential information. The RTC has adopted an interim statement of principles establishing minimum standards of ethical conduct applicable to independent contractors retained by the RTC. The RTC has also been charged with the obligation to utilize the private sector to the maximum extent possible. The RTC is facing a monumental task and will have to rely heavily on third party contractors to successfully accomplish that task. Accordingly, it is important that any conflicts of interest standards will not preclude participation by a significant proportion of the private sector.

If the standards established are too restrictive, the RTC will have difficulty hiring sufficient contractors to accomplish its mission. On the other hand, if the standards are too liberal or lax, they may not provide sufficient protection against unethical conduct by the RTC employees, contractors, and agents.

Proposed regulations concerning the conduct of the RTC's independent contractors are expected to be published for public comment in the near future. The proposed regulations are intended to require the RTC to preserve the integrity of the system while allowing it the flexibility needed to meet its statutory mandate.

Political Favoritism

FIRREA also requires that measures be taken to avoid political favoritism and undue influence with respect to the activities of the RTC. Until specific policies and procedures are developed, the RTC will draw upon current FDIC policies. The FDIC has attempted to guard against undue political pressure by having policies that allow them to investigate and provide information to those in political office in response to an inquiry, complaint or concern. The policies do not permit FDIC personnel to discuss the substance of pending decisions with respect to specific actions. In addition, the policies do not allow the FDIC personnel to alter or change an FDIC decision, policy or procedure at the request of any outside party.

However, the RTC will be operating in a more diverse and complex environment than the FDIC. Due to the greater number of special interest groups involved and the greater range of activities the RTC will be undertaking, the RTC may be subject to more political pressure. The policies the FDIC has in place may not be adequate to address the complexity of the RTC's mission.

Staff of the Oversight Board invites comments on how to most effectively implement the mandates of FIRREA regarding avoiding political favoritism in contracts and decisions made by the RTC.

E. External Relations

As a new instrumentality of the U.S., it is critical for the RTC to establish and maintain good relationships and open communications with other entities. The RTC must be responsive to Congressional inquiries and cooperate with other government offices. The nature of the mission of the RTC also makes imperative a positive relationship with the public. The External Relations section of the strategic plan provides guidance on RTC activities designed to establish and enhance the RTC's reputation as an efficient and capable agency in achieving its mission.

Communications with the Public

The National and Regional Advisory Boards, which will be established by the Oversight Board, will play an important role in maintaining open communications with the public regarding the RTC's policies and procedures for the sale or disposition of real property assets. The National and Regional Advisory Boards will bring local expertise and concerns to the attention of the RTC and the Oversight Board and will provide a means for the RTC and Oversight Board to improve public understanding of the RTC's activities.

Questions or concerns may also be raised by the public through mechanisms that will be developed by the RTC for accepting general complaints and complaints of discrimination on the basis of race, sex or ethnic group in the solicitation and consideration of offers. FIRREA requires that the strategic plan and its implementing policies and procedures include standards that prohibit discrimination. The complaint mechanism established by the RTC will provide a means for the public to provide input on the RTC's performance in this area.

Congressional Reports

FIRREA imposes two reporting periods on the RTC: (1) Semiannual reports covering the October 1–March 31 and April 1–September 30 periods; and (2) an annual report covering the January 1–December 31 period. In addition, FIRREA requires semiannual appearances by the Oversight Board before the House and Senate Banking Committees to report on RTC progress in certain areas. The specific information requested by Congress is somewhat different for the semiannual reports, the annual report, and the semiannual Congressional appearances by the Oversight Board. These reporting requirements as well as other reporting and disclosure obligations concerning the RTC's operations, which are required by Title V of FIRREA, are listed in the Appendix to this strategic plan.

F. Administration

The Oversight Board oversees and is accountable for the RTC. In its oversight capacity, the Board must periodically review the overall performance of the RTC including its work, management activities, internal controls, and performance relative to its approved budget plans. The Administration section of the strategic plan sets forth objectives and strategies to assure that the RTC has sufficient and effectively managed resources to achieve its mission.

Planning and Budgeting

The Administration section contains guidelines for the RTC's budgeting, planning, and staffing activities. FIRREA requires the strategic plan and implementing policies and procedures to contain management objectives and a plan for the organizational structure and staffing of the RTC. The section also includes guidelines to ensure fiscal responsibility. FIRREA requires the RTC to provide the Oversight Board with periodic financing requests for Oversight Board approval.

At the Oversight Board's first meeting, it adopted a policy regarding procedures and documentation for approving RTC financing requests. These procedures require the RTC, in advance, to support the need for authorization of disbursements of funds by the Oversight Board for case resolutions, working capital requests, high cost funds replacement, liquidity advances, and operating expenditures.

This has evolved into a two-step process.

The first step is the RTC's submission to the Oversight Board of a general business plan that describes its projected use of funds over succeeding weeks and requests a general authorization to spend the projected amount. After Board staff review, its recommendation and the RTC's request are submitted to the Oversight Board for a general authorization to spend all or part of the requested funds.

The Oversight Board's general authorization does not release the funds, however. That comes during the second step of the process, when the RTC submits a written request for funds needed for specific transactions that are consistent with the general authorization. The request is reviewed to determine if it includes all the required information, is signed by the Certifying Officer, and conforms with the uses of funds permitted by FIRREA and Oversight Board policies. If the Oversight Board has authorized sufficient funds to meet the request, a staff memorandum including recommended action is prepared and sent to the Oversight Board CEO. Only upon his approval are funds actually transferred to the RTC account.

Working Capital

In order for the RTC to effectively accomplish its goal of resolving institutions in an expeditious manner, it is important to develop a mechanism through which the RTC can raise working capital. The need for working capital arises from timing differences that occur in the case resolution process. For example, when the RTC liquidates an institution, the RTC must make up-front payments to depositors. This cash advance, however, does not represent the actual cost of resolution. The RTC will ultimately sell the assets of the failed institution and recover the fair market value of the assets. Since the sale of these assets takes time, but depositors must be paid up front, the resources provided by FIRREA could quickly be tied up in the illiquid assets acquired for resolved institutions. Working capital allows the RTC to proceed with case resolutions while continuing the orderly disposition of these assets. The strategic plan requires the RTC to establish the necessary systems and procedures for implementing a working capital program.

Reporting Requirements

FIRREA authorizes the Oversight Board to require from the RTC any reports, documents, and records it deems necessary to carry out its oversight responsibilities. Furthermore, FIRREA imposes reporting requirements on the RTC, including reports to Congress. The RTC, in consultation with the Oversight Board and Congress, will streamline the process for responding to the various reporting requirements imposed on the RTC by Congress, the Oversight Board, and others, to the extent possible.

Independent Audits and Other Appraisals of Operations

FIRREA established an Inspector General (IG) for the RTC. The Inspector General Act of 1978, as amended, requires the IG/RTC to prepare, by April 30 and October 31 of each year, semiannual reports containing certain information for the six-month periods ending on March 31 and September 30, respectively, for submission to Congress. FIRREA also requires the Comptroller General to annually audit the financial statements of the RTC unless the Comptroller General notifies the Oversight Board not later than 180 days before the close of a fiscal year that it will not perform an audit for that fiscal year. In that event, the Oversight Board must contract with an independent certified public accountant to perform the annual audit. (GAO, however, has indicated that agency will conduct an annual report of RTC's financial statement.)

The strategic plan requires the RTC to appraise its operations, including cooperating fully in audits such as those performed by the Inspector General, Comptroller General, and Oversight Board to assist its Board of Directors and management in ensuring an efficient, economical, and effective application of its resources.

G. Specific Questions for Public Comment

While the Oversight Board invites comments on all aspects of the proposed strategic plan, comment on the following key issues is especially requested.

1. The strategic plan identifies four factors that the RTC should consider in establishing its schedule for case resolutions: (1) Deterioration, (2) risk, (3)

recovery of franchise value, and (4) efficient use of staff. How should each of these factors be measured? For example, should deterioration be measured as an absolute level (e.g., total operating losses) or on a relative basis (e.g., operating losses relative to expected cost of resolution or relative to total assets)? Are there other factors that should also be considered? What is the relative importance of each factor?

2. As noted in the background section, there are a number of policy questions regarding the method by which institutions are resolved. What factors should the RTC consider in selecting a particular method of resolution? For example, should the RTC attempt to sell individual branches? What are the advantages and disadvantages of selling the individual components of a thrift association versus selling the thrift as a total unit. Do the costs of administering a piecemeal liquidation approach outweigh the potential benefits of attracting a wider group of interested bidders?

3. There are a variety of forms of financial assistance available for the resolution of insolvent thrift institutions. The Oversight Board has adopted a policy limiting the maturity on assistance creating a financial contingency for the RTC to no greater than six months. Will limiting the terms of such assistance significantly discourage potential acquirers? What types of factors should the Oversight Board and the RTC consider is establishing policies and procedures regarding the use of financial assistance?

4. What methods are available to ensure that all interested bidders are fully informed regarding the bidding procedure and the institutions being marketed?

5. Asset management and disposition involve a number of services, including: property management, loan servicing and workout, accounting and legal services, capital improvements to completed or partially built structures, marketing of loans and properties, and negotiating the terms of sale of these assets. A distinction can be made between asset managers and property managers. Asset managers in the private sector have responsibility for overseeing all of these services on behalf of the owners of portfolios of loans and properties. FIRREA directs the RTC to utilize the private sector for such services—both the overall asset management function and its component services, including property management—if such services are available in the private sector and the RTC determines utilization of such services to be practicable and efficient. The Oversight Board staff requests public comment on the extent to which it is practicable and efficient for the RTC to utilize the private sector for the overall asset management function, rather than for RTC staff to serve as asset managers and contract directly with providers of the component services.

6. FIRREA calls for the RTC to utilize "clearinghouses" to serve as sources of information on eligible residential properties (i.e., properties held by the RTC that are subject to the special marketing provisions specified in the statute). FIRREA permits the following organizations to serve as clearinghouses: state housing finance agencies, the Office of Community Investment (or other comparable division) within the Federal Housing Finance Board, and any national nonprofit organizations that the RTC determines to have the capacity to act as a clearinghouse for information. The Oversight Board staff requests public comment on other functions, in addition to information dissemination, that might be performed for the RTC by these organizations (e.g., qualifying the bidders for eligible residential properties) and the advantages these organizations have in providing these services.

7. FIRREA contains several provisions relating to the objective of maximizing the preservation of the availability and affordability of residential real property for low- and moderate-income individuals. For example, provisions in FIRREA require a right of first refusal for qualified purchasers of eligible properties. FIRREA authorizes the RTC to provide subsidies to qualified purchasers of eligible residential properties to the extent necessary to facilitate purchases of properties by lower income families and to help public agencies and non-profit organizations to meet lower income occupancy requirements for properties which these entities wish to purchase.

The Oversight Board staff specifically requests public comment on strategies for and approaches to implementing the low and moderate income housing provisions of FIRREA. Comments are requested on (1) methods for implementing the FIRREA's right of first refusal provisions, (2) alternative approaches to providing subsidies to enable eligible individuals and public agencies to purchase properties for lower-income housing while at the same time providing maximum return to the Government, (3) the extent and nature of the subsidies that would be most useful, singularly or in combination, under particular circumstances, including but not limited to price discounts or concessionary financing, as well as alternative program designs, (4) the proposed role of government and nongovernment entities, including but not limited to national and regional nonprofit organizations, clearinghouses and other entities in carrying out FIRREA's housing objectives, and (5) the nature of Government assistance to best facilitate the program, *e.g.*, assistance to aid capacity building for nongovernment entities.

III. Goals, Objectives, and Implementation Procedures

A. Case Resolution

Goal: Resolve institutions under RTC jurisdiction in a timely and cost effective manner, while minimizing the negative effects on local financial and real estate markets.

Objective 1. Reduce resolution costs by establishing a resolution schedule for institutions under RTC jurisdiction that to the extent practicable:

- Gives priority to institutions with relatively high rates of deterioration;
- Minimizes the ongoing risk exposure to the RTC;
- Maximizes the recovery of franchise value; and,
- Makes the most efficient use of RTC resources and staff.

Implementation Procedures: A. By November 30, 1989, develop written guidelines and procedures for evaluating each institution under RTC jurisdiction.

B. By December 15, 1989, develop prioritization schedules for institutions to be resolved after January 1, 1990, and update thereafter at least 30 days before the end of each calendar quarter.

Objective 2. Establish procedures for the selection of the preferred method of resolution that is consistent with:

- The requirements in FIRREA that the RTC conduct its operations in a manner that maximizes the net present value of return from the sale or other disposition of institutions and minimizes the amount of any loss realized in the resolution of cases;
- Section 13(c)(4) of the Federal Deposit Insurance Act that prohibits providing assistance in an amount in excess of that required to liquidate an institution unless the RTC determines that the continued operation of the institution is essential to provide adequate banking services in its community;
- Minimizing the ongoing risk exposure to the RTC;
- Minimizing the effects on local real estate and financial markets; and,

• The provisions in FIRREA regarding the continuation of minority-owned institutions.

Implementation Procedures: A. By November 30, 1989, develop written guidelines for the "cost test" calculation required by Section 13(c)(4) of the FDI Act and the loss minimization criteria in FIRREA.

B. By December 15, 1989, identify the factors the RTC will consider in deciding whether non-performing assets of a failed institution will be transferred to the acquiring institution rather than retained by the RTC;

C. By December 15, 1989, develop written policies and procedures consistent with the provisions of FIRREA regarding the continuation of minority-owned institutions.

D. By January 31, 1990, establish written guidelines on the use of various forms of financial assistance available from the RTC.

Objective 3. Develop and implement bidding procedures for selling institutions under RTC jurisdiction that:

• Encourage active participation by all qualified bidders, including minorities and women;

• Provide sufficient time for bidders to file necessary applications and for the chartering, regulatory and insurance agencies to process and evaluate the applications;

• Provide for fair, nondiscriminatory treatment and competition among prospective bidders; and,

• Enable the RTC to notify bidders of a rejected bid within 30 days.

Implementation Procedures: A. As soon as possible, but not later than November 15, 1989, establish and publicize the criteria and procedures for qualifying bidders.

B. By December 29, 1989, develop written plans for soliciting bids from all interested qualified buyers without preference to type of organization, including procedures for encouraging the active participation in the bidding process by women and minorities.

C. By December 29, 1989, develop written procedures for:

• Making available to all interested qualified bidders, to the extent practical, full and consistent information on institutions under RTC jurisdiction and the terms of previous transactions;

• The timely and nondiscriminatory evaluation and selection of offers; and,

• Notifying rejected bidders within 30 days.

D. By March 30, 1990, establish written procedures for accepting and investigating complaints of discrimination or unfair treatment in the consideration of offers.

Objective 4. Establish computer systems and record keeping and reporting procedures necessary to keep the Oversight Board, the President, Congress and the general public informed of the case resolution process.

Implementation Procedures: A. By December 29, 1989, in consultation with the Oversight Board and the Congress, determine the extent of information required to be reported under the provisions of FIRREA and for full and complete disclosure of the case resolution process.

B. By March 30, 1990, develop and implement, to the extent possible, quarterly and other periodic reports that present all required information in clear and consistent formats.

Objective 5. To the extent practicable and efficient, use private sector entities for the management and disposition of institution under RTC jurisdiction.

Implementation Procedures: A. By December 29, 1989, identify areas where private sector entities could be used to facilitate the management and disposition of institutions.

B. Asset Disposition

Goal: To dispose of real estate and other assets in such a way as to maximize the net present value to the RTC while also minimizing the effect of these transactions on local real estate and financial markets.

Objective 1. Maximize the net present value recovery to RTC by establishing appropriate policies, procedures and/or guidelines concerning:

• appropriate methods of disposition;

• asset marketing of pools of assets;

• preserving and enhancing values during the asset management process;

• distressed area designations;

• establishing and defining market values;

• keeping market participants and other interested parties fully informed, to the extent practical, on RTC's inventory and plans for asset sales;

• the active solicitation of offers from minorities and women; and

• the prohibition of discrimination on the basis of race, sex, or ethnic group in the solicitation and consideration of offers.

Implementation Procedures: A. By March 30, 1990, establish comprehensive performance standards and written guidelines on overall asset disposition strategies.

B. By December 29, 1989, provide the Oversight Board with issues and alternatives for providing financing for assets sold.

C. Consult with the Oversight Board and the National and Regional Advisory Boards and revise written guidelines on an ongoing basis as necessary.

D. By December 29, 1989, develop record keeping requirements to facilitate the orderly disposition of assets and to comply with the required semi-annual reporting of RTC's national inventory of real property assets.

E. By December 29, 1989, develop policies and procedures for notifying rejected bidders within 30 days.

F. By December 29, 1989, develop policies and procedures for actively soliciting offers for assets from minorities and women.

G. By December 29, 1989, develop policies and procedures prohibiting discrimination on the basis of race, sex or ethnic group in the solicitation and consideration of offers.

H. By March 30, 1990, establish written procedures for accepting and investigating complaints of discrimination or unfair treatment in the consideration of offers of services to the RTC.

Objective 2. To the extent practicable and efficient, place assets under private control for management and disposition under a program that:

• Employs incentive schemes tailored to maximizing the net present value of the assets to the RTC;

• Assures compliance by contractors with the ethics and conflicts of interest provisions of FIRREA; and

• Assures open and fair competition for asset management and disposition contracts.

Implementation Procedures: A. By December 29, 1989, establish guidelines concerning contracting with public and private entities for performance of asset management and disposition functions.

B. By December 29, 1989, establish guidelines concerning incentive schemes in asset management and disposition contracts.

C. By December 29, 1989, establish procedures to assure compliance by contractors with the ethics and conflicts of interest provisions of FIRREA.

D. By December 29, 1989, establish guidelines to assure open and fair competition for asset management and disposition contracts.

E. By March 30, 1990, establish performance standards for asset management and disposition contracts.

F. By December 29, 1989, provide the Oversight Board with issues and alternatives for implementing the statutory mandates for minority contractors.

Objective 3. Minimize the impact of RTC transactions on local real estate and financial markets.

Implementation Procedures: A. By March 30, 1989, establish written guidelines for determining market values of assets based upon market analysis valuation techniques and sound asset appraisal practices.

B. By March 30, 1990, establish written general guidelines for acceptable disposition prices in non-distressed areas.

C. By March 30, 1990, develop guidelines for designating distressed areas and modifying the "95%-of-market value" rule for minimum disposition prices in distressed areas.

D. Establish an informal working group to consult with other federal agencies that are selling assets in the same geographical markets, as directed by Oversight Board Policy 11, "Interagency Consultation on Asset Sales".

Objective 4. Fully document asset management and disposition activities to ensure compliance with all relevant statutory requirements.

Implementation Procedures: A. By December 29, 1989, in consultation with the Oversight Board and the Congress, determine the extent of information required to be reported under the provisions of FIRREA and for full and complete disclosure of the asset disposition process.

B. By March 30, 1990, develop and implement, to the extent possible, semiannual and other periodic reports that present information in clear and consistent formats.

C. Affordable Housing Provisions

Goal: To dispose of qualifying single and multi-family residential properties in such a way as to maximize the availability and affordability of residential real property for low- and moderate-income households.

Objective 1. Implement the housing and public use provisions of FIRREA in order to maximize the preservation and affordability of housing for low- and moderate-income individuals.

Implementation Procedures: A. By March 30, 1990, establish guidelines for determining which national non-profit organizations have the capacity to act as clearinghouses; develop strategies to ensure the effective and efficient dispersal of information by the clearinghouses, including guidelines for contracting with clearinghouses.

B. By March 30, 1990, develop written guidelines to assure that adequate information, and access to properties, is made available to clearinghouses and eligible buyers on a timely basis.

C. By March 30, 1990, develop a strategy for actively marketing eligible properties for sale to qualifying individuals and organizations.

D. By March 30, 1990, develop and implement procedures for qualifying low- and moderate-income households, non-profit organizations, and for-profit entities for eligibility as preferred bidders on low-income properties.

E. By March 30, 1990, develop guidelines for determining the net realizable market value of eligible properties.

F. By March 30, 1990, develop and implement guidelines for choosing among substantially similar competing bids for single-family properties, consistent with the objectives of the low-income housing provisions and with the statutory directive that the RTC should choose among substantially similar bids for multifamily properties those offers that propose to house more lower income families for longer periods of time.

G. By March 30, 1990, develop procedures for coordinating RTC disposition of eligible residential properties with programs at HUD (including FHA and GNMA), the Farmers Home Administration, and other government agencies and organizations.

H. By June 29, 1990, in consultation with HUD, develop written guidelines for conveyance of assets to state and local government agencies and other agencies and organizations participating in HUD's urban homesteading programs.

I. By June 29, 1990, in consultation with HUD and state housing finance agencies, establish procedures to assure compliance of multi-family residential property owners with the low-income occupancy requirements.

J. By March 30, 1990, provide the Oversight Board with issues and alternatives regarding financing the purchase of low- and moderate-income housing.

K. Consult with the national and regional advisory boards about strategies for meeting the low-income housing goal.

L. Consult with the Federal Housing Finance Board about methods for coordinating, to the extent practical, the affordable housing program and the Community Reinvestment Program.

M. By March 30, 1990, establish guidelines for determining whether eligible properties should be sold individually or in bulk, including an evaluation of savings on disposition costs that may justify price discounts on bulk sales.

N. By March 30, 1990, establish written guidelines for determining if the value of an asset is so low that no reasonable recovery is anticipated. In such cases, the RTC may consider potential public uses, such as housing for lower-income families (including the homeless), urban open space, day care centers for the children of low- and moderate-income families, and other public purposes designated by the Secretary of Housing and Urban Development.

Objective 2. Fully document affordable housing activities to ensure compliance with all relevant statutory requirements.

Implementation Procedures: A. By December 29, 1989, in consultation with the Oversight Board and the Congress, determine the extent of information required to be reported under the provisions of FIRREA and for full and complete disclosure of affordable housing activities.

B. By March 30, 1990, develop and implement, to the extent possible, semiannual and other periodic reports that present information in clear and consistent formats.

D. Conflicts of Interest and Ethical Standards

Goal: Adopt conflicts of interest and ethical standards for RTC employees, officers, advisory board members, contractors, and agents.

Objective 1. Develop regulations and procedures that:

- Govern conflicts of interest, ethical responsibilities, post-employment restrictions and use of confidential information for RTC employees, officers, advisory board members, contractors, and agents and
- Ensure that RTC employees, officers, advisory board members, contractors, and agents meet appropriate competence, experience, integrity, and fitness standards.

Implementation Procedure: Final regulations should be promulgated within 180 days of enactment of FIRREA.

Objective 2. Develop policies and procedures for avoiding political favoritism and undue influence in RTC activities and decisions.

Implementation Procedure: By March 30, 1990, the RTC will develop specific written policies and procedures that draw upon current FDIC policies and that delineate internal operating procedures and methods for responding to inquiries from those who are or have been in political office.

E. External Relations

Goal: Establish and maintain open communications with the Congress, other government offices, and the public

to increase understanding of RTC policies and actions.

Objective 1: Promote public understanding of the RTC's policies and actions.

Implementation Procedures: A. As soon as possible, but no later than March 30, 1990, develop written policies and procedures concerning:

- providing timely responses to public inquiries;
- the RTC's working relationship with the National and Regional Advisory Boards;
- mechanisms for accepting general complaints and mechanisms for accepting complaints of discrimination on the basis of race, sex or ethnic group in the solicitation and consideration of offers, as required by FIRREA.

B. Report to Congress on the operations of the RTC as required. The Congressionally-mandated reporting requirements included in Title V of FIRREA are listed in the Appendix to this plan.

C. Prepare other reports requested by the Congress on a timely basis.

Objective 2: As necessary, consult with other government offices in developing policies and procedures.

Implementation Procedures: As needed, create or participate on interagency working groups to resolve interagency issues.

F. Administration

Goal: Assure that the RTC has sufficient and effectively managed human and financial resources to achieve the mission and the goals of the agency.

Objective 1: Assure that the RTC's resources are effectively managed to respond properly and promptly to the agency's needs and priorities.

Implementation Procedures: A. Annually, develop and present to the Oversight Board an operating plan and budget, including a staffing plan, for the upcoming calendar year. The operating plan and budget for 1990 must be submitted to the Oversight Board 60 calendar days from the issuance date of this strategic plan. Subsequent annual budgets shall be presented to the Oversight Board by November 30.

B. Quarterly, the RTC will reassess the allocation of resources and make adjustments.

Objective 2: Ensure fiscal responsibility for operations.

Implementation Procedures: A. As required by FIRREA, provide the Oversight Board with periodic financing requests for prior approval that detail: a) anticipated funding requirements for operations including, case resolutions, high cost funds replacement, liquidity advances, administrative expenses and asset disposition; b) anticipated payments on previously issued notes, guarantees, other obligations, and related activities; and c) any proposed use of notes, guarantees or other obligations. Such financing requests shall be submitted on a quarterly basis or such other period as the Oversight Board determines necessary.

B. Manage assets under RTC jurisdiction and working capital in order to allow case resolutions to proceed at a rate that minimizes the net present value cost to the RTC and the American taxpayer.

C. As soon as practicable, after approval by the Oversight Board, establish the systems and procedures to implement the working capital program.

Objective 3: Respond to required reports in a timely and efficient manner.

Implementation Procedures: A. By December 29, 1989, in consultation with the Oversight Board and Congress, streamline the process for responding to the various reporting requirements imposed on the RTC by Congress, the Oversight Board, and others, to the extent possible.

B. As required by FIRREA, respond to requests from the Oversight Board for any reports, documents, and records that it deems necessary to carry out its oversight responsibilities.

Objective 4: Appraise operations within the RTC, including cooperating fully in independent audits, to assist the Board of Directors and management in ensuring an efficient, economical, and effective application of resources.

Implementation Procedures: A. By March 30, 1990, the RTC Board of Directors and senior management should develop management processes designed to ensure compliance with policies, laws, rules and regulations. At a minimum, these processes should address planning, policy making, personnel, administration, and management information systems.

B. Cooperate fully in the audits performed by the Inspector General.

C. Cooperate fully in the annual audit performed by the Comptroller General, or other independent certified public accountant selected by the Oversight Board, as required by FIRREA.

D. Cooperate fully in periodic reviews and audits of RTC activities performed by the Oversight Board in fulfilling its responsibility for reviewing the overall performance of the RTC, including its work, management activities, and internal controls, and the performance of the RTC relative to approved budget plans as required by FIRREA.

E. Within 60 days of receiving any audit or review, develop follow-up procedures to ensure that deficiencies and recommendations cited in audits and reviews by the Inspector General, Comptroller General, Oversight Board, public accounting firms or others, receive appropriate corrective action.

Appendix to the Strategic Plan—FIRREA, Title V Reporting and Disclosure Obligations for the Resolution Trust Corporation

The following reporting requirements are from Title V of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Pub. L. No. 101–73, Section 501, 103 Stat. 183, 363–94) ("FIRREA"). All references to Section 21A, are to Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a), as added by Section 501(a) of FIRREA.

1. The RTC shall make available to the public:

- Any agreement by the RTC relating to a transaction that provides assistance pursuant to section 13(c) of the Federal Deposit Insurance Act ("section 13(c)"), not later than 30 days after the first meeting of the Oversight Board after such agreement is entered into; and
- All agreements relating to the RTC's review of prior cases pursuant to subsection (b)(11)(B) of 21A.

"Agreement" includes: (a) All documents that effectuate the terms and conditions of the assisted transaction; (b) a comparison by the RTC of the estimated cost of the transaction with the estimated cost of liquidating the insured institution, and (c) a description of any economic or statistical assumptions on which such estimates are based.

The Oversight Board may withhold public disclosure if it determines by a unanimous vote that disclosure would be contrary to the public interest. A written report containing a full explanation of the reasons for such a determination must be published in the **Federal Register** and transmitted to the House and Senate Banking Committees.

Section 21A(k)(2) (A), (B), and (C)

2. The RTC shall make available to the House and Senate Banking Committees any agreement by the RTC relating to a transaction for which the RTC provides section 13(c) assistance not later than 25 days after the first meeting of the Oversight Board after such agreement is entered into. This requirement is in addition to the RTC's obligation to make such agreements publicly available.

Section 21A(k)(3)(A)

3. The RTC shall submit a report to the Oversight Board and the Congress containing the results and conclusions of the review of 1988 and 1989 FSLIC transactions (pursuant to subsection (b)(11)(B) of 21A) and recommendations for legislative action that the RTC may determine to be appropriate.

Section 21A(k)(3)(B)

4. The RTC's Real Estate Asset Division shall publish before January 1, 1990 an inventory of real property assets of institutions subject to the jurisdiction of the RTC. The inventory must be updated semiannually and must identify properties with natural, cultural, recreational, or scientific values of special significance.

Section 21A(b)(12)(F)

5. Annually, the Comptroller General shall audit the financial statements of the RTC unless the Comptroller General notifies the Oversight Board not later than 180 days before the close of a fiscal year that it will not perform an audit for that fiscal year. In that event, the Oversight Board must contract with an independent certified public accountant to perform the annual audit. All books, records, accounts, reports, files, and property belonging to or used by the RTC, or the Oversight Board, or by an independent certified public accountant retained to audit the RTC's financial statement, shall be made available to the Comptroller General.

Sections 21A(k)(1) (A) and (B)

6. The Inspector General of the RTC shall comply with the reporting requirements imposed on the Inspector General pursuant to the Inspector General Act of 1978, as amended.

Section 501(b) of FIRREA

7. The RTC shall: (i) Document decisions made in the solicitation and selection process and the reasons for the decisions; and (ii) maintain such documentation in the offices of the RTC, as well as any other documentation relating to the solicitation and selection process.

Section 21A(b)(12)(C)

8. The Oversight Board and the RTC shall annually submit a full report of their respective operations, activities, budgets, receipts, and expenditures for the preceding 12-month period. The RTC shall submit the annual report to Congress and the President as soon as practicable after the end of the calendar year for which the report is made, but not later than June 30 of the year following that calendar year. The report shall include:

- Audited statements and such information as is necessary to make known the financial condition and operations of the RTC in accordance with generally accepted accounting principles;
- The RTC's financial operating plans and forecasts (including budgets, estimates of actual and future spending and cash obligations) taking into account the Corporation's financial commitments, guarantees, and other contingent liabilities;
- The number of minority and women investors participating in the bidding process for assisted acquisitions and the disposition of assets and the number of successful bids by such investors; and
- A list of the properties sold to State housing finance authorities (as such term is defined in section 1301 of FIRREA), the individual purchase prices of such properties, and an estimate of the premium paid by such authorities for such properties.

Sections 21A(k)(4) (A), (B), and (C)

9. The Oversight Board and the RTC shall submit to Congress not later than April 30 and October 31 of each calendar year, a semiannual report on the activities and efforts of the RTC, the FDIC, and the Oversight Board for the 6-month period ending on the last day of the month prior to the month in which such report is required to be submitted. The report shall include the following information with respect to the RTC's assets and liabilities and to the assets and liabilities of institutions for which the RTC is or has been the conservator or receiver:

- The total book value of all assets held or managed by the RTC at the beginning and end of the reporting period;
- The total book value of assets that are under contract to be managed by private persons and entities at the beginning and end of the reporting period;
- The number of employees of the Corporation, the Federal Deposit Insurance Corporation, and the Oversight Board at the beginning and end of the reporting period;
- The total amounts expended on employee wages, salaries, and overhead, during such period that are attributable to: (a) contracting with, supervising, or reviewing the performance of private contractors, or (b) managing or disposing of such assets;
- The total amount expended on private contractors for the management of such assets;
- The efforts of the RTC to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the RTC or the Federal Deposit Insurance Corporation;
- The total book value and total proceeds from such assets disposed of during the reporting period;
- Summary data on discounts from book value at which such assets were sold or otherwise disposed of during the reporting period.
- A list of all of the areas that carried a distressed area designation during the reporting period (including a justification for removal of areas from or addition of areas to the list of distressed areas);
- An evaluation of market conditions in distressed areas and a description of any changes in conditions during the reporting period;
- Any change adopted by the Oversight Board in the minimum disposition price and the reasons for such change; and,
- The valuation method or methods adopted by the Oversight Board or the RTC to value assets and the reasons for selecting such methods.

Sections 21A(k)(5) (A) and (B)

10. Before January 31, 1990, the Oversight Board and the RTC shall appear before the House and Senate Banking Committees to:

- Describe the strategic plan established for the operations of the RTC;
- Describe the policies and procedures established or proposed to be established for the RTC, including specific measures taken to avoid political favoritism or undue influence with respect to the activities of the RTC;
- Provide any regulation proposed to be prescribed by the RTC; and
- Provide the proposed case resolution schedule.

Sections 21A(k)(7) (A) and (B)

Daniel P. Kearney,

President and Chief Executive Officer.

[FR Doc. 89-25990 Filed 11-2-89; 8:45 am]

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federal register

Friday
November 3, 1989

Part VII

The President

Executive Order 12695—Delegation of Debt Relief Authority

Federal Register
Vol. 54, No. 212
Friday, November 3, 1989

Presidential Documents

Title 3—

The President

Executive Order 12695

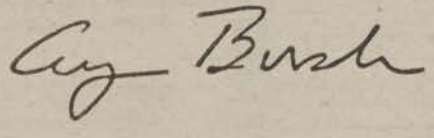
Delegation of Debt Relief Authority

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Foreign Assistance Act of 1961, as amended, and section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268), and in order to delegate certain relief authority to the Administrator of the Agency for International Development, it is hereby ordered as follows:

Section 1. *Delegation of Presidential Authority under Section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989.* Section 1–102(a) of Executive Order No. 12163, as amended, is further amended by (A) deleting "and" at the end of subsection (9), (B) deleting the period and inserting "; and" at the end of subsection (10), and (C) adding a subsection (11) as follows:

"(11) section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), to be exercised by the Administrator of the Agency for International Development within IDCA, with the concurrence of the Development Coordination Committee, as established by section 640B of the Act and as provided for herein.".

Sec. 2. *Effective Date.* This order shall take effect immediately.



THE WHITE HOUSE,
November 1, 1989.

[FR Doc. 89–26182
Filed 11–2–89; 11:12 am]
Billing code 3195–01–M

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