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WHO: The Office of the Federal Register.

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WHERE: Room 15138,
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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
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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.

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[TB-89-005]

RIN 0581-AA19

Tobacco; Fees and Charges for Permissive Inspection and Grading

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Tobacco Inspection Act requires the Secretary to fix and collect fees and charges for the voluntary inspection and certification of tobacco upon request. This action would increase the fees and charges currently in force for permissive grading to reflect increased costs of operating the program. In addition, the fee structure would be revised so that all costs of the service would be charged on an hourly basis. The previous billing fee to users consisted of an hourly rate, to which travel, per diem and adminstrative costs were added. Under the Act, fees collected must cover, as nearly as practicable, the Department's costs for performing the inspection service, including administrative and supervisory costs. This increase does not affect the fee for the mandatory inspection of tobacco sold at designated auction markets.

EFFECTIVE DATE: December 18, 1989.

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

SUPPLEMENTARY INFORMATION: Notice was given (54 FR 31530, July 31, 1989) that the Department proposed to amend the regulations governing the permissive inspection of tabocco to increase the fees and charges for inspection and grading services to those requesting the services.

Interested parties were given an opportunity to comment on the proposed rule. No comments were received. This action makes final the fee increase as proposed.

Permissive inspections as authorized under the Tobacco Inspection Act, are made available to interested parties on a fee basis sufficient to cover the costs, as nearly as practicable, of the services provided, including aministrative and supervisory costs. Authority for these regulations is contained in the Tobacco Inspection Act (7 U.S.C. 511-511q).

The current hourly fee schedule for domestic permissive inspection has been in effect since November 4, 1985, as published in the **Federal Register** (50 FR 45805) on November 4, 1985.

Previously, users of the service were billed the standard hourly rate, plus travel and adminstrative costs. The new hourly fee would include all of the costs of the program in one rate which would include travel, as well as the costs for salary and administrative services. This fee structure would reduce the time and costs of calculating charges by eliminating the need to pro-rate travel expenses when inspectors perform both mandatory and permissive inspections, or permissive inspections for more than one party, on the same trip. The change would also make users' costs more predictable for each use of the service. Past experience indicates that it is unlikely that costs for any user would be significantly more or less over a season than if travel costs were billed separately.

The Department conducts a yearly review of the financial status of this program to determine whether the fee is sufficient. As a result of this review, it has been determined that the present fees are insufficient to cover the Department's costs. The major factors causing the need for additional funds are increases in Government salaries, travel allowances and adminstrative costs since 1985. Therefore, the Department proposed that the base hourly rate of $22.30 be revised to read "hourly rate shall be $29.45," the overtime rate of $26.60 shall be "$35.15," and the Sunday and holiday rate of $33.34 shall be "$44.05."

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

Additionally, in conformance with the provisions of Public Law 96-354, the Regulatory Flexibility Act, full consideration has been given to the potential economic impact upon small business. Few of the entities which would be affected by this rule are small businesses. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having gross annual revenues for the last 3 years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The Administrator, Agricultural Marketing Service, has determined that this action would not have a significant economic impact on a substantial number of small entities. This action would not substantially affect the normal movement of the commodity in the marketplace. Compliance with this revision would not impose substantial direct economic costs, recordkeeping, or personnel workload changes on small entities, and would not alter the market share or competitive positions of small entities relative to the large entities and would in no way affect normal competition in the marketplace. Furthermore, the Department is required by law to fix and collect fees and charges to cover the Department's cost in operating the tobacco inspection program.

List of Subjects in 7 CFR Part 29

Administrative practice and procedure, Tobacco.

Accordingly, the Department hereby amends the regulations under the Tobacco Inspection Act contained in 7 CFR part 29 as follows:

PART 29—TOBACCO INSPECTION

Subpart B—Regulations

1. The authority statement for subpart B continues to read as follows:

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

2. Section 29.123 is amended by revising paragraph (b) to read as follows:

§ 29.123 Fees and charges.

* * * * *

(b) *Domestic permissive inspection and certification.* Fees and charges for inspection at redrying plants and receiving points shall comprise the cost of salaries, travel, per diem, and related expenses to cover the cost of performing the service. Fees shall be for actual time required to render the service calculated to the nearest 30-minute period. The hourly rate shall be $29.45. The overtime rate for service performed outside the inspector's regularly scheduled tour of duty shall be $35.15. The rate of $44.05 shall be charged for work performed on Sundays and holidays. These same fees or charges shall be applicable for hogshead, bale, case, or sample inspections.

* * * * *

Dated: November 14, 1989.

Daniel Haley,

Administrator.

[FR Doc. 89-27069 Filed 11-16-89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 907

[Navel Orange Reg. 694]

Navel Oranges Grown in Arizona and Designated Part 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 17 through November 23, 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.

EFFECTIVE DATE: Regulation 694 (7 CFR part 907) is effective for the period from November 17 through November 23, 1989.

FOR FURTHER INFORMATION CONTACT: Jacquelyn R. Schlatter, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, 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 part 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.

Based on the Committee's marketing policy, the crop and market information provided by the Committee at its November 14, 1989, meeting, and other information available to the Department, 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 required by the Committee from 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.

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.

The Committee met publicly on November 14, 1989, in Visalia, California, to consider the current and prospective conditions of supply and demand and recommended, by a vote of eight to one with one abstention, that 1,500,000 cartons is the quantity of navel oranges deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations was compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, preceding week's shipments and shipments to date, crop conditions, weather and transportation conditions, and a reevaluation of the prior week's recommendation in view of the above.

The Department reviewed the Committee's recommendation in light of the Committee's projections set forth in its 1989–90 marketing policy. This recommended amount is 50,000 cartons less than estimated in the tentative shipping schedule adopted by the Committee on October 3, 1989. Of the 1,500,000 cartons, 1,440,000 are allotted for District 1, and 60,000 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 November 9, 1989, shipments of navel oranges to fresh domestic markets, including Canada, totaled 1,060,000 cartons compared with 520,000 cartons shipped during the week ending on November 10, 1988. Export shipments totaled 242,000 cartons compared with 23,000 cartons shipped during the week ending on November 10, 1988, and processing and other uses accounted for 365,000 cartons compared with 152,000 cartons shipped during the week ending on November 10, 1988.

Fresh domestic shipments to date this season total 2,312,000 cartons compared with 900,000 cartons shipped by this time last season. Export shipments total 362,000 cartons compared with 23,000 cartons shipped by this time last season. Processing and other use shipments total 653,000 cartons compared with 290,000 cartons shipped by this time last season.

For the week ending on November 9, 1989, handlers in District 1 had net undershipments of 43,000 cartons and handlers in District 3 had net overshipments of 2,000 cartons. Thus, undershipments of 41,000 cartons will be carried over into the week ending on November 16, 1989. Total adjusted allotment for the week ending on November 16, 1989, is 1,637,000 cartons. Estimated shipments for the week ending on November 16, 1989, are 1,675,000 cartons.

The average f.o.b. shipping point price for the week ending on November 9, 1989, was $9.23 per carton based on a reported sales volume of 811,000 cartons compared with last week's average of $9.53 per carton on a reported sales volume of 548,000 cartons. The season average f.o.b. shipping point price to date is $9.56 per carton. The average f.o.b. shipping point price for the week ending on November 10, 1988, was $10.92 per carton; the season average f.o.b. shipping point price at this time last season was $10.46 per carton.

The Committee reports that the demand for navel oranges ranges from good to excellent for the larger sizes (88's and larger) and from moderate to light for the smaller sizes (113's and smaller).

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 $4.33 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 17 through November 23, 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 an estimated 1,685,000 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 November 14, 1989, and this action needs to be effective for the regulatory week which begins on November 16, 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, Navel oranges.

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

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 907.994 is added to read as follows:

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

§ 907.994 Navel Orange Regulation 694.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from November 17 through November 23, 1989, is established as follows:

(a) District 1: 1,440,000 cartons;
(b) District 2: unlimited cartons;
(c) District 3: 60,000 cartons;
(d) District 4: unlimited cartons.

Dated: November 15, 1989.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 89–27219 Filed 11–16–89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Reg. 692]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 692 establishes the quantity of fresh California-Arizona Lemons that may be shipped to market at 260,000 cartons during the period from November 19 through November 25, 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.

EFFECTIVE DATE: Regulation 692 (7 CFR part 910) is effective for the period from November 19 through November 25, 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 won 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 November 14, 1989, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and, by a 12–1 vote, recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that overall demand for lemons is good.

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 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 910.992 is added to read as follows:

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

§ 910.992 Lemon Regulation 692.

The quantity of lemons grown in California and Arizona which may be handled during the period from Novermber 19, 1989, through November 25, 1989, is established at 260,000 cartons.

Dated: November 15, 1989.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 89–27218 Filed 11–16–89; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM89–12–000; Order No. 516]

Final Regulations Clarifying the Filing Obligations for Part 284 Transportation and Sale of Natural Gas

Issued November 9, 1989.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is revising its regulations to clarify that the requirements in 18 CFR part 154 to file contracts, service agreements and related information do not apply to the sale or transportation of natural gas under 18 CFR part 284.

EFFECTIVE DATE: This final rule is effective November 9, 1989.

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

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

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

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

I. Introduction

This final rule revises 18 CFR part 154 to clarify that the requirements in part 154 to file contracts, service agreements and related information do not apply to the sale or transportation of natural gas under 18 CFR part 284. This instant final rule is necessary to correct the inconsistency between parts 154 and 284 regarding what information must be filed with the Commission for such sales and transportation as well as when that information must be filed.

II. Background

The Commission has adopted a series of regulations in Part 284 to accommodate the need for special kinds of transportation and sales authority for which some of the traditional rate rgulations of part 154 are unsuited. The Part 284 regulations govern certain transportation by interstate and intrastate pipelines (subparts B and C), the assignment of contractual rights to receive surplus natural gas (subpart E), blanket certificates for certain transportation services (subpart G), transportation on the Outer Continental Shelf (subparts H and K), and emergency natural gas sale, transportation and exchange transactions (subpart I). These regulations were largely adopted or comprehensively revised by Order Nos. 436, 500, and 509. [1]

The orders authorized the provision of sale and transportation services that are, to a large extent, self-implementing. Almost all of these subparts contain specific reporting and filing requirements that are compatible with and facilitate the regulatory scheme involved.[2] Because the part 284 sale and transportation services are largely self-implementing (as long as the overall regulatory prerequisites for the service are satisfied), the reports required to be made to the Commission are due after a particular service is made. For example, under § 284.223(f), a pipeline providing a transportation service under a blanket certificate must file with the Commission an initial full report, describing the service provided, within 30 days after commencing the service. This initial report need contain only the identities of the parties, the dates of commencement and projected termination of the service, the estimated total and maximum daily quantities of natural gas to be transported, the points between which the gas is to be transported, and the location of the original source and ultimate delivery point of the gas.[3]

In contrast, the filing provisions of part 154 are applicable to pipeline rates in general, were established long before the regulatory systems created under part 284, and were designed to be compatible with traditional pipeline rates and services, where prior notification to the Commission and the filing or detailed information was required before a particular sale or transportation service could be rendered. For example, §§ 154.1 and 154.22 require that all contracts affecting or relating in any manner to a rate schedule for any sale or transportation of natural gas must be filed with the Commission not less than 30 nor more than 60 days prior to the proposed effective date. Section 154.62 requires that executed service agreements must be accompanied by various information, including an estimate of sales and revenues. Section 154.63 requires that any change in an executed service agreement already on file with the Commission must be filed with specified information, including a statement of the nature, reasons, and basis for the proposed change and a comparative statement of revenues for the revised service agreement. Section 154.64 requires that a notice of cancellation must be given at least 30 days prior to the proposed termination date, and detailed information must accompany the notice, including the reasons for the cancellation or termination.

[1] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 436, 50 FR 42,408 (Oct. 18, 1985), FERC Stats. & Regs., (Regulations Preambles 1982–1985), ¶ 30,665 (1985), modified Order No. 436–A, 50 FR 52,217 (Dec. 23, 1985), FERC Stats. & Regs., (Regulations Preambles 1982–1985), ¶ 30,675 (1985), modified further, Order No. 436–B, 51 Fed. Reg. 6398 (Feb. 24, 1986), III FERC Stats. & Regs. ¶ 30,688, reh'g denied, Order No. 436–C, 34 FERC ¶ 61,404 (1986), reh'g denied, Order No. 436–D, 34 FERC ¶ 61,405 (1986), reconsideration denied, Order No. 436–E, 34 FERC ¶ 61,403 (1986), vacated and remanded sub nom. *Associated Gas Distributors* v. *FERC*, 824 F.2d 981 (D.C. Cir. 1987). On August 7, 1987, the Commission issued Order No. 500, which promulgated interim regulations in response to the Court's remand. Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 500, 52 Fed. Reg. 30,334 (Aug. 14, 1987), III FERC Stats. & Regs. ¶ 30,761 extension granted, Order No. 500–A, 52 FR 39,507 (Oct. 22, 1987), FERC Stats. & Regs., ¶ 30,770, *modified* Order No. 500–B, 52 FR 39,630 (Oct. 23, 1987), III FERC Stats. & Regs., ¶ 30,772, modified further, Order No. 500–C 52 FR 48,986 (Dec. 29, 1987), III FERC Stats. & Regs., ¶ 30,786, *modified further*, Order No. 500–D, 53 Fed. Reg. 8439 (Mar. 15, 1988), III FERC Stats. & Regs., ¶ 30,800, reh'g denied, Order No. 500–E, 43 FERC ¶ 61,234 (May 6, 1988). Interpretation of, and Regulations Under, Section 5 of the Outer Continental Shelf Lands Act (OCSLA) Governing Transportation of Natural Gas by Interstate Natural Gas Pipelines on the Outer Continental Shelf, Order No. 509, 53 FR 50,925 (Dec. 19, 1988), III FERC Stats. & Regs. ¶ 30,842, reh'g denied, Order No. 509–A, 54 FR 8301 (Feb. 28, 1989), III FERC Stats. & Regs. ¶ 30,848.

[2] 18 CFR 284.106, 284.126, 284.148, 284.165, 284.223(f), and 284.270. Subpart K uses the reporting requirements of subpart G for blanket certifictes (§ 284.303), and subpart H has been superseded by Subpart K.

[3] Section 284.223(f) also requires subsequent reports and an annual report, as well as notification of termination of the service. Consistent with the overall scheme of part 284, however, these reports reflect transactions that have already been completed. For example, a notification of termination of a service must be filed not later than 30 days after the service has ended. A pipeline need not provide any reasons for the termination.

The filing requirements of part 154 are therefore clearly inconsistent with the filing requirements of part 284. The filing requirements of part 154 are also incompatible with the regulatory scheme of part 284, which grants to pipelines the flexibility they need to respond to changing market forces and the exigencies of particular situations, like emergencies. In this context, giving the type of pre-service notification required by part 154 is impracticable or impossible. Likewise, the elaborate informational filings required by part 154 are simply not needed by the Commission to exercise its supervisory responsibilities over the gas markets for part 284 transactions and constitute an unnecessary regulatory burden on the industry. The rulemakings that adopted part 284 fully spell out the rate reports and filings that pipelines must make, including when the filings must be made, if the pipelines render service qualifying under the subject to part 284.

The Commission has received requests for waiver of the filing requirements of part 154 from pipelines providing service under part 284.[4] These waiver requests impose an unnecessary workload on the pipelines and the Commission's staff and serve no useful purpose. The Commission understands that a significant number of pipelines do not (and cannot) fully comply with all of the part 154 filing requirements for part 284 services. There exists confusion in the industry as to which filing requirements, those of part 154 and/or those of part 284, apply to services rendered under part 284.

III. The Final Rule

For the reasons set forth above, the final rule adopted herein clarifies that the requirements of part 154 governing the filing of contracts, service agreements and related information do not apply to the sale or transportation of natural gas pursuant to part 284. The clarification is effected by adding a sentence at the end of § 154.1(a). The clarification will eliminate the confusion that has arisen from the inadvertent inconsistency between parts 154 and 284.

IV. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement must be prepared for any Commission action that may have a significant adverse effect on the human environment.[5] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[6] No environmental analysis is necessary for adoption of this rule because it is merely procedural and corrective in nature, clarifying existing filing requirements.[7]

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) [8] requires rulemakings to either contain a description and analysis of the impact the rule will have on small entities or certify that the rule will not have a significant economic impact on a substantial number of small entities. The final rule, by clarifying that certain filing requirements are inapplicable, will have the effect of reducing the regulatory burden on pipelines, including those that may be considered small entities. The Commission therefore certifies pursuant to the Regulatory Flexibility Act [9] that this rule will not have a "significant economic impact on a substantial number of small entities."

VI. Paperwork Reduction Act

The Paperwork Reduction Act [10] and the Office of Management and Budget's (OMB) [11] regulations require that OMB approve certain information collection requirements imposed by agency rules. This final rule, by clarifying that particular filing requirements do not apply to certain transactions, reduces the information collection requirements in part 154. The Commission is notifying the Office of Management and Budget that this information collection requirement has been reduced.

VII. Administrative Findings and Effective Date

The Administrative Procedure Act (APA) [12] specifies that notice and comment for rulemaking are not required when the "agency for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." The Commission finds that notice and comment are unnecessary for this rulemaking, as it merely cures an inadvertent inconsistency in the regulations by confirming that the later-adopted reporting and filing requirements in part 284, which are specific to transactions performed under the authority of part 284, take precedence over the earlier-adopted, more general requirements in part 154.

This final rule is procedural in nature. The Commission finds good cause to make this rule effective immediately upon issuance. This final rule is therefore effective November 9, 1989.

List of Subjects in 18 CFR Part 154

Alaska, Natural Gas, Pipelines, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends part 154, chapter I, title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Lois D. Cashell,

Secretary.

PART 154—RATE SCHEDULES AND TARIFFS

1. The authority citation for part 154 continues to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717w (1982); Department of Energy Organization Act, 42 U.S.C. 7102–7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142; Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982).

2. In § 154.1, paragraph (a) is amended by adding the following sentence at the end:

§ 154.1 Application; obligation to file.

(a) * * * The reporting requirements of part 154 governing the filing of contracts, service agreements and related information do not apply to the sale or transportation of natural gas pursuant to part 284.

* * * * *

[FR Doc. 89–27019 Filed 11–16–89; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 388

[Docket No. RM87–21–001; Order No. 448–A]

Revision of Freedom of Information Act Rules; Technical Amendment

Issued November 9, 1989.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; technical amendment.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing this technical amendment to make one correction to Part 388 of the

[4] See, for example, the compliance filing of Sabine Pipe Line Co., Docket No. CP86–522–010, filed January 27, 1989.

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

[6] 18 CFR 380.4 (1988).

[7] 18 CFR 380.4(a)(1) and 380.4(a)(2)(ii) (1988).

[8] 5 U.S.C. 601–612 (1982).

[9] 5 U.S.C. 603, 605(b) (1982).

[10] 44 U.S.C. 3501–3520 (1982).

[11] 5 CFR 1320.13 (1988).

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

Commission's regulations. On January 14, 1988, the Commission issued a final rule in Order No. 488. In the final rule the word "confidential" was replaced by the word "privileged" in numerous places in § 388.112 of the Commission's regulations. This technical correction now replaces that word in the one place where it was inadvertently overlooked when the final rule was issued.

EFFECTIVE DATE: This technical correction is effective November 9, 1989.

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

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

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

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

The Federal Energy Regulatory Commission (Commission) is making one technical correction to part 388 of the Commission's regulations. The Commission is correcting § 388.112(c)(1)(i) by removing the word "confidential" and replacing it with the word "privileged" in order to conform the meaning of this subsection with the meaning of the remainder of § 388.112, which deals with requests for privileged treatment of documents submitted to the Commission.[1] In the final rule, issued on January 14, 1988, the word "confidential" was changed to "privileged" in appropriate places in § 388.112.[2] This technical correction now changes that word in the one place where it was inadvertently overlooked in the final rule.

This technical correction is effective November 9, 1989.

List of Subjects in 18 CFR Part 388

Freedom of Information.

In consideration of the foregoing, the Commission amends part 388, chapter I, title 18 of the Code of Federal Regulations as set forth below.

By the Commission.

Lois D. Cashell,

Secretary.

PART 388—INFORMATION AND REQUESTS

1. The authority citation for part 388 continues to read as follows:

Authority: Freedom of Information Act, 5 U.S.C. 552 (1982) as amended by Freedom of Information Reform Act of 1986; Administrative Procedure Act, 5 U.S.C. 551–557 (1982); 5 U.S.C. 301–305 (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982).

§ 388.112 [Amended]

2. In § 388.112, in paragraph (c)(1)(i), the word "confidential" is removed and the word "privileged" is inserted in its place.

[FR Doc. 89–27020 Filed 11–16–89; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 122

[T.D. 89–96]

Implementation of the Air Carrier Smuggling Prevention Program

AGENCY: U.S. Customs Service, Treasury.

ACTION: Interim rule, solicitation of comments.

SUMMARY: The Anti-Drug Abuse Act of 1988 (19 U.S.C. 1584 note) directed that the Customs Service implement a new program to be known as the Air Carrier Smuggling Prevention Program (ACSPP) as an amendment of the Customs Regulations. This program is intended to be a logical extension of the Customs expanded interdiction program, and is to exist for a 2-year test period. This interim amendment establishes the ACSPP for a 2-year period at the Miami, Dallas, and Los Angeles International Airports. Participation in the program will be optional for carriers. In order to be considered for the program, a carrier will have to provide Customs with a comprehensive security plan to assist in preventing illicit drugs from entering the United States. Those carriers which do apply and are accepted will be accorded the appropriate consideration should any contraband violation occur. The ACSPP is intended to increase the cooperative effort which prevails between Customs and the carriers. All comments received will be reviewed and considered before the final regulations are issued.

DATES: Interim rule effective December 18, 1989; comments must be received on or before January 16, 1990.

ADDRESSES: Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service, Room 2119, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Gary Heffner, Office of Inspection and Control, U.S. Customs Service (202) 566–2140.

SUPPLEMENTARY INFORMATION:

Background

An important part of the Customs Service efforts to eliminate the importation of narcotics into the United States is the cooperation of the major air and sea carriers. As a result of increased penalties and possible seizure of conveyances with the enactment of the Anti-Drug Abuse Act of 1986, Customs and many of the major carriers have been working closely together with other law enforcement agencies to combat the flow of illegal drugs. Thus far, cooperation with air carriers has been reflected by the creation of initiatives on three levels which describe the relationships between Customs and the air carriers. At the lowest level, there is no official

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[1] The word "confidential" which appears twice in § 388.112(f) is not changed because the word is used as part of the term "confidential commercial information", which term is defined in Executive Order No. 12,600 and is included within the scope of § 388.107(d) as "trade secrets and commercial or financial information obtained from a person and privileged or confidential." This is also Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552 (1982), as amended by the Freedom of Information Reform Act of 1986, Pub. L. 99–570, sections 1801–1804, 100 Stat. 3207, 3207–48 (1986).

[2] Order No. 488, 53 FR 1469 (Jan. 20, 1988); III FERC Stats. & Regs. ¶ 30,789 (Jan. 14, 1988).

agreement between Customs and the carriers. This level consists of primarily low-risk flights or carriers. The feeling between the parties is that, at present, compliance with existing regulations offers adequate protection for the carriers and provides sufficient safeguards to Customs and the American people.

A second level of the air carrier initiative consists of formal agreements between the air carriers and Customs. At this level, the carriers are engaged in flights on which there is a higher risk that attempts will be made to smuggle illegal narcotics. At this level, the air carriers have agreed with Customs that they will take active measures to prevent their conveyances from being used to facilitate smuggling. To this end, they and Customs have developed procedures which are intended to reduce the chances that narcotics will be on or in planes operated by the carrier.

On May 1, 1989, Customs announced a new "Super Carrier Initiative Agreement" with the aim of further uniting government and industry efforts to eliminate commercial carriers as the means of transporting narcotics into the United States. This program was designed to meet the needs of high risk carriers that have made significant efforts to prevent smuggling aboard their conveyances but continue to experience difficulties resulting in mounting penalties and seizures of their conveyances. By signing the Super Carrier Initiative Agreement, the carrier agrees to impose strict security standards at foreign and domestic terminals and facilities and aboard their conveyances. In return, Customs will provide enhanced security awareness training, foreign and domestic site surveys, and assistance in identifying potential smuggling opportunities. Should illegal drugs continue to be found aboard the conveyance, the degree of compliance with the terms of the agreement will be considered in assessing penalties or seizing the conveyance.

Air Carrier Smuggling Prevention Program

In section 7369 of the Anti-Drug Abuse Act of 1988 (19 U.S.C. 1584 note), Congress sought to reinforce the cooperative efforts of Customs and the air carriers by directing the Customs Service to establish a 2-year demonstration program at three international airports classified as high risk. This program has been identified as the Air Carrier Smuggling Prevention Program (ACSPP).

The 2-year demonstration of the ACSPP will be conducted at the Miami, Dallas, and Los Angeles International Airports. These sites vary in size, airport configuration, and geographic proximity to narcotic source countries, as well as in level of risk, and will provide an adequate assessment of this program. To expedite this program, Customs is willing to work with carriers and accept applications to enter into this program prior to the effective date of this interim regulation.

As an integral element in the ACSPP, the carrier must continue to stress the importance of its security measures at the point of departure. It must be understood that the ACSPP is designed to prevent drugs from entering the United States by instituting preventive procedures at the point of departure.

Carriers who wish to participate in the program will have to submit detailed compliance programs (Standard Operating Procedures (SOPs)) to Customs for review and approval prior to their being accepted into the program. These SOPs will have to detail security procedures the carriers will take to reduce the possibility of their aircraft being used by smugglers. These procedures will have to include employee awareness programs, passenger baggage and cargo integrity procedures, as well as physical security measures which will have to be taken at both foreign and domestic terminals. These measures will not affect any Customs right to conduct searches or inspections of passengers, cargo and conveyances. The interim amendment to part 122 of the Customs Regulations sets forth the establishment of the ACSPP, and the criteria and methods which Customs will utilize in determining an air carrier's eligibility to participate in the program. The interim regulation is being issued after consultation with the Secretary of Transportation.

Comments

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

Inapplicability of Notice

Congress directed that the ACSPP be established within 6 months after enactment of the Anti-Drug Abuse Act of 1988. In order to comply with the Congressional mandate that the program be implemented within a short time period, it is determined, pursuant to 5 U.S.C. 553(b)(B), that notice of the interim regulation is impracticable. However, before adopting final regulations, consideration will be given to all written comments timely submitted.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), do not apply.

Executive Order 12291

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

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in this regulation has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1515-____.

Comments concerning the collection of information and accuracy of estimated average annual burden, and suggestions for reducing the burden should be directed to the Office of Management and Budget, Paperwork Reduction Project (1515-____), Washington, DC 20503, with copies to the U.S. Customs Service, Paperwork Management Office, at the address previously specified.

The collection of information in the regulation is in § 122.173. This information is required by Customs to determine whether applicants to the ACSPP have developed procedures which Customs believes will be sufficient to attain the objectives of the program. Customs will use the information to verify the adequacy and completeness of plans and procedures participating carriers will implement to insure that the ACSPP operates as intended by both the Congress and the Customs Service. The likely respondents are commercial air carriers engaged in international commerce with arrival

destinations at one or more of the designated airports.

Estimated total annual reporting and/or recordkeeping burden: 1,800 hours.

Estimated average annual burden per respondent and/or recordkeepers: 60 hours.

Estimated number of respondents and recordkeepers: 30.

Estimated annual frequency of responses: 1.

Part 178, Customs Regulations (19 CFR part 178), which lists the information collections contained in the regulations and the control number assigned by OMB will be amended accordingly when the final amendment to the regulation is adopted.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 122

Air carriers, Air transportation, Aircraft, Airports.

Amendment to the Regulations

Part 122 of the Customs Regulations (19 CFR part 122) is amended as set forth below:

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for part 122, Customs Regulations (19 CFR part 122), is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 58b, 66, 1433, 1436, 1459, 1590, 1624, 1644, 49 U.S.C. App. 1509. Subpart R, also issued under 19 U.S.C. 1584 note.

2. Part 122 is amended by adding a new subpart R consisting of §§ 122.171 through 171.176, to read as follows:

Subpart R—Air Carrier Smuggling Prevention Program

Sec

Subpart R—Air Carrier Smuggling Prevention Program

§ 122.171 Description of program.

The Air Carrier Smuggling Prevention Program (ACSPP) is designed to enlist the cooperation of the air carriers in Customs efforts to prevent the smuggling of controlled substances. If carriers develop and adopt thorough and complete internal security procedures at all terminals, both foreign and domestic, the opportunity for their conveyances being used as conveyances for controlled substances will be greatly reduced. Participation in the program is voluntary. However, should a controlled substance be introduced into the United States on a conveyance owned or operated by a participating carrier, the carrier will be exempt from seizure and penalty should it satisfy the provisions of § 122.175 of this part. The program will be operational for a period of 2 years from December 18, 1989, pursuant to 19 U.S.C. 1584 note.

§ 122.172 Eligibility.

Any carrier whose international flights arrive at, or depart from, any of the designated test airports, Miami International Airport, Dallas-Fort Worth International Airport, or Los Angeles International Airport, is eligible for participation in the ACSPP.

§ 122.173 Application procedures.

(a) *Application.* To participate in the ACSPP, an eligible carrier will submit an application to the Assistant Commissioner, Office of Inspection and Control, U.S. Customs Service, in which the carrier must certify that it has developed and will continue to maintain procedures which are designed to safeguard both employee and cargo integrity. Copies of the procedures developed by the carrier must accompany the application.

(b) *Approval criteria.* Upon receipt, each application will be reviewed to determine whether the procedures contained therein meet the requirements of the ACSPP. In determining whether a SOP submitted by an applicant carrier contains sufficient detail to assure the proper level of care and diligence required under the provisions of the ACSPP, the Assistant Commissioner, Inspection and Control, will verify that, at a minimum, procedures are in place which:

(1) Assure positive security background checks are performed on all carrier employees, both those employed within the United States and without, to the extent permitted by law;

(2) Assure a system of positive baggage and cargo identification is employed at all terminals used by the carrier;

(3) Assure the carrier employs a system to assure that no unmanifested cargo or mismanifested cargo is placed on board the conveyance or entered into the United States on any of their conveyances;

(4) Assure the carrier has specific procedures through which it will notify Customs should it discover any unmanifested or mismanifested cargo on any of its conveyances or in any area subject to its control;

(5) Assure the carrier has an effective and practical employee awareness training program in place; and

(6) Assure thorough security measures are implemented at all foreign departure points.

(c) *Acceptance and notification.* Upon proper verification by Customs that a carrier has certified in writing that it will be conducting its operations pursuant an approved SOP, the carrier will be notified that its application to the ACSPP has been accepted. Acceptance into the ACSPP is made with the understanding and expectation that the carrier will continue to act with the highest degree of care and diligence required under law and that it will abide by and perform all elements of its approved SOP.

§ 122.174 Operational procedures.

(a) *Participating carriers.* Participating carriers are required to:

(1) Provide security personnel for every international arrival to conduct the following procedures:

(i) Perform a thorough internal and external search of the arriving aircraft;

(ii) Maintain total control of all passengers and cargo being discharged from the aircraft to either the Customs passenger hall or to the carrier's cargo facility;

(iii) Verify that all cargo on aircraft is properly manifested, marked and weighed and that piece counts are properly performed; and

(iv) Maintain physical security of the aircraft and ramp access to the aircraft while it is being offloaded.

(2) Provide security personnel at the foreign point of departure for every international departure scheduled to arrive at an ACSPP designated airport to conduct the following procedures:

(i) Perform a thorough internal and external search of the departing aircraft;

(ii) Maintain total control of all passengers and cargo being loaded on the aircraft from either the passenger terminal or the carrier's cargo facility;

(iii) Verify that all cargo placed on the aircraft is properly manifested, marked and weighed and that piece counts are properly performed;

(iv) Maintain physical security of the aircraft and ramp access to the aircraft while it is being loaded; and

(v) Maintain similar positive security measures at all foreign intermediate airports prior to the arrival of the aircraft at an ACSPP designated airport.

(b) *U.S. Customs.* U.S. Customs will:

(1) Retain all current options available regarding the search and inspection of any and all passengers, cargo and conveyances; and

(2) Provide training to carrier personnel to assist the development of proper operational procedures.

§ 122.175 Exemption from penalties.

Should a controlled substance be introduced into the United States or discovered aboard an aircraft owned or operated by a participating carrier, or in cargo carried by a participating carrier, the participating air carrier shall be considered to have met the test of highest degree of care and diligence required under law, and shall not be subject to the penalty or seizure provisions of the Tariff Act of 1930, as amended, if the carrier establishes at an oral presentation before the district director or his designee, that the carrier was not grossly negligent nor engaged in willful misconduct, and that it had complied with all the provisions of these regulations.

§ 122.176 Removal from ACSPP.

(a) *Grounds for removal and suspension from ACSPP.* (1) The Assistant Commissioner, Inspection and Control, shall revoke the privilege of operating as a member of the ACSPP if:

(i) Acceptance into the program was gained through fraud or the misstatement of a material fact; or

(ii) An officer of the carrier or corporation which has been accepted into the program is convicted of a felony, or is convicted of a misdemeanor involving theft, smuggling, or theft-connected or Customs related crime.

(2) The Assistant Commissioner, Inspection and Control, may revoke or suspend the privilege of operating as a member of the ACSPP if the carrier has been notified in writing that it has been found in noncompliance with a provision of the program and after having been given a reasonable opportunity, has failed to correct the noncompliance. Examples of noncompliance include:

(i) Refusing or neglecting to obey a proper order of a Customs officer or any Customs order, rule, or regulation relative to the carrier's cooperation within the program;

(ii) Failing to retain merchandise which has been designated for examination by Customs;

(iii) Failing to provide secure facilities or properly safeguard merchandise within the carrier's area of control; and

(iv) Failing to observe any of the procedures which the carrier had set forth in the SOP which served as the basis for its acceptance into the program.

(b) *Notice and appeal.* The Assistant Commissioner, Office of Inspection and Control, shall suspend or remove participants from the ACSPP by serving notice of the proposed action upon the carrier in writing. The notice shall be in the form of a statement specifically setting forth the grounds for suspension or removal and shall provide the carrier with notice that it may file a written notice of appeal from suspension or revocation within 10 days following receipt of the notice of revocation or suspension. The notice of appeal shall be filed in duplicate with the office of the Assistant Commissioner, Inspection and Control, and shall set forth the response of the carrier to the statement of the Assistant Commissioner.

(c) *Notice of decision.* The Assistant Commissioner, Inspection and Control, shall notify the participating carrier in writing of the decision concerning continued participation in the program.

Michael H. Lane,

Acting Commissioner of Customs.

Approved: October 26, 1989.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 89-27025 Filed 11-16-89; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 89F-0107]

Indirect Food Additives; Adhesives and Components of Coatings

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of bentonite, modified with benzyl (hydrogenated tallow alkyl) dimethyl ammonium chloride as a modifier in resinous and polymeric coatings for use in contact with food. This action is in response to a petition filed by United Catalysts, Inc.

DATES: Effective November 17, 1989; written objections and requests for a hearing by December 18, 1989.

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

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 2, 1989 (54 FR 18700), FDA announced that a food additive petition (FAP 8B4112) had been filed by United Catalysts, Inc., P.O. Box 32370, Louisville, KY 40232, proposing that § 175.300 Resinous and polymeric coatings (21 CFR 175.300) be amended to provide for the safe use of bentonite, modified with benzyl (hydrogenated tallow alkyl) dimethyl ammonium chloride, as a rheological modifier in resinous and polymeric coatings for use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that 21 CFR 175.300 should be amended in paragraph (b)(3)(xxxiii) as set forth below.

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

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

Any person who will be adversely affected by this regulation may at any time on or before December 18, 1989, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any

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

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR part 175 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

§ 175.300 [Amended]

2. Section 175.300 is amended in paragraph (b)(3)(xxxiii) by alphabetically adding a new entry to read as follows:

§ 175.300 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(xxxiii) * * *

Bentonite, modified by reaction with benzyl dimethyl alkyl ammonium chloride, where the alkyl groups are derived from hydrogenated tallow (CAS Reg. No. 71011-24-0). For use only as a rheological agent in coatings intended to contact food under repeated use conditions.	

* * * * *

Dated: November 8, 1989.

Richard J. Ronk,

Deputy Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-26987 Filed 11-16-89; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 175

[Docket No. 88F-0227]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of bentonite, modified by reaction with sodium stearate and benzyl dimethyl alkyl ammonium chloride, where the alkyl groups are derived from hydrogenated tallow; and for the safe use of hectorite, modified by reaction with a mixture of benzyl methyl dialkyl ammonium chloride and dimethyl dialkyl ammonium chloride, where the alkyl groups are derived from hydrogenated tallow, for use as rheological agents in resinous and polymeric coatings complying with 21 CFR 175.300 when used on repeated-use containers. This action is in response to a petition filed by N. L. Industries, Inc.

DATES: Effective November 17, 1989; written objections and requests for a hearing by December 18, 1989.

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

FOR FURTHER INFORMATION CONTACT: Gillian Robert-Baldo, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 26, 1988 (53 FR 28069), FDA announced that a food additive petition (FAP 8B4082) had been filed by N. L. Industries, Inc., P.O. Box 1090, Hightstown, NJ 08520, proposing that § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) be amended to provide for the safe use of bentonite clay modified by reaction with benzyl dimethyl hydrogenated tallow alkyl ammonium chloride and sodium stearate, and for the safe use of hectorite clay modified by reaction with a mixture of benzyl methyl bis(hydrogenated tallow alkyl) ammonium chloride and dimethyl bis(hydrogenated tallow alkyl) ammonium chloride as pigments in resinous and polymeric coatings for use on repeated-use bulk food containers.

FDA has evaluated data in the petition and other relevant material. During the course of its evaluation, FDA determined that the additives would be more accurately described as "bentonite, modified by reaction with sodium stearate and benzyl dimethyl alkyl ammonium chloride, where the alkyl groups are derived from hydrogenated tallow;" and as "hectorite, modified by reaction with a mixture of benzyl methyl dialkyl ammonium chloride and dimethyl dialkyl ammonium chloride, where the alkyl groups are derived from hydrogenated tallow." Therefore, the agency is using these names in this final rule.

The agency has also determined in its review that the additives are not pigments but instead are rheological agents used in coatings to control flow, viscosity, and pigment suspension, and that it would be more appropriate to regulate the proposed use of the additives in § 175.300(b)(3)(xxxiii) as rheological additives rather than in § 175.300(b)(3)(xxvi). The petitioner agrees with this finding. The agency further concludes that the proposed use of these additives is safe.

Therefore, the agency is amending § 175.300(b)(3)(xxxiii) to include two new entries which identify the two substances and prescribe limitations for their safe use as rheological agents in resinous and polymeric coatings.

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

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

Any person who will be adversely affected by this regulation may at any time on or before December 18, 1989, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the

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

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR part 175 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 175.300 is amended in paragraph (b)(3)(xxxiii) by alphabetically adding two new entries to read as follows:

§ 175.300 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(xxxiii) * * *

Bentonite, modified by reaction with sodium stearate and benzyl dimethyl alkyl ammonium chloride, where the alkyl groups are derived from hydrogenated tallow (CAS Reg. No. 121888-68-4). For use as a rheological agent only in coatings intended to contact dry food under repeated-use conditions.

* * * * *

Hectorite, modified by reaction with a mixture of benzyl methyl dialkyl ammonium chloride and dimethyl dialkyl ammonium chloride, where the alkyl groups are derived from hydrogenated tallow (CAS Reg. No. 121888-67-3). For use as a rheological agent only in coatings intended to contact dry food under repeated-use conditions.

* * * * *

Dated: November 8, 1989.

Richard J. Ronk,

Deputy Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-27055 Filed 11-16-89; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Clindamycin Hydrochloride Liquid

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by The Upjohn Co., providing for use of clindamycin hydrochloride liquid for dogs for treatment of dental infections caused by susceptible strains of *Staphylococcus aureus* and for soft tissue infections (deep wounds and abscesses), dental infections, and osteomyelitis caused by or associated with susceptible strains of *Bacteroides fragilis, B. melaninogenicus, Fusobacterium necrophorum,* and *Clostridium perfringens.*

EFFECTIVE DATE: November 17, 1989.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed a supplement to NADA 135-940 providing for use of Antirobe® Aquadrops Liquid (clindamycin hydrochloride) in dogs for treatment of dental infections caused by susceptible strains of *S. aureus* and for soft tissue infections (deep wounds and abscesses), dental infections, and osteomyelitis caused by or associated with susceptible strains of *B. fragilis, B. melaninogenicus, F. necrophorum,* and *C. perfringens,* in addition to the current approval for treatment of canine wound infections, abscesses, and osteomyelitis caused by *S. aureus.* The supplement is approved and the regulations are amended in 21 CFR 520.447(c) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 520.447 is amended by revising paragraph (c) to read as follows:

§ 520.447 Clindamycin hydrochloride liquid.

* * * * *

(c) *Conditions of use in dogs*—(1) *Amount.* Wounds, abscesses, and dental infections: 2.5 milligrams per pound of body weight every 12 hours for a maximum of 28 days. Osteomyelitis: 5.0 milligrams per pound of body weight every 12 hours for a minimum of 28 days.

(2) *Indications for use.* For use in dogs for treatment of soft tissue infections (wounds and abscesses), dental infections, and osteomyelitis caused by susceptible strains of *Staphylococcus aureus* and for soft tissue infections (deep wounds and abscesses), dental infections, and osteomyelitis caused by or associated with susceptible strains of *Bacteroides fragilis, Bacteroides melaninogenicus, Fusobacterium necrophorum,* and *Clostridium perfringens.*

(3) *Limitations.* Wound infections, abscesses, and dental infections: Do not use for more than 4 days if no improvement of acute infection is observed. Osteomyelitis: Do not use for more than 28 consecutive days if no improvement is observed. Because of potential adverse gastrointestinal effects, do not administer to rabbits, hamsters, guinea pigs, and horses. Use with caution in animals receiving neuromuscular blocking agents, because clindamycin may potentiate their action. Prescribe with caution in atopic animals. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: November 9, 1989.

Richard H. Teske,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 89-27053 Filed 11-16-89; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Clindamycin Hydrochloride Capsules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by the Upjohn Co. The supplement provides for the safe and effective use of clindamycin hydrochloride capsules in dogs for treatment of dental infections caused by susceptible strains of *Staphylococcus aureus,* and soft tissue infections (deep wounds and abscesses), dental infections, and osteomyelitis caused by or associated with susceptible strains of *Bacteroides fragilis, B. melaninogenicus, Fusobacterium necrophorum,* and *Clostridium perfringens.*

EFFECTIVE DATE: November 17, 1989.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed supplemental NADA 120-161 providing for use of Antirobe® Capsules (clindamycin hydrochloride) in dogs for treatment of dental infections caused by susceptible strains of *S. aureus,* and soft tissue infections (deep wounds and abscesses), dental infections, and osteomyelitis caused by or associated with susceptible strains of *B. fragilis, B. melaninogenicus, F. necrophorum,* and *C. perfringens.* The NADA is currently approved for treatment of canine wound infections, abscesses, and osteomyelitis caused by *S. aureus.* The supplement is approved and the regulations are amended in 21 CFR 520.446(c) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

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

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 520.446 is amended by revising paragraph (c) to read as follows:

§ 520.446 Clindamycin hydrochloride capsules.

* * * * *

(c) *Conditions of use in dogs*—(1) *Amount.* Wounds, abscesses, and dental infections: 2.5 milligrams per pound of body weight every 12 hours for a maximum of 28 days. Osteomyelitis: 5.0 milligrams per pound of body weight every 12 hours for a minimum of 28 days.

(2) *Indications for use.* For use in dogs for treatment of soft tissue infections (wounds and abscesses), dental infections, and osteomyelitis caused by susceptible strains of *Staphylococcus aureus,* soft tissue infections (deep wounds and abscesses), dental infections, and osteomyelitis caused by or associated with susceptible strains of *Bacteroides fragilis, Bacteroides melaninogenicus, Fusobacterium necrophorum,* and *Clostridium perfringens.*

(3) *Limitations.* Wound infections, abscesses, and dental infections: Do not use more than 4 days if no improvement of acute infection is observed. Osteomyelitis: Do not use for more than 28 consecutive days if no improvement is observed. Because of potential adverse gastrointestinal effects, do not administer to rabbits, hamsters, guinea pigs, and horses. Use with caution in animals receiving neuromuscular blocking agents, because clindamycin may potentiate their action. Prescribe with caution in atopic animals. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: November 9, 1989.

Richard H. Teske,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 89-27054 Filed 11-16-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 1710 and 1720

[Docket No. R-89-1390; FR-2503-X-03]

Amendments Relating to Interstate Land Sales Registration; Effective Date and Corrections

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, Office of Lender Activities and Land Sales Registration, (HUD).

ACTION: Notice of announcement of effective date for final rule; corrections.

SUMMARY: This notice announces the effective date for the final rule published in the **Federal Register** on October 4,

1989 (54 FR 40863) that amended the Department's regulations to provide a regulatory exemption from the registration requirements of the Interstate Land Sales Full Disclosure Act. The effective date provision of the rule stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, and announced that future notice of the effectiveness of the rule would be published in the **Federal Register**. This notice announces the effective date for that final rule. Thirty calendar days of continuous session of Congress have now expired in the present Congress since this rule was published.

The notice also corrects the heading of the preamble (to reference 24 CFR part 1720) that was inadvertently omitted in the publication of the final rule, and adds the authority citation for this same part.

EFFECTIVE DATE: November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Roger G. Henderson, Director, Interstate Land Sales Registration Division, Department of Housing and Urban Development, Room 6278, Washington, DC 20410. Telephone (202) 755–0502. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On October 4, 1989 (54 FR 40863), HUD published in the **Federal Register** a final rule that, because of the authority provided by 15 U.S.C. 1702(c), enabled the Department to provide a regulatory exemption from the registration requirements of the Interstate Land Sales Full Disclosure Act. The new exemption applied to sales in subdivisions (as that term was defined by the Act) of 100 or more lots that were created by the continual acquisition and disposal of lots in geographically scattered locations which, unless extraordinary steps were taken, were offered under one common promotional plan and were, therefore, subject to registration. However, because of the very nature of those types of operations that were constantly acquiring tracts of land in scattered and diverse parts of the country, registration was impractical from both the registrants' and the registering agency's standpoint.

The new exemption allowed developers of those subdivisions to operate without the necessity of maintaining a registration or taking the steps required to avoid operating under one common promotional plan.

Developers currently operating two or more subdivisions of fewer than 100 lots each in compliance with the 100 lot exemption provisions (24 CFR 1710.6), may wish to convert to the new Multiple Site Subdivision Exemption (24 CFR 1710.15). Ordinarily, conversion from the 24 CFR 1710.6 exemption could result in a retroactive nullification of exemption eligibility, thus making previous sales voidable. However, developers of two or more subdivisions that were in compliance with the 24 CFR 1710.6 exemption on November 13, 1989, the effective date of the new 24 CFR 1710.15 exemption, may apply for the new exemption and, if found eligible and an Exemption Order issued, may operate under the new exemption without nullifying prior exemption eligibility under 24 CFR 1710.6. The period during which conversion must be completed begins on November 13, 1989, and ends on June 30, 1990.

Section 7(o)(3) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(o)(3), requires HUD to wait thirty calendar days of continuous session of Congress before it makes a published rule effective. Thirty calendar days of continuous session of Congress have now expired in the present Congress since this rule was published.

Accordingly, this document announces the effective date of, and the following corrections are made to, FR Doc. 89–23365 published in the **Federal Register** on October 4, 1989 (54 FR 40863):

PARTS 1710 AND 1720—[CORRECTED]

1. On page 40863, second column, correct the heading "24 CFR Part 1710" to read, "24 CFR Parts 1710 and 1720".

2. On page 40863, second column, correct the "**DATES**" section to read, "**EFFECTIVE DATE:** November 13, 1989".

3. On page 40868, second and third columns, redesignate amendatory items 5 and 6 as items 6 and 7, respectively.

4. On page 40868, second column, add the following text:

PART 1720—FORMAL PROCEDURES AND RULES OF PRACTICE

5. The authority citation for part 1720 is revised to read as follows:

Authority: Section 1419, Interstate Land Sales Disclosure Act (15 U.S.C. 1718); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: November 8, 1989.

C. Austin Fitts,

Assistant Secretary for Housing—Federal Housing Commission.

[FR Doc. 89–27030 Filed 11–16–89; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 5 and 19

[T.D. ATF–288; Ref: Notice Nos: 680 and 682]

Increased Tolerance in Alcohol Content for Distilled Spirits Products in 50 and 100 ml Bottle Sizes (P8–17)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is liberalizing regulations to allow a change in alcohol content tolerance for all spirits products bottled in 50 and 100 ml bottle sizes. Current regulations allow a "normal" drop in alcohol content, occurring during the course of bottling operations, of 0.15 percent alcohol by volume (0.3 proof). However, there is some indication that certain bottlers are having difficulty in limiting the alcohol content loss which occurs during bottling to this amount. When the alcohol content drops more than is permitted by current regulations, the spirits must be reconditioned, rebottled, or relabeled. All of these operations increase the bottlers' expenses. This change will allow the alcohol content of all spirits bottled in 50 and 100 ml bottles to drop a maximum of 0.25 percent alcohol by volume (0.5 proof) in the course of bottling operations, before having to recondition, rebottle, or relabel the product.

EFFECTIVE DATE: December 18, 1989.

FOR FURTHER INFORMATION CONTACT: Colleen Then, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202–566–7531).

SUPPLEMENTARY INFORMATION:

Background

Petition

On January 3, 1986, Heublein, Inc. petitioned ATF to increase the alcohol content drop tolerance beyond the current proof drop tolerance, regardless of solid content, for certain bottle sizes. Heublein contended that larger than usual evaporative losses often occur when bottling in the 50 and 100 ml size bottles. The larger losses appear to be due primarily to the low rate of product flow through the filler, which increases the time that spirits products are subjected to evaporation.

Notices Numbered 680 and 682

ATF published Notice Number 680 in the **Federal Register**, on March 22, 1989 (54 FR 11745), proposing to amend §§ 5.37(b) and 19.386 by allowing for the alcohol content of all spirits bottled in 50 and 100 ml bottles to drop a maximum of 0.25 percent alcohol by volume (0.5 proof) in the course of bottling operations. With the publication of Notice No. 682 on May 19, 1989 (54 FR 21630), the comment period was extended to July 21, 1989.

Analysis of Comments

In response to Notices numbered 680 and 682, ATF received 17 comments. Of the seventeen comments, two (Union Europeenne des Alcools, Eaux-de-Vie-et-Spiritueux and National Association of Beverage Importers (NABI)) simply requested an extension of the comment period. As a result of those requests, the comment period established by Notice No. 680 was extended until July 21 1989, with the publication of Notice No. 682. The remaining 15 comments supported the proposal made in the notice. These were received from the following: Glenmore Distilleries Company, Korbel, Syndicat National des Fabricants de Liqueurs, The Gin Rectifiers and Distillers Association, French Federation des Exportateurs de Vins et de Spiritueux (FEVS), National Association of Beverage Importers, Inc. (NABI), Distilled Spirits Council of the United States, Inc (DISCUS), Schieffelin & Somerset Co., Union Europeenne des Alcools, Eaux-de-Vie et Spiritueux, Heublein, Inc., Brown Forman Corporation, Joseph E. Seagram & Sons, Inc., Bureau National Interprofessionnel du Cognac, and Jim Beam Brands Co.

Several of the commenters requested that the proposal be expanded to: (1) Allow for a plus tolerance of 0.3% alcohol by volume (.6 proof); (2) increase the drop tolerance to 0.3% alcohol by volume (.6 proof); and (3) apply the alcohol content tolerance to all bottle sizes regardless of solids content. The basis for most of these requests was to harmonize the United States and Economic Community regulations (EC 87–250).

ATF considered these three requests but rejected each of the requests. The request for a plus tolerance of 0.3% alcohol by volume (.6 proof) is outside the scope of the Notice of Proposed Rulemaking. The commenters requesting an increased drop tolerance of 0.3% alcohol by volume (.6 proof) did not submit any evidence that such increased tolerance is necessitated by good commercial practices. The tolerance of 0.25% alcohol by volume (.5 proof) is consistent with the tolerance for high solids products, and ATF sees no reason to adopt a different standard here. Finally, the comments received did not provide support or documentation reflecting a compelling need to consider additional bottle sizes.

Without evidence supporting a hardship, as demonstrated and supported for the 50 and 100 ml bottle sizes, the comments contain no specific evidence of compliance problems with maintaining label proof in other bottle sizes which would warrant an expansion of the provision in this final rule. ATF determined that a necessity exists to allow for a proof drop in bottling of 50 and 100 ml bottle sizes, due to the difficulty in bottling of the small bottle sizes. ATF feels the final rule is consistent with current good commercial practices in the United States and imposes no special burdens on domestic producers, bottlers and importers.

Executive Order 12291

It has been determined that this document is not a major regulation as defined in E.O. 12291 and a regulatory impact analysis is not required because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or foreign markets.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

This certification is based upon the fact that it affects predominantly large entities, the general revenue effects flow directly from the underlying statute, and the regulation will not affect a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96–511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there is no reporting or recordkeeping requirement.

Drafting Information

The principal author of this document is Colleen Then, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and containers.

27 CFR Part 19

Administrative practices and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Chemicals, Customs duties and inspection, Electronic funds transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Surety bonds, Transportation, Virgin Islands, Warehouses, Wine.

Issuance

27 CFR parts 5 and 19, entitled "Labeling and Advertising of Distilled Spirits," and "Distilled Spirits Plants," respectively, are amended as follows:

PART 5—[AMENDED]

Paragraph 1. The authority citation for 27 CFR part 5 continues to read as follows:

Authority: 27 U.S.C. 205.

Para. 2. Section 5.37(b) is revised to read as follows:

§ 5.37 [Amended]

* * * * *

(b) *Tolerances.* The following tolerances shall be allowed (without affecting the labeled statement of alcohol content) for losses of alcohol content occurring during bottling:

(1) Not to exceed 0.25 percent alcohol by volume for spirits containing solids in excess of 600 mg per 100 ml; or

(2) Not to exceed 0.25 percent alcohol by volume for any spirits product bottled in 50 or 100 ml size bottles; or

(3) Not to exceed 0.15 percent alcohol by volume for all other spirits.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1394, as amended (26 U.S.C. 5301(a)); 49 Stat. 917, as amended (27 U.S.C. 205(e)).

PART 19—[AMENDED]

Para. 3. The authority for 27 CFR part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5041, 5061, 5062,

5066, 5081, 5101, 5111–5113, 5142, 5143, 5146, 5171–5173, 5175, 5176, 5178–5181, 5201–5204, 5206, 5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 6806, 7011, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Para. 4. Section 19.386 (a) and (b) are revised to read as follows:

§ 19.386 Alcohol content and fill.

(a) *General.* (1) At representative intervals during bottling operations, proprietors shall test and examine bottled spirits to determine whether those spirits agree in alcohol content and quantity (fill) with that stated on the label or bottle.

(2) If the regional director (compliance) finds that a proprietor's test procedures do not protect the revenue and ensure label accuracy of the bottled product, the regional director may require corrective measures.

(b) *Variations in alcohol content and fill.* The proprietor shall rebottle, recondition, or relabel spirits if the bottle contents do not agree with the respective data on the label or bottle as to:

(1) Quantity (fill), except for such variation as may occur in filling conducted in compliance with good commercial practice with an overall objective of maintaining 100 percent fill for spirits bottled; and/or

(2) Alcohol content, subject to a normal drop in alcohol content which may occur during bottling operations not to exceed:

(i) 0.25 percent alcohol by volume for products containing solids in excess of 600 mg per 100 ml, or

(ii) 0.25 percent alcohol by volume for all spirits products bottled in 50 or 100 ml size bottles, or

(iii) 0.15 percent alcohol by volume for all other spirits and bottle sizes.

For example, a product with a solids content of less than 600 mg per 100 ml, labeled as containing 40 percent alcohol by volume and bottled in a 750 ml bottle, would be acceptable if the test for alcohol content found that it contained 39.85 percent alcohol by volume.

* * * * *

(Sec. 201, Pub. L. 85–859, 72 Stat. 1356, as amended, 1394, as amended (26 U.S.C. 5201, 5301))

Signed: September 27, 1989.

Daniel R. Black,

Acting Director.

Approved: October 30, 1989.

John P. Simpson,

Acting Assistant Secretary (Enforcement).

[FR Doc. 89–27073 Filed 11–16–89; 8:45 am]

BILLING CODE 4810–31–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AC08

Determining Entitlement Usage Under the Vocational Rehabilitation Program

AGENCY: Department of Veterans Affairs.

ACTION: Final regulation.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a final rule to facilitate the determination of entitlement usage under the vocational rehabilitation program. There is no single reference point in existing rules for determinations of entitlement usage under the vocational rehabilitation program. This rule codifies existing policy by incorporating current provisions regarding entitlement usage into the rule and adding additional provisions to provide a complete guide to entitlement usage under the vocational rehabilitation program.

EFFECTIVE DATE: December 18, 1989.

FOR FURTHER INFORMATION CONTACT: Morris Triestman, Rehabilitation Consultant, Policy and Program Development, Vocational Rehabilitation and Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233–6496.

SUPPLEMENTARY INFORMATION: At pages 7206 and 7207 of the **Federal Register** of February 17, 1989 (54 FR 7206), the Department published proposed regulations under which VA staff determine entitlement usage under the vocational rehabilitation program. Interested persons were given 30 days in which to submit their comments, suggestions, or objections to the proposed regulatory amendments. No comments, suggestions, or objections were received. Since no comments, suggestions or objections were received, these amendments are adopted as final with certain nomenclature changes required since VA became the Department of Veterans Affairs on March 15, 1989, and with a correction to the authority citation at § 21.79(b).

These final regulations do not meet the criteria for major rules as contained in Executive Order 12291, Federal Regulation. The final regulations will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse effects on the economy.

The Secretary of Veterans Affairs certifies that these final regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these regulations are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reasons for this certification are that the final regulations only affect the rights of individual VA beneficiaries under chapter 31. No new regulatory burdens are imposed on small entities by these final regulations.

(The Catalog of Federal Domestic Assistance Number is 64.116.)

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: October 23, 1989.

Edward J. Derwinski,

Secretary.

PART 21—[AMENDED]

38 CFR part 21, Vocational Rehabilitation and Education, is amended by adding § 21.79 to read as follows:

§ 21.79 Determining entitlement usage under chapter 31.

(a) General. The determination of entitlement usage for chapter 31 participants is made under the provisions of this section except as provided in paragraph (f) of this section. Charges for entitlement usage shall be based upon the principle that a veteran who pursues a rehabilitation program for 1 day should be charged 1 day of entitlement. The determination of entitlement is based upon the rate at which the veteran pursues his or her rehabilitation program. The rate of pursuit is determined under the provisions of § 21.310 of this part.

(Authority: 38 U.S.C. 1508(d))

(b) No charge against chapter 31 entitlement. No charge will be made against chapter 31 entitlement under any of the following circumstances:

(1) The veteran is receiving employment services under an Individualized Employment Assistance Plan (IEAP);

(2) The veteran is receiving an employment adjustment allowance; or

(3) The veteran is on leave from his or her program, but leave is not authorized by the Department of Veterans Affairs.

(Authority: 38 U.S.C. 1508(d), 1517)

(c) Periods during which entitlement may be charged. Charges for usage of chapter 31 entitlement may only be made for program participants in one of the following case statuses:

(1) Rehabilitation to the point of employability;

(2) Extended evaluation; or

(3) Independent living.

(Authority: 38 U.S.C. 1506, 1509)

(d) Method of charging entitlement under chapter 31. The Department of Veterans Affairs will make a charge against entitlement:

(1) On the basis of total elapsed time (1 day of entitlement for each day of pursuit) if the veteran is being provided a rehabilitation program on a full-time basis;

(2) On the basis of a proportionate rate of elapsed time if the veteran is being provided a rehabilitation program on a three-quarter, one-half or less than one-half time basis. Entitlement is charged at a:

(i) Three-quarter time rate if pursuit is three-quarters or more, but less than full-time;

(ii) One-half time rate if pursuit is half-time or more, but less than three-quarter time;

(iii) One-quarter time rate if pursuit is less than half-time. Measurement of pursuit on a one-quarter time basis is limited to veterans in independent living or extended evaluation programs.

(Authority: 38 U.S.C. 1508(d), 1780(g))

(e) *Computing entitlement.* (1) The computation of entitlement is based upon the rate of program pursuit, as determined under § 21.310 of this part, over the elapsed time during which training and rehabilitation services were furnished;

(2) The Department of Veterans Affairs will compute elapsed time from the commencing date of the rehabilitation program as determined under § 21.322 of this part to the date of termination as determined under § 21.324 of this part. This includes the period during which veterans not receiving subsistence allowance because of a statutory bar; e.g., certain incarcerated veterans or servicepersons in a military hospital, nevertheless, received other chapter 31 services and assistance. Elapsed time includes the total period from the commencing date until the termination date, except for any period of unauthorized leave;

(3) If the veteran's rate of pursuit changes after the commencing date of the rehabilitation program, the Department of Veterans Affairs will:

(i) Separate the period of rehabilitation program services into the actual periods of time during which the veteran's rate of pursuit was different; and

(ii) Compute entitlement based on the rate of pursuit for each separate elapsed time period.

(Authority: 38 U.S.C. 1508(f))

(f) *Special situtations.* (1) When a chapter 31 participant elects benefits of the kind provided under chapter 30 or chapter 34 as a part of his or her rehabilitation program under chapter 31, the veteran's entitlement usage will be determined by using the entitlement provisions of those programs. Entitlement charges shall be in accordance with § 21.7076 for chapter 30 and § 21.1045 under chapter 34. The entitlement usage computed under these provisions is deducted from the veteran's chapter 31 entitlement. No entitlement charges are made against either chapter 30 or chapter 34.

(Authority: 38 U.S.C. 1508(f))

(2) When a veteran is pursuing on-job training or work experience in a Federal agency on a nonpay or nominal pay basis, the amount of entitlement used is determined in the following manner:

(i) Entitlement used in on-job training in a Federal agency on a nonpay or nominal pay basis is determined in the same manner as other training.

(ii) Entitlement used in pursuing work experience will be computed in the same manner as for veterans in on-job training except that work experience may be pursued on a less than full-time basis. If the veteran is receiving work experience on a less than full-time basis, entitlement charges are based upon a proportionate amount of the workweek. For example, if the workweek is 40 hours, three-quarter time is at least 30 hours, but less than 40 hours, and half-time is at least 20 hours but less than 30 hours.

(Authority: 38 U.S.C. 1508(c))

(3) Entitlement is charged on a full-time basis for a veteran found to have a reduced work tolerance.

(Authority: 38 U.S.C. 1508(d), 1780(g))

(g) Overpayment. The Department of Veterans Affairs will make a charge against entitlement for an overpayment of subsistence allowance under the conditions described in § 21.1045(h) of this part.

(Authority: 38 U.S.C. 1780(g))

[FR Doc. 89-26981 Filed 11-16-89; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-314; RM-6773]

Radio Broadcasting Services; Colusa, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 276A for Channel 243A at Colusa, California, and modifies the Class A permit of Monument Media, Inc. for Station KKLU(FM), as requested, to remedy alleged interference occurring within its primary service area. Channel 276A may be used at the petitioner's suggested site at coordinates 39-12-19 and 122-00-19, or at the site specified in its currently authorized site at coordinates 39-12-52 and 122-00-23. With this action, the proceeding is terminated.

EFFECTIVE DATE: December 28, 1989.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-314, adopted October 10, 1989, and released November 13, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for California, is amended by revising the entry for Colusa by removing Channel 243A and adding Channel 276A.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-27000 Filed 11-16-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-51; RM-6076, RM-6265]

Radio Broadcasting Services; Evans and Martinez, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Columbia County Broadcasters, substitutes Channel 230C3 for Channel 232A at Martinez, Georgia, modifies its license for Station WMTZ(FM) to specify operation on the higher powered channel and allots Channel 299C2 to Martinez for use by other interested parties. At the request of Evans Broadcasters, the Commission allots Channel 222A to Evans, Georgia, as its first local FM service. Channel 230C3 can be allotted to Martinez with a site restriction of 19.4 kilometers (12.0 miles) west to avoid a short-spacing to unoccupied but applied for Channel 230A at St. Matthews, South Carolina. The coordinates for Channel 230C3 are North Latitude 33-30-00 and West Longitude 82-16-57. Channel 299C2 can be allotted to Martinez with a site restriction of 25.3 kilometers (15.7 miles) northwest to avoid a short-spacing to Station WKQB, Channel 298C, St. Georgia, South Carolina, and to unoccupied but applied for Channel 296A at Waynesboro, Georgia. The coordinates for Channel 299C2 are North Latitude 33-40-30 and West Longitude 82-16-14. Channel 222A can be allotted to Evans with a site restriction of 10.3 kilometers (6.4 miles) northwest to avoid a short-spacing to Stations WLPE, Channel 219A, Augusta, Georgia, and WPEH-FM, Channel 221A, Louisville, Georgia. With this action, this proceeding is terminated.

DATES: Effective December 22, 1989. The window period for filing applications for Channel 299C2 at Martinez, Georgia, and Channel 222A at Evans, Georgia, will open on December 26, 1989, and close on January 26, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Second Report and Order and Memorandum Opinion and Order, MM Docket No. 88-51, adopted October 11, 1989, and released November 7, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments, is amended by adding the following entry, Evans, Georgia, Channel 222A, and amending the entry for Martinez, Georgia, by adding Channels 230C3 and 299C2 and removing Channel 232A.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-27015 Filed 11-16-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-38; RM-6517]

Radio Broadcasting Services; Flint, Harbor Beach and Sebewaing, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 288B1 for Channel 288A at Flint, Michigan, and modifies the license of WWCK-FM to specify the new channel, in response to a petition filed by Reams Broadcasting, Inc. Majac of Michigan, Inc., license of Station WWCK-FM, is the successor to Reams Broadcasting, Inc. The coordinates for Channel 288B1 are 43-01-18 and 83-41-00. To accommodate the upgrade at Flint, the Commission substitutes Channel 279C2 for Channel 289C2 at Harbor Beach, Michigan (43-59-06 and 82-58-25), and Channel 267A for Channel 280A at Sebewaing, Michigan (43-48-01 and 83-23-38). Canadian concurrence has been obtained for the allotment of the channels at Flint, Harbor Beach and Sebewaing, Michigan. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 28, 1989.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-38, adopted October 17, 1989, and released November 13, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan is amended by removing Channel 288A and adding Channel 288B1 at Flint, removing Channel 289C2 and adding Channel 279C2 at Harbor Beach, and removing Channel 280A and adding Channel 267A at Sebewaing.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26998 Filed 11-16-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-96; RM-6658]

Radio Broadcasting Services; Harrisonville and Carrollton, MO and Girard, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action is taken in response to a petition filed by KCFX Radio, Inc. This document substitutes FM Channel 266C1 for Channel 264C at Harrisonville, Missouri, and modifies

the license of Station KCFX(FM) to specify Channel 266C1. The coordinates for Channel 266C1 are 39–00–57 and 94–30–24. To accommodate the upgrade at Harrisonville, substitutions will be made at Girard, Kansas, and Carrollton, Missouri. We shall substitute Channel 256A for Channel 266A at Girard, Kansas, and modify the license for Station KYPG to specify operation on Channel 256A. The coordinates for Channel 256A are 37–29–02 and 94–50–08. At Carrollton, Missouri, we shall substitute Channel 264C1 for Channel 266C and modify the license for Station KMZU to specify Channel 264C1. The coordinates for Channel 264C1 are 39–22–05 and 93–29–40.

EFFECTIVE DATE: December 28, 1989.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–96, adopted October 17, 1989, and released November 13, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Missouri by removing Channel 266C and adding Channel 264C1 at Carrollton, and by removing Channel 264C and adding Channel 266C1 at Harrisonville.

3. In § 73.202(b), the Table of FM Allotments is amended under Kansas by removing Channel 266A and adding Channel 256A at Girard.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–26999 Filed 11–16–89; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–14; RM–6524]

Radio Broadcasting Services; Hot Springs and Pine Ridge, SD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Tracy and Valerie Bastian, substitutes Channel 244C1 for Channel 244A at Hot Springs, South Dakota, modifies its license for Station KZMX(FM) accordingly, and substitutes Channel 228A for unoccupied and unapplied for Channel 243A at Pine Ridge, South Dakota. Channel 244C1 can be allotted to Hot Springs in compliance with the Commission's minimum distance separation requirements and can be used at Station KZMX(FM)'s present transmitter site. Channel 228A can be allottted to Pine Ridge without the imposition of a site restriction. The coordinates for Channel 244C1 at Hot Springs are North Latitude 43–26–34 and West Longitude 103–27–27. The coordinates for Channel 228A at Pine Ridge are North Latitude 43–01–06 and West Longitude 102–33–24. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 22, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–14, adopted October 11, 1989, and released November 7, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments, is amended for the entry for Hot Springs, South Dakota, to remove Channel 244A and add Channel 244C1, and amending the entry for Pine Ridge, South Dakota, to remove Channel 243A and add Channel 228A.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–27013 Filed 11–16–89; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 81130–8265]

Pacific Coast Groundfish Fishery

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

ACTION: Notice of closure and request for comments.

SUMMARY: NOAA issues this notice closing the fishery for Pacific ocean perch taken from the Columbia subarea off the coasts of Washington and Oregon, and seeks public comment on this action. This closure is authorized under regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP) which state that retention or landing of a species is prohibited when that species quota is reached. This action is intended to protect a species considered to be under long-term biological stress.

DATES: Effective from 0001 hours Pacific Standard Time, November 13, 1989, until 2400 hours Pacific Time, December 31, 1989. Comments will be accepted until December 4, 1989.

ADDRESSES: Send comments to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, Bldg. 1, Seattle, WA 98115. The aggregate data upon which this determination is based are available for public inspection at the first address listed above during business hours until the end of the comment period.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at (206) 526–6140.

SUPPLEMENTARY INFORMATION: Regulations implementing the FMP at 50 CFR 663.21(b) require the Secretary of Commerce (Secretary) to prohibit retention or landing of a species in any regulatory subarea when the numerical optimum yield (OY) quota for that species in the applicable regulatory subarea is reached. The 1989 OY for Pacific ocean perch in the Columbia subarea (between 47°30' N. latitude and

43°00′ N. latitude) is 1,040 metric tons (as revised at 54 FR 31688, 8/1/89).

Based on the best available information to date from the Pacific Fishery Management Council's Groundfish Management Team, the Regional Director has determined that the Pacific ocean perch quota will be reached on November 13, 1989. Accordingly, the Secretary announces that retention or landing of Pacific ocean perch taken from the Columbia subarea off the States of Washington and Oregon must be prohibited on November 13, 1989. The States of Washington and Oregon also will close state ocean waters in the Columbia subarea on this date.

This action is automatic and non-discretionary under § 663.21(b) and supersedes the current trip limit for Pacific ocean perch only as it pertains to fish taken from the Columbia subarea. Currently the trip limit for Pacific ocean perch coastwide (Washington, Oregon, and California) is 2,000 pounds or 20 percent (round weights) of all legal fish on board, whichever is less; however, this limit applies only if more than 1,000 pounds of Pacific ocean perch are on board (54 FR 31688, 8/1/89). Accordingly, the trip limit remains in effect for Pacific ocean perch caught outside of the Columbia subarea.

For the reasons stated above, the Secretary announces the following:

(1) From 0001 hours Pacific Standard Time, November 13, 1989 until 2400 hours Pacific Standard Time, Sunday, December 31, 1989, it is unlawful to retain or land Pacific ocean perch from the Columbia subarea (between 47°30′ N. latitude and 43°00′ N. latitude).

(2) All Pacific ocean perch that are possessed or landed in the Columbia subarea are presumed to have been taken and retained in the Columbia subarea unless otherwise demonstrated by the person in possession of those fish.

Classification

The determination to prohibit further landings of Pacific ocean perch taken from the Columbia subarea is based on the most recent data available. This action is taken under the authority of 50 CFR 663.21(b) and 663.23, and is in compliance with Executive Order 12291.

Because of the immediate need to prohibit further landings of Pacific ocean perch and thereby prevent the excessive harvest that could otherwise result, the Secretary finds that advance notice and public comment on this closure are impracticable and not in the public interest, and that no delay should occur in its effective date. Public comments also will be accepted for 15 days after this notice is published in the **Federal Register**. The Secretary therefore finds good cause to waive the 30-day delayed effectiveness provision of § 663.23(c).

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

Dated: November 13, 1989.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-27038 Filed 11-13-89; 5:10 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 221
Friday, November 17, 1989

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

[DA-89-029]

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; Proposed Increase in Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service proposes to increase the fees charged for services provided under the dairy grading program. The program is a voluntary, user-fee program conducted under the authority of the Agricultural Marketing Act of 1946, as amended. The proposed increase in fees would result in a fee of $34.00 per hour for continuous resident services and $38.00 per hour for nonresident services between the hours of 6 a.m. and 6 p.m. These proposed fees represent a $2.00 per hour increase in each case. The fee for nonresident services between the hours of 6 p.m. and 6 a.m. would be $41.80 per hour representing an increase of $2.20 per hour.

The fees need to be increased to cover the anticipated increase in Federal salaries to be effective about January 1, 1990; to cover increases in nonsalary inflationary costs; to cover an increase in the government's costs for employee health benefits; and to generate additional revenues necessary to sustain the program.

DATES: Comments must be received on or before December 18, 1989.

ADDRESSES: Comments should be sent to: Office of the Director, USDA/AMS/Dairy Division, Room 2968–S, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Lynn G. Boerger, USDA/AMS/Dairy Division, Dairy Grading Section, Room 2750–S, P.O. Box 96456, Washington, DC 20090–6456, (202) 382–9381.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Departmental Regulation 1512–1 and has been classified a "non-major" rule under the criteria contained therein.

The proposed rule also has been reviewed in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Administrator, Agricultural Marketing Service, has determined that if promulgated it would not have a significant economic impact on a substantial number of small entities. The proposed changes will not significantly affect the cost per unit for grading and inspection services. The Agricultural Marketing Service estimates that overall this rule will yield an additional $140,000 during fiscal year 1990. The Agency does not believe the increases will affect competition. Furthermore, the dairy grading program is a voluntary program.

The Agricultural Marketing Act of 1946, as amended, authorizes the Secretary of Agriculture to provide Federal dairy grading and inspection services that facilitate marketing and help consumers obtain the quality of dairy products they desire. The Act provides that reasonable fees be collected from the users of the services to cover as nearly as practicable the cost of maintaining the program.

Since the costs of the grading program are covered entirely by user fees, it is essential that fees be increased when program costs exceed revenues. Revenues have continued to decline and it is anticipated that Federal salaries will increase by 3.6 percent and the government's costs for employee health benefits will increase 13.3 percent about January 1, 1990. Also, nonsalary costs, including overhead costs related to the administration of the grading program, are projected to rise by 4.2 percent during FY 1990. The current fees, which became effective on April 17, 1989, will not cover these increased costs.

The operating costs for FY 1990, will exceed revenues by approximately $140,000. Our estimate of revenue-producing hours from January 1, 1990, through the end of FY 1990 is 70,000 hours; therefore, a proposed increase of $2.00 per hour should cover the increased costs. We propose to increase the resident fee from $32.00 to $34.00 per hour, and the nonresident fee from $36.00 to $38.00 per hour between the hours of 6 a.m. and 6 p.m. and from $39.60 to $41.80 per hour between 6 p.m. and 6 a.m.

This document proposes the following changes in the regulations implementing the dairy inspection and grading program:

1. Increase the hourly fee for nonresident services from $36.00 to $38.00 for services performed between 6 a.m. and 6 p.m. and from $39.60 to $41.80 for services performed between 6 p.m. to 6 a.m.

The nonresident hourly rate is charged to users who request an inspector or grader for particular dates and amounts of time to perform specific grading and inspection activities. These users of nonresident services are charged for the amount of time required to perform the task and undertake related travel, plus travel costs.

2. Increase the hourly fee for continuous resident services from $32.00 to $34.00.

The resident hourly rate is charged to those who are using grading and inspection services performed by an inspector or grader assigned to a plant on a continuous, year-round, resident basis.

Timing of Proposed Fee Increases

It is contemplated that the proposed fees will be implemented on an expedited basis in order to minimize that period of time between the effective date of the Federal pay increase and the effective date of this fee increase. Accordingly, it is anticipated that the fee increases, if adopted, would become effective upon publication or very soon after publication of the final rule in the Federal Register and that postponing the effective date of the final rule until 30 days after publication in the **Federal Register** would not occur. An approximate effective date would be January 14, 1990.

All written submissions made pursuant to this notice will be available for public inspection at the Dairy Division, Agricultural Marketing Service, USDA, Washington, DC, during regular business hours.

List of Subjects in 7 CFR Part 58

Food graders and standards, Dairy products.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 58, subpart A, be amended as follows:

PART 58—[AMENDED]

Subpart A—Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products.

1. The authority citation for part 58 continues to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627, unless otherwise noted.

2. Section 58.43 is revised to read as follows:

§ 58.43 Fees for inspection, grading, and sampling.

Except as otherwise provided in this section and §§ 58.38 through 58.46, charges shall be made for inspection, grading, and sampling service at the hourly rate of $38.00 for service performed between 6 a.m. and 6 p.m., and $41.80 for service performed between 6 p.m. and 6 a.m., for the time required to perform the service calculated to the nearest 15-minute period, including the time required for preparation of certificates and reports and the travel time of the inspector or grader in connection with the performance of the service. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued.

3. Section 58.45 is revised to read as follows:

§ 58.45 Fees for continuous resident service.

Irrespective of the fees and charges provided in §§ 58.39 and 58.43, charges for the inspector(s) and grader(s) assigned to a continuous resident program shall be made at the rate of $34.00 per hour for services performed during the assigned tour of duty. Charges for service performed in excess of the assigned tour of duty shall be made at a rate of 1½ times the rate stated in this section.

Signed at Washington, DC, on: November 14, 1989.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 89–27068 Filed 11–16–89; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H–370]

RIN 1218–AB15

Occupational Exposure to Bloodborne Pathogens

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule; notice of rescheduled hearing.

SUMMARY: With this notice, OSHA is rescheduling and changing the location of the meeting room for the San Francisco, CA informal public hearing on the Proposed Standard for Occupational Exposure to Bloodborne Pathogens.

DATES: The Agency has rescheduled the hearing to begin January 9, 1990, at 10 a.m. in the Savoy Room, Holiday Inn Union Square, 480 Sutter St., San Francisco, CA 94108.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, U.S. Department of Labor, OSHA, Office of Public Affairs, Room N–3647, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 523–8151.

SUPPLEMENTARY INFORMATION: On May 30, 1989, OSHA published a Notice of Proposed Rulemaking on Occupational Exposure to Bloodborne Pathogens in the **Federal Register** (54 FR 23042) and announced a series of public hearings. The locations announced for the hearings were Washington, DC, Chicago, IL, and San Francisco, CA. Additional hearing sites were later announced for New York, NY (54 FR 31858) and Miami, FL (54 FR 41460).

The beginning date announced for the San Francisco, CA hearing was October 24, 1989, seven days after the Loma Prieta earthquake. It was decided that the disruptions caused by the earthquakes could interfere with public participation in the hearing and, thus, prevent full development of the rulemaking record. For this reason, the October 23 public hearing in San Francisco, CA was postponed to a later date. Participants who had filed a Notice of Intention to Appear were notified by telephone or mailgram. These participants do not need to file additional Notices of Intention to Appear at the January 9 hearing. They will be given actual notice of the rescheduling by mail.

Authority: (Secs. 6(b), 8(c) and 8(g), Public Law 91–596, 84 Stat. 1593, 1599, 1600; 29 U.S.C. 655, 657; 29 CFR Part 1911; Secretary of Labor's Order No. 9–83 (48 FR 35736))

Signed at Washington, DC, this 14 day of 1989.

G.F. Scannell,

Assistant Secretary of Labor.

[FR Doc. 89–27077 Filed 11–16–89; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

Kansas Permanent Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Kansas permanent regulatory program (hereinafter, the "Kansas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to administrative procedures for public hearings. The amendment is intended to revise the State program at its own initiative to improve operational efficiency.

This notice sets forth the times and locations that the Kansas program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4:00 p.m. c.s.t. December 18, 1989. If requested, a public hearing on the proposed amendment will be held on December 12, 1989. Requests to present oral testimony at the hearing must be received by 4:00 p.m., c.s.t. on December 4, 1989.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. William J. Kovacic at the address listed below.

Copies of the Kansas program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each

requester may receive one free copy of the proposed amendment by contacting OSM's Kansas City Field Office.

Mr. William J. Kovacic, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 1103 Grand Avenue, Room 502, Kansas City, MO 64106, Telephone: (816) 374–6405.

Kansas Department of Health and Environment, Surface Mining Section, Shirk Hall, 4th Floor, 1501 S. Joplin, P.O. Box 1418, Pittsburg, KS 66762, Telephone: (316) 231–8615.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Kovacic, Director, Kansas City Field Office (816) 374–6405.

SUPPLEMENTARY INFORMATION:

I. Background on the Kansas Program

On January 21, 1981, the Secretary of Interior conditionally approved the Kansas program. General background information on the Kansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Kansas program can be found in the January 21, 1981, **Federal Register** (46 FR 5892). Subsequent actions concerning Kansas' program and program amendments can be found at 30 CFR 916.12, 916.15, and 916.16

II. Proposed Amendment

By letter dated November 2, 1989, (Administrative Record No. KS–446) Kansas submitted a proposed amendment to its program pursuant to SMCRA. Kansas submitted the proposed amendment at the State's own initiative to improve its program.

The regulations that Kansas proposes to amend are: Kansas Administrative Regulations (K.A.R.) 47–4–14, Public Hearing Administrative Procedures.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kansas program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Kansas City Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4:00 p.m., c.s.t. December 4, 1989. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment having been heard. Persons in the audience who have been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "**ADDRESSES.**" A written summary of each meeting will be made a part of the administrative record.

List of Subjects in 30 CFR Part 916

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

Dated: November 7, 1989

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 89–26995 Filed 11–16–89; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 931

New Mexico Permanent Regulatory Program

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

ACTION: Proposed rule; reopening and extension of comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of revisions to a previously proposed amendment to the New Mexico permanent regulatory program (hereinafter, the "New Mexico program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions pertain to water control for coal processing waste banks, backfilling and grading, inspection and enforcement, disposal of noncoal wastes, and the training, examination, and certification of blasters. The revised proposed amendment is intended to make the State program consistent with the corresponding Federal standards.

This notice sets forth the times and locations that the New Mexico program and revised proposed amendment to that program are available for public inspection and the reopened comment period during which interested persons may submit written comments on the revised proposed amendment.

DATES: Written comments must be received by 4:00 p.m., m.s.t. December 4, 1989.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. Robert H. Hagen at the address listed below.

Copies of the New Mexico program, the revised proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Mr. Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue, SW., Suite 310, Albuquerque, New Mexico 87102, Telephone: (505) 766–1486.

New Mexico Energy & Minerals Department, Mining & Minerals Division, 525 Camino de los Marquez, Santa Fe, NM 87503, Telephone: (505) 827–5970.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Hagen, Director, Albuquerque Field Office, at the address listed in "**ADDRESSES** or Telephone:" (505) 766–1486.

SUPPLEMENTARY INFORMATION:

I. Background on the New Mexico Program.

On December 31, 1980, the Secretary of the Interior conditionally approved the New Mexico program. General background information on the New Mexico program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the New Mexico program, can be found in the December 31, 1980, **Federal Register** (45 FR 86459). Subsequent actions concerning New Mexico's program and program amendments can be found at 30 CFR 931.15, 931.16, and 931.30.

II. Proposed Amendment

On March 9 and 17, 1989, OSM published notices in the **Federal Register** (54 FR 9980 and 54 FR 11183; Administrative Record Nos. NM–480 and NM–484) approving the June 17, 1987, (as revised and clarified on February 18, 1988, and August 10, 1988; Administrative Record Nos. NM–356, NM–393, and NM–438), and April 18, 1988 (as revised and clarified on October 20, 1988; Administrative Record Nos. NM–405 and NM–452) State-proposed amendments to the rules of the New Mexico program. The Director of OSM approved the amendments on the condition that New Mexico would adopt the rules in a form identical to that submitted to and reviewed by OSM and the public.

By letters dated March 29 and April 26, 1989 (Administrative Record Nos. NM–489 and NM–490), New Mexico submitted to OSM copies of the rules that it had promulgated (effective April 28, 1989) subsequent to OSM's approvals. Upon comparing the OSM-approved rules and the State-promulgated rules, OSM identified differences in the two sets of rules.

On June 12, 1989, OSM published a notice in the **Federal Register** (54 FR 24912) soliciting public review of New Mexico's promulgated rules to determine whether they were no less effective than the Federal regulations and no less stringent that SMCRA. The public comment period ended July 12, 1989.

After reviewing the promulgated rules and all comments received during the comment period, OSM identified the following provisions of the promulgated rules that appeared to be less effective than the Federal regulations and less stringent than SMCRA: The definition of blaster, Rule 80–1–33–11; water control for coal processing waste banks, Rule 80–1–20–83(b); backfilling and grading, Rule 80–1–20–103(a)(1); inspection and enforcement, Rule 80–1–29–11(a); disposal of noncoal wastes, Rules 80–1–20–89(d)(2); and the training, examination, and certification of blasters, Rules 80–1–33–13 and 80–1–33–15. By letter dated August 7, 1989, OSM notified New Mexico of its concerns (Administrative Record No. NM–529). By letter dated October 23, 1989, New Mexico responded to these concerns by submitting proposed revisions to the promulgated rules (Administrative Record No. NM–548).

III. Public Comment Procedures

OSM is reopening the comment period on the proposed New Mexico program amendment to provide the public an opportunity to reconsider the adequacy of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the revised proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the revised proposed amendment is deemed adequate, it will become part of the New Mexico program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

List of Subjects in 30 CFR Part 931

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

Dated: November 3, 1989.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 89–26994 Filed 11–16–89; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 950

Wyoming Permanent Regulatory Program

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

ACTION: Proposed rule; Reopening and extension of comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of additional explanatory information and revisions from the State of Wyoming pertaining to a previously proposed amendment to the Wyoming permanent regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The additional explanatory information and revisions pertain to portions of the Amendment. Specifically twelve issues were responded to by Wyoming and are discussed under the Proposed Amendment section. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards.

This notice sets forth the times and locations that the Wyoming program and the proposed amendment to that program are available for public inspection and the reopened comment period during which interested persons may submit additional comments on the proposed amendment.

DATES: Written comments must be received by 4:00 p.m., m.s.t. December 4, 1989.

ADDRESSES: Written comments should be mailed or hand delivered to Jerry R. Ennis at the address listed below.

Copies of the Wyoming program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

Jerry R. Ennis, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Room 2128, Casper, WY 82601–1918, Telephone: (307) 261–5776

Roger Shaffer, Administrator, Department of Environmental Quality, Land Quality Division, Herschler Building—Third Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002, Telephone: (307) 777–7756.

FOR FURTHER INFORMATION CONTACT: Jerry R. Ennis, Director, Casper Field Office, (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

On November 26, 1980, the Secretary of the Interior conditionally approved the Wyoming program. General background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Wyoming program can be found in the November 26, 1980 **Federal Register** (45 FR 78637). Subsequent actions concerning Wyoming's program and program amendments can be found at 30 CFR 950.12, 950.15, and 950.16.

II. Proposed Amendment

On March 31, 1989 Wyoming submitted a proposed amendment to its program pursuant to SMCRA (Administrative Record No. WY–12–1). Wyoming submitted the proposed amendment in response to the December 23, 1985 and June 6, 1987 letters that OSM sent in accordance with 30 CFR 732.17(c) and to satisfy required program amendments at 30 CFR 950.12 and 950.16. Wyoming proposes to amend the following Department of Environmental Quality/Land Quality Division rules and regulations relating to coal mining operation: Authorities and Definitions, chapter I. Permit Applications, chapter II; Environmental Protection Performance Standards, chapter IV; Performance Standards of Special Categories of Coal Mining, chapter V; Blasting for Surface Coal Mining Operations, chapter VI; Underground Mining, chapter VII; Variances for Surface Coal Mining Operations, chapter IX; Coal Exploration, chapter XI; Self-bonding Program, chapter XII; Procedures Applicable to Surface Coal Mining Operations, chapter XIII; Permit Revisions, chapter XIV; Release of Bonds or Deposits for Surface Coal Mining Operations, chapter XVI; Inspections, Enforcement and Penalties for Surface Coal Mining Operations, chapter XVII; Designation of Areas Unsuitable for Surface Coal Mining, chapter XVIII; Limited Mining Operations for Ten (10) Acres or Less of Affected Land, chapter XX.

OSM published a notice in the April 20, 1989 **Federal Register** (54 FR 15955) announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (Administrative Record No. WY–12–4). The public comment period ended May 22, 1989.

During its review of the amendment, OSM identified twelve issues included under the following topics: Permit revisions, topsoil substitutes, disposal of excess spoil, groundwater monitoring frequency, revegetation: Standards for success, stream diversions, bond release, and inspection and enforcement. OSM notified Wyoming of these issues by letter dated June 21, 1989 (Administrative Record No. WY–12–6). Wyoming responded in a letter dated July 17, 1989 (Administrative Record No. WY–12–7) to all twelve issues cited in the June 21, 1989 OSM letter.

In a meeting between OSM and Wyoming on July 18, 1989 these issues were discussed. OSM sent a follow-up letter dated July 27, 1989 (Administrative Record No. WY–12–8). In this letter OSM responded to both Wyoming's July 17, 1989 letter and the issues discussed at the July 18, 1989 meeting held between OSM and the State summarizing how each issue would be resolved based on the July 18, 1989 meeting.

OSM sent Wyoming a second letter on August 9, 1989 discussing further research OSM had conducted regarding three of the twelve issues: Permit revisions, topsoil substitutes and bond release applications (Administrative Record No. WY–12–9).

In a letter dated August 14, 1989 Wyoming responded to OSM on the following issues discussed in previous correspondence: Permit revision, topsoil substitutes, disposal of excess spoil and inspection and enforcement (Administrative Record No. WY–12–10).

In response to OSM's August 9, 1989 letter, Wyoming sent a letter on August 22, 1989 discussing disposition of the issues identified (Administrative Record No. WY–12–11). Specifically the permit revision and topsoil substitute issues are discussed.

In letter dated October 3, 1989 (Administrative Record No. WY–12–12) OSM responded to Wyoming's letter of August 14, 1989 stating that disposal of excess spoil remained as the only unresolved issue. By letter dated October 27, 1989 (Administrative Record No. WY–12–13) to OSM, Wyoming stated it will recommend to the Environmental Quality Council that the waiver of stability analysis included in the proposed amendment be deleted.

III. Public Comment Procedures

OSM is reopening the comment period to the proposed Wyoming program amendment to provide the public an opportunity to reconsider the adequacy of the amendment in light of Wyoming's additional responses. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Wyoming program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

List of Subjects in 30 CFR Part 950

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

Dated: November 8, 1989.

Raymond L. Lowrie,

Assistant Director, Western Field Operation.

[FR Doc. 89–26997 Filed 11–16–89; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AD45

Health Care Outside the United States for Veterans With Service-Connected Disabilities

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its medical regulations (38 CFR part 17) to enable the Secretary to furnish hospital care and medical services outside of the United States to a veteran who is eligible for treatment of a service-connected disability or as part of a rehabilitation program, without regard to the veteran's citizenship. The regulation governing extensions of community nursing home care in the Philippines is also being revised to make it consistent with regulations governing such extensions in the United States.

DATES: Comments must be received on or before December 18, 1989. Comments will be available for public inspection until December 27, 1989.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding this proposed regulations to: The Secretary of Veterans Affairs, Department of Veterans Affairs (271A), 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132, of the above address, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until December 27, 1989.

FOR FURTHER INFORMATION CONTACT: Paul C. Tryhus, Chief, Policies and Procedures Division (136F), Veterans Health Services and Research Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–2143.

SUPPLEMENTARY INFORMATION: Under VA's regulations for providing health care outside the United States for veterans with service-connected disabilities (38 CFR 17.36) "No person shall be entitled to receive hospital or domiciliary care or medical services in a foreign country other than the Republic of the Philippines except—(a) otherwise eligible veterans who are citizens of the United States sojourning or residing abroad and in need of treatment for an adjudicated service-connected disability, or nonservice-connected disability associated with and held to be aggravating a service-connected disability, and (b) for a veteran who is participating in a rehabilitation program and who is medically determined to be in need of hospital care or medical services."

This amendment, contained in the Veterans' Benefit and Services Act of 1988, Public Law 100–322, authorizes VA to furnish hospital care and medical services outside of the United States to a veteran who is not a citizen of the United States, where the Secretary determines, as a matter of discretion and pursuant to these regulations, that furnishing such care is appropriate and feasible for the treatment of a service-connected disability or as part of a rehabilitation program under 38 U.S.C. chapter 31. There is no rational basis for eliminating the citizenship requirement in Canada and the Philippines, and retaining it in all other countries. That is particularly the case given that there are very few non-citizen service-connected veterans in those other countries, and it would not be costly or administratively difficult to furnish the services. By proposing these regulatory amendments, the Secretary exercises his discretion, provided in the law, to eliminate the citizenship requirement entirely. (See 38 U.S.C. 624 (b)(2)(B).)

Finally, the regulation governing extensions of community nursing home care in the Philippines is being revised. A similar regulation governing extensions of such care in the United States, 38 CFR 17.51a, was revised on April 21, 1988. The regulation governing extensions in the Philippines was inadvertently not amended, however. It is now being amended to make the two regulatory provisions consistent.

This proposed amendment to VA regulations is considered nonmajor under the criteria of Executive Order 12291, Federal Regulation. It will not have an annual effect on the economy of $100 million or more; result in major increases in costs for consumers, individual industries, Federal, State or local government agencies, or geographic regions; have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary certifies that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The change concerns the furnishing of health care outside the United States for veterans with service-connected disabilities without regard to the veteran's citizenship. This change imposes no regulatory, administrative, or paperwork burdens on any type of small entity.

(Catalog of Federal Domestic Assistance Numbers: 64.009 and 62.011.)

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grants program—health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing home, Philippines, Veterans.

Approved: October 25, 1989.

Edward J. Derwinski,

Secretary.

38 CFR part 17, Medical, is proposed to be amended to read as follows:

1. Section 17.36 is revised to read as follows:

§ 17.36 Hospital care and medical services in foreign countries.

The Secretary may furnish hospital care and medical services to any veteran sojourning or residing outside the United States, without regard to the veteran's citizenship;

(a) If necessary for treatment of a service-connected disability, or any disability associated with and held to be aggravating a service-connected disability;

(b) If the care is furnished to a veteran participating in a rehabilitation program under 38 U.S.C. chapter 31 who requires care for the reasons enumerated in 38 CFR 17.48(j)(2) of this part.

(Authority: 38 U.S.C. 624)

§ 17.37 [Removed and reserved]

2. Section 17.37 is removed and reserved.

3. In § 17.38 paragraph (d) is revised to read as follows:

§ 17.38 Hospital or nursing home care at Veterans Memorial Medical Center, Philippines.

* * * * *

(d) *Extensions of community nursing home care beyond 6 months.* The Director may authorize, for any veteran whose hospitalization was not primarily for a service-connected disability, an extension of nursing care in a public or private nursing home care facility at VA expense beyond six months when the need for nursing home care continues to exist and

(1) Arrangements for payment of such care through a public assistance program (such as Medicaid) for which the veteran has applied, have been delayed due to unforeseen eligibility problems which can reasonably be expected to be resolved within the extension period, or

(2) The veteran has made specific arrangements for private payment for such care, and

(i) Such arrangements cannot be effectuated as planned because of unforeseen, unavoidable difficulties, such as a temporary obstacle to liquidation of property, and

(ii) Such difficulties can reasonably be expected to be resolved within the extension period; or

(3) The veteran is terminally ill and life expectancy has been medically determined to be less than six months.

(4) In no case may an extension under paragraph (d) (1) or (2) of this section exceed 45 days.

(Authority: 38 U.S.C. 210(c)(1); 620(a))

§ 17.39 [Removed and reserved]

4. Section 17.39 is removed and reserved.

[FR Doc. 89–26982 Filed 11–16–89; 8:45 am]

BILLING CODE 8320–01–M

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38 CFR Part 21

RIN 2900–AD84

Veterans' Education; the Veterans' Benefits and Programs Improvement Act of 1988 and Noncontributory Educational Assistance Programs

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: The Veterans' Benefits and Programs Improvement Act of 1988 contains several provisions which affect Dependents' Educational Assistance and the Vietnam Era GI Bill. These include permitting high school training and refresher, remedial and deficiency training for all dependents, an increase

in the monthly tutorial assistance and the total tutorial assistance under both programs, and a liberalization of the rules concerning adjustment of monthly benefits following a course withdrawal. This effect of this proposal is to acquaint the public with the way in which the Department of Veterans Affairs (VA) will administer the new provisions of law.

DATES: Comments must be received on or before December 18, 1989. Comments will be available for public inspection until December 27, 1989. It is proposed that the effective dates of the amended regulations coincide with the effective dates of the laws upon which they are based. Consequently, it is proposed to make the amendments to §§ 21.4200, 21.4201, and 21.4236 retroactively effective on November 18, 1988. It is proposed to make the amendments to §§ 21.4136, and 21.4137(h) retroactively effective on June 1, 1989. It is proposed to make the amendments to all other regulations and the removal of § 21.4252(f) retroactively effective on August 15, 1989.

ADDRESSES: Send written comments to: Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until December 27, 1989.

FOR FURTHER INFORMATION CONTACT: William G. Susling, Jr., Acting Assistant Director for Education Policy and Program Administration, Vocational Rehabilitation and Education Service, Veterans' Benefits Administration, (202) 233–2092.

SUPPLEMENTARY INFORMATION: VA is proposing to amend various regulations and to remove a regulation in order to implement several provisions of Public Law 100–689 which affect the Dependents' Educational Assistance Program and the Vietnam Era GI Bill. These provisions permit pursuit of a high school diploma for all trainees in the Dependents' Educational Assistance Program; provide for an increase in the maximum monthly tutorial assistance and the maximum tutorial assistance available to trainees under both programs; and provide for a liberalization of the rules concerning the adjustment of the monthly payment of benefits following the withdrawal from one or more courses.

VA finds that good cause exists for making the amendments to §§ 21.4200, 21.4201, and 21.4137(h), like the sections of Public Law 100–689 they implement, retroactively effective on November 10, 1988. VA finds that good cause exists for making §§ 21.4136 and 21.4137(h), like the section of law they implement retroactively effective on June 1, 1989. VA finds that good cause exists for making the remainder of the regulations and the removal of § 21.4252(f), like the provisions of law they implement, retroactively effective on August 15, 1989. To achieve the maximum benefit of the legislation for the affected individuals, it is necessary to implement these provisions of law as soon as possible. A delayed effective date would be contrary to statutory design; would complicate administration of these provisions of law; and might result in denial of a benefit to a veteran or eligible person who is entitled by law to it, or in the granting of a benefit to a veteran or eligible person who is not entitled to it.

VA has determined that these proposed regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs has certified that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–602. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

This certification can be made because the regulations affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these regulations are 64.111 and 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: October 24, 1989.

Edward J. Derwinski,

Secretary.

38 CFR part 21, Vocational Rehabilitation and Education, is proposed to be amended as follows:

PART 21—[AMENDED]

1. In § 21.1045 the introductory text, paragraphs (a)(2) through (a)(4), (a)(3) introductory text, (b)(2) through (b)(6), (c)(3), (g)(2) (i), and (k) are revised to read as follows:

§ 21.1045 Entitlement charges.

VA will make charges against entitlement only when required by this section. Charges for institutional training will be based upon the principle that a veteran or eligible person who trains full time for 1 day should be charged 1 day of entitlement. The provisions of this section apply to veterans training under chapter 34 of title 38, United States Code, as well as to veterans for that portion of a program under chapter 31 of title 38, United States Code, during which the veteran receives payment at the chapter 34 rate pursuant to a valid election under § 21.264 of this part to receive educational assistance allowance equivalent to that paid to veterans training under chapter 34.

(Authority: 38 U.S.C. 1691)

(a) * * *

(2) A veteran who—

* * * * *

(3) A veteran who—

* * * * *

(4) A veteran, not on active duty, who is pursuing refresher, remedial or deficiency courses.

(Authority: 38 U.S.C. 1691)

(b) * * *

(2) A veteran who is pursuing a program of apprenticeship or other on-job training under chapter 34;

(3) A veteran or serviceperson under chapter 34 who is pursuing a correspondence course; or

(4) A veteran, not on active duty, who—

(i) Is pursuing a course leading to a secondary school diploma or an equivalency certificate as described in § 21.4235 of this part;

(ii) Elects to receive educational assistance allowance at the rate described in § 21.4136(a) of this part, and

(iii) Either was not pursuing a course leading to a secondary school diploma or equivalency certificate on October 1,

1980, or has not remained continuously enrolled in such a course since October 1, 1980; or

(5) A serviceperson under chapter 34 who is pursuing a refresher, remedial or deficiency course; or

(6) A veteran or serviceperson under chapter 34 for the pursuit of any course not described in paragraph (a) of this section.

(Authority: 38 U.S.C. 1661, 1677(b), 1691)

(c) * * *

(3) A veteran may concurrently enroll in a refresher, remedial or deficiency course or courses for which paragraph (a)(4) of this section requires no charge against entitlement and in a course or courses for which paragraph (b) of this section requires a charge against entitlement. When this occurs, VA will charge entitlement for the concurrent enrollment based only on pursuit of the course or courses described in paragraph (b) of this section, measured in accordance with §§ 21.4270 through 21.4275 of this part, as appropriate.

(Authority: 38 U.S.C. 1661, 1677(b))

* * * * *

(g) * * *

(2) * * *

(i) $220 paid after December 31, 1972, and before September 1, 1974, to a veteran as an educational assistance allowance.

* * * * *

(k) Education loan after otherwise applicable delimiting date—chapter 34. VA will make a charge against the entitlement of a veteran who receives an education loan pursuant to § 21.4501(c) of this part at the rate of 1 day for each day of entitlement that would have been used had the veteran been in receipt of educational assistance allowance for the period for which the loan was granted.

(Authority: 38 U.S.C. 1662; Pub. L. 95–202, Pub. L. 100–689)

2. Section 21.3045 is revised to read as follows:

§ 21.3045 Entitlement charges.

VA will make charges against an eligible person's entitlement only when required by this section. Charges for institutional training will be based upon the principle that an eligible person who trains full time for 1 day should be charged 1 day of entitlement.

(a) *No entitlement charge for eligible persons receiving tutorial assistance.* VA will make no charge against the entitlement of an eligible person for tutorial assistance received in accordance with § 21.4236.

(Authority: 38 U.S.C. 1692, 1733(b))

(b) Entitlement charges for elementary and secondary education. (1) When an eligible spouse or surviving spouse is pursuing a course leading to a secondary school diploma or an equivalency certificate as described in § 21.4235 of this part, there are two sets of circumstances which will always result in VA's making no charge against his or her entitlement. These are as follows.

(i) Either the eligible spouse or surviving spouse completed training during the period beginning on October 1, 1980 and ending on August 14, 1989, and remained continuously enrolled from October 1, 1980 through the time the spouse or surviving spouse either completed training or August 14, 1989, whichever is earlier; or

(ii) The eligible spouse or surviving spouse completed training before August 15, 1989, and received educational assistance based upon the tuition and fees charged for the course.

(2) When an eligible spouse or surviving spouse is pursuing a course leading to a secondary school diploma or an equivalency certificate as described in § 21.4235 of this part, the following circumstances will always result in VA's making a charge against his or her entitlement.

(i) The spouse or surviving spouse elects to receive dependents' educational assistance at the rate described in § 21.4137(a) of this part, and

(ii) Either was not pursuing a course leading to a secondary school diploma or equivalency certificate on October 1, 1980, or has not remained continuously enrolled in such a course since October 1, 1980.

(3) When an eligible person pursues refresher, remedial or deficiency training before August 15, 1989, the following provisions govern the charge against the entitlement.

(i) VA will not make a charge against the entitlement of an eligible spouse or surviving spouse.

(ii) VA will make a charge against the entitlement of an eligible child.

(4) The following provisions apply to an eligible person for training received after August 14, 1989. When he or she is pursuing a course leading to a secondary school diploma or equivalency certificate or refresher, remedial or deficiency training—

(i) VA will make no charge against the entitlement of an eligible person for the first five months of full time pursuit (or its equivalent in part-time pursuit).

(ii) VA will make a charge against the entitlement of an eligible person for pursuit in excess of the pursuit described in paragraph (b)(4)(i) of this section.

(Authority: 38 U.S.C. 1733(a); Pub. L. 100–689)

(c) *Other courses for which entitlement will be charged.* VA will make a charge against the period of entitlement of—

(1) An eligible person for pursuit of a program of apprenticeship or other on-job training,

(2) A spouse or surviving spouse for pursuit of a correspondence course; or

(3) An eligible person for the pursuit of any course not described in paragraph (a) or (b) of this section.

(Authority: 38 U.S.C. 1734)

(d) *Determining entitlement charge.* The provisions of this paragraph apply to all courses except those courses for which VA is not making a charge against the eligible person's entitlement, nor do they apply to apprenticeship or other on-job training, correspondence courses, or to courses offered solely through independent study.

(1) After making any adjustments required by paragraph (d)(3) of this section VA will make a charge against entitlement—

(i) On the basis of total elapsed time (one day for each day of pursuit) if the eligible person is pursuing the program of education on a full-time basis,

(ii) On the basis of a proportionate rate of elapsed time, if the eligible person is pursuing a program of education on a three-quarter, one-half or less than one-half time basis. For the purpose of this computation, training time which is less than one-half, but more than one-quarter time, will be treated as though it were one-quarter time training.

(2) VA will compute elapsed time from the commencing date of enrollment to date of discontinuance. If the eligible person changes his or her training time after the commencing date of enrollment, VA will—

(i) Divide the enrollment period into separate periods of time during which the eligible person's training time remains constant; and

(ii) Compute the elapsed time separately for each time period.

(3) An eligible person may concurrently enroll in refresher, remedial or deficiency training for which paragraph (b)(3) or (b)(4)(i) of this section requires no charge against entitlement and in a course or courses for which paragraph (b)(2) or (b)(4)(ii) or (c) of this section requires a charge against entitlement. When this occurs, VA will charge entitlement for the concurrent enrollment based only on

pursuit of the courses described in paragraph (b)(2) or (b)(4)(ii) or (c) of this section, measured in accordance with §§ 21.4270 through 21.4275 of this part, as appropriate.

(Authority: 38 U.S.C. 1733(a); Pub. L. 100-689)

(e) *Entitlement charge for pursuit solely by independent study.* VA will make charges against the entitlement of an eligible person in the manner described in paragraph (d) of this section, if he or she is pursuing a program of education solely by independent study. However, the computation will always be made as though the eligible person's training were one-quarter time.

(Authority: 38 U.S.C. 1682(b), 1732(a))

(f) *Entitlement charge for apprenticeship or other on-job training.* The charge against entitlement for pursuit of apprenticeship or other on-job training program shall be 1 month for each month of training assistance allowance paid to the eligible person for the program. If there is a reduction in the eligible person's monthly training assistance allowance due to his or her failure to complete 120 hours of training during the month, VA will combine the portions of those months for which a reduction was made. VA will make no charge against entitlement for the period of combined reductions.

(Authority: 38 U.S.C. 1734, 1787)

(g) *Entitlement charge for correspondence courses.* The charge against entitlement for pursuit of a course exclusively by correspondence will be 1 month for each—

(1) $220 paid after December 31, 1972, and before September 1, 1974, to a spouse or surviving spouse as an educational assistance allowance,

(2) $260 paid after August 31, 1974, and before January 1, 1975,

(3) $270 paid after December 31, 1974, and before October 1, 1976,

(4) $292 paid after September 30, 1976, and before October 1, 1977,

(5) $311 paid after September 30, 1977, and before October 1, 1980,

(6) $327 paid after September 30, 1980, and before January 1, 1981,

(7) $342 paid after December 31, 1980, and before October 1, 1984, and

(8) $376 paid after September 30, 1984.

(Authority: 38 U.S.C. 1786(a))

(h) *Overpayment cases.* VA will make a charge against entitlement for an overpayment only if the overpayment is discharged in bankruptcy, is wavied and is not recovered, or is compromised.

(1) If the overpayment is discharged in bankruptcy or is waived and is not recovered, the charge aginst entitlement will be at the appropriate rate for the elapsed period covered by the overpayment (exclusive of interest, administrative costs of collection, court costs and marshal fees).

(2) If the overpayment is compromised and the compromise offer is less than the amount of interest, administrative costs of collection, court costs and marshal fees, the charge against entitlement will be at the appropriate rate for the elapsed period covered by the overpayment (exclusive of interest, administrative costs of collection, court costs and marshal fees).

(3) If the overpayment is compromised and the compromise offer is equal to or greater than the amount of interest, administrative costs of collection, court costs and marshal fees, the charge against entitlement will be determined by—

(i) Subtracting from the sum paid in the compromise offer the amount attributable to interest, administrative costs of collection, court costs and marshal fees,

(ii) Subtracting the reamining amount of the overpayment balance determined in paragraph (h)(3)(i) of this section from the amount of the original overpayment (exclusive of interest, administrative costs of collection, court costs and marshal fees),

(iii) Dividing the result obtained in paragraph (h)(3)(ii) of this section by the amount of the original debt (exclusive of interest, administrative costs of collection, court costs and marshal fees), and

(iv) Multiplying the percentage obtained in paragraph (h)(3)(iii) of this section by the amount of the entitlement otherwise chargeable for the period of the original overpayment.

(Authority: 38 U.S.C. 1671, 1732)

(i) *Interruption to conserve entitlement.* An eligible person may not interrupt a certified period of enrollment for the purpose of conserving entitlement. An educational institution may not certify a period of enrollment for a fractional part of the normal term, quarter or semester, if the eligible person is enrolled for the term, quarter or semester. VA will make a charge against entitlement for the entire period of certified enrollment, if the eligible person is otherwise eligible for benefits, except when benefits are interrupted under any of the following conditions:

(1) Enrollment is actually terminated;

(2) The eligible person cancels his or her enrollment, and does not negotiate an educational benefits check for any part of the certified period of enrollment;

(3) The eligible person interrupts his or her enrollment at the end of any term, quarter, or semester within the certified period of enrollment, and does not negotiate a check for educational benefits for the succeeding term, quarter, or semester;

(4) The eligible person requests interruption or cancellation for any break when a school was closed during a certified period of enrollment, and VA continued payments under an established policy based upon an Executive Order of the President or an emergency situation. Whether the eligible person negotiated a check for educational benefits for the certified period is immaterial.

(Authority: 38 U.S.C. 1711)

(j) *Education loan after otherwise applicable delimiting date-spouse or surviving spouse.* VA will make a charge against the entitlement of a spouse or surviving spouse who receives an education loan pursuant to § 21.4501(c) of this part at the rate of 1 day for each day of entitlement that would have been used had the spouse or surviving spouse been in receipt of educational assistance allowance for the period for which the loan was granted.

(Authority: 38 U.S.C. 1712)

3. In § 21.4136 paragraph (k)(4) is redesignated as paragraph (k)(5), paragraph (k)(1), and (k)(2)(vii) are revised and paragraphs (k)(2)(viii) and (k)(4) are added to read as follows:

§ 21.4136 Rates; educational assistance allowance; 38 U.S.C. chapter 34.

* * * * *

(k) *Mitigating circumstances.* (1) VA will not pay benefits to any veteran for a course from which the veteran withdraws or receives a nonpunitive grade which is not used in computing the requirements for graduation unless—

(i) There are mitigating circumstances,

(ii) The veteran submits a description of the circumstances in writing to VA within 1 year from the date VA notifies the veteran that he or she must submit the description of the mitigating circumstances, and

(iii) The veteran submits evidence supporting the existence of mitigating circumstances within one year of the date that evidence is requested by VA.

(2) * * *

(vii) Unanticipated active duty military service, including active duty for training,

(viii) Unanticipated difficulties in caring for the veteran's or eligible person's child or children.

(Authority: 38 U.S.C. 1780(a); Pub. L. 100-689)

* * * * *

(4) In the first instance of a withdrawal after May 31, 1989, from a course or courses for which the veteran received educational assistance under either title 38, United States Code or chapter 106, title 10, United States Code, VA will consider that mitigating circumstances exist with respect to courses totaling not more than six semester hours or the equivalent. Veterans to whom this subparagraph applies are not submit to the reporting requirement found in paragraph (k)(1)(ii) of this section.

(Authority: 38 U.S.C. 1780(a)(4); Pub. L. 100-689)

* * * * *

4. In § 21.4137 paragraph (h)(4) is redesignated as paragraph (h)(5), paragraphs (h)(1), (h)(2)(vii) and the introductory text of paragraph (m), paragraphs (m)(1) and (m)(2)(ii) are revised, and paragraphs (h)(2)(viii), (h)(4) and (m)(3) are added to read as follows:

§ 21.4137 Rates; educational assistance allowance; 38 U.S.C. chapter 35.

* * * * *

(h) *Mitigating circumstances.* (1) VA will not pay benefits to any eligible person for a course from which the eligible person withdraws or receives a nonpunitive grade which is not used in computing the requirements for graduation unless—

(i) There are mitigating circumstnaces,

(ii) The eligible person submits a description of the circumstances in writing to VA within 1 year from the date VA notifies the eligible person that he or she must submit the description of the mitigating circumstances, and

(iii) The eligible person submits evidence supporting the existence of mitigating circumstances within one year of the date that evidence is requested by VA.

(2) * * *

(vii) Unanticipated active duty military service including active duty for training,

(viii) Unanticipated difficulties in caring for the eligible person's child or children.

(Authority: 38 U.S.C. 1780)

* * * * *

(4) In the first instance of a withdrawal after May 31, 1989, from a course or courses for which the eligible person received educational assistance under title 38, United States Code or under chapter 106, title 10, United States Code, VA will consider that mitigating circumstances exist with respect to courses totaling not more than six semester hours or the equivalent. Eligible persons to whom the provisions of this subparagraph apply are not subject to the reporting requirement found in paragraph (h)(1)(ii) of this section.

(Authority: 38 U.S.C. 1780(a)(4); Pub. L. 100-689)

* * * * *

(m) *Courses leading to a secondary school diploma or equivalency certificate.* The monthly rate of educational assistance allowance payable to an eligible person enrolled in a course leading to a secondary school diploma or equivalency certificate shall be as follows:

(Authority: 38 U.S.C. 1733; Pub. L. 100-689)

(1) The monthly rate shall be the rate for institutional training stated in paragraph (a) of this section if—

(i) Either—

(A) The eligible spouse or surviving spouse was enrolled in the course on October 1, 1980, and

(B) The eligible spouse or surviving spouse has remained continuously enrolled after October 1, 1980, in courses leading to a secondary school diploma or an equivalency certificate; or

(ii) The educational assistance allowance payable to the eligible spouse or surviving spouse is for education or training received after August 14, 1989.

(Authority: 38 U.S.C. 1733; Pub. L. 100-689)

* * * * *

(2) * * *

(ii) The second set of monthly rates is the monthly rate for institutional training found in paragraph (a) of this section. See § 21.3045 of this part for the way in which this election affects the charge against the eligible spouse's or surviving spouse's entitlement.

(3) The monthly rate of educational assistance allowance payable to an eligible child enrolled in a course leading to a secondary school diploma or equivalency certificate shall be the monthly rate for institutional training stated in paragraph (a) of this section. No educational assistance allowance shall be paid to an eligible child for such education or training pursued before August 15, 1989.

(Authority: 38 U.S.C. 1691, 1733; Pub. L. 96-466, Pub. L. 100-689)

5. In § 21.4200 paragraph (v) is added to read as follows:

§ 21.4200 Definitions.

* * * * *

(v) *"Reservist".* This term means a member of the Selected Reserve or a member of the National Guard or the Air National Guard.

(Authority: 38 U.S.C. 1673(d))

6. In § 21.4201 paragraphs (c)(3)(ii), (c)(3)(iv)(*d*), (c)(4) introductory text, (e)(2) introductory text, (e)(2)(i) and (f)(1)(ii) are revised to read as follows:

§ 21.4201 Restrictions on enrollment—percentage of students receiving financial support.

* * * * *

(c) * * *

(3) * * *

(ii) Is on or immediately adjacent to a military base, or a facility of the National Guard (including the Air National Guard) or the Selected Reserve),

* * * * *

(iv) * * *

(*d*) In the case of a course offered on or immediately adjacent to a facility of the National Guard or the Selected Reserve, members of the National Guard, members of the Selected Reserve and their dependents.

(4) The provisions of paragraph (a) of this section generally do not apply to a course when the total number of veterans, eligible persons, and reservists receiving assistance under chapters 30, 31, 32, 34, 35 and 36, title 38, United States Code, and chapter 106, title 10, United States Code, who are enrolled in the educational institution offering the course, equals 35 percent or less of the total student enrollment at the educational institution (computed seaprately for the main campus and any branch or extension of the institution). However, the provisions or paragraph (a) of this section will apply to such a course when—

(Authority: 38 U.S.C. 1673(d); Publ. L. 98-525, Pub. L. 100-689) 18, 1988)

* * * * *

(e) * * *

(2) *Assigning students to each part of the ratio.* Notwithstanding the provisions of paragraph (a) of this section, the following students will be considered to be nonsupported provided the VA is not furnishing them with educational assistance under title 38, United States Code or under chaper 106, title 10, United States Code.

(i) Students who are not veterans or reservists, and are not in receipt of instuttional aid.

(Authority: 38 U.S.C. 1673(d); Pub. L. 98-525, Pub. L. 100-689)

* * * * *

(f) * * *

(1) * * *

(ii) Until such time as the total number of veterans, eligible persons and reservists receiving assistance under chapters 30, 31, 32, 34, 35, or 36, title 38, United States Code, or chapter 106, title 10, United States Code, who are enrolled in the educational institution offering

the course, equals more than 35 percent of the total student enrollment at the educational institution (computed separately for the main campus and any branch or extension of the institution). At that time the procedures contained in paragraph (f)(2) of this section shall apply.

(Authority: 38 U.S.C. 1673(d); Pub. L. 98-525, Pub. L. 100-689)

7. In § 21.4236 paragraphs (c) and (d) are revised to read as follows:

§ 21.4236 Special supplemental assistance (tutorial).

* * * * *

(c) *Educational assistance allowance.* In additional to payment of education assistance allowance at the monthly rates specified in § 21.4136 or § 21.4137 of this part, VA will authorize the cost of the tutorial assistance in an amount not tgo exceed $100 per month effective Novemberr 18, 1988.

(Authority: 38 U.S.C. 1692(b); Pub. L. 91-219, Pub. L. 92-540, Pub. L. 93-508, Pub. L. 94-502, Pub. L. 95-202, Pub. L. 99-466, Pub. L. 98-543, Pub. L. 100-689)

(d) *Entitlement charge.* VA will make no charge against the period of the veteran's entitlement as computed under § 21.1041 of this part or the eligible person's entitlement as computed under § 21.3044 of this part. Special supplemental assistance provided undee this section will not exceed a maximum of $1,200 effective November 18, 1988.

(Authority: 38 U.S.C. 1690, 1692, 1693; Pub. L. 91-219, Pub. L. 93-508, Pub. L. 94-502, Pub. L. 94-202, Pub. L. 96-466, Pub. L. 98-543, Pub. L. 100-689)

8. In § 21.4237 the section heading, the introductory text to paragraph (a), and paragraph (d) are revised to read as follows:

§ 21.4237 Special assistant for the educationally disadvantaged-chapter 35.

(a) *Enrollment.* VA may approve the enrollment of an eligible spouse or surviving spouse in an appropriate course or courses at the secondary school level in a State. After August 14, 1989, VA may approve the enrollment of an eligible child in an appropriate course or courses at the secondary school level in a State. This approval may be made only if the eligible person—

(Authority: 38 U.S.C. 1691, 1733; Pub. L. 100-689)

* * * * *

(d) *Entitlement charge.* The provisions of § 21.3045 of this part will determine whether VA will make a charge against the period of the entitlement of the eligible person because of enrollment in coruses under the provisions of this section.

(Authority: 38 U.S.C. 1733; Pub. L. 92-540, Pub. L. 96-466, Pub. L. 100-689)

§ 21.4252 [Removed]

9. In § 21.4252, paragraph (f) is removed and reserved.

[FR Doc. 89-26983 Filed 11-16-89; 8:45 am]
BILLING CODE 8320-01-M

DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENT OF DEFENSE

DEPARTMENT OF TRANSPORTATION

38 CFR Part 21

RIN 2900-AE10

Reservists Education; Implementation of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986

AGENCY: Department of Veterans Affairs, Department of Defense and Department of Transportation.

ACTION: Proposed regulations.

SUMMARY: The Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 contains several provisions which affect the administration of educational assistance for members of the Selected Reserve. The effect of these provisions is to change the way in which the Department of Veterans Affairs (VA) must measure certain courses which do not lead to a standard college degree; to add a requirement that certain reservists be counseled before choosing a program of education; and make a change concerning nonduplication of Federal programs. This proposal also contains two minor changes required by the Veterans' Benefits and Programs Improvement Act of 1988 pertaining to elimination of the 180 days service requirement and less than half-time training. Other amended regulations resulting from the Veterans' Benefits and Programs Improvement Act of 1988 and dealing with the education programs the Department of Veterans Affairs administers will be proposed separately.

DATES: Comments must be received on or before December 18, 1989. Comments will be available for public inspection until December 27, 1989. It is proposed that the effective date of the amendments to § 21.7540Ia) and § 21.7672 (b) through (f), like the provisions of law they implement, be made retroactively effective on November 18, 1988. It is proposed that the effective date of all other amendments, like the provisions of law they implement, be made retroactively effective on October 28, 1986.

ADDRESSES: Send written comments to: Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 of the above address, between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until December 27, 1989.

FOR FURTHER INFORMATION CONTACT: William G. Susling, Acting Assistant Director for Education Policy and Program Administration, Vocational Rehabilitation and Education Service, Department of Veterans Benefits, (202) 233-2092.

SUPPLEMENTARY INFORMATION: Several regulations are amended in order to implement provisions of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Pub. L. 99-576). Two sections are amended in order to implement provisions of the Veterans' Benefits and Programs Improvement Act of 1988 (Pub. L. 100-689). These provisions affect the measurement of certain courses which do not lead to a standard college degree. In many cases this will result in an increase in the monthly benefit payable to reservists enrolled in these courses. The provisions also prohibit receipt of benefits under two or more of the education programs administered by VA. This will result in a sharp reduction in benefits to a few reservists who are also veterans.

The Department of Veterans Affairs, the Department of Defense, and the Department of Transportation find that good cause exists for making these regulations, like the sections of the law they implement, retroactively effective on October 28, 1986. To achieve the maximum benefit of this legislation for the affected individuals, it is necessary to implement these provisions of law as soon as possible. A delayed effective date would be contrary to statutory design; would complicate administration of these provisions of law; and might result in denial of a benefit to a reservist who is entitled by law to it, or in the granting of a benefit to a reservist who is not entitled to it.

The Department of Veterans Affairs, the Department of Defense, and the Department of Transportation have determined that these proposed regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will

not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs, the Secretary of Defense, and the Secretary of Transportation have certified that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility anaylses requirements of sections 603 and 604.

This certification can be made because the regulations affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

A Catalog of Federal Domestic Assistance number for the program affected by these regulations is 12.609.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Aproved: July 21, 1989.

Edward J. Derwinski,

Secretary of Veterans Affairs.

Dated: August 11, 1989.

A.V. Conte,

Acting Principal Deputy, Assistant Secretary for Reserve Affairs, Department of Defense.

Dated: October 18, 1989.

John N. Faigle,

Rear Admiral, U.S. Coast Guard, Chief, Office of Readiness and Reserve.

38 CFR part 21 Vocational Rehabilitation and Education, is proposed to be amended as follows:

1. In § 21.7540, paragraph (a)(4) and (a)(5) and paragraph (b) and the authority citations for paragraph (a) and paragraph (b) are revised and paragraph (c) and its authority citation are added to read as follows:

§ 21.7540 Eligibility for educational assistance.

(a) * * *

(4) Is participating satisfactorily in the Selected Reserve; and

(5) Has not elected to have his or her service in the Selected Reserve credited toward establishing eligiblity to benefits provided under 38 U.S.C. Chapter 30.

(Authority: 38 U.S.C. 1433(c), 10 U.S.C. 2132; Pub. L. 98–525, Pub. L. 99–576, Pub. L. 100–689)

(b) *Limitations on establishing eligibility.* (1) An individual must elect whether or not he or she wishes service in the Selected Reserve to be credited towards establishing eligibility under 38 U.S.C. chapter 30 or under 10 U.S.C. Chapter 106 when—

(i) The individual is a reservist who is eligible for basic educational assistance provided under 38 U.S.C. 1412, and has established eligibility to that assistance partially through service in the selected Reserve, or

(ii) The individual is a member of the National Guard or Air National Guard who has established eligibility for basic educational assistance provided under 38 U.S.C. 1412 through activation under a provision of law other than 32 U.S.C. 316, 502, 503, 504 or 505 followed by service in the Selected Reserve.

(2) A reservist may revoke his or her election provided he or she has not negotiated a check for benefits under either 38 U.S.C. chapter 30 or 10 U.S.C. chapter 106 after the date of the election. Once the reservist has negotiated a check under either chapter, the election is irrevocable.

(Authority: 38 U.S.C. 1433(c), 10 U.S.C. 2132; Pub. L. 98–525, 99–576)

(c) *Dual eligibility.* An individual who has established eligibility for basic educational assistance under 38 U.S.C chapter 30 solely through service on active duty may establish eligibility for educational assistance under 10 U.S.C. chapter 106 by meeting the requirements of paragraph (a) of this section.

(Authority: 10 U.S.C. 2132(d), 2134; Pub. L. 98–525)

2. In § 21.7600, paragraphs (b) and (d) and their authority citations are revised to read as follows:

§ 21.7600 Counseling.

* * * * *

(b) *Required counseling.* (1) In any case in which the Department of Veterans Affairs has rated the reservist as being incompetent, the reservist must be counseled before selecting a program of education. The requirement that counseling be provided is met when—

(i) The reservist has had one or more personal interviews with the counselor;

(ii) The counselor and the reservist have jointly developed recommendations for selecting a program of education; and

(iii) The counselor has reviewed the recommendations with the reservist.

(2) The veteran may follow the recommendations developed in the course of counseling, but is not required to do so.

(3) The Department of Veterans Affairs will take no further action on a reservist's application for assistance under this chapter when he or she—

(i) Fails to report for counseling;

(ii) Fails to cooperate in the counseling process; or

(iii) Does not complete counseling to the extent required under paragraph (b)(1) of this section.

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 1663; Pub. L. 98–525, Pub. L. 99–576)

* * * * *

(d) *Provision of counseling.* The Department of Veterans Affairs shall provide counseling as needed for the purposes identified in paragraphs (a) and (c) of this section upon request of the reservist. In addition, the Department of Veterans Affairs shall provide counseling as needed for the purpose identified in paragraph (b) of this section following the reservist's request for counseling, the reservist's initial application for benefits or any communication from the reservist or guardian indicating that the reservist wishes to change his or her program. The Department of Veterans Affairs shall take appropriate steps (including individual notification where feasible) to acquaint reservists with the availability and advantages of counseling services.

(Authority: 10 U.S.C. 2136(b); 38 U.S.C. 1663; Pub. L. 98–525, Pub. L. 99–576)

3. Section 21.7603 is revised to read as follows:

§ 21.7603 Travel expenses.

The Department of Veterans Affairs will not pay for any costs of travel to and from the place of counseling for anyone who requests counseling under 10 U.S.C. chapter 106 or for whom counseling is required under that chapter.

(Authority: 38 U.S.C. 111)

4. In § 21.7642, paragraph (a) and its authority citation are revised to read as follows:

§ 21.7642 Nonduplication of educational assistance.

(a) *Payments of educational assistance shall not be duplicated.* A reservist is barred from receiving educational assistance concurrently under 10 U.S.C. chapter 106 and any of the following provisions of law—

(1) 38 U.S.C. ch. 30,

(2) 38 U.S.C. ch. 31,
(3) 38 U.S.C. ch. 32,
(4) 38 U.S.C. ch. 34,
(5) 38 U.S.C. ch. 35,
(6) 10 U.S.C. ch. 107,
(7) Section 903 of the Department of Defense Authorization Act, 1981, or
(8) The Hostage Relief Act of 1980.

(Authority: 38 U.S.C. 1433(a), 1781(b), 1795; Pub. L. 98–525, Pub. 99–576)

* * * * *

§ 21.7670 [Amended]

5. In § 21.7670, paragraph (e) is removed and reserved.

6. Section 21.7672 is revised to read as follows:

§ 21.7672 Measurement of courses not leading to a standard college degree.

(a) *Overview.* (1) Courses not leading to a standard college degree may be measured on either a clock-hour basis, or a credit-hour basis or a combination of both. Factors which the Department of Veterans Affairs must include in determining the proper basis for measurement include whether the courses are accredited; whether the course could be credited toward a standard college degree; and whether the course is offered on a standard quarter or semester-hour basis.

(2) In determining which is the correct basis for measuring a reservist's enrollment, the Department of Veterans Affairs will first examine whether credit-hour measurement is appropriate, as provided in paragraph (b) of this section, or if requested by the educational institution, paragraph (c) of this section.

(3) If it is not appropriate to measure a reservist's courses on a credit-hour basis, the Department of Veterans Affairs will use the provisions of paragraph (d) of this section to examine whether a combination of credit-hour and clock-hour measurement may be used.

(4) If it is appropriate neither to measure the reservist's enrollment on a credit-hour basis nor on a combination of credit hours and clock hours, the Department of Veterans Affairs will measure the enrollment on a clock-hour basis as described in paragraphs (e) and (f) of this section.

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 1788(b); Pub. L. 99–576)

(b) *Credit-hour measurement—standard method.* (1) The Department of Veterans Affairs will measure a reservist's enrollment in a course not leading to a standard college degree on a credit-hour basis whenever all the conditions listed in this paragraph are met.

(i) The reservist is enrolled in a course which—

(A) Is offered during the school year by a fully accredited institution of higher learning in residence on a standard quarter- or semester-hour basis, and

(B) Is approved pursuant to 38 U.S.C. 1775.

(ii) A majority of the total credits required for the course is derived from unit courses or subjects offered by that institution of higher learning as part of a course, approved pursuant to 38 U.S.C. 1775, leading to a single standard college degree.

(2) When all the conditions of paragraph (b)(1) of this section are met, the Department of Veterans Affairs will—

(i) Measure the reservists's enrollment in the same manner as collegiate undergraduate courses are measured in § 21.7670(a), (b), (c) of this part.

(ii) Apply the provisions of—

(A) Section 21.4272(e) of this part and measure those courses as though they were undergraduate courses using the "normal method", when appropriate;

(B) Section 21.4272(f) of this part if one or more of the reservist's courses have insufficient standard class sessions; and

(C) Section 21.4272(g) of this part if one or more of the reservist's courses are offered during a nonstandard term.

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 1788; Pub. L. 99–576)

(c) *Credit-hour measurement—alternate method.* Even though courses not leading to a standard college degree do not qualify for credit-hour measurement as provided in paragraph (b) of this section, an educational institution offering courses not leading to a standard college degree may measure those courses on a quarter- or semester-hour basis as indicated for collegiate courses in § 21.7670 of this part provided—

(1) The academic portions of the courses require outside preparation and are measured on a minimum of 50 minutes net of instruction per week for each quarter or semester hour of credit.

(2) The laboratory portions of the courses are measured on a minimum of 2 hours of attendance per week for each quarter or semester hour of credit.

(3) The shop portion of the courses are measured on a minimum of 3 hours of attendance per week for each quarter or semester hour of credit. Not more than 2 hours rest period shall be allowed per week for courses in which shop practice is an integral part of full-time courses; 1½ hours for three-quarter-time courses of 16–21 clock hours; 1 hour for one-half-time courses of 11–15 clock hours; ¾ hours for less than one-half-time courses of 6–10 clock hours; and no rest periods shall be allowed for other less than one-half-time courses of 0–5 clock hours.

(4) In no event shall the courses be considered full-time training when less than 22 hours per week of attendance is required.

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 1788; Pub. L. 98–525)

(d) *Mixed credit-hour and clock-hour measurement.* (1) When a course not leading to a standard college degree in which the veteran is enrolled cannot qualify for credit-hour measurement under either paragraph (b) or (c) of this section, the Department of Veterans Affairs will measure the course on a combined clock-hour and credit-hour basis when the provisions of this paragraph are met.

(i) The course in which the reservist is enrolled—

(A) Is offered by an institution of higher learning, and

(B) Does not lead to a standard college degree; and

(ii) The institution of higher learning requires as part of the reservist's program of education one or more unit subjects for which credit is granted toward a standard college degree; and

(2) The Department of Veterans Affairs will apply—

(i) The provisions of § 21.7670(a), (b) and (c) of this part and the provisions of § 21.4272(e), (f) and (g) of this part, where appropriate, to the portion of the reservist's enrollment consisting of the unit subject or subjects described in paragraph (d)(1)(ii) of this section measured on a credit-hour basis, and

(ii) The provisions of paragraph (d) of this section to the portion of the reservist's enrollment which is being measured on a clock-hour basis.

(3) For a reservist enrolled in a school where 12 credit hours are normally full-time, and where the courses which must be measured on a clock-hour basis would normally require 18 clock hours net instruction because the course is accredited and theory and class instruction predominate as provided in paragraph (f)(2) of this section, the Department of Veterans Affairs will measure enrollment as provided in the following table. Clock hours in the table include customary intervals not to exceed 10 minutes between classes. Shop practice and rest periods are excluded. Supervised instruction periods in schools' shops and the time involved in field trips and individual and group instruction may be included in computing the clock-hour requirements. Credit hours in this table refer to credit hours pursued during a semester or

quarter as defined in § 21.4200(b) of this part. If the semester or quarter hour is not one which meets the definition of § 21.4200(b) of this part, before using the table the Department of Veterans Affairs will convert the credit hours being pursued by the reservist to equivalent credit hours using the procedure found in § 21.4272(g) of this part. If there are insufficient class sessions to support the credit hours in which the reservist is enrolled, the VA will use the class sessions as a basis for measurement as described in § 21.4272(f)(2) of this part.

Credit hour enrollment	Minimum necessary clock hour enrollment—(12 credit hours and 18 clock hours are full time)			
	Full time	Three-fourth time	One-half time	Less than ½ time
1 credit hour	16 or more clock hours net instruction.	11–15 clock hours net instruction.	7–10 clock hours net instruction.	0–6 clock hours.
2 credit hours	15 clock hours net instruction.	10–14 clock hours net instruction.	6–9 clock hours net instruction.	0–5 clock hours.
3 credit hours	13 or 14 clock hours net instruction.	9–12 clock hours net instruction.	4–8 clock hours net instruction.	0–3 clock hours.
4 credit hours	12 clock hours net instruction.	7–11 clock hours net instruction.	3–6 clock hours net instruction.	0–2 clock hours.
5 credit hours	10 clock hours net instruction.	6–9 clock hours net instruction.	1–5 clock hours net instruction.	0 clock hours.
6 credit hours	9 clock hours net instruction.	4–8 clock hours net instruction.	0–3 clock hours net instruction.	Not applicable.
7 credit hours	7 clock hours net instruction.	3–6 clock hours net instruction.	0–2 clock hours net instruction.	Not applicable.
8 credit hours	6 clock hours net instruction.	1–5 clock hours net instruction.	0 clock hours net instruction.	Not applicable.
9 credit hours	4 clock hours net instruction.	0–3 clock hours net instruction.	Not applicable	Not applicable.
10 credit hours	3 clock hours net instruction.	0–2 clock hours net instruction.	Not applicable	Not applicable.
11 credit hours	1 clock hour net instruction	0 clock hours	Not applicable	Not applicable.

(4) For a reservist enrolled in a school where 12 credit hours are normally full-time, and where the courses which must be measured on a clock-hour basis would normally require 22 clock hours net instruction because the course is accredited and shop practice predominates as provided in paragraph (f)(1) of this section, the Department of Veterans Affairs will measure enrollment as provided in the following table. Supervised study is excluded from the clock hours included in this table. Credit hours in this table refer to credit hours pursued during a semester or quarter as defined in § 21.4200(b) of this part. If the semester or quarter is not one which meets the definition of § 21.4200(b) of this section, before using the table, the Department of Veterans Affairs will convert the credit hours being pursued by the reservist to equivalent credit hours using the procedure found in § 21.4272(g) of this part. If there are insufficient class sessions to support the credit hours in which the reservist is enrolled, the VA will use the class sessions as a basis for measurement as described in § 21.4272(f)(2) of this part.

Credit hour enrollment	Minimum necessary clock hour enrollment—(12 clock hours and 22 credit hours are full time)			
	Full time	Three-fourth time	One-half time	Less than ½ time
1 credit hour	20 or more clock hours attendance with not more than 2¼ hours period allowance.	14–19 clock hours attendance with not more than 1½ hours rest period allowance.	9–13 clock hours attendance with not more than 1 hour rest period allowance.	0–8 clock hours attendance with not more than ½ hour rest period allowance.
2 credit hours	18 clock hours attendance with not more than 2 hours rest period allowance.	12–17 clock hours attendance with not more than 1½ hours rest period allowance.	7–11 clock hours attendance with not more than ¾ hour rest period allowance.	0–6 clock hours attendance with not more than ¼ hour rest period allowance.
3 credit hours	16 clock hours attendance with not more than 1¾ hours rest period allowance.	11–15 clock hours attendance with not more than 1½ hours rest period allowance.	5–10 clock hours attendance with not more than ¾ hours rest period allowance.	0–4 clock hours attendance with not more than ¼ hours rest period allowance.
4 credit hours	15 clock hours attendance with not more than 1¾ hours rest period allowance.	9–14 clock hours attendance with not more than 1¼ hours rest period allowance.	4–8 clock hours attendance with not more than ½ hour rest period allowance.	0 clock hours.
5 credit hours	13 clock hours attendance with not more than 1½ hours rest period allowance.	7–12 clock hours attendance with not more than 1 hour rest period allowance.	2–6 clock hours attendance with not more than ¼ hour rest period allowance.	0 clock hours.
6 credit hours	11 clock hours attendance with not more than 1¼ hours rest period allowance.	5–10 clock hours attendance with not more than ¾ hour rest period allowance.	0–4 clock hours	
7 credit hours	9 clock hours attendance with not more than 1 hour rest period allowance.	3–8 clock hours attendance with not more than ½ hour rest period allowance.	0–2 clock hours	
8 credit hours	7 clock hours attendance with not more than ¾ hour rest period allowance.	2–6 clock hours attendance with not more than ¼ hour rest period allowance.	0–1 clock hour	
9 credit hours	5 clock hours attendance with not more than ½ hour rest period allowance.	0–4 clock hours	Not applicable	
10 credit hours	4 clock hours attendance with not more than ½ hour rest period allowance.	0–3 clock hours	Not applicable	

Credit hour enrollment	Minimum necessary clock hour enrollment—(12 clock hours and 22 credit hours are full time)			
	Full time	Three-fourth time	One-half time	Less than ½ time
11 credit hours	2 clock hours attendance with not more than ¼ hour rest period allowance.	0–1 clock hour	Not applicable	

(5) The Department of Veterans Affairs will measure an enrollment as provided in this paragraph when the provisions of paragraph (d)(1) of this section apply to the enrollment, but neither the provisions of paragraphs (d)(3) nor (d)(4) of this section apply. This may occur when either the courses which must be measured on a clock-hour basis normally require neither 18 clock hours attendance nor 22 clock hours net instruction, or 12 credit hours are not normally full-time at the school, or both. Credit hours in this paragraph refer to credit hours pursued during a semester or quarter as defined in § 21.4200(b) of this part. If the semester or quarter is not one which is defined in § 21.4200(b) of this part, before using the procedure in this paragraph the VA will convert the credit hours being pursued by the reservist to equivalent credit hours using the procedure found in § 21.4272(g) of this part. If there are insufficient class sessions to support the credit hours in which the reservist is enrolled, the Department of Veterans Affairs will use the class sessions as a basis for measurement as described in § 21.4272(f)(2) of this part. The Department of Veterans Affairs will—

(i) Divide the number of credit hours in which the reservist is enrolled by the number of credit hours normally considered full time, three-quarter time, and one-half time at the school;

(ii) Multiply the percentages determined in paragraph (d)(5)(i) of this section by the number of clock hours of attendance or net instruction, as appropriate, which paragraph (e) or (f), respectively, of this section requires for each training time;

(iii) Subtract the result determined in paragraph (d)(5)(ii) of this section from the minimum number of clock hours of attendence or net instruction, as appropriate, which paragraph (e) or (f) of this section, respectively, requires for each training time (rounding to the nearest clock hour and dropping fractions of one-half hour to the next lower clock hour). Negative numbers will be changed to zero.

(iv) Multiply the length of time (if any) provided in paragraph (f) of this section for a rest period allowance by the percentage determined in paragraph (d)(5)(i) of this section;

(v) Subtract the length of time determined in paragraph (d)(5)(iv) of this section from the length of time determined in paragraph (f) of this section for a rest period allowance (rounding to the nearest quarter-hour and dropping fractions of 7½ minutes to the next lower quarter-hour); and

(vi) Measure the enrollment on the basis of the greatest training time permitted by the number of clock hours in which the reservist is enrolled and the length of his or her rest period allowance.

(Authority: 38 U.S.C. 1788(e); Pub. L. 99–576)

(e) *Nonaccredited-clock hour measurement.* If after having examined the courses in which a reservist is enrolled the Department of Veterans Affairs concludes that the reservist's enrollment qualifies neither for credit-hour measurement as provided in paragraphs (b) and (c) of this section nor for a combination of credit-hour and clock-hour measurement as provided in paragraph (d) of this section, the Department of Veterans Affairs shall measure a nonaccredited course not leading to a standard college degree as follows. For the purposes of this paragraph clock hours and class sessions mean clock hours and class sessions per week.

(1) If shop practice is an integral part of the course—

(i) Full-time training shall be 30 clock hours attendance with not more than 2½ hours rest period allowance and not more than 5 hours of supervised study.

(ii) Three-quarter-time training shall be 22 through 29 clock hours attendance with not more than 2 hours rest period allowance and not more than 3¾ hours of supervised study.

(iii) Half-time training shall be 15 through 21 clock hours attendance with not more than 1¼ hours rest period allowance and not more than 2½ hours of supervised study.

(iv) Less than half-time training shall be 1 through 14 clock hours of attendance. For attendance of between 8 and 14 clock hours there shall be not more than ¾ hours rest period allowance and not more than 1¼ hours of supervised study. For attendance of between 1 and 7 clock hours shall be no rest period allowance and no supervised study.

(2) Except as provided in paragraph (e)(3) of this section, if theory and classroom instruction predominates in a course—

(i) Full-time training is 25 clock hours net instruction and not more than 5 hours of supervised study,

(ii) Three-quarter-time training is 18 through 24 clock hours net instruction and not more than 3¾ hours of supervised study, and

(iii) Half-time training is 12 through 17 hours net instruction and not more than 2½ hours of supervised study. In measuring net instruction for the purposes of this paragraph there will be included customary intervals not to exceed 10 minutes between classes.

(iv) Less than half-time is 1 through 11 clock hours net instruction. For 7 through 11 clock hours net instruction there shall be not more than 1¼ hours of supervised study. For 1 through 6 clock hours net instruction there shall be no supervised study.

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 1788; Pub. L. 98–525, Pub. L. 99 576).

(f) *Accredited courses-clock hour measurement.* If after having exmined the courses in which a reservist is enrolled the Department at Veteran Affairs concludes that the reservist's enrollment qualifies neither for credit-hour measurement as provided in paragraphs (b) and (c) of this section nor for a combination of credit-hour and clock-hour measurement as provided in paragraph (d) of this section, the Department of Veterans Affairs shall measure accredited courses not leading to a standard college degree as follows.

(1) If shop practice is an integral part of the course—

(i) Full-time training shall be 22 clock hours attendance with not more than 2½ hours rest period allowance.

(ii) Three-quarter-time training shall be 16 through 21 clock hours attendance with not more than 2 hours rest period allowance.

(iii) Half-time training shall be 11 through 15 clock hours attendance with not more than 1¼ hour rest period allowance.

(iv) Less than half-time training shall be 1 through 10 clock hours attendance. For attendance of 6 through 10 clock hours there shall be not more than ¼ hour rest period allowance. For

attendance of 1 through 5 clock hours there shall be no rest period allowance. Supervised study shall be excluded from measurement of all courses to which this paragraph applies.

(2) If theory and class instruction predominates—

(i) Full-time training is 18 clock hours net instruction.

(ii) Three-quarter-time training is 13 through 17 clock hours net instruction, and

(iii) Half-time training is 9 through 12 clock hours net instruction.

(iv) Less than half-time training is 1 through 8 clock hours net instructon. In measuring net instruction for this paragraph there will be included customary intervals not to exceed 10 minutes between classes; however, supervised study must be excluded.

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 1788; Pub. L. 98-525, Pub. L. 99-576)

7. Section 21, 7673 is added to read as follows:

§ 21.7673 Measurements of concurrent enrollments.

(a) *Conversion of units of measurement required.* Where a reservist enrolls concurrently in courses offered by two schools and the standards for measurement of the courses pursued concurrently in the two schools are different, the Department of Veterans Affairs will measure the reservist's enrollment by converting the units of measurement for courses in the second school to their equivalent in units of measurement required for the courses in the program of education which the reservist is pursuing at the primary institution. This conversion will be accomplished as follows.

(1) If the Department of Veterans Affairs measures the course at the primary institution on a credit-hour basis (including a course which does not lead to a standard college degree, which is being measured on a credit-hour basis as provided in § 21.7672(b) of this part, and

(i) The Department of Veterans measures the course in the second school on a mixed basis as provided in § 21.7672(d) of this part, the Department of Veterans Affairs will add to the credit hours the reservist is pursuing at the primary institution the credit hours attributable to any course the reservist is pursuing at the second school which the Department of Veterans Affairs could measure on a credit-hour basis. The clock hours attributable to the other courses pursued at the second school will be converted to credit hours; or

(ii) The Department of Veterans Affairs measures the courses at the second school on clock-hour basis, the clock hours will be converted to credit hours.

(2) If the Department of Veterans Affairs measures the course at the primary institution on a mixed basis as provided in § 21.7672(d) of this part, and

(i) The Department of Veterans Affairs measures the course at the second school on a credit-hour basis, the credit hours pursued at the second school will be added to the credit hours the reservist is pursuing at the primary institution and the resulting credit hours will be used in making the calculations required by § 21.7670 or § 21.7672(b) or (c) of this part, as appropriate; or

(ii) The Department of Veterans Affairs measures the courses at the second school on a clock-hour basis, the clock hours being pursued at the second school will be added to those pursued at the primary institution before making the calculations required by § 21.7670 or § 21.7672 (b) or (c) of this part, as appropriate.

(3) If the Department of Veterans Affairs measures the courses pursued at the primary institution on a clock-hour basis, and

(i) The Department of Veterans Affairs measures the courses pursued at the second school on a mixed basis, the courses pursued at the second school which the Department of Veterans Affairs can measure on credit-hour basis for at least one program at the second school will be converted to clock hours and the resulting clock hours added to determine the reservist's training time; or

(ii) The VA measures the courses pursued at the second school on a credit-hour basis, including courses which qualify for credit-hour measurement on the basis of § 21.7672(b) of this part, the VA will convert the credit hours to clock hours to determine the reservist's training time.

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 1788)

(b) *Conversion of clock hours to credit hours.* If the provisions of paragraph (a) of this section require the Department of Veterans Affairs convert clock hours to credit hours, it will do so by—

(1) Dividing the number of credit hours which the Department of Veterans Affairs considers to be full-time at the educational institution whose courses are measured on a credit-hour basis by the number of clock hours which are full-time at the educational institution whose courses are measured on a clock-hour basis; and

(2) Multiplying each clock hour of attendance by the decimal determined in paragraph (b)(1) of this section. The Department of Veterans Affairs will drop all fractional hours.

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 1788)

(c) *Conversion of credit hours to clock hours.* If the provisions of paragraph (a) of this section require the Department of Veterans Affairs to convert credit hours to clock hours, it will do so by—

(1) Dividing the number of clock hours which the Department of Veterans Affairs considers to be full-time at the educational institution whose courses are measured on a clock-hour basis by the number of credit hours which are full-time at the educational institution whose courses are measured on a credit-hour basis; and

(2) Multiplying each credit hour by the number determined in paragraph (b)(1) of this section. The Department of Veterans Affairs will drop all fractional hours.

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 1788)

(d) *Standards for measurement the same.* Where the standards for measurement of the courses pursued concurrently in the two schools are the same, the Department of Veterans Affairs will measure the reservist's enrollment by adding together the units of measurement for the courses in the second school and the units of measurement for the courses in the primary institution. The standard for full time will be the full-time standard for the courses at the primary institution. If courses at both schools are measured on a mixed basis so that the provisions of § 21.7672(d) of this part must be applied to the enrollment, the Department of Veterans Affairs will separately add the credit hours and the clock hours first, and then apply the provisions of § 21.7672(d) of this part. In applying those provisions the Department of Veterans Affairs will use the standard for full time at the primary institution.

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 1788)

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BILLING CODE 8320-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AE31

Veterans Education; Qualifying for the Montgomery GI Bill-Active Duty Through Service in the Selected Reserve

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: An individual may qualify for benefits under the Montgomery GI Bill-

Active Duty by serving at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service and, after completion of active duty service, serving at least four continuous years in the Selected Reserve. At present, the Code of Federal Regulations does not contain a period of time which must not be exceeded between the individual's release from active duty and his or her affiliation with the Selected Reserve. In order to ensure that the Selected Reserve enlists servicemembers before their military skills have significantly eroded, this proposal sets a time limit of one year between release from active duty and affiliation with the Selected Reserve.

DATES: Comments must be received on or before December 18, 1989. Comments will be available for public inspection until December 27, 1989.

ADDRESSES: Send written comments to: Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, Room 132 of the above address, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until December 27, 1989.

FOR FURTHER INFORMATION CONTACT: William G. Susling, Jr, Acting Assistant Director for Education Policy and Program Administration, Voclational Rehabilitation and Education Service, Veterans Benefits Administration, (202) 233–2092.

SUPPLEMENTARY INFORMATION: The Department of Veterans Affairs (VA) is proposing to amend 38 CFR 21.7042(b) and 38 CFR 21.7044(b) in order to state that to qualify for the Montgomery Gi Bill-Active Duty through service on active duty followed by service in the Selected Reserve an individual must affiliate with the Selected Reserve within one year of release from active duty. This restriction ensures that the Selected Reserve will enlist servicemembers before their military skills have been significantly eroded. It will also make the Montgomery GI Bill-Active Duty easier for VA to administer, because VA will not have to track all servicemembers who serve a two-year period of active duty to the completion of their total military obligation.

VA has determined that these proposed regulations to do not contain a major rule as that term is defined in E.O. 12291, entitled Federal Regulation. The proposed regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs has certified that these proposed regulations, if promulated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the proposed regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of section 603 and 604.

This certification can be made because the regulations affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by these regulations is 64.124.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: October 26, 1989.

Edward J. Derwinski,

Secretary.

38 CFR part 21, Vocational Rehabilitation and Education, is proposed to be amended as follows:

1. § 21.7042, paragraph (b)(4) is revised and an authority citation is added, and paragraph (b)(9) and an authority citation are added so the revised and added text reads as follows:

§ 21.7042 Basic eligibility requirements.

* * * * *

(b) * * *

(4) Except as provided in paragraphs (b)(6) and (b)(9) of this section, after completion of active duty service, the individual must serve at least 4 continuous years service in the Selected Reserve. The individual must affiliate with the Selected Reserve within one year from the date of his or her release from active duty. During this period of service in the Selected Reserve the individual must satisfactorily participate in training as prescribed by the Secretary concerned.

(Authority: 38 U.S.C. 1412)

* * * * *

(9) An individual who has met the requirements of paragraphs (b)(1) through (b)(3) of this section and has made a commitment (as determined by the Secretary concerned) to serve 4 years in the Selected Reserve may pursue a program of education with basic educational assistance eligibility under paragraph (b) of this section while performing the 4-year Selected Reserve service requirement of paragraph (b)(4) of this section.

(Authority: 38 U.S.C. 1412)

* * * * *

2. In § 21.7044, paragraph (b)(4)(ii) is revised and an authority citation is added to read as follows:

§ 21.7044 Persons with 38 U.S.C. ch. 34 eligibility.

* * * * *

(b) * * *

(4) * * *

(ii) Except as provided in paragraph (b)(6) of this section, after completion of active duty service, the individual must serve at least 4 continous years service in the Selected Reserve. The individual must affiliate with the Selected Reserve within one year from the date of his or her release from active duty. During this period of service in the Selected Reserve the individual must satisfactorily participate in training as prescribed by the Secretary concerned.

(Authority: 38 U.S.C. 1412)

* * * * *

[FR Doc. 89–26980 Filed 11–16–89; 8:45 am]

BILLING CODE 8320–01–M

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38 CFR Part 36

RIN 2900–AD92

Loan Guaranty; Requirement for Holder To Retain Records for One Year; Eliminate Minimum Property Standards

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulatory amendments.

SUMMARY: The Department of Veterans Affairs (VA) is proposing amendments to its loan guaranty regulations to require that lenders participating in the program maintain their VA home loan origination records for at least one year from the date of loan closing. It is also proposed to eliminate references to the HUD Minimum Property Standards (MPS–HUD Handbook 4900.1), as both HUD and VA have discontinued use of this handbook. This amendment is designed to facilitate VA monitoring of

lender performance by assuring that records are available for inspection.

DATES: Comments must be received on or before December 18, 1989. Comments received will be available for public inspection until December 27, 1989.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for public inspection only in room 132, Veterans Services Unit, at the above address between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until December 27, 1989.

In addition, interested persons may provide comments on the recordkeeping requirements in §§ 36.4215 and 36.4330 to the Office of Management and Budget only at the address provided in the Paperwork Reduction Act section below.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Schneider, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Benefits Administration, (202) 233–3042.

SUPPLEMENTARY INFORMATION: Under chapter 37 of title 38, United States Code, VA guarantees a portion of the loan made to an eligible veteran to acquire or refinance a home, condominium, or manufactured home, or to install certain energy conservation features or other home improvements. The guaranty is a promise by the Government to pay a portion of the veteran's indebtedness in the event of a loan default and eventual termination through foreclosure or other proceedings.

Under VA regulations at 38 CFR 36.4215 and 36.4330, the holder of a VA guaranteed loan is required to maintain a record of the payments received on the obligation and of disbursements made, including the amounts and dates of these payments. These records must be maintained until the Secretary ceases to be liable as guarantor of the loan. These regulations provide the Secretary with the right to inspect the records or accounts of a holder pertaining to loans guaranteed by VA.

VA proposes to amend these regulations to require that lenders maintain all loan origination records for at least one year. This will assure that when VA auditors conduct audits and examinations of lender records, the records will be available. These amendments will specify that loan origination records include the loan application, including any preliminary application, verifications of employment and deposit, all credit reports, including preliminary credit reports, copies of each sales contract or addendum, letters of explanation for adverse credit items, discrepancies and the like, direct references from creditors, correspondence with employers, appraisal and compliance inspection reports, reports on termite and other inspections of the property, builder change orders, and all closing papers and documents. No new records are being required; only records already being created are required to be maintained. The titles of §§ 36.4215 and 36.4330 would be changed from "Accounting Records" to "Maintenance of Records".

Section 36.4360a of title 38, Code of Federal Regulations refers to the (MSP) Minimum Property Standards for One and Two Family Dwellings, HUD (Department of Housing and Urban Development), 4900.1.

It is proposed to eliminate this reference, as both HUD and VA have discontinued use of this handbook. This proposed amendment would simply confirm the fact that VA has discontinued use of the MPS–HUD Handbook 4900.1 in favor of local building codes, the Council of American Building Officials (CABO) Code, or minimum standards for planning, construction and general acceptability prescribed by the Secretary.

Paperwork Reduction Act

Sections 36.4215 and 36.4330 of this regulation contain recordkeeping requirements. As required by section 3504(h) of the Paperwork Reduction Act, the Department of Veterans Affairs is submitting to the Office of Management and Budget (OMB) a request for approval of these recordkeeping requirements. Organizations and individuals desiring to submit comments for consideration by OMB on these proposed recordkeeping requirements should address them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: Joseph F. Lackey.

Regulatory Flexibility Act

The Secretary hereby certifies that these proposed regulatory amendments will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. These proposed regulations simply assure that lenders retain the loan origination records which already must be prepared in connection with a VA guaranteed home loan for a minimum period of one year, and eliminate a reference to the now discontinued Minimum Property Standards Handbook, 4900.1. Such a minimum retention period for these records is consistent with good lender practice, and will not impose any significant new burden. The one year record retention requirement is considered minimal and is similar to the one year record retention requirement of the Department of Housing and Urban Development for FHA insured loans, which lenders already follow. The Federal National Mortgage Association (FNMA) and Federal Home Loan Mortgage Corporation (FHLMC) also have record retention requirements. Pursuant to 5 U.S.C. 605(b), these regulations are exempt from the initial and final regulatory analysis requirements of sections 603 and 604.

Executive Order 12291

The proposed regulatory amendments have been reviewed pursuant to Executive Order 12291 and have been found to be nonmajor regulation changes. The regulations will not impact on the public or private sectors as major rules. They will not have an annual effect on the economy of $100 million or more; cause a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or have other significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

(Catalog of Federal Domestic Assistance Program Numbers are 64.114 and 64.119)

List of Subjects In 38 CFR Part 36

Condominium, Handicapped, Housing loan programs-housing and community development, Manufactured homes, Veterans.

These amendments are promulgated under authority granted the Secretary by sections 210(c), 1803(c)(1), and 1812(g) of title 38 United States Code.

Approved: October 24, 1989.

Edward J. Derwinski,

Secretary.

38 CFR part 36, Loan Guaranty, is proposed to be amended as follows:

PART 36—[AMENDED]

§ 36.4214 [Amended]

1. In § 36.4214 remove the numbers "1819" where they appear and add, in their place, the numbers "1812".

2. In § 36.4215 the section heading and paragraph (b) are revised and paragraph (c) is added to read as follows:

§ 36.4215 Maintenance of records.

* * * * *

(b) The lender shall retain copies of all loan origination records on a VA guaranteed loan for at least one year from the date of loan closing. Loan origination records include the loan application, including any preliminary application, verifications of employment and deposit, all credit reports, including preliminary credit reports, copies of each sales contract and addendums, letters of explanation for adverse credit items, discrepancies and the like, direct references from creditors, correspondence with employers, appraisal and compliance inspection reports, reports on termite and other inspections of the property, builder change orders, and all closing papers and documents.

(Authority: 38 U.S.C. 210(c), 1803(c)(1) and 1812(g))

(c) The Secretary has the right to inspect, examine, or audit, at a reasonable time and place, the records or accounts of a lender or holder pertaining to loans guaranteed by the Secretary.

§ 36.4216 [Amended]

3. In § 36.4216, text and authority citation, remove the numbers "1819" where they appear and add, in their place, the numbers "1812".

4. In § 36.4330, the section heading and paragraph (b) are revised and paragraph (c) is added to read as follows:

§ 36.4330 Maintenance of records.

* * * * *

(b) The lender shall retain copies of all loan origination records on a VA guaranteed loan for at least one year from the date of loan closing. Loan origination records include the loan application, including any preliminary application, verifications of employment and deposit, all credit reports, including preliminary credit reports, copies of each sales contract and addendums, letters of explanation for adverse credit items, discrepancies and the like, direct references from creditors, correspondence with employers, appraisal and compliance inspection reports, reports on termite and other inspections of the property, builder change orders, and all closing papers and documents.

(Authority: 38 U.S.C. 210(c), 1803(c)(1))

(c) The Secretary has the right to inspect, examine, or audit, at a reasonable time and place, the records or accounts of a lender or holder pertaining to loans guaranteed or insured by the Secretary.

§ 36.4331 [Amended]

5. In the authority citation to § 36.4331 remove the numbers "1819" where they appear and add, in their place, the numbers "1812".

6. In § 36.4360a, paragraph (b)(2) is revised and an authority citation is added to read as follows:

§ 36.4360a Appraisal requirements.

* * * * *

(b) * * *

(2) *Horizontal condominiums.* Department of Veterans Affairs policies and procedures applicable to single-family residential construction shall also apply to horizontal condominiums. Proposed or existing (declarant in control or marketing units) horizontal condominium conversions shall comply with current local building codes for alterations or repairs made to convert the building to the condominium form of ownership unless the local authorities require total code compliance on the entire structure when a building is being converted to the condominium form of ownership. In those areas where local standards are nonexistent, inferior to, or in conflict with Department of Veterans Affairs objectives, a certification will be required from a professional architect and/or registered engineer certifying that the plans and specifications conform to one of the national building codes which is typical of similar construction methods and standards for condominiums used in the area. Those portions of the condominium conversion which are not being altered, improved or repaired must be appraised in accordance with paragraph (a) of this section.

(Authority: 38 U.S.C. 210(c)(1), 1803(c)(1))

* * * * *

[FR Doc. 89-27046 Filed 11-17-89; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 3680-7]

Alternative Emission Control Plan for the Union Carbide Corp. Taft Plant; Hahnville, LA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing disapproval of the Union Carbide Corporation Taft Plant Alternative Emission Reduction Plan request ("Bubble") as a revision to the Louisiana State Implementation Plan (SIP). This volatile organic compound (VOC) Bubble request identifies credits from the shutdown of a Glyoxal Reactor Column vent and five storage tank service changes in lieu of controls being placed on two VOC storage tanks. A portion of the emission reduction credits (ERCs) were determined to be invalid. The basis for this disapproval is a determination by the State and company of the "baseline" that is inconsistent with the guidelines of the Emissions Trading Policy Statement of December 4, 1986. The true baseline does not lend itself to affording any Emission Reduction Credits. The principle used to establish the credits in this proposal is invalid; therefore, the credits are invalid.

DATE: Comments must be received on or before December 18, 1989.

ADDRESSES: Written comments on this action should be addressed to Mr. Tom Diggs, Chief (6T-AN), SIP/NSR Section, Air Programs Branch, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202-2733. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested person wanting to examine these documents should make an appointment with the appropriate office at least twenty four hours before visiting day.

Air Quality Division, Louisiana Department of Environmental Quality, Land and Natural Resources Building, 625 North 4th Street, P.O. Box 44066, Baton Rouge, Louisiana 70804

Environmental Protection Agency, Region 6, Air Programs Branch (6T-AN), 1445 Ross Avenue, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Bill Riddle, State Implementation Plans Section, Air Programs Branch, Air, Pesticides & Toxics Division, EPA Region 6, 1445 Ross Ave., Dallas, Texas 75202-2733, (214) 655-7214 or FTS 255-7214.

SUPPLEMENTARY INFORMATION:

Background

On October 19, 1983, the Governor of Louisiana submitted a request to revise the Louisiana SIP to include an Alternative Emission Reduction Plan for the Union Carbide Corporation Taft Plant located at Hahnville, St. Charles Parish. This area is currently designated nonattainment for ozone. The submittal

contained certification that adequate notice and a public hearing were provided for the proposed alternate emission reduction plan. EPA is proposing to disapprove the SIP revision and invites comments from all interested persons. Comments received at the EPA Region 6 address listed above within 30 days of the publication of this notice will be considered.

Union Carbide's Taft Plant proposed using emission reductions from the shutdown fo a Glyoxal Reactor column vent and some associated tankage changes in lieu of controlling the emissions from two fixed roof volatile organic compound (VOC) storage tanks. Total noncompliance emissions from the tanks are 10.75 TPY.

Before being shut down in May of 1980, the Glyoxal Reactor Column vent had emissions after control of 9.9 TPY. Five tanks had changes made in the substances stored which reduced emissions by 3.69 TPY.

Accounting for the Glyoxal shutdown and the tank service changes, total proposed credits of 13.59 TPY were to cover the excess emissions of 10.75 TPY from the two tanks, leaving a 2.84 TPY net air quality benefit. The total trade, as proposed, is summarized below:

Credit from vent shutdown (−9.9 TPY) + credit from tank changes (−3.69 TPY) + noncompliance emissions from two storage tanks (10.75 TPY)=Net air quality benefit (−2.84 TPY)

EMISSIONS (TONS/YEAR)

Sources	Actual			Allowable		
	Before bubble	After bubble	Change	Before bubble	After bubble	Change
VOC Storage Tanks	11.28	11.28	0.00	0.15	10.9	+10.75
Tank Changes	3.76	0.07	−3.69	3.76	0.07	−3.69
Glyoxal Vent Shutdown	9.9	0.0	−9.9	9.9	0.0	−9.9
Total	24.94	11.35	−13.59	13.81	10.97	−2.84

The Bubble was reviewed for compliance with the requirements of section 110 of the Clean Air Act, 40 CFR part 51, EPA's proposed Emissions Trading Policy Statement (ETPS) of April 7, 1982 [47 FR 15076], and the final ETPS of December 4, 1986 [51 FR 43814]. This bubble is a pending bubble. The final ETPS states that pending bubbles will be processed in accordance with the 1982 policy and must show that applicable standards, increments, and visibility requirements will not be jeopardized. For this reason, a pending bubble is reviewed for compliance with both the 1982 interim policy and the 1986 final policy. EPA has reviewed the State submittal and developed an Evaluation Report. This report is available for inspection by interested parties during normal business hours at the EPA Region 6 office. The review is summarized below.

To be valid for trading purposes, an emission reduction must be surplus, enforceable, permanent, and quantifiable. First, and the reason for disapproval, is a portion of the reductions are not surplus:

A Baseline level of emissions is the level of pollutant output below which a source must reduce its emission in order to qualify for an "emission reduction". An Emissions Reduction is the physical reduction of emissions by a source. To be eligible for conversion into an Emission Reduction Credit (ERC) this reduction must be below the measurable baseline or currently required level of emissions and must be permanently enforceable. An ERC is the commodity that can be "banked" and later used by a source to satisfy the required emission limits contained in its permit. The ERC is the end product of the conversion of emission reductions.

The difference between the baseline level and the enforceable level of emissions is what can be available for credit (ERCs). It is required that the actual level of emissions in question be less than the baseline level of emissions for credit to be available. The baseline level of emissions is determined in this case to be a Reasonably Available Control Technology (RACT) level. RACT is a floating roof for the type of storage tanks that are credit donating in this case. RACT level emissions are established by calculations using the EPA publication "Compilation of Air Pollutant Emission Factors: (AP–42)," 3rd edition, because the proposal was submitted at a point in time when the 3rd edition was applicable.

This proposed bubble utilizes the following concept, which is invalid, as justification for generating ERCs. First, the baseline level of emissions for the trade is calculated based on the characteristics and parameters of the VOCs being stored in the credit generating source prior to the trade. Second, credit is being derived by a change in the type of VOCs being stored in the same tank. This replacement material is less volatile and consequently has less emissions to the atmosphere. Third, a level of emissions less than the baseline level can be calculated for the replacement, less volatile, compound. Fourthly, the difference between the baseline and this subsequent level of emissions is used as ERCs for an emissions trade.

The reason this method of calculating ERCs is invalid is that the baseline level of emissions is reestablished when the replacement, less volatile, compound is stored. This is not a situation where a baseline is fixed at a certain level at a certain point in time and any variance from this level can be creditable. The baseline level of emissions is determined by RACT, which in this case, specifies a type of equipment used (floating roof tanks) and not the type of material stored. Changes in emissions resulting from the material being stored is a variable that is not regulated and is allowed to change, while equipment specifications are regulated and are the standard by which the baseline is developed. ERCs can only come from improvements in what is regulated, not in other variables that effect total emissions. In this case, ERCs can only come from improvements in the level of emissions resulting from changes in equipment specifications, not changes in the material being stored, because equipment is what is being regulated. The baseline level of emissions is a "type-of-equipment" dependant, not a "point-in-time" dependant, concept. It is EPA's position that the method used to establish the credits from the VOC storage tanks in this proposal is invalid; therefore, these credits are invalid.

To further explain, let's take the converse situation of this proposal, i.e. when a more volatile replacement material is stored. When a company stores a VOC in a tank and then replaces the stored material with a more

volatile VOC, the baseline is reestablished at a higher level of emissions in response to the change. If this were not the case, the source would have to consume/obtain ERCs for the change. They do not have to obtain credits because the baseline is reestablished (same as above), but in the opposite direction. Likewise, when the less volatile VOC is a replacement storage material, the reestablished baseline is at a lower level than before. But this level is still the baseline; (Baseline being the level of pollutant output Below which a source must reduce emissions in order to qualify for an "emissions reduction." Because the replacement storage material level of emissions *IS* the baseline, not Below the baseline, there are no credits available for the trade.

The trade was also reviewed to determine if other criteria for an adequate trade were met. First, the emissions reductions would need to be enforceable at the State level if the credits were valid, through permits granted by the Louisiana Air Quality Division to Union Carbide, and would need to be enforceable at the Federal level upon incorporation into the Louisiana SIP. The present permit, #1836T(M-1), if the credits were valid, would need to have improved recordkeeping requirements in order to satisfy EPA's criteria for enforceability.

Second the emission reductions would be permanent because the Glyoxal unit was dismantled in December 1981, and the tanks which had service changes now would have a permanent emissions limit.

Third, calculations quantifying all of the emissions involved in the trade were submitted to EPA in permit #1836T(M-1).

Proposed Action

The Union Carbide Bubble does not meet all of the criteria for an acceptable Bubble as outlined above, therefore EPA is proposing to disapprove this plan.

The submittal may also contain other deficiencies not noted. This report does not discuss these deficiencies because the submittal does not meet certain major provisions (validity of credits, recordkeeping) discussed previously, which in themselves provide enough reason to propose disapproval of the action. To determine the applicable requirements of the emissions trading program the applicant or State agency should consult the Emissions Trading Policy of December 4, 1986 (51 FR 43814), appendix D of the proposed Ozone/Carbon Monoxide Nonattainment Policy of November 24, 1987 (52 FR 45105), and the enforceability checklist included in a September 23, 1987 memorandum from J. Craig Potter, Thomas L. Adams Jr., and Francis S. Blake re: "Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency."

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

EPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comments received on or before December 18, 1989 will be considered in EPA's final rulemaking. All coments will be available for inspection during normal business hours at the Region 6 office listed at the front of this notice.

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 Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities because it effects only one entity.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Ozone.

Authority: 42 U.S.C. 7401–7642.

Dated: November 3, 1989.

Robert E. Layton, Jr.,

P.E. Regional Administrator.

[FR Doc. 89–27070 Filed 11–16–89; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 300

[Docket No. 121RA–LDR; FRL 3680–5]

National Oil and Hazardous Substance Pollution Contingency Plan; Applicability of RCRA Land Disposal Restrictions to CERCLA Response Actions

AGENCY: Environmental Protection Agency.

ACTION: Supplemental notice and request for comment; extension of comment period.

SUMMARY: The Environmental Protection Agency (EPA) today is extending the comment period for the Supplemental Notice and Request for Comment published in the **Federal Register** at 54 FR 41566–41569 (October 10, 1989). That Notice solicited comment on certain issues concerning the application of the Resource Conservation and Recovery Act (RCRA) land disposal restrictions to responsive actions conducted pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as well as, to RCRA actions.

The Agency received a number of requests for an extension of the 30 day comment period for the notice. These requests noted that an extension would be useful for the several individuals and organizations for adequately preparing comments. Since this notice addresses an important set of issues, and since the Agency wishes to obtain comments from as many affected parties as possible, a two week extension to the comment period will be given.

DATES: The comment period on the Supplemental Notice published at 54 FR 41566–41569 will be extended until November 24, 1989.

ADDRESS: Written comments on the Supplemental Notice published at 54 FR 41566–41569 should be submitted, in triplicate, to the Superfund Docket, Docket No. 121RA–LDR, located in Room 2427 at the U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Specific questions about the extension of the comment period for the Supplemental Notice should be directed to David M. Fagan, Office of Solid Waste and Emergency Response (OS–341), U.S. Environmental Protection Agency, Washington, DC 20460. Tel. (202) 382–4497.

Dated: November 8, 1989.

Jonathan Cannon,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 89–26717 Filed 11–16–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89–480, RM–6500]

Radio Broadcasting Services, Newton and Sullivan, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Superior Broadcasting, Inc., proposing the substitution of Channel 294B1 for Channel 292A at Sullivan, Illinois, and the modification of its Class A license for Station WSAK(FM) to specify operation on the higher class channel, and the substitution of Channel 278A for Channel 295A at Newton, Illinois. Channel 294B1 can be allotted to Sullivan, Illinois, in compliance with the minimum distance separation requirements of the Commission's Rules. The coordinates for this allotment are 39–37–49 and 88–30–28. Channel 278A can be used at the sites proposed by the Newton applicants for Channel 295A. The coordinates for the applicants for Channel 278A at Newton are 38–59–22 and 88–10–57 (880727MI) and 39–00–05 and 88–11–25 (880728MP).

DATES: Comments must be filed on or before December 29, 1989, and reply comments on or before January 16, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Aaron Shainis, Baraff, Koerner, Olender & Hochberg, P.C., 2033 M Street, NW., Suite 700, Washington, DC 20036 (Counsel for Superior Broadcasting, Inc.).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–480, adopted October 16, 1989, and released November 7, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–27016 Filed 11–16–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–479, RM–7030]

Radio Broadcasting Services; Newberry, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Leon B. Van Dam, proposing the substitution of FM Channel 250C1 for Channel 250C2 at Newberry, Michigan. Petitioner also requests modification of his construction permit for station WUPQ, Channel 250C2, to specify operation of Channel 250C1. The coordinates for Channel 250C1 are 46–18–53 and 85–33–45. Canadian concurrence will be obtained for this allotment.

DATES: Comments must be filed on or before December 29, 1989, and reply comments on or before January 16, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Leon B. Van Dam, P.O. Box 152, Newberry, Michigan 49868.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–479, adopted October 11, 1989, and released November 7, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–27014 Filed 11–16–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–471, RM–6697]

Radio Broadcasting Services; Heidelberg, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Pine Belt Broadcasting, Inc., proposing the substitution of FM Channel 257C2 for Channel 257A at Heidelberg, Mississippi, and modification of its license for Station WEEZ, to specify operation on the higher class channel. The coordinates for Channel 257C2 are 31–52–21 and 89–15–41.

DATES: Comments must be filed on or before January 4, 1990, and reply comments on or before January 19, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Christopher D. Imlay, Booth, Freret & Imlay, 1920 N Street NW., Suite 520, Washington, DC 20036.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–471, adopted October 10, 1989, and released November 13, 1989. The full text of this Commission decision is

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

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–27003 Filed 11–16–89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89–481, RM–6918]

Radio Broadcasting Services; Morehead City, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Curtis Radio Group, Inc. seeking the substitution of Channel 242C1 for Channel 242C2 at Morehead City, North Carolina, and the modification of its license for Station WRHT(FM) to specify operation on the higher powered channel. Channel 242C1 can be allotted to Morehead City in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 34–43–18 and West Longitude 76–42–54. In accordance with § 1.430(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 242C1 at Morehead City or require the petitioner to demonstrate the availability of an additional equivalent class channel for such use.

DATES: Comments must be filed on or before December 29, 1989, and reply comments on or before January 16, 1990.

ADDRESSES: Federal Communications Commission, Washingotn, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Mark J. Prak, Esq., Tharrington, Smith & Hargrove, P.O. Box 1151, 209 Fayetteville Street Mall, Raleigh, North Carolina 27602 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–481, adopted October 11, 1989, and released November 7, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR part 73.

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–27018 Filed 11–16–89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89–472, RM–6919]

Radio Broadcasting Services; Lincoln City, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: The Commission requests comments on a petition by FLS Radio Enterprises seeking the allotment of Channel 236C2 to Lincoln City, Oregon, as the community's second local FM service. Channel 236C2 can be allotted to Lincoln City in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 236C2 at Lincoln City are North Latitude 44–57–06 and West Longitude 124–00–54.

DATES: Comments must be filed on or before January 4, 1990 and reply comments on or before November 13, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard J. Hayes, Jr., Esq., 1359 Black Meadow Road, Greenwood Plantation, Spotsylvania, Virginia 22553 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–472, adopted October 10, 1989, and released November 13, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments.

See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-27002 Filed 11-16-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-482; RM-6920]

Radio Broadcasting Services; Newport, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Jonathan Seagull Broadcasting Company seeking the allotment of Channel 224C3 to Newport, Oregon, as the community's second local FM service. Channel 224C3 can be allotted to Newport in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 44-38-30 and West Longitude 124-03-00.

DATES: Comments must be filed on or before December 29, 1989, and reply comments on or before January 16, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard J. Hayes, Jr., Esq., 1359 Black Meadow Road, Greenwood Plantation, Spotsylvania, Virginia 22553 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-482, adopted October 11, 1989, and released November 7, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-27017 Filed 11-16-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-473, RM-6931]

Radio Broadcasting Services; Chamberlain, SD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Les Kleven proposing the allotment of Channel 260C1 to Chamberlain, South Dakota, as the community's first local FM service. Channel 260C1 can be alloted to Chamberlain in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 43-48-30 and West Longitude 99-19-48.

DATES: Comments must be filed on or before January 4, 1990 and reply comments on or before January 19, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Les Kleven, Box 587, Sturgis, South Dakota 57785 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-473, adopted October 10, 1989, and released November 13, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-27001 Filed 11-16-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB31

Endangered and Threatened Wildlife and Plants; Extension of Public Comment Period on Proposed Reclassification of the Aleutian Canada Goose From Endangered to Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: Notice is hereby given that the Fish and Wildlife Service (Service) is extending the public comment period on the Service's proposal to reclassify the Aleutian Canada goose from endangered to threatened. The Aleutian Canada goose is known to nest on seven Alaska islands and winters along the Oregon coast, northern California coast

and the California Central valley. The comment period is being extended for 60 days to grant commenters additional time to prepare and submit comments.

DATES: The comment period, which originally closed on November 28, 1989, now closes on January 29, 1990.

ADDRESSES: Comments and materials concerning the Service's proposal to reclassify the Aleutian Canada goose from endangered to threatened should be sent to the Endangered Species Coordinator, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503 or Endangered Species Coordinator, U.S. Fish and Wildlife Service, 1002 N.E. Holladay Street, Portland, Oregon 97232. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald L. Garrett, Alaska Regional Endangered Species Coordinator at (907) 786–3505 (FTS 786–3505) or Mr. James W. Teeter, (see addresses section/ Oregon) at (503) 231–6158 (FTS 429–6158).

SUPPLEMENTARY INFORMATION:

Background

The Service proposed to reclassify the Aleutian Canada goose from endangered to threatened status on September 29, 1989 (54 FR 40142). The species is threatened with eradication of insular breeding populations by introduced foxes. Recovery efforts over the past 14 years has yielded an increase from 790 birds in 1975 to about 5,800 birds in fall 1988. Annual increases in numbers of Aleutian Canada geese on the California wintering grounds have averaged 16 percent. While fox control in Alaska made former breeding islands once again suitable for nesting geese, Canada goose closure areas in key California and Oregon wintering habitat have been primarily responsible in allowing the Aleutian Canada goose population to dramatically increase in size.

Since publication of the proposed rulemaking, some parties have requested an extension of the comment period to allow further public input. The Service finds that extending the public comment period will benefit the rulemaking process and, hence, issues this notice. Written comments may be submitted until January 29, 1990, to the Service offices in the **ADDRESSES** section.

Authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Author

The primary author of this notice is Ronald L. Garrett, Endangered Species Coordinator, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503, or comm. (907) 786–3505 (FTS 786–3505).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, Plants (agriculture).

Dated: November 9, 1989.

Walter O. Stieglitz,

Regional Director.

[FR Doc. 89–27075 Filed 11–16–89; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

[Docket No. 90764–9261]

Atlantic Mackerel, Squid, and Butterfish Fisheries

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

ACTION: Notice of preliminary initial specifications for 1990 and request for comments.

SUMMARY: NOAA issues this notice to propose preliminary initial specifications for the 1990 fishing year for Atlantic squid and butterfish. Regulations governing these fisheries require the Secretary of Commerce (Secretary) to propose for public comment preliminary initial specifications for the coming fishing year on or about November 1. This action provides information and requests comments for NOAA's determination of the initial specifications for the 1990 fishing year.

DATE: Comments must be received on or before December 14, 1989.

ADDRESS: Send comments to Paul H. Jones, NOAA Fisheries, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark on the outside of the envelope, "Comments Annual Specifications".

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, 508–281–9273.

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) (51 FR 10547, March 27, 1986), as amended, stipulate at 50 CFR 655.22(b) that the Secretary will publish a notice specifying the preliminary initial annual amounts of the initial optimum yield (IOY), as well as the amounts for domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and total allowable level of foreign fishing (TALFF) for the species managed under the FMP. No reserves are permitted under the FMP for any of these species.

Procedures for determining the initial annual amounts are found at § 655.21 and § 655.22. The Secretary is required to publish this notice on or about November 1 of each year and to provide a 30-day comment period on the preliminary specifications. The preliminary initial specifications for Atlantic Mackerel were published separately (54 FR 31862, August 2, 1989) to allow U.S. businesses sufficient time to formulate plans and arrange contracts for 1990 joint venture operations. These specifications are based on recommendations submitted by the Mid-Atlantic Fishery Management Council (Council), the lead Council for the FMP.

The Director, Northeast Region, NMFS (Regional Director), in consultation with the Council, has determined the total allowable biological catch (ABC), IOY, DAH, DAP, JVP and TALFF for each species. The analyses of the economic factors specified at § 655.21(b)(1)(ii) for squid, Council recommendations, and other relevant data are available for inpsection at the NMFS Regional Office at the above address during the comment period.

The following table lists the preliminary initial specifications in metric tons (mt) for the maximum optimum yield (Max OY); ABC: IOY, which is the sum of DAH (DAP+JVP) and TALFF; for *Loligo* and *Illex* squid and butterfish. These initial specifications are the amounts that the Regional Director is proposing for the 1990 fishing year beginning January 1, 1990.

TABLE—PRELIMINARY INITIAL ANNUAL SPCIFICATIONS FOR ATLANTIC SQUIDS AND BUTTERFISH FOR THE 1990 FISHING YEAR, JANUARY 1 THROUGH DECEMBER 31, 1990

[in metric tons (mt)]

Specifications	Squid	Butterfish	
		Loligo	Illex
Max OY [a]	44,000	30,000	16,000
ABC [b]	37,000	22,500	16,000
IOY	26,010	15,000	10,019
DAH	26,000	15,000	10,000
DAP	26,000	12,000	10,000
JVP	0	3,000	0

TABLE—PRELIMINARY INITIAL ANNUAL SPCIFICATIONS FOR ATLANTIC SQUIDS AND BUTTERFISH FOR THE 1990 FISHING YEAR, JANUARY 1 THROUGH DECEMBER 31, 1990—Continued

[In metric tons (mt)]

Specifications	Squid	Butterfish	
		Loligo	Illex
TALFF	10	0	19

[a] Max OY as sated in the FMP.
[b] IOY can rise to this amount.

The Regional Director has determined that the IOY levels proposed for the 1990 fishing year will promote the continued growth of the domestic industry, thereby providing the greatest overall benefit to the United States. These levels were set to encourage continued growth in both the harvesting and processing sectors of the U.S. fishing industry in accordance with the purposes of the Magnuson Fishery Conservation and Management Act. They were selected after meetings and discussions with the Council, considering information from industry groups and foreign national representatives, review of the performances of U.S. fishermen and processors, projected domestic landings, stock assessments, and joint venture information.

Atlantic Squids

The Max OY specified in the FMP is 44,000 mt for *Loligo* squid and 30,000 mt for *Illex* squid. Based on the most recent scientific information available, the Council has recommended setting the ABC for *Loligo* and *Illex* squid at the same levels set for 1986, 1987, 1988, and 1989. The proposed IOY, presented in the table, represents a modification of ABC based on the analysis of nine economic factors outlined in the FMP and contained in the regulations at § 655.21(b)(2)(ii).

Domestic landings of *Loligo* squid during the first three months of the 1989 winter offshore fishery were three times the level of 1988, indicating reasonable availability of stock. Based on this level of domestic production, as well as the information provided from the processor survey, the Council believes that 1990 will be the highest year for domestic landings, and has recommended setting DAH at 4,000 mt above the 1989 amount. The proposed *Loligo* squid IOY provides for an expanded DAH plus a TALFF of 10 mt, an amount to accommodate *Loligo* squid incidentally caught in the foreign Atlantic mackerel fishery. Based on the Council's 1989 processor survey, the projection that domestic processors have the capacity and intent to utilize the entire amount expected to be harvested by domestic fishermen, the proposed *Loligo* squid JVP is zero.

The proposed *Illex* squid IOY level is based on the Council's statement that U.S. fishermen have demonstrated that they have the capacity and intent to use 15,000 mt. As a result, the Council has recommended that the IOY and DAH be set at 15,000 mt. Based on the processors' reported capacity and intent to utilize approximately 12,542 mt during 1989, a DAP of 12,000 mt is proposed. With a DAP of 12,000 mt, the remaining 3,000 mt, which U.S. processors do not have the capacity and intent to process, is proposed for the JVP level. In his decision to adopt the Council's recommendations for *Illex* squid, the Regional Director has weighed the domestic harvesters' interest in participating in joint ventures against continued foreign involvement and agrees with the JVP level as proposed. The Regional Director concurs with the Council that the specifications, as proposed, would be in the best interest of the developing U.S. *Illex* squid fishery.

As in the previous fishing year, specifications give priority to domestic users. Squid IOY, as recommended by the Council, are proposed at levels that provide squid TALFF at bycatch levels only. The Council has recommneded an *Illex* squid IOY which results in an *Illex* squid TALFF of zero. If a directed fishery for hakes by foreign nations is allowed during 1990, the appropriate bycatch, as specified in the FMP, will be added to the TALFFs.

Butterfish

Based on the processors' reported capacity and intent to utilize approximately 7,230 mt in 1989 and the most recent catch and biological data about the butterfish stock, the Council recommends no changes to the proposed butterfish specifications over the previous year. In agreement with the provisions of the FMP, a butterfish TALFF of 19 mt is proposed to provide for bycatch from the mackerel fishery. The Council recommends that the 5,981 mt difference between IOY and ABC be made available for the DAP component of DAH if U.S. processors' plans are fulfilled or for bycatch TALFF if needed in other fisheries.

The Council's recommendations, and all public comments on the annual specifications, will be considered in the final decision. A notice of final determination of the initial amounts and response to public comments is expected to be published in the **Federal Register** on or about December 15, 1989.

Classification

This action is authorized by 50 CFR part 655 and complies with E.O. 12291.

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

List of Subjects in 50 CFR Part 655

Fisheries, Reporting and recordkeeping requirements.

Dated: November 13, 1989.

James E. Douglas, Jr.,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 89-27074 Filed 11-14-89; 12:45 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 54, No. 221
Friday, November 17, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Export Administration

[Docket No. 9105-01]

Action Affecting Export Privileges: A.M.Y. Enterprises

Summary

Pursuant to the October 6, 1989, recommended Decision and Order of the Administrative Law Judge ("ALJ"), which Decision and Order ("Recommended Order") is affirmed in part and modified in part, A.M.Y. Enterprises, with an address of 2154 76th Street, Brooklyn, New York 11214, and all successors, and assignees, officers, partners, representatives, agents and employees are hereby denied for a period of one year from the date hereof all privileges of participating, directly or indirectly, in any transaction involving commodities or technical data exported from the United States in whole or in part, to be exported, or that are otherwise subject to the Export Administration Regulations ("Regulations").[1] Beginning on the date of this final agency action, the denial of export privileges set forth above shall be suspended, as authorized by § 788.16(c) of the Regulations, for one year, and shall be terminated thereafter, provided that Respondent has committed no further violations of the Export Administration Act, the Regulations, or the final Order issued in this proceeding.

Background

On March 17, 1989, the Office of Export Enforcement, U.S. Department of Commerce ("Agency"), issued a charging letter against Respondent, A.M.Y. Enterprises, alleging multiple violations of the Export Administration Act of 1979, as amended (50 U.S.C., app. 2401–2420 (Supp. 1989)) ("the Act"), and Regulations. Respondent answered the charging letter and denied the charges. Subsequently, the Agency and Respondent entered into a consent agreement and, on August 21, 1989, the Agency submitted the agreement to the ALJ for his consideration. The ALJ approved the consent agreement on October 6, 1989, finding its terms to be reasonable. The ALJ also found that Respondent had committed one violation of the Act and Regulations, which violation Respondent admitted in the consent agreement.

Discussion

On October 6, 1989, the ALJ issued his Recommended Order in this proceeding approving the consent agreement as negotiated by the parties. Recommended Order at 11. In his Recommended Order, however, the ALJ makes two misstatements which I am hereby modifying in this Order.

Initially, the ALJ states that "[a] central issue in this proceeding is the need for findings [of violation] by this Tribunal in reviewing consent agreement cases." *Id.* at 3 (emphasis added). The ALJ correctly notes the recent confusion concerning the necessity of finding violations in consent proceedings conducted pursuant to § 788.17(a)(2). In summarizing the earlier decisions in *Behar, Hon Kwan Yu,* and *Smit,* however, the ALJ incorrectly concludes that "a finding of violation by Respondent A.M.Y. Enterprises should be made here." *Id.* at 10 (emphasis added). This issue was resolved recently in *In the Matter of Bernardus Johannes Jozef Smit,* 54 FR 39027 (Sept. 22, 1989). *Smit* specifically held that "neither the Act nor the Regulations require that a finding of violation be made in order to impose sanctions under a consent agreement" (54 FR at 39028). To the extent that there is any remaining uncertainty with respect to this issue, I reaffirm that holding here—there is no requirement for a finding of violation to impose a civil penalty in consent proceedings brought pursuant to § 788.17(a)(2). In fact, § 788.17(a)(2) provides that the ALJ will issue only a recommended order in approving a consent agreement submitted pursuant to that section. *Id.* (emphasis added). Thus, it appears that once the ALJ approves a consent agreement filed pursuant to § 788.17(a)(2), he should not be issuing a recommended decision (including findings of fact, conclusions of law, and findings of violation) regarding such consent agreement. Of course, if the ALJ has any objection to the proposed consent agreement, he retains the discretion to reject such agreement under § 788.17(a).

In addition to the above error, the ALJ made an apparently unintended misstatement in his Recommended Order regarding the suspension of Respondent's denial period. Under the terms of the consent agreement, the parties agreed that the appropriate sanction would be suspended one-year denial of all U.S. export privileges. As the ALJ specifically observed: "To settle the admitted violation * * *, the parties agreed that a one-year denial of U.S. export privileges would be imposed on Respondent, and that this one-year denial would be suspended." Recommended Order at 2 (emphasis added). The ALJ found the terms of the Consent Agreement reasonable, approved the Agreement, and stated his intent to implement the "agreed sanction * * *—a suspended one-year denial of export privileges." *Id.* While it is clear that the ALJ intended that Respondent's one-year denial period be suspended for one year beginning on the date of the entry of the final agency action, the ALJ's Recommended Order is unclear in that regard. To the extent that the ALJ's Recommended Order indicates that the denial period is not suspended until one year from the entry of this Final Order, the Recommended Order is modified.

Accordingly, I hereby modify the ALJ's October 6, 1989 recommended Decision and Order to read as follows: [2]

Order

I. The ALJ's Decision to affirm the Consent Agreement, as negotiated by the parties to settle this case, is hereby affirmed, striking that portion of the Decision and Order which states that

[1] Effective October 1, 1988, the Regulations were redesignated as parts 768–799 of title 15 of the Code of Federal Regulations. 53 FR 37751 (September 28, 1988). The transfer merely changed the first number of each part from "3" to "7". Until such time as the Code of Federal Regulations is republished, the Regulations can be found at 15 CFR parts 368–399 (1988).

[2] In order to avoid any confusion regarding what terms of the ALJ's Recommended Order apply, I have set forth herein a complete order in this case. Accordingly, since this order constitutes the final agency order in this proceeding, and since it does not incorporate the ALJ's Recommended Order, the latter is not being published in the **Federal Register.**

the ALJ is required to find violation in a consent proceeding.

II. The ALJ's Order is modified to read as follows:

For a period of one year from the date of this order, Respondent,

A.M.Y. Enterprises
2154 76th Street
Brooklyn, New York 11214

and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly to indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Act and the Regulations.

III. Commencing on the date of this order, the denial of export privileges set forth in Paragraph I, above, shall be suspended, in accordance with § 788.16 of the Regulations, for one year, and shall thereafter be terminated, provided that Respondent has committed no further violation of the Act, the Regulations, or this order. During the one-year suspension period, Respondent may participate in transactions involving the export of the U.S.-origin commodities or technical data from the United States or abroad in accordance with the requirements of the Act and the Regulations. The provisions of Paragraphs III and VI this Order shall also be suspended during such one-year period.

IV. Participation prohibited in any such transaction, either in the United States or abroad, shall include, but is not limited to, participation:

(i) As a party or as a representative of a party to a validated export license application;

(ii) In preparing or filing any export license application or request for reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In financing, forwarding, transporting, or other services of such commodities or technical data.

Such denial of export privileges shall extend to those commodities and technical data which are subject to the Act and the Regulations.

V. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

VI. All outstanding individual validated export licenses in which Respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

VII. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing shall, with respect to commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with Respondent or any related person, or whereby Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(i) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for Respondent or any related person denied export privileges, or

(ii) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

This constitutes the final agency action in this matter.

Date: November 6, 1989.

Joan M. McEntee,

Acting Under Secretary for Export Administration.

UNITED STATES DEPARTMENT OF COMMERCE

OFFICE OF ADMINISTRATIVE LAW JUDGE

Suite 6716, Washington, DC 20230

Decision and Order

Appearance for Respondent:

James Sannino, President, A.M.Y. Enterprises, 2154 76th Street, Brooklyn, New York 11214

Appearance for Agency:

G. Roderick Gillette, Esq., Office of Chief Counsel for Export Administration, U.S. Department of Commerce, Room H–3837, 14th & Constitution Avenue, NW., Washington, DC 20230

Preliminary Statement

This proceeding against Respondent A.M.Y. Enterprises began with the issuance March 17, 1989 of a charging letter by the Office of Export Enforcement ("the Agency"), Bureau of Export Administration, U.S. Department of Commerce. This letter was issued under the authority of the Export Administration Act of 1979 (50 U.S.C.A. app. 2401–2420), as amended ("the Act"), and the Export Administration Regulations ("the Regulations").[1] The charging letter alleged that in August 1988 Respondent had violated § 787.3(a), 787.3(b), 787.5(a)(1)(ii), and 787.10 of the Regulations in connection with the attempted export of computer equipment from the United States to Venezuela.

Respondent answered the charging letter with a denial of its allegations. At a time in the proceeding when Respondent was in default, the Agency submitted for the record its evidence supporting the charges. Subsequently Respondent cured its procedural default, and the parties submitted a Consent Agreement. In the Consent Agreement, Respondent admitted that it violated § 787.3(b) of the Regulations, as alleged in the charging letter, and the Agency agreed to seek withdrawal, without prejudice, of its charges that Respondent violated also three other sections. To settle the admitted violation of § 787.3(b), the parties agreed that a one-

[1] The Act was reauthorized and amended by the Export Administration Amendments Act of 1985, Pub. L. 99–64, 99 Stat. 120 (July 12, 1985), and amended by the Omnibus Trade and Competitiveness Act of 1988, Pub. L. 100–418, 102 Stat. 1107 (August 23, 1988).

The Regulations, formerly codified at 15 CFR parts 368–399, were redesignated as 15 CFR parts 768–799, effective October 1, 1988 (53 FR 37751, September 28, 1988).

year denial of U.S. export privileges would be imposed on Respondent, and that this one-year denial would be suspended. The Agency petitioned this Tribunal for leave to withdraw without prejudice its three remaining charges.

Discussion

The Agency's case focused on an attempted export from the United States on August 27, 1988 of computer equipment. The equipment was seized by the Agency several hours before it was to leave by air for Venezuela, because its shipping documents cited an export licenser that in fact covered the shipment of different computer equipment.

In connection with this attempted export, Respondent admitted in the Consent Agreement that from about August 1 to August 27, 1988 it conspired with two others to export the equipment without the required export license, in violation of § 787.3(b) of the Regulations. As noted, the Agency agreed in the Consent Agreement to withdraw its other three charges. These three were: Attempting an unauthorized export, in violation of § 787.3(a); misrepresentations on shipping documents, in violation of § 787.5(a)(1)(ii); and unauthorized use of the export license for the different computer equipment, in violation of § 787.10.

Issue

A central issue in this proceeding is the need for findings by this Tribunal in reviewing consent agreement cases. Three recent decisions by the Under Secretary for Export Administration have addressed this issue, and have arrived at two different outcomes.

The first case was *In the Matter of Robert Behar*, 53 FR 48666 (Dec. 2, 1988). In *Behar*, a consent agreement was submitted in which the respondents "admit[ted] that the facts are as stated in the Charging Letter," and agreed with the Agency upon the imposition of a civil penalty. The Administrative Law Judge presiding in that case approved the consent agreement, and also found, based on the respondents' admission of the facts in the Charging Letter, that they had committed the violations alleged therein. Both the Agency and the respondents challenged that finding when the case was referred by the Administrative Law Judge to the Under Secretary, arguing that the respondents had admitted only that certain facts were true, not that they had committed any violations.

The Under Secretary affirmed the approval of the consent agreement, and further ruled in favor of the Administrative Law Judge on the disputed finding. Here the Under Secretary declared: "Indeed, the Under Secretary's authority for imposing civil penalties in such cases [consent agreement cases] is based on the finding of a violation" (*Behar*, 53 FR 48666, 48667). Moreover, "For Export Administration Act cases in which there will be the imposition of a penalty, whether a denial period with respect to export privileges, a fine, or both, there must be some finding by the Under Secretary of a violation to support the imposition of the penalty" (emphasis added) (*id.*).

The Agency filed a motion in *Behar* for the Under Secretary to reconsider his ruling in favor of the finding of violations. Before that motion was decided, the second case to present the issue emerged: *In the Matter of Hon Kwan Yu, individually and doing business as Seed H.K. Ltd.*, 54 FR 11427 (Mar. 20, 1989). In *Yu*, the parties submitted a consent agreement in which the respondents agreed with the Agency on a civil penalty and a denial period, but admitted nothing regarding facts or violations. The Agency, citing its then pending motion for reconsideration in *Behar*, argued again that the final decision should contain no finding of a violation.

Eventually *Yu* became a default proceeding because the respondents, claiming budgetary constraints, declined to participate in additional steps scheduled in the case. The presiding Administrative Law Judge ruled for the Agency in a default decision, imposing the sanctions stipulated in the consent agreement. The Administrative Law Judge included in the decision a finding, based on evidence submitted by the Agency, that the respondents had committed the alleged violations. When the case was referred to the Under Secretary, the Agency again argued that consent agreement cases required no finding of a violation, citing its still pending motion for reconsideration in *Behar*.

The Under Secretary, with some adjustment of the provisions for suspension, affirmed the denial period and civil penalty stipulated in the parties' consent agreement and imposed by the Administrative Law Judge, but focused his decision primarily on the pending *Behar* issue. To identify that issue, the Under Secretary restated the *Behar* ruling that was under challenge by the Agency: "[W]here there is to be a penalty imposed, whether a denial period with respect to export privileges, a fine, or both, there must be some finding by the Under Secretary—and hence the ALJ—of a violation of the Act to support the imposition of that penalty" (54 FR 11427).

After an extensive discussion of the pertinent law, the Under Secretary rejected the Agency's challenge to his *Behar* ruling. The Under Secretary's Order in *Yu* consisted of two parts: Affirming, as noted above, a denial period and a civil penalty for the respondents; and stating that "The decision in *In re Behar* * * * is reaffirmed" (54 FR 11427, 11429).

Thus stood the situation when the final of the three consent agreement cases addressing the issue went to the Under Secretary: *In the Matter of Bernardus Johannes Jozef Smit*, 54 FR 39027 (Sept. 22, 1989). In *Smit*, the parties submitted a consent agreement in which the respondent agreed with the Agency on a civil penalty and a denial period, but admitted nothing regarding facts or violations. As in *Behar* and *Yu*, the consent agreement in *Smit* was accompanied by a proposed decision and order implementing it; but the Agency made to the presiding Administrative Law Judge no challenge to the *Behar* and *Yu* rulings that imposition of an administrative sanction in consent cases requires the finding of a violation.

The Administrative Law Judge approved the consent agreement and imposed the sanctions stipulated therein. Further, in accord with the Under Secretary's *Behar* and *Yu* decisions, the Administrative Law Judge included a finding, based on evidence submitted by the Agency, that the respondent had committed the alleged violations. When the case was referred to the Under Secretary, both the Agency and the respondent objected to the inclusion of this finding. The Agency's brief advanced substantially the same arguments as in its motion to reconsider *Behar*.

This time, however, the result was different from that in *Behar*, as reaffirmed in *Yu*. Those two decisions by the Under Secretary had held, as quoted above, that a finding of a violation is required for imposing sanctions in consent agreement cases. In *Smit*, the Under Secretary now declared: "Neither the Act nor the Regulations requires that a finding of violation be made in order to impose sanctions under a consent agreement" (54 FR 39027, 39028).

That quotation was one of two conclusions advanced by the Under Secretary in his *Smit* discussion of any need for a finding of violation in consent agreement cases. In the other conclusion, the Under Secretary adopted the agrument—which the Under

Secretary had rejected in *Behar* and *Yu*—that the finding of violation conflicted with the terms of the consent agreement. Consequently, in *Smit* the Under Secretary affirmed the sanctions stipulated in the consent agreement, but deleted the finding that the respondent had committed the alleged violations.

What is the connection between *Behar* and *Yu*, on the one hand, and *Smit* on the other? They were all decided within ten months time. In its *Smit* brief to the Under Secretary, the agency faced up to this question squarely. *Behar* and *Yu*, stated the Agency "held that, where a penalty is imposed, whether a denial of export privileges, a civil penalty, or both there must be a finding of a violation to support the imposition of that penalty;" and *Behar* and *Yu* the Agency contended, *"were incorrect"* (emphasis in original) (Agency's August 28, 1989 Submission 3).

The Under Secretary declined the Agency's invitation to address this contention. His textual discussion in the *Smit* decision of any need to find a violation was extensive, but it omitted any mention of either *Behar* and *Yu*. In a footnote, *Smit* did cite differences between that case and those two prior ones (54 FR 39027, 39028 n.2). *Behar* the footnote said, had involved the respondent's admission of the facts alleged in the charging letter, a factor absent from *Smit*. *Yu*, the footnote said, was a default, not a consent agreement, case.

That *Smit* footnote began its *Behar* and *Yu* references by stating: "Prior decisions have ruled that a finding of violation would be necessary under certain circumstances in order to impose sanctions" (*id.*). The next footnote in *Smit* stated clearly: "A careful reading of this section [§ 788.17 of the Regulations, which governs consent proceedings] shows that *it is not appropriate to make a finding of violation in consent proceedings* * * *" (emphasis added) (54 FR 39027, 39029 n. 3). The previous footnote, the only reference in *Smit* to *Behar* and *Yu*, ended simply: "To the extent that *Behar* and *Hon Kwan Yu* are inconsistent with the conclusion I reach here, I decline to follow these decisions" (54 F.R. 39027, 39028 n.2).

The issue for the moment, in view of *Behar*, *Yu*, and *Smit*, is to determine the proper disposition of the case at hand. Respondent A.M.Y. Enterprises, in its consent agreement, admitted to commission of a violation; and the Agency had previously submitted evidence of the violation. Per *Behar* and *Yu*, a finding of violation is required to support imposition of the sanction stipulated by the consent agreement. Per *Smit*, such a finding is "not appropriate," although the Under Secretary declined the Agency's invitation to overrule *Behar* and *Yu*. But even by *Smit's* reasoning, such a finding for Respondent A.M.Y. Enterprises would seem, although not mandatory, still unobjectionable, since it would not conflict with the terms of Respondent A.M.Y. Enterprises' consent agreement.

Therefore a plausible reading of *Behar* *Yu*, and *Smit* in combination suggests that a finding of violation by Respondent A.M.Y. Enterprises should be made here. That interpretation is fortified by a consent agreement case that went to the Under Secretary after *Smit*, and that was decided by him before *Smit*. In *In the Matter of Ruben Sanchez, individually and doing business as Oficina Tecnica Ruben Sanchez CA*, 54 FR 39026 (Sept. 22, 1989), the parties submitted a consent agreement in which the respondents agreed with the Agency on a denial period and admitted one violation. The record contained evidence of that violation.

The decision of the Administrative Law Judge approved the consent agreement, imposed the denial period, and introduced a finding of violation by the respondent; and this decision was routinely affirmed by the Under Secretary without analysis. Consequently, *Sanchez* provides support for including a finding of violation in the instant decision.

Conclusion

The evidence introduced by the Agency is sufficient to show that Respondent A.M.Y. Enterprises — conspired with two others from about August 1 to August 27, 1988 to export computer equipment from the United States to Venezuela without the required export license. Accordingly, Respondent is found to have violated § 787.3(b) of the Regulations, as alleged in the charging letter.

The Consent Agreement negotiated by the parties to settle this case is reasonable, and its terms are approved by the undersigned. Accordingly, the Agency's petition for leave to withdraw without prejudice its charges that Respondent violated §§ 787.3(a), 787.5(a)(1)(ii), and 787.10 of the Regulations is granted, and the agreed sanction for Respondent's admitted violation of Section 787.3(b)—a suspended one year denial of export privileges—is implemented by the Order set forth below.

Order

I. For a period of one year from the date of the final Agency action, Respondent,

A.M.Y. Enterprises,
2154 76th Street,
Brooklyn, New York 11214.

and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

II. Commencing one year from the date of the final Agency action, the denial of export privileges set forth in Paragraph I above shall be suspended, in accordance with § 788.16 of the Regulations, for one year, and shall be terminated at the end of such year, provided that Respondent has committed no further violation of the Act, the Regulations, or the final Order entered in this proceeding. During the one-year suspension period, Respondent may participate in transactions involving the export of U.S.-origin commodities or technical data from the United States or abroad in accordance with the requirements of the Act and the Regulations. The provisions of Paragraphs III to VI of this Order shall also be suspended during such one-year period.

III. Participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation:

(i) As a party or as a representative of a party to a validated or general export license application;

(ii) In preparing or filing any export license application or request for reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(V) In the financing, forwarding, transporting, or other servicing of such commodities or technical data.

Such denial of export privileges shall extend to those commodities and technical data which are subject to the Act and the Regulations.

IV. After notice and opportunity for comment, such denial of export

privileges may be made applicable to any person, firm, corporation, or business organization with which Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

V. All outstanding individual validated export licenses in which Respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

VI. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with Respondent or any related person, or whereby Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(i) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for Respondent or any related person denied export privileges, or

(ii) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

VII. This Order as affirmed or modified shall become effective upon entry of the Secretary's final action in this proceeding pursuant to the Act (50 U.S.C.A. app. 2412(c)(1)).

Date: October 6, 1989.

To be considered in the 30 day statutory review process which is mandated by section 13(c) of the Act, submissions must be received in the Office of the Under Secretary for Export Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW Room 3898B, Washington, DC, 20230, within 12 days. Replies to the other party's submission are to be made within the following 8 days. 15 CFR 388.23(b), 50 FR 53134 (1985). Pursuant to section 13(c)(3) of the Act, the final order of the Under Secretary may be appealed to the U.S. Court of Appeals for the District of Columbia within 15 days of its issuance.

Thomas W. Hoya,

Administrative Law Judge.

[FR Doc. 89-27049 Filed 11-16-89; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Marine Mammals

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

ACTION: Application for Permit; Reef Ltd. (P455)

SUMMARY: Notice is hereby given that an Applicant has applied in due form for a Public Display Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

1. Applicant: Reef Ltd., South Coast, P.O.B. 104, Eilat, Israel.

2. Type of Permit: Public Display.

3. Name and Number of Marine Mammals: Atlantic bottlenose dolphin (*Tursiops truncatus*), six (6); California sea lion (*Zalophus californianus*), six (6).

4. The Applicant requests permission to capture/maintain six bottlenose dolphins off the west coast of Florida. The California sea lions will be acquired from beached/stranded stocks and not from the wild. The Applicant proposes to maintain the animals in the open sea environment in the Gulf of Eilat and to provide public exhibition of and education about marine mammals for the Eilat region of Israel.

5. Location and Duration of Activity: Collection of dolphins requested from the west coast of Florida and the duration of the requested activity is for a period of two (2) years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Highway, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, room 7330, Silver Spring, Maryland 20910; and

Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: November 9, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

[FR Doc. 89-27034 Filed 11-16-89; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit to Dr. Thomas N. James (P452)

On August 24, 1989, notice was published in the **Federal Register** (54 FR 35228) that an application had been filed by Dr. Thomas N. James, University of Texas Medical Branch, Galveston, Texas 77550–2774, for a permit to import one and one-half sperm whale hearts (*Physeter catodon*) for scientific purposes.

Notice is hereby given that on November 9, 1989, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the regulations governing endangered fish and wildlife permits (50 CFR parts 217–222), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on a finding that such Permit, (1) was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of the Permit; and (3) is consistent with the purposes and policies set forth in section 2 of the Endangered Species Act. This Permit is issued in accordance with and is subject

to parts 220–222 of title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review in the following offices:

Office of Protected Resources, Permit Division, National Marine Fisheries, 1335 East West Highway., Suite 7324, Silver Spring, Maryland; and
Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard., St. Petersburg, Florida 33702.

Dated: November 9, 1989.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 89–27035 Filed 11–16–89; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Issuance of Permit to Dr. Joseph Robert Mobley (P453)

On August 24, 1989 notice was published in the **Federal Register** (54 FR 35221) that an application had been filed by Dr. Joseph Robert Mobley, Assistant Professor, Department of Social Sciences, University of Hawaii at West Oahu, 96–043 Ala Ike, Pearl City, Hawaii 96782, for a permit to take by harassment humpback whales (*Megaptera novaeangliae*) for scientific purposes.

Notice is hereby given that on November 9, 1989, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Permit for the above taking, subject to certain conditions set forth therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on the finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the Permit; and (3) is consistent with the purposes and policies set forth in section 2 of the Act. This Permit was also issued in accordance with and is subject to parts 220–222 of title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Hwy., Silver Spring, Maryland 20910; and
Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.
Pacific Area Office, Southwest Region, National Marine Fisheries Service, 2570 Dole Street, Honolulu, Hawaii 96822–2396.

Dated: November 9, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 89–27036 Filed 11–16–89; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Application for Modification by Dr. Bernd Wursig and Mr. Salvatore Cerchio (P36B)

Notice is hereby given that Dr. Bernd Wursig, Professor of Marine Mammalogy, Texas A&M University, and Mr. Salvatore Cerchio, Moss Landing Marine Laboratory, requested a modification to Permit No. 663 issued on February 21, 1989, and published February 27, 1989 (54 FR 8231), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 663 authorized harassment of up to 100 humpback whales (*Megaptera novaeangliae*) during photographic activities. Photographs were taken to identify recorded singers. The Modification would allow the permittees to conduct the same study over a 4-year period ending on December 31, 1993, with an increase in the number of takes by harassment from 100 to up to 250 animals per year.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Fisheries Service, U.S. Department of Commerce, 1335 East West Highway, room 7324, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this modification request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above modification request are available for review by interested persons in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Hwy., Suite 7324, Silver Spring, Maryland 20910; and
Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7514.

Dated: November 9, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 89–27037 Filed 11–16–89; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

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

November 13, 1989.

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

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

EFFECTIVE DATE: November 20, 1989.

FOR FURTHER INFORMATION CONTACT: Janet Heizen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulleting boards of each Customs port or call (202) 535–9481. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

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

During recent consultation between the Governments of the United States and the United Mexican States, agreement was reached to amend the current bilateral textile agreement to convert the specific limits for Categories 342/642 and 666 to designated consultation levels. The non-Special Regime sublimits for these categories and the overall limit for Categories 342/642 are being adjusted for 1989.

A description of the textile and apparel categories in terms of HTS numbers is available in the *Correction:* Textile and Apparel Categories with the Harmonized Tariff Schedule of the

United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 52461, published on December 28, 1988.

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

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 13, 1989.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20220.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 22, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of cotton, wool and man-made fiber textiles and textile products, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 20, 1989, the directive of december 22, 1988 is amended further to adjust the limits for the following categories:

Category	Amended 12-mo. limit [1]
342/642	350,000 dozen.
666	3,461,817 kilograms.
Non-special regime category sublimits:	
342/642	75,000 dozen.
666	2,200,000 kilograms.

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

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

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-27047 Filed 11-16-89; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1990; Establishment; Notice Correction

In FR Doc. 89-25872 appearing at page 46540 in the issue for Friday, November 3, 1989, make the following corrections:

1. On page 46541, first column, under CLASS 1730, Chock Wheel, Painted, NSN -0001D, the ending bracket should appear after the size rather than after U-shaped.

2. On page 46542, third column, under CLASS 5510, Lath, Wood, the sizes for the NSNs should read (⅜ x 1½" x 36") and (38 x 1½ x 48") respectively.

3. On page 46545, first column, under CLASS 7210, the first Bedspring heading should read Bedspread.

4. On page 46546, first column, under CLASS 7210, Sheet, Bed, the three-digit number reading "-229 should read "-299".

5. On page 46546, first column, under CLASS 7220, Mat, Floor, should read (SH) rather than (IB).

6. On page 46550, second column, under CLASS 7930, Detergent, General Purpose, in the fourth line, the two-digit number reading "-00" should read "-01".

7. On page 46550, third column, under CLASS 8010, Enamel, should read (IB) rather than (B).

8. On page 46553, third column, under CLASS 8410, Slacks, Woman's, NSN 8410-00-591-1201 should not appear twice.

9. On page 46556/7, third and first columns respectively, the following M.R. items should have an (IB) after name; 020, 750, 834, 835, 836, 837, 838, 839, 840, 845 and 929.

10. On page 46558, first column, under Commissary Shelf Stocking and Custodial Service, in the twenty-seventh line, "Monumouth" should read "Monmouth".

11. On page 46558, first column, under Commissary Warehousing Service, the third line should read Mountain Home Air Force Base, Idaho.

12. On page 46558, second column, after the second line, the heading "Completion of Ford DD 1574 and DD 1574-1" should be inserted.

13. On page 46559, second column, in the fourth line "(SH)" should appear after Vienna, Ohio.

14. On page 46559, second column, in the sixteenth line "except" should read "except".

15. On page 46559, third column, in the thirteenth line "Huntington" should read "Huntingdon".

16. On page 46559, third column, in the thirty-fifth line "Worchester" should read "Worcester".

17. On page 46559, third column, in the fifty-fifth line "Fourth" should read "Fort".

18. On page 46560, first column, in the twenty-seventy line "5804 NE Hassalo Street and" should appear before "5840 NE Hassalo Street".

19. On page 46562, first column, in the thirty-second line "Charleston" should appear before "West Virginia".

Beverly L. Milkman,

Executive Director.

[FR Doc. 89-27078 Filed 11-16-89; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1990; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1989 services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: December 18, 1989.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On September 8, 22 and 29, 1989, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (54 FR 37356, 39033 and 40160) of proposed additions to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540).

After consideration of the material presented to it concerning capability of qualified workshops to provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the services listed.

c. The actions will result in authorizing small entities to provide the services procured by the Government.

Accordingly, the following services are hereby added to Procurement List 1990:

Commissary Warehousing, Homestead Air Force Base, Florida;

Janitorial/Custodial, U.S. Post Office-Courthouse, Vicksburg, Mississippi;
Janitorial/Clustodial, U.S. Army Reserve Center, 2100 Quaker Point Road, Quakertown, Pennsylvania;
Operation of Postal Service Center, Dover Air Force Base, Delaware;
Planting and Transplanting Horticultural Materials, USFS, Bend Pine Nursery Market, 63095 Deschutes Market Road, Bend, Oregon.

Beverly L. Milkman,

Executive Director.

[FR Doc. 89-27079 Filed 11-16-89; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1990; Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to Procurement List 1990 a service to be provided by workshops for the blind or other severely handicapped.

Comments must be received on or before: December 18, 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 action.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following service to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540):

Janitorial/Custodial, U.S. Post Office and Courthouse, 5th and State Line, Texarkana, Arkansas.

Beverly L. Milkman,

Executive Director.

[FR Doc. 89-27080 Filed 11-16-89; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

November 9, 1989.

The USAF Scientific Advisory Board Engineering & Services Advisory Group will meet on 11-12 December 1989 from 8:00 a.m. to 5:00 p.m. at the Pentagon, Washington, DC.

The purpose of this meeting is to receive briefings on and discuss the impact of emerging technological megatrends (Project "Future Vision") on the ability of Engineering and Services to carry out its mission in the future. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89-27057 Filed 11-16-89; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

November 9, 1989.

The USAF Scientific Advisory Board Division Advisory Group (DAG) for Electronic Security Command (ESC) will meet on December 5-6, 1989 from 8:00 a.m. to 5:00 p.m. at San Antonio, TX.

The purpose of this meeting will be to address the ESC role in electronic combat support, co-channel interference, tactical communications architecture, and refinement of the ESC ROADMAP. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89-27058 Filed 11-16-89; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Privacy Act of 1974, Amendment of System Notices and New Routine Uses

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: Federal agencies are required by the Privacy Act of 1974, as amended, to publish in the Federal Register a notice of the establishment of a new routine use of agency systems of records. The U.S. Department of Energy (DOE) proposes to establish two new routine uses for DOE-5, "Personnel Records of Former Contractor Employees;" DOE-33, "Personnel Medical Records;" DOE-35, "Personnel Radiation Exposure Records;" DOE-43, "Personnel Security Clearance Files;" DOE-71, "The Radiation Accident Registry;" DOE-72, "The Department of Energy Radiation Study Registry;" and DOE-73, "The US-DTPA Registry." The first new routine use would permit the disclosure of records maintained in these systems to independent researchers for purposes of conducting epidemiological studies of current and former workers at DOE facilities. Independent researchers who have had their proposals reviewed by the National Academy of Sciences (NAS), and have been certified by NAS as appropriate to receive this information, may be granted access to records maintained in these systems. Currently, access to records is permitted only for health hazards evaluations and epidemiological studies of workers conducted by DOE contractors and other Federal and state agencies. This notice will permit disclosure to independent researchers or records maintained in these systems that are necessary for epidemiological studies of workers at DOE facilities.

The second routine use proposed by the Department for these systems or records will permit the disclosure of records maintained in these systems to members of an advisory committee who will review and evaluate the Department's epidemiological program.

The Department also proposes to delete death certificates from the listing of categories of records maintained in DOE-72, "The Department of Energy Radiation Study Registry." The Privacy Act only applies to records that pertain to living individuals. The death certificates, therefore, are not subject to the Privacy Act and should not be included as part of the system of records. Moreover, since the death certificates were obtained pursuant to confidentiality agreements with state agencies, the documents are not agency records because they are not under the control of the DOE.

DATES: Comments must be received by December 18, 1989. Written comments should be sent to: John H. Carter, MA-

232.1, Chief of Freedom of Information and Privacy Act, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–5955. If no comments to the contrary are received with respect to a particular proposed system, it is the intent of the DOE to operate any such system as proposed at the expiration of the advance notice period.

FOR FURTHER INFORMATION CONTACT:

John J. Carter, MA–232.1, Chief of Freedom of Information and Privacy Acts, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–5955.
Abel Lopez, Office of General Counsel, GC–43, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8618.

SUPPLEMENTARY INFORMATION: Under the routine uses currently established for DOE–5, "Personnel Records of Former Contractor Employees;" DOE–33, "Personnel Medical Records;" DOE–35, "Personnel Radiation Exposure Records;"DOE–43, "Personnel Security Clearance Files;" DOE–71, "The Radiation Accident Registry;" DOE–72, "The Department of Energy Radiation Study Registry." and DOE–73, "The US–DTPA Registry," DOE cannot provide independent researchers or members of any advisory committee access to records maintained in these systems. DOE, therefore, is establshing routine used to provide independent researchers access to records maintained in these systems for purposes of studying whether there are any health effects from occupational exposure to chemical, radiation, and physical hazards to current and former workers at DOE facilities and to members of any advisory committee appointed to review and evaluate the conduct of the Department's epidemiological program.

The Privacy Act provides that a record may be disclosed, without the prior written consent of the individual to whom the record pertains, pursuant to a routine use. A routine use, with respect to disclosure of a record, is a use which is compatible with the purpose for which the record was collected. It has been determined that the proposed routine uses are compatible because the records are maintained for purposes of either assessing workers' health and safety or conducting health and mortality studies. Since the proposed routine uses will provide access to the information to conduct epidemiological studies of current and former workers at DOE facilities and to evaluate the Department's epidemiological program, the information will be used in accordance with the purposes for which the information was collected and maintained.

The text of the system notice is set forth below.

Issued in Washington, DC on November 6, 1989.

Charles R. Tierney,

Director of Administration.

DOE–5

SYSTEM NAME:

Personnel Records of Former Contractor Employees.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The locations listed in Appendix A of 47 FR 14284, dated April 2, 1982.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former contractor employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, employment history, earnings, medical history, and other related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

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

Routine uses of records include employment history verification, radiation exposure records for medical and litigation purposes, and issuance of clearances.

A record from this system of records may be disclosed to researchers for the purpose of conducting an epidemiological study of workers at a DOE facility if their proposed studies have been reviewed by the National Academy of Sciences and deemed appropriate for such access. A researcher granted access to these records shall be required to sign an agreement to protect the confidentiality of the data and be subject to the same restrictions applicable to DOE officers and employees under the Privacy Act.

A record from this system of records may be disclosed to members of an advisory committee for purposes of conducting a review of the Department of Energy epidemiologic program. Members of an advisory committee who obtain access to the records shall be subject to the same restrictions applicable to DOE officers and employees under the Privacy Act. Additional routines uses listed in Appendix B of 47 FR 14284, dated April 2, 1982.

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

STORAGE:

Paper records.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Records are maintained in locked or guarded buildings.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in DOE 1324.2, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Director, Office of Industrial Relations, MA–52, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585.

Field Offices: The managers and directors of personnel in the locations where the records are maintained are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURE:

a. Requests by an individual to determine if a system of records contains information about him/her should be directed to the Chief, Freedom of Information and Privacy Acts, Department of Energy (Headquarters), or the Privacy Act Officer at the appropriate address identified as items 1, 3, 6, 8, 11, 12, and 14 through 18 in Appendix A of 47 FR 14284, dated April 2, 1982, in accordance with DOE's Privacy Act regulations (10 CFR Part 1008 (45 FR 61576, September 16, 1980)).

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

RECORD ACCESS PROCEDURE:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual's employer.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE-33

SYSTEM NAME:

Personnel Medical Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The locations listed in Appendix A of 47 FR 14284, dated April 2, 1982, and the following additional locations:

U.S. Department of Energy, Bendix Corporation, P.O. Box 1159, Kansas City, MO 64141.

U.S. Department of Energy, Bettis Atomic Power Laboratory, P.O. Box 79, Pittsburgh, PA 15122–0079.

U.S. Department of Energy, Dayton Area Office, Box 66, Miamisburg, OH 45342.

U.S. Department of Energy, Kansas City Area Office, Box 410202, Kansas City, MO 64141.

U.S. Department of Energy, Knolls Atomic Power Laboratory, P.O. Box 1072, Schenectady, NY 12301.

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544.

U.S. Department of Energy, Naval Petroleum Reserves, P.O. Box 11, Tupman, CA 93276.

U.S. Department of Energy, Westinghouse Electric Corporation, Bettis Atomic Power Laboratory, Naval Reactors Facility, P.O. Box 2068, Idaho Falls, ID 83403–2068.

U.S. Department of Energy, Strategic Petroleum Reserve, 900 Commerce Road, East, New Orleans, LA 70123.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former DOE employees and DOE contractor employees. This system includes individuals admitted to or treated at Kadlec Hospital, Richland, prior to September 9, 1956.

CATEGORIES OF RECORDS IN THIS SYSTEM:

Medical histories on employees resulting from medical examination and radiation exposure. In cases of injury, description of injury occurrence and treatment. In addition, medical records of periodic physical examinations and pyschological testing, blood donor program records, audiometric testing, routine first aid, and other visits. Also, hospital in-patients at Kadlec Hospital. Records kept on the results of work place and medical monitoring of individuals for exposure to chemical and physical agents (not covered in DOE–35) and related work history data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference to Title II of the Department of Energy Organization Act; 5 U.S.C. 7901; Executive Order 12009; OMB Circular A–72.

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

Physicians, U.S. Department of Labor, various state departments of labor and industry groups, and contractors use information (a) to ascertain suitability of an employee for job assignments with regard to health, (b) to provide benefits under Federal programs or contracts, and (c) to maintain a record of occupational injuries or illnesses and the performance of regular diagnostic and treatment services to patients.

DOE may disclose a record from this system of records to officials of the National Institute for Occupational Safety and Health for the purpose of conducting a health hazard evaluation of workers.

A record from this system of records may be disclosed to researchers for the purpose of conducting an epidemiologic study of workers at a DOE facility if their proposed studies have been reviewed by the National Academy of Sciences and deemed appropriate for such access. A researcher granted access to these records shall be required to sign an agreement to protect the confidentiality of the data and be subject to the same restrictions applicable to DOE officers and employees under the Privacy Act.

A record from this system of records may be disclosed to members of an advisory committee for purposes of conducting a review of the Department of Energy epidemiologic program. Members of an advisory committee who obtain access to the records shall be subject to the same restrictions applicable to DOE officers and employees under the Privacy Act. Additional routine uses listed in Appendix B of 47 FR 14284, dated April 2, 1982.

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

STORAGE:

Computer printouts, magnetic tape, paper, computer disc, and microfilm.

RETRIEVABILITY:

By name, social security number, and plant area.

SAFEGUARDS:

Active records are maintained in locked file cabinets in locked buildings. Inactive records are maintained in locked storage vaults.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in DOE 1324.2, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Deputy Assistant Secretary for Safety, Health and Quality Assurance, EH–30, Washington, DC 20585.

Field Offices: The managers and directors of field locations identified as items 2 through 21 Appendix A of 47 FR 14284, dated April 2, 1982, are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURE:

a. Requests by an individual to determine if a system of records contains information about him/her should be directed to the Chief, Freedom of Information and Privacy Acts, Department of Energy (Headquarters), or the Privacy Act Officer at the appropriate address identified as items 1 through 21 in Appendix A of 47 FR 14284, dated April 2, 1982, in accordance with DOE's Privacy Act regulations (10 CFR Part 1008 (45 FR 61576, September 16, 1980)).

b. Required identifying information: Applicable location or locations where individual is or was employed, full name or where requester believes such record may be located, social security number, employer(s), and time period.

RECORDS ACCESS PROCEDURE:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The individual who is the subject of the record, physicians, medical institutions, Office of Workers Compensation Programs, military retired pay systems records, Federal civilian retirement systems, Office of Personnel Management retirement life insurance and health benefits records system, and the Office of Personnel Management personnel management records systems.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE-35

SYSTEM NAME:

Personnel Radiation Exposure Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The locations listed in Appendix A of 47 FR 14284, dated April 2, 1982, and the following additional locations: U.S. Department of Energy, Amarillo Area Office, Pantex Plant, P.O. Box 30030, Amarillo, TX 79129–0030.

U.S. Department of Energy, Brookhaven Area Office, Upton, NY 11973.

U.S. Department of Energy, Dayton Area Office, P.O. Box 66, Miamisburg, OH 45442.

U.S. Department of Energy, Environmental Measurements Laboratory, 376 Hudson Streeet, New York, NY 10014.

U.S. Department of Energy, Radiological and Environmental Sciences Laboratory, CF–690, 785 DOE Place, Idaho Falls, ID 83402.

U.S. Department of Energy, Kansas City Area Office, Box 410202, Kansas City, MO 64141.

U.S. Department of Energy, Knolls Atomic Power Laboratory, P.O. Box 1072, Schenectady, NY 12301.

U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544.

U.S. Department of Energy, Naval Reactors Representative Office, General Delivery, Naval Base Branch, Post Office, Charleston Naval Shipyard, Charleston, SC 29408.

U.S. Department of Energy, Naval Reactors Representative Office, P.O. Box 21, Groton, CT 06340.

U.S. Department of Energy, Naval Reactors Representative Office, Mare Island Naval Shipyard, P.O. Box 2053, Vallejo, CA 94592.

U.S. Department of Energy, Naval Reactors Representative Office, Newport News Shipbuilding & Dry Dock Company, P.O. Box 973, Newport News, VA 23607.

U.S. Department of Energy, Naval Reactors Representative Office, Norfork Naval Shipyard, P.O. Box 848, Portsmouth, VA 23705–0848.

U.S. Department of Energy, Naval Reactors Representative Office, Pearl Harbor Naval Shipyard, P.O. Box 128, Pearl Harbor, HI 96860.

U.S. Department of Energy, Naval Reactors Representative Office, Portsmouth Naval Shipyard, P.O. Box 2008, Portsmouth, NH 03801.

U.S. Department of Energy, Naval Reactors Representative Office, Puget Sound Naval Shipyard, P.O. Box 1A, Bremerton, WA 98314.

U.S. Department of Energy, New Brunswick Laboratory, 9800 South Cass Avenue, Argonne, IL 60439.

U.S. Department of Energy, Pinellas Area Office, P.O. Box 2900, Largo, FL 34294..

U.S. Department of Energy, Rocky Flats Area Office, P.O. Box 928, Golden, CO 80402–0982.

U.S. Department of Energy, Sandia National Laboratories, P.O. Box 5800, Albuquerque, NM 87115.

U.S. Department of Energy, Shippingport Nuclear Power Station, General Electric Co., P.O. Box 335, Shippingport, PA 15077.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Department of Energy (DOE) employees and contractor employees, and any other persons having access to certain DOE facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

U.S. Department of Energy (DOE) and contractor personnel and other individuals' radiation exposure records, and other records, in connection with registeries of uranium, transuranics, or other elements encountered in the nuclear industry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

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

U.S. Navy uses these records to monitor radiation exposure of Naval and other personnel.

Nuclear Regulatory Commission uses these records to monitor radiation exposure of DOE contractor personnel.

U.S. Department of Energy and its contractors and consultants, other contractors, and organizations, including various states' departments of labor and industry groups, use these records to monitor radiation exposure.

Department of Defense uses these records for the purpose of identifying DOD and DOD-contractor personnel exposed to inoizing radiation during nuclear testing and for conducting epidemiological studies of radiation effects on individuals so identified.

National Academy of Sciences and Center for Disease Control (and appropriate management personnel of the U.S. Department of Health and Human Services) use these records for conducting epidemiologic studies of the effects of radiation on individuals exposed to ionizing radiation.

The Department of Energy may disclose a record from this system of records to officials of the National Institute for Occupational Safety and Health for the purpose of conducting a health hazard evaluation of workers.

A record from this system of records may be disclosed to researchers for the purpose of conducting an epidemiologic study of workers at a DOE facility if their proposed studies have been reviewed by the National Academy of Sciences and deemed appropriate for such access. A researcher granted access to these records shall be required to sign an agreement to protect the confidentiality of the date and be subject to the same restrictions applicable to DOE officers and employees under the Privacy Act.

A record from this system of records may be disclosed to members of an advisory committee for purposes of conducting a review of the Department of Energy epidemiologic program. Members of an advisory committee who obtain access to the records shall be subject to the same restrictions applicable to DOE officers and employees under the Privacy Act.

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

STORAGE:

Computer printouts, paper records, index cards, magnetic tape, punched cards, microfilm, and disc.

RETRIEVABILITY:

By name, alphanumeric code, and social security number.

SAFEGUARDS:

Records are maintained in locked file cabinets, locked safes, guarded areas, and secured buildings, with access on a need-to-know basis.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in DOE 1324.2, "Records Disposition." Records within the DOE are rendered illegible and destroyed by shredding, maceration or burning, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Deputy Assistant Secretary for Safety, Health and Quality Assurance, EH–30, Washington, DC 20585.

Field Offices: The managers and directors of field locations 3, 4, and 6

through 18 in Appendix A, of 47 FR 14284, dated April 2, 1982, and the additional locations listed above under System Location are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

a. Requests by an individual to determine if a system of records contains information about him/her should be directed to the Chief, Freedom of Information and Privacy Acts, Department of Energy (Headquarters), or the Privacy Act Officer at the appropriate address identified as items 1, 3, 4, and 6 through 18 in Appendix A of 47 FR 14284, dated April 2, 1982, in accordance with DOE's Privacy Act regulations (10 CFR part 1008 (45 FR 61576, September 16, 1980)).

b. Required identifying information: Complete name, and geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

RECORDS ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, accident-incident investigations, film badges, dosimetry records, and previous employee records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE-43

SYSTEM NAME:

Personnel Security Clearance Files.

SECURITY CLASSIFICATION:

Classified and unclassified materials.

SYSTEM LOCATION:

The locations listed as items 1, 3, 5, 6, 8, 11, 12, 14 through 18 and 21, in Appendix A of 47 FR 14284, dated April 2, 1982.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and applicants for employment with DOE and DOE contractors; consultants, other individuals requiring access to classified information and facilities; access permittees who are authorized access.

CATEGORIES OF RECORDS IN THE SYSTEM:

Results of investigations concerning individuals processed for access authorization (clearances).

PERSONNEL SECURITY FOLDERS:

Name, grade, organization, date and place of birth, and social security number. Contains requests for security clearance, OPM Standard Forms 85, 86, 87, and 171, and OS Forms DPS 24 and 24A; results of national agency check and inquiries and a record of authorized individuals who have had access to the folder. May also contain action checklist, termination checkout sheet, OPM Standard Forms 50, 52, or 73 as well as notification to Office of Personnel Management of agency action on case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; Executive Order 10450 and 9830; Federal Personnel Manual, chapters 731 and 736.

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

A record from this system may be disclosed as a rountine use to competent medical authority to determine whether an individual has an illness or mental condition which causes, or may cause, a signficant defect in the judgment or reliability of this individual.

A record from this system of records may be disclosed to researchers for the purpose of conducting an epidemiologic study of workers at a DOE facility if their proposed studies have been reviewed by the National Academy of Sciences and deemed appropriate for such access. A researcher granted access to these records shall be required to sign an agreement to protect the confidentiality of the data and be subject to the same restrictions applicable to DOE officers and employees under the Privacy Act.

A record from this system of records may be disclosed to members of an advisory committee for purposes of conducting a review of the Department of Energy epidemiologic program. Members of an advisory committee who obtain access to the records shall be subject to the same restrictions applicable to DOE officers and employees under the Privacy Act.

The additional routine uses listed in Appendix B of 47 FR 14284, dated April 2, 1982.

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

STORAGE:

Paper records, disc, magnetic tape, computer printouts and microfishe.

RETRIEVABILITY:

By name and numeric code.

SAFEGUARDS:

Access is limited to employees having a need-to-know. Records are stored in locked file cabinets in locked buildings.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in DOE 1324.2, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Director, Office of Safeguards and Security, DP-34, Washington, DC 20545.

Field Offices: The managers and directors of field locations 3, 5, 6, 8, 11, 12, 14 through 18 and 21 and Appendix A of 47 FR 14284, dated April 2, 1982, listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURE:

a. Requests by an individual to determine if a system of records contains information about him/her should be directed to the Chief, Freedom of Information and Privacy Acts, Department of Energy (Headquarters), or the Privacy Act Officer at the appropriate address identified as items 1, 3, 5, 6, 8, 11, 12, 14 through 18 in Appendix A of 47 FR 14284, dated April 2, 1982, in accordance with DOE's Privacy Act regulations (10 CFR part 1008 (45 FR 61576, September 16, 1980)).

b. Required identifying information: Complete name, date of birth, social security number, clearance processing location, and time period.

RECORD ACCESS PROCEDURE:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

Personnel Security Questionnaire and fingerprint card executed by the subject individual; background investigation reports by Federal Bureau of Investigation, Office of Personnel Management, and other Government agencies conducting background investigations; summaries and transcripts of interviews with the individual; interrogatopry letters to the

individual; local police department reports; and security infraction reports received from the individual's supervisor.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Secretary has exempted this system from subsection 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k) (1), (2) and (5). The DOE exemption regulation appears at 10 CFR part 1008.12(b), 45 FR 61576, September 16, 1980.

DOE-71

SYSTEM NAME:

The Radiation Accident Registry.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those persons accidentally exposed to acute doses of ionizing radiation as defined by exposure dose criteria agreed to by the DOE and the Nuclear Regulatory Commission (NRC) by an interagency agreement. The dose criteria established by this agreement include one or more of the following: greater than or equal to 25 REM (Roentgen Equivalent in Man) to the whole body, active blood-forming organs or gonads; greater than or equal to 600 REM to skin of the whole body or extremities; greater than or equal to 75 REM to other tissues or organs from an external source; and greater than or equal to ½ NCRP maximum permissible organ burden internally; all those medical misadministrations of radioisotopes that result in a dose or organ burden equal to or greater than those given above.

To those individuals known to have been involved in an event in which one or more other persons received a dose equal to or in excess of the DOE/NRC criteria but whose personal dose was less than these criteria. The histories of these individuals contribute control population data.

CATEGORIES OF RECORDS IN THE SYSTEM:

Official accident reports including reports of those accidents that have occurred within the jurisdiction of the NRC and have been transferred to the DOE for the Accident Registry according to the DOE/NRC agreement; names, addresses, social security numbers, date of birth, and sex; medical records compiled at the time of the accident (such records include physician and hospital records, diagnostic and laboratory test reports, radiographs, EKGs, and radiation exposure report); medical records of illnesses, examinations, including routine followup examinations, and investigations that have occurred since the radiation exposure; photographs of facsimilies of radiation-induced injuries; search and contact information for registrants not identified and/or located; consent to release information forms completed by registrants; death certificates; anecdotal information; correspondence relating to the accident and/or the individuals involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301: Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

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

To provide a current record of radiation accidents for use by the DOE, and its contractors and consultants; to identify specific populations for use in epidemiological and clinical studies; and to conduct medical surveillance during the lifetime of the registrants.

A record from this system of records may be disclosed to researchers for the purpose of conducting an epidemologic study of workers at a DOE facility if their proposed studies have been reviewed by the National Academy of Sciences and deemed appropriate for such access. A researcher granted access to these records shall be required to sign an agreement to protect the confidentiality of the data and be subject to the same restrictions applicable to DOE officers and employees under the Privacy Act.

A record from this system of records may be disclosed to members of an advisory committee for purposes of conducting a review of the Department of Energy epidemiologic program. Members of an advisory committee who obtain access to the records shall be subject to the same restrictions applicable to DOE officers and employees under the Privacy Act. Additional uses 4, 8, 9, and 10 listed in Appendix B, of 47 FR 14284, dated April 2, 1982.

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

STORAGE:

Paper records, computer tapes, computer printouts, punched cards, disc, magnetic tape, and microfilm.

RETRIEVABILITY:

By name and social security number.

SAFEGUARDS:

Records are maintained in locked security areas in locked file cabinets. Acess is limited to individuals whose official duties require access.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in DOE 1324.2, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830.

NOTIFICATION PROCEDURES:

a. Requests by an individual to determine if a system of records contains information about him/her should be directed to the Privacy Act Officer, Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830, in accordance with DOE's Privacy Act regulations (10 CFR part 1008 (45 FR 61576, September 16, 1980)).

b. Required identifying information: Name, social security number, and time period.

RECORDS ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The individual, medical records, physicians, medical institutions, and reports of incident/accident/accident investigations from private and public sources, radiation dosimetry records, security clearance records, and employment records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–72

SYSTEM NAME:

The Department of Energy Radiation Study Registry.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Registrants are those present and former employees of contractors of the DOE and its predecessor organizations including the Manhattan District, USAEC, and ERDA, and present and former civilian employees in the DOE Naval Reactor Program who received a whole body exposure of ionizing radiation equal to or in excess of 5 REM in any 1 year.

CATEGORIES OF RECORDS IN THE SYSTEM:

Rosters of names of individuals meeting the above criteria for inclusion in the Registry submitted through the DOE field operation officers from DOE owned and operated facilities and sites. In addition to names of such individuals, these rosters include social security number of other identifying information, sex, race, date of birth, date and/or place of death, first date of hire, last date of termination, continuity of hire, year in which they received first dose greater than or equal to 5 REM, actual radiation dose in excess of 5 REM, and total career radiation exposure dose.

Original or copied lifetime medical records from plant and private physicians and hospitals including routine physical examinations, reports of diagnostic and laboratory tests, radiographs, EKG's, etc., or abstracted portions of such records as are required for the purposes of this study.

Search and contact information for registrants who are no longer employed at qualified sites or who are deceased.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301: Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

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

To provide a current record of registrants for use by DOE, its contractors, and consultants; to identify specific populations for use in epidemiological and clinical studies; to conduct medical surveillance during the lifetime of the registrants.

A record from this system of records may be disclosed to researchers for the purpose of conducting an epidemiologic study of workers at a DOE facility if their proposed studies have been reviewed by the National Academy of Sciences and deemed appropriate for such access. A researcher granted access to these records shall be required to sign an agreement to protect the confidentiality of the data and be subject to the same restrictions applicable to DOE officers and employees under the Privacy Act.

A record from this system of records may be disclosed to members of an advisory committee for purposes of conducting a review of the Department of Energy epidemiologic program. Members of an advisory committee who obtain access to the records shall be subject to the same restrictions applicable to DOE officers and employees under the Privacy Act. Additional uses 4, 8, 9 and 10 listed in Appendix B, of 47 FR 14284, dated April 2, 1982.

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

STORAGE:

Paper records, computer tapes, computer printouts punched cards, discs, magnetic tape, and microfilm.

RETRIEVABILITY:

By name and social security number.

SAFEGUARDS:

Records are maintained in locked security areas in locked file cabinets. Access is limited to individuals whose official duties require access.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in DOE 1324.2, "Records and Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830.

NOTIFICATION PROCEDURES:

a. Requests by an individual to determine if a system of records contains information about him/her should be directed to the Privacy Act Officer, Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830, in accordance with DOE's Privacy Act regulations (10 CFR Part 1008 (45 FR 61576, September 16, 1980)).

b. Required identifying information: Complete name, social security number, and time period.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The individual, medical records, physicians, medical institutions, and reports of incident/accident investigations from private and public sources, radiation dosimetry records, security clearance records, and employment records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE–73

SYSTEM NAME:

The US–DTPA Registry.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Registrants are those individuals who, because of real or suspected internal contamination with transuranic elements, have received diethylenetriaminepentaacetic acid (DTPA), in the calcium or zinc form during the course of chelation therapy. Administration of the agent DTPA is limited to physicians who are co-investigators with the DOE contractor staff on the Investigative New Drug License of the Food and Drug Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records compiled by the physician administering DTPA in the event of an exposure that was known to have or was suspected of having caused transuranic contamination internally requiring chelation therapy with DTPA. These records include a description of the exposure, the results of serial bioassays and investigations conducted to evaluate the level of internal contamination and the efficacy of subsequent chelation by DTPA. The form of DTPA and the route and

frequency of administration are recorded together with any untoward effects of the therapy.

Name, social security numbers or other identifiers and vital status of treated persons. The last known address and the name of the private physicians of individuals who have relocated or who are no longer within the practice of the administering physician(s) are included in the DTPA Registry to facilitate the search and contact of these individuals; medical records of illnesses, examinations, including routine followup examinations, investigations, etc., that have occurred since the initial administration of DTPA; and death certificate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301: Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

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

To provide a current record of individuals treated with DTPA for use by the DOE and its contractors and consultants; identify by epidemiological methods any long-term untoward effects associated with DTPA therapy; to provide information to FDA in accord with the IND license and issuances.

A record from this system of records may be disclosed to researchers for the purpose of conducting an epidemiologic study of workers at a DOE facility if their proposed studies have been reviewed by the National Academy of Sciences and deemed appropriate for such access. A researcher granted access to these records shall be required to sign an agreement to protect the confidentiality of the data and be subject to the same restrictions applicable to DOE officers and employees under the Privacy Act.

A record from this system of records may be disclosed to members of an advisory committee for purposes of conducting a review of the Department of Energy epidemiologic program. Members of an advisory committee who obtain access to the records shall be subject to the same restrictions applicable to DOE officers and employees under the Privacy Act. Additional uses 4, 8, 9, and 10 as listed in Appendix B, of 47 FR 14284, dated April 2, 1982.

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

STORAGE:

Paper records, computer tapes, computer printouts, punched cards, discs, magnetic tape, and microfilm.

RETRIEVABILITY:

By name and social security number.

SAFEGUARDS:

Records are maintained in locked security areas in locked file cabinets. Access is limited to individuals whose official duties require access.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in DOE 1324.2, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830.

NOTIFICATION PROCEDURES:

a. Requests by an individual to determine if a system of records contains information about him/her should be directed to the Privacy Act Officer, Department of Energy, Oak Ridge Operations Office, P.O. Box E, Oak Ridge, TN 37830, in accordance with the DOE's Privacy Act regulations (10 CFR Part 1008 (45 FR 61576, September 16, 1980)).

b. Required identifying information: Complete name, social security number, and time period.

RECORDS ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The individual, medical records, physicians, medical institutions, and reports of incident/accident investigations from private and public sources, radiation dosimetry records, security clearance records, and employment records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 89-27081 Filed 11-16-89; 8:45 am]

BILLING CODE 6450-01-M

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Peaceful Uses of Nuclear Energy, and the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves the retransfer of 20,020 grams of uranium enriched to 10.20% in the isotope uranium-235. The material will be transferred from Karlsruhe, Federal Republic of Germany to Tokai, Japan, for use at the Nuclear Safety Research Reactor. Retransfer document RTD/JA(EU)-49 has been assigned to this retransfer.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 13, 1989.

John Brodman,

(Acting) Deputy Assistant Secretary for International Affairs.

[FR Doc. 89-27084 Filed 11-16-89; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement; European Atomic Energy Community and Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Japan

Concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/JA(EU-48, for the transfer from France to Japan of fuel elements containing 96 kilograms of uranium, enriched to 19.95 percent in the istope uranium-235 for use in the JRR-3 research reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 13, 1989.

Thad Grundy, Jr.,

Deputy Assistant Secretary for International Affairs.

[FR Doc 89-27085 Filed 11-16-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP89-646-000 and CP89-654-000; CP89-661-000]

Champlain Pipeline Co.; Algonquin Gas Transmission Co.; Champlain Pipeline Project; Availability of DEIS and Intent to Postpone Further Processing of Applications

November 14, 1989.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) has made available a draft environmental impact statement (DEIS) on the natural gas pipeline facilities proposed in the above-referenced dockets, and related nonjurisdictional facilities.

Champlain Facilities

The FERC has recently been informed by Champlain Pipeline Company (Champlain) that its project as currently proposed will be modified/restructured due to changed circumstances. Consequently, the Commission is holding in abeyance all further processing of Champlain's applications in the above-referenced dockets until such time as Champlain files its modified proposal.

However, Champlain has indicated that, while it intends to restructure the project in terms of the sizing of the proposed facilities and the customers it would serve, the proposed mainline pipeline route would be substantially the same. Comments are therefore welcome regarding the DEIS analysis of issues pertinent to the location of the proposed facilities, construction procedures and recommended mitigation measures.

Upon receipt of a revised/updated Champlain proposal, the Commission staff will issue an appropriate environmental document for public review. Advance notice will be given of the Commission's intent and procedures for the environmental review at that time. The Commission staff will notify appropriate state agencies when a revised application is filed and will meet with them to discuss schedulding matters.

Algonquin Facilities

As indicated in the Champlain Pipeline Project DEIS, the facilities proposed by Algonquin Gas Transmission Company (Algonquin) in Docket No. CP89-661-000, would also be needed to render transportation service proposed in the Iroquois/Tennessee and ANR Pipeline Projects. For that reason, the environmental review of Algonquin's facilities, as analyzed in the Champlain Pipeline Project DEIS, must still be completed as noted below.

A DEIS for the Iroquois/Tennessee Pipeline Project is being issued concurrently with the Champlain Pipeline Project DEIS. Algonquin has indicated that the facilities needed for the Iroquois/Tennessee service include all those identified in the Champlain Pipeline Project DEIS except for the Andover, Cromwell and Medfield Loops. Therefore, comments on the staff's analysis of the Algonquin facilities should be filed in response to this notice as indicated below. The final analysis of the Algonquin facilities and the staff's responses to comments regarding those facilities will appear in the final EIS (FEIS) for the Iroquois/Tennessee Pipeline Project.

Concurrent with this notice, a separate notice for the Iroquois/Tennessee Pipeline Project is being issued. All parties affected by both projects, including Federal, state and local entities, will be sent both notices. Anyone not receiving one of the notices can request a copy of the notice by contacting the FERC Project Manager identified below. The Iroquois/Tennessee notice establishes a schedule for public meetings which will be held in January 1990, to receive comments on the DEIS for that project.

Comment Procedures

Written comments on the Algonquin facilities, which are part of the Iroquois/Tennessee and ANR Pipeline Projects, must be filed on or before January 19, 1990, reference Docket No. CP89-661-000, and should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. A copy of the comments should also be sent to the FERC Project Manager identified below.

After comments on the Algonquin facilities are reviewed, any significant new issues are investigated, and modifications are made, the final analysis of those facilities will be incorporated into the Iroquois/Tennessee Pipeline Project FEIS. The FEIS will contain the staff's responses to comments received on the DEIS. All comments on specific environmental issues should contain supporting documentation and rationale.

Written comments on the Champlain facilities are also welcome because the staff is still very interested in having public review of the Champlain Pipeline Project DEIS. Such comments should reference Docket Nos. CP89-646-000 and CP89-654-000. However, the comment period is extended indefinitely and will not be closed until issuance of further advance notice. A copy of these comments should also be sent to the FERC Project Manager.

Comments addressing the Champlain mainline facilities will be kept on file and considered in light of any amended filings. Such comments will be considered by the staff and will be addressed in any subsequent environmental document(s) issued for any amended project.

DEIS Distribution

The DEIS has been placed in the public files of the FERC and is available for public inspection in the FERC's Division of Public Information, Room 2200, 825 North Capitol Street, NE., Washington, DC 20426. Copies have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties in this proceeding. Any person may file a motion to intervene on the basis of the Commission staff's DEIS [18 CFR 380.10(a) and 385.214].

A limited number of copies of the DEIS are available from Mr. Lonnie Lister, Project Manager, Environmental Policy and Project Analysis Branch, Office of Pipeline and Producer Regulation, Room 7312, 825 North Capitol Street NE., Washington, DC

20426, or call (202) 357–8891 or FTS 357–8891.

Lois D. Cashell,

Secretary.

[FR Doc. 89–26884C Filed 11–16–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP90–144–000]

ANR Pipeline Co.; Request Under Blanket Authorization

November 6, 1989.

Take notice that on October 27, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90–144–000, a request pursuant to §§ 157.205 and 284.233 of the Commission's Regulations under the Natural Gas Act, to transport on an interruptible basis under its blanket certification Docket No. CP88–532–000, 5,000 dth for Stone Container Corp., all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR states that service commenced September 21, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90–130–000 and estimates the volumes transported to be 5,000 dth per day on peak day and average day, and 1,825,000 dth on an annual basis.

ANR also indicates that no new facilities are to be constructed.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the National Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89–27022 Filed 11–16–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP88–195–005]

CNG Transmission Corp., Texas Eastern Transmission Corp.; Amendment

November 13, 1989.

Take notice that on October 31, 1989, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, WV 26302–2450 and Texas Eastern Transmission Corporation (Texas Eastern) P.O. Box 2521, Houston TX 77252–2521, collectively referred to as "Applicants," submitted a joint amendment to their Niagara Cogeneration Project Application (Application) which was filed on January 15, 1988 and amended November 10, 1988 and on January 27, 1989 for certificates of public convenience and necessity and related authorizations pursuant to section 7(c) of the Natural Gas Act (15 U.S.C. 717f), and the Rules and Regulations of the Commission issued thereunder, all as more fully set forth in the request on file with the Commisison and open to public inspection.

Applicants state the sole purpose of this amendment is to implement the PennEast Restructuring Agreement dated August 18, 1989 (Agreement) between CNG and Texas Eastern to dissolve the PennEast Gas Service Company (PennEast), a general partnership between CNG and an affiliate of Texas Eastern, and to proceed with the instant PennEast/CNG/Texas Eastern proposal as a divided CNG-Texas Eastern project. Applicants also state that there are no changes in the services or facilities proposed in this docket as a result of the restructuring but only changes in ownership of those facilities and the designations of parties providing service. Applicants provided new CNG rates for proposed service under the restructuring, which are similar to those proposed by PennEast. Similarly, Applicants further state, there are no changes in the services, rates, or facilities proposed in the related applications of Tennessee Gas Pipeline Company in Docket No. CP88–171–000 and National Fuel Gas Supply Corporation, *et al.*, in Docket No. CP88–194–001 as a result of the restructuring except as to separate ownership and services by CNG and Texas Eastern. Applicants submit that the only effect of the restructuring on the proposals in those dockets is the transfer of the ownership interests of PennEast to CNG and Texas Eastern in the facilities proposed therein. The Applicants respectfully request that the Commission authorize CNG and Texas Eastern to own the undivided interests previously owned by PennEast in the facilities proposed in those dockets in accordance with the Agreement and to authorize the unbundled rates for CNG and Texas Eastern as described and proposed in the joint amendment.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 20, 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 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Lois D. Cashell,

Secretary.

[FR Doc. 89–27021 Filed 11–16–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP90–203–000]

Northwest Pipeline Corp.; Application

November 9, 1989.

Take notice that on October 31, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP90–203–000, an applicaiton pursuant to section 7(b) of the Natural Gas Act for an order granting permission and approval for partial or total abandonment of its Rate Schedule ODL–1 and DS–1 natural gas sales service obligation to certain customer companies, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest states that it offered each of its firm sales customers another opportunity to make an unlimited conversion of existing firm sales contract demand to firm transportation contract demand to be effective October 1, 1989. Northwest explains that the conversions were implemented effective October 1, 1989, under new Rate Schedule TF–1 service agreements for amendments to existing service agreements.

Northwest requests permission and approval to abandon the addition 67,167.5 dt's per day of firm ODL–1 and DS–1 sales certificate obligaiton which relects its customers' October 1, 1989 conversions to firm transportation service. Northwest states that the remaining authorized contract demand level for ODL–1 and DS–1 service for the affected nine customer will be 93,240 Dt's per day. Further, Northwest states that the specific volume of sales contract obligation proposed to be abandoned for each customer is listed on the table below, and represents the difference between the pre 10–01–89 firm sales contract obligation for each customer.

Customer	Additional sales contract obligation proposed to be abandoned effective 10–01–89 (Dth)
ODL–1:	
Cascade Natural Gas	9,600
CP National	660
Paiute Pipeline	20,000
Washington Water Power	30,000
DS-1:	
City of Buckley	568.5
City of Ellensburg	3,600
City of Enumclaw	1,221.5
Rocky Mountain Natural Gas	892.5
Wyoming Industrial Gas	625
Total	67,167.5

Northwest states that for seven of the nine subject sales customers, the proposed abandonment is a partial reduction in service obligation, while for Paiute and Rocky Mountain a total sales abandonment is proposed consistent with their respective 100 percent conversions to firm transportation.

Further, Northwest states that, consistent with CPO National's conversion to firm transportation for all its firm sales contract demand except temporarily the portion necessary to serivce its two delivery points on PGT's system, Northwest requests approval to abandon its obligation to deliver firm sales gas to CP National except for the Klamath Falls and Vaughn Lumber delivery points located on PGT's system.

Northwest requests that the subject abandonments of firm sales obligation be made effective October 1, 1989, the effective date of the corresponding conversion to firm transportation.

Northwest states that it does not propose to abandon any of its pipeline facilities in conjunction with the abandonment of sales services. Northwest explains that its transmission system will continue to be fully utilized to provide service to its former sales customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 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 the 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 permission and approval for the proposed abandonment are 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 Northwest to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 89–27023 Filed 11–16–89; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 89–49–NG]

Megan-Racine Associates, Inc; Application to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application for long-term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on July 25, 1989, of an application filed by Megan-Racine Associates, Inc. (Megan-Racine), for authorization to import up to 11,700 Mcf of natural gas per day over a 20-year term. The application submitted required supplemental information on October 12, 1989. The imported gas would be used to fuel the applicant's new 49-MW cogeneration plant to be constructed and operated in Canton, New York. Megan-Racine requests that the authorization commence on or about October 1, 1990, which is the anticipated date for the beginning of the facility's testing phase. The gas would be imported at the international boundary of the United States and Canada near Massena, New York, and transported within the United States through existing and proposed pipeline facilities.

The application is filed under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 204–111 and 204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., December 18, 1989.

ADDRESSES:

Office of Fuels Programs, Office of Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

William C. Daroff, Office of Fuels Programs, Office of Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–094, FE–53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9516.

Diane Stubbs, Natural and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, GC–32, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Megan-Racine, a New York corporation with its principal place of business in Tampa, Florida, was formed to undertake the development, construction, ownership, and operation of a natural gas-fired congeneration facility to be built at a Kraft, Inc., processing plant in Canton, New York. According to the applicant, the new cogeneration facility is expected to be completed and in commercial operation by November 1,

1990. Megan-Racine states that the gas will be used to fuel a new combined-cycle unit certified by the Federal Energy Regulatory Commission as a "qualifying cogeneration facility" under the Public Utility Regulatory Policies Act of 1978. The steam produced will be sold to the Kraft, Inc., plant and the electricity generated will be sold to Niagara Mohawk Power Corporation (Niagara Mohawk) under a 15-year power sales agreement dated November 1, 1987.

Megan-Racine would purchase the gas from Western Gas Marketing Limited (Western Gas) pursuant to a precedent agreement enclosed as part of the application. The precedent agreement was executed on April 12, 1989, later amended in minor respects, and included a proposed gas purchase contract. The proposed contract would require Megan-Racine to pay Western Gas, for gas delivered, a price that is the sum of the monthly demand charge and the monthly commodity charge in effect for each month. The monthly demand charge is derived by multiplying the daily contract quantity (initially set at 11,700 Mcf) by a demand rate that is the sum of the monthly demand charges paid by Western Gas for transportation of Megan-Racine's daily contract quantity on the pipeline systems of NOVA Corporation of Alberta (NOVA), TransCanada PipeLines, Ltd. (TransCanada), and Niagara Gas Transmission, Ltd. (Niagara Gas), plus a supply reservation fee of $4.563 per Mcf per month. The commodity charge is initially set at $1.45 per MMBtu delivered to the United States border and is to be adjusted quarterly pursuant to a formula that is based equally on the percentage change in Niagara Mohawk's average annual marginal avoided energy cost above or below a base cost of $.253 per kilowatt-hour and the percentage change in CNG Transmission Corporation's (CNG) gas commodity component in its RQ Rate Schedule above or below a base cost of $2.4146 per MMBtu. The agreement also provides for a reopening of the pricing provisions prior to the start of the contract years commencing November 1, 1995, and November 1, 2000. If the parties are unable to reach agreement on a revised price formulation, the agreement provides for arbitration.

The proposed contract obligates Megan-Racine to take delivery of at least 60 percent of the annual contract quantity (defined as the daily contract quantity multiplied by the number of days in the year) but provides that undeliveries below the 60 percent minimum level may be purchased by the applicant during the succeeding 12 month period. Megan-Racine must pay a deficiency charge levied on the volumes not taken below the minimum quantity equal to the average commodity charge in effect during the year. In addition, the amount that Western Gas is obligated to supply is subject to reduction if Megan-Racine takes less than minimum contract volumes.

Megan-Racine indicates that Western Gas would transport the natural gas through the pipeline facilities of NOVA and TransCanada in Canada to an existing interconnection with the pipeline facilities of Niagara Gas. The gas would then be transported on the Niagara system to an existing interconnection with the distribution system of St. Lawrence Gas Company, Inc. (St. Lawrence), at the international border of the United States and Canada near Massena, New York, where delivery to the applicant would take place. Megan-Racine states that such routing would necessitate the construction of eight miles of 12 inch diameter distribution line connecting the cogeneration facility to St. Lawrence's existing distribution system.

In support of its application, Megan-Racine states that all of the natural gas imported under its requested authorization would be used to fuel the new cogeneration facility. The applicant asserts that its arrangement with Western Gas is and would remain competitive over the proposed term. Megan-Racine maintains that the arrangement would provide it with a wide degree of flexibility to vary its daily, monthly, and annual takes to conform to the operational characteristics of the cogeneration facility. Megan-Racine further asserts that additional flexibility for both parties is enhanced by their opportunity to renegotiate pricing provisions in 1995 and 2000. With respect to the applicant's decision to select a Canadian supplier, Megan-Racine states that it contracted domestic gas suppliers, but was not able to find terms that were as competitive as those negotiated with Western Gas. Megan-Racine maintains that the proposed arrangement would provide reasonable assurances that a secure supply of natural gas will be available for purchase from Western Gas. The applicant also states that it has either received or is planning to receive various state and local environmental approvals for the proposed project. For these reasons, Megan-Racine maintains that the proposed import is consistent with the public interest.

Megan-Racine filed a certification of compliance with the coal capability requirement for proposed new electric powerplants on October 11, 1989, pursuant to the Powerplant and Industrial Fuel Use Act of 1978 (FUA) (10 U.S.C. 3801 *et seq.*, as amended; 53 FR 35544, September 14, 1988).

The decision on Megan-Racine's application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Other matters that may be considered in making a public interest determination include need for gas, security of the long-term supply, and any relevant issues that may be unique to cogeneration facilities. Parties that may oppose this application should comment in their responses on the issues of competitiveness, need for the gas, and security of supply as set forth in the policy guidelines. Megan-Racine asserts that this import arrangement is in the public interest because it is competitive and its gas source will be secure. Parties opposing the import arrangement bear the burden of overcoming these assertions.

All parties should be aware that if the requested import is approved, the authorization would be conditioned on the filing of quarterly reports indicating volumes imported and the purchase price.

NEPA Compliance

Under section D of the DOE guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, actions that grant or deny import authorizations where no new gas transmission facilities are needed but where new ancillary facilities are to be constructed, such as a cogeneration facility, would normally require the preparation of an environmental assessment (EA), because they involve "minor new construction" (54 FR 12474, March 27, 1989). However, we believe that preparation of an EA to approve or disapprove this application is unnecessary, and compliance with NEPA for the proposed action can be achieved by invoking two categorical exclusions in the DOE NEPA guidelines (52 FR 47622, December 15, 1987).

The environmental impacts of constructing and operating new cogeneration facilities have been addressed on numerous occasions by the Economic Regulatory Administration (ERA) in conjunction with processing exemption petitions under the FUA, and as a result, such actions have been

granted a categorical exclusion from further NEPA review (52 FR 47670, December 15, 1987). The cogeneration facilities to be constructed in connection with these import applications are identical to those facilities covered by the categorical exclusion for FUA actions. Therefore, it is an appropriate application of another categorical exclusion contained in the DOE guidelines for "actions that are substantially the same as other actions for which the environmental effects have already been assessed in a NEPA document and determined by DOE to be clearly insignificant and where such assessment is currently valid" (52 FR 47668, December 15, 1987) to extend the FUA categorical exclusion for cogeneration facilities to the grant of an authorization to import natural gas under the NGA which results in the construction and operation of a cogeneration facility.

A categorical exclusion raises a rebuttal presumption that the Federal action will not significantly affect the quality of the human environment. Unless it appears during the proceedings on this import application that the grant or denial of authorization will significantly affect the quality of the human environment, the Office of Fuels Programs expects that no additional environmental review will be required.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial questions of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice to all parties will be provided. If no party requests additional procedurs, a conditional or final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Megan-Racine's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address, (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, November 8, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–27062 Filed 11–16–89; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 89–71–NG]

Salmon Resources Ltd.; Application To Extend Blanket Authorization Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application for extension of blanket authorization to import natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on October 20, 1989, of an application filed by Salmon Resources Ltd. (Salmon) requesting that blanket authority previously granted in DOE/ERA Opinion and Order No. 94 (Order 94), issued December 16, 1985 (ERA Docket No. 85–18–NG), and extended in DOE/ERA Opinion and Order No. 217 (Order 217), issued January 22, 1988 (ERA Docket No. 87–50–NG), be further extended for two years beginning on February 14, 1990, the expiration of its current import authorization, through the period ending February 13, 1992. Under the extension requested, Salmon would be authorized to import volumes not to exceed, in the aggregate, 100 Bcf of Canadian natural gas over a two-year period.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than December 18, 1989.

ADDRESSES:

Office of Fuels Programs, Office of Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, FE–50, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

William C. Daroff, Office of Fuels Programs, Office of Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, FE–53, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9516.

Dianne Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, GC–32, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Salmon, a Wyoming corporation with its principal place of business in Lakewood, Colorado, is a wholly owned subsidiary of Shell Canada Limited, a Canadian corporation headquartered in Calgary, Alberta. The imported gas would continue to be supplied by Shell or such supply sources as may become available and sold by Salmon on a short term or spot basis to, among others, industrial end users, agricultural users, electric utilities, pipelines, and local distribution companies. Salmon incorporated by reference the exhibits contained in Salmon's original application dated September 18, 1985 (ERA Docket No. 85–18–NG). The incorporated information thus would include assertions that each sale will be market responsive and that

the imports would be accomplished using existing pipeline capacity and no new construction would be involved. Salmon also would continue to file reports with FE within 30 days after the end of each calendar quarter giving the details of the individual transactions. Salmon's prior quarterly reports filed with FE indicate that approximately 11.3 Bcf of natural gas was imported under Order 217 through September 30, 1989.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their response on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement will be competitive and thus in the public interest. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Salmon's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 8, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–27083 Filed 11–16–89; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–3681–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382–5076 or (202) 382–5073.

Availability of Environmental Impact Statements Filed November 6, 1989 through November 9, 1989 pursuant to 40 CFR 1506.9.

EIS No. 890315, Final, AFS, WY, Bridger-Teton National Forest, Land and Resource Management Plan, Implementation, Teton, Fremont, Lincoln, Sublette, Sweetwater and Uinta Counties, Due: December 18, 1989, Contact: Brian E. Stout (307) 733–2752.

EIS No. 890316, Draft, AFS, ID, South Fork Salmon River Road Reconstruction, Warm Lake Highway to the confluence of the South Fork Salmon River, Implementation, Boise and Payette NFs, Valley County, ID, Due: January 2, 1990, Contact: John Hooper (208) 634–8151.

EIS No. 890317, Draft, AFS, CA, King-Titus Fire Recovery Project, Implementation, Klamath National Forest, Siskiyou County, CA, Due: January 3, 1990, Contact: Carmine Lockwood (916) 493–2243.

EIS No. 890318, Draft, FHW, TX, IH–30/IH–35W Interchange Improvements, (Forest Park Blvd. to Riverside Drive) and (Hattie St., to Luella St.) Funding, Tarrant County, TX, Due: January 2, 1990, Contact: W.L. Hall, Jr. (512) 463–8585.

EIS No. 890319, Final, COE, LA, Aloha-Rigolette Area Agriculture Flood Control Plan, Implementation, Red River Floodplain, Grant and Rapides Parishes, LA, Due: December 18, 1989, Contact: Steve Mathies (504) 862–2520.

EIS No. 890320, Final, BLM, NM, Molycorp Guadalupe Mountain Tailings Disposal Facility, Construction, Operation and Closure, Plan of Operation Approval, Taos County, NM, Due: December 18, 1989, Contact: Robert T. Dale (505) 761–4546.

EIS No. 890321, Final, FHW, VA, US 288 Construction, US 360/Hull Street to I–64, Funding, Section 10 and 404 and Coast Guard Permits, Chesterfield, Henrico, Goochland and Powhatan Counties, VA, Due: December 18, 1989, Contact: Robert L. Hundley (804) 786–4304.

Dated: November 14, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89-27086 Filed 11-16-89; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3681-2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 30, 1989 through November 3, 1989 pursuant to the environmental Review process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 7, 1989 (54 FR 15006).

Draft EISs

ERP No. D-AFS-J61078-UT, Rating EC2, Uinta National Forest, Arterial Travel Route Development and Management Implementation, Utah and Wasatch Counties, UT.

Summary: EPA is concerned with the lack of discussion related to wetlands and water quality impacts and mitigation. Additional information is requested in the final EIS.

Final EISs

ERP No. D-AFS-L65104-OR, Uchoco National Forest and Crooked River National Grassland, Land and Resource Management Plan, Implementation, Crook, Grant, Harney, Jefferson and Wheeler Counties, OR.

Summary: EPA has no objections to the proposed action as described in the final EIS. EPA is interested in working with the Forest Service to develop the forest-wide water quality and fish resource monitoring plan.

ERP No. F-COE-L90021-WA, North and South Puget Sound Unconfined Open-Water Disposal for Dredged Material, Phase II, Site Designation, Section 10 and 404 Permits, Whatcom, Skagit, Challam and Pierce, Counties VA.

Summary: EPA's comments on the draft EIS were adequately addressed. EPA has no objections to the proposed action as described in the final EIS.

ERP No. F-FHW-L40165-WA, I-90 Improvements, Four Lakes to the Idaho State Line, Funding and 404 Permit, Spokane County, WA.

Summary: EPA had no objection to the proposed action as described in the final EIS. No formal letter was sent to the agency.

ERP No. F-HUD-C85042-PR, Encantada Residential Development, Mortgage Insurance, Dos Bocas Ward, Trujillo Alto, PR.

Summary: EPA believes the project will not result in any adverse environmental impacts.

Dated: November 14, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89-27087 Filed 11-16-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL 3680-8]

Relative Risk Reduction Strategies Committee; Risk Reduction Subcommittee Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given of a public meeting of the Risk Reduction Subcommittee of the Relative Risk Reduction Strategies Committee (RRRSC). The Subcommittee will meet on November 28, 1989 (10:00 a.m. to 5:00 p.m.) at the Howard Johnson's National Airport Hotel, 2650 Jefferson Davis Highway, Arlington, VA 22202.

Purpose: The purpose of this meeting is to discuss alternative risk management strategies for environmental problems based, in part, on an evaluation of EPA's 1987 report "Unfinished Business." For further information concerning this project, please refer to the notices contained in 54 FR 35386, August 25, 1989, and 54 FR 38282, September 15, 1989.

FOR FURTHER INFORMATION: Members of the public wishing further information concerning the Subcommittee or the meeting should contact Mrs. Kathleen Conway, Designated Federal Official, U.S. Environmental Protection Agency (A-101F), 401 M Street, SW., Washington, DC, (202) 382-2552 (FTS) 382-2552, FAX (202) 475-9693. Seating at the meeting is on a first come basis.

Dated: November 8, 1989.

Donald G. Barnes,

Director, Science Advisory Board.

[FR Doc. 89-27071 Filed 11-16-89; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00284; FRL-3666-6]

State FIFRA Issues Research and Evaluation Group (SFIREG); Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) will hold a 2-day meeting, beginning on December 18, 1989 and ending on December 19, 1989. This notice announces the location and times for the meeting and sets forth tentative agenda items. The meeting is open to the public.

DATES: The SFIREG will meet on Monday, December 18, 1989 from 8:30 a.m. to 5 p.m. and on Tuesday, December 19, 1989 beginning at 8:30 a.m. and adjourning at approximately noon.

ADDRESS: The meeting will be held at: Hyatt Regency-Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202, (703) 486-1234.

FOR FURTHER INFORMATION CONTACT:

By mail: Arty Williams, Office of Pesticide Programs (H7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 1007, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703) 557-3401.

SUPPLEMENTARY INFORMATION: The tentative agenda includes the following:

1. Regional reports.
2. Reports from the SFIREG Working Committees.
3. Update on activities of the Registration Division, Office of Pesticide Programs.
4. Update on activities of the Special Review and Reregistration Division, Office of Pesticide Programs.
5. Update on activities of the Office of Compliance Monitoring.
6. Update on the Office of Pesticide Programs' activities related to biotechnology.
7. Update on the Office of Pesticide Programs' proposed Endangered Species Protection Program.
8. Status of the Office of Pesticide Programs' Data Needs working group.
9. Reporting on activities related to the Pesticide Monitoring Improvement Act.
10. Other items as appropriate.

Dated: November 3, 1989.

Edwin F. Tinsworth,

Acting Director, Office of Pesticide Programs.

[FR Doc. 89-27076 Filed 11-16-89; 8:45 am]

BILLING CODE 6560-50-D

EXPORT-IMPORT BANK OF THE UNITED STATES

Open Meeting of the Advisory Committee of the Export-Import Bank of the United States

Summary: The Advisory Committee was established by Public Law 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the report of the Export-Import Bank to the United States Congress.

Time and Place: Tuesday, December 5, 1989, from 9:30 a.m. to 12:00 noon. The meeting will be held at Eximbank in Room 1143, 811 Vermont Avenue NW., Washington, DC 20571.

Agenda: The meeting agenda will include a discussion of the following topics: Financial Report, Congressional Matters, Developments in Russia/Central Europe, Reinvolving Financial Institutions, Tided Aid Credit Status, Lundine Discussion, Execution of LALDC, and other topics.

Public Participation: The meeting will be open to public participation; and the last 15 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. In order to permit the Export-Import Bank to arrange suitable accommodations, members of the public who plan to attend the meeting should notify Joan P. Harris, Room 935, 811 Vermont Avenue NW., Washington, DC 20571, (202) 566–8871, not later than December 4, 1989. If any person wishes auxiliary aids (such as a language interpreter) or other special accommodations, please contact, prior to November 30, 1989, the Office of the Secretary, Room 935, 811 Vermont Avenue NW., Washington, DC 20571, Voice: (202) 566–8871 or TDD: (202) 535–3913.

FURTHER INFORMATION: For further information, contact Joan P. Harris, Room 935, 811 Vermont Avenue NW., Washington, DC 20571, (202) 566–8871.

Joan P. Harris,

Corporate Secretary.

[FR Doc. 89–27048 Filed 11–16–89; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Agency Information Collection Activities Under OMB Review

November 7, 1989.

The following information collection requirements have been approved by the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, (44 U.S.C. 3507). For further information contact Judy Boley, Federal Communications Commission, (202) 632–7513.

OMB No.: 3060–0029.

Title: Application for New Broadcast Station License.

Form No.: FCC 302.

A revised application form FCC 314 has been approved for use through 9/30/92. The June 1988 edition with an OMB expiration date of 9/30/90 will remain in use until revised forms are available.

OMB No.: 3060–0062.

Title: Application for Authorization to Construct New or Make Changes in an Instructional Television Fixed and/or Response Station(s), or to Assign or Transfer Such Station(s).

Form No.: FCC 330.

The approval on FCC 330 has been extended through 8/31/92. The May 1987 edition with an OMB expiration date of 12/31/89 will remain in use until revised forms are available.

OMB No.: 3060–0072.

Title: Airborne Mobile Radio Telephone License Application.

Form No.: FCC 409.

The approval on FCC 409 has been extended through 9/30/92. The February 1987 edition with an OMB expiration date of 9/30/89 will remain in use until revised forms are available.

OMB No.: 3060–0089.

Title: Application for Land Radio Station License in the Maritime Services.

Form No.: FCC 503.

The approval on FCC 503 has been extended through 10/31/92. The April 1987 edition with the previous expiration date of 10/31/89 will remain in use until updated forms are available.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–27012 Filed 11–16–89; 8:45 am]

BILLING CODE 6712–01–M

Open En Banc Hearing

November 9, 1989.

The Federal Communications Commission will hold an Open *En Banc* hearing on AM Improvement Issues on Thursday, November 16, 1989, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street NW., Washington, DC.

The Commission will review the situation concerning the AM service, examine its prospects for improvement and explore the key issues related to AM improvement and most appropriate means of their resolution.

General matters to be considered at the *En Banc* hearing will include, but are not limited to, the following:

1. AM improvement and the future of AM radio;
2. Uses of the AM expanded band (1605 kHz-1705 kHz);
3. AM technical improvements and station assignment policies;
4. AM stereophonic transmission and its impact on AM technical criteria and assignment policies;
5. The importance of receiver quality to the future of the AM service.

Additional information may be obtained from William Hassinger, Mass Media Bureau, telephone number (202) 632–6460.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 89–27004 Filed 11–16–89; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Solicitation of Comments for Study on Pass-Through Deposit Insurance Which Is Mandated by the Financial Institutions Reform, Recovery and Enforcement Act of 1989

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Solicitation of comments.

SUMMARY: Pursuant to section 220 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (the "FIRRE Act"), the FDIC is preparing a report, to be transmitted to Congress concerning the pass-through of deposit insurance to individual investors in unit investment trusts and to individual participants in pension and profit-sharing plans qualified under section 401 of the Internal Revenue Code. The purpose of this notice is to solicit comments, suggestions and any relevant data or statistics from interested parties on the issues to be explored by the FDIC in its study on pass-through insurance.

DATE: Comments must be received by December 15, 1989.

ADDRESS: Send written comments to Federal Deposit Insurance Corporation, Legal Division—Room 4018, 550 17th Street NW., Washington, DC 20429.

FOR FURTHER INFORMATION CONTACT: Lynn Nejezchleb, Chief, Financial Markets Section, Division of Research and Statistics (202–898–3931), or Claude A. Rollin, Senior Attorney, Legal Division (202–898–3985), Federal Deposit

Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The FDIC currently insures deposit accounts maintained by fiduciaries (*e.g.* agents, nominees, custodians, guardians, or trustees) in the amount of up to $100,000 for the interest of each principal or beneficial owner in such accounts, provided that certain recordkeeping requirements are satisfied.[1] Since the insurance coverage for such accounts passes through the fiduciary to the actual beneficial owners of the funds this type of insurance coverage is commonly referred to as "pass-through" insurance. For instance, if the trustee of an irrevocable trust maintains a deposit account comprised of trust funds at an insured depository institution and the trust has three beneficiaries, the deposit insurance would pass through the trustee to each beneficiary so that each beneficiary's interest in the account would be separately insured up to $100,000. In addition, such insurance coverage would be separate from the insurance coverage provided for any other accounts maintained by or for the settlor, trustee or beneficiaries in different rights and capacities at the same insured depository institution. However, if a beneficiary has interests in more than one trust account established pursuant to trusts created by the same settlor then all of those interests would be aggregated and insured on a combined basis up to $100,000.

Most pension plans and other trusted employee benefit plans are treated by the FDIC as irrevocable trusts and their funds, when deposited in an FDIC-insured bank, are insured according to the aforementioned rules governing the insurance coverage for deposits of irrevocable trusts. In other words, the deposits of most pension and profit-sharing plans are entitled to "pass-through" insurance and thus are insured in the amount of up to $100,000 per beneficiary, provided that the FDIC's recordkeeping requirements are satisfied. However, this "pass-through" insurance coverage is provided only when the value of each participant's interest in the plan's accounts can be determined without evaluation of any contingencies except for those contained in the present worth tables and rules of calculation for their use which are set forth in the Federal Estate Tax regulations. Thus, for example, while an employee pension or profit-sharing plan would, in most cases, qualify for pass-through insurance coverage, a health and welfare plan generally would not qualify for such coverage because in the case of a health and welfare plan, the present value of a participant's interest is contingent on an event (i.e. illness or accident) that is not covered by the above-mentioned present worth tables.

In addition, the FDIC has taken the position that deposit accounts established pursuant to a state or municipal deferred compensation plan which qualifies under section 457 of the Internal Revenue Code, 26 U.S.C. 457 (a "457 Plan") are not entitled to "pass-through" insurance coverage. Consequently, deposit accounts at FDIC-insured banks which are comprised of 457 Plan funds have been added together and insured in the amount of up to $100,000 in the aggregate. By contrast, the former FSLIC insured 457 Plan deposit accounts at FSLIC-insured savings institutions in the amount of up to $100,000 per participant pursuant to a specific regulation. 12 CFR 561.4(b). The FDIC's position (of not providing pass-through insurance coverage for 457 Plan deposits) has been based on the fact that, under section 457 of the Internal Revenue Code, the funds of 457 Plans are required to "remain (until made available to the participant or other beneficiary) solely the property rights of the State. . . ." 26 U.S.C. 457(b)(6). Since the State, rather than the employees, is deemed to be the sole owner of the funds until they are distributed, the FDIC has maintained that the employees (participants) do not have any ownership interests in the funds upon which insurance coverage could be based and thus the funds cannot be insured on a pass-through basis.

Similarly, the FDIC has not been providing pass-through insurance coverage for deposits maintained by unit investment trusts. An existing FDIC regulation which governs the deposit insurance provided for accounts established by corporations (12 CFR 330.5(b)) provides that trusts which are registered or subject to registration under section 8 of the Investment Company Act of 1940 (the "40 Act") shall be treated as corporations for the purpose of determining insurance coverage on the trust's accounts. Unit investment trusts are generally registered or subject to registration under the 40 Act and thus have been treated as corporations for insurance purposes. Consequently, the FDIC has been adding together all of the deposits maintained by a unit investment trust at the same FDIC-insured bank and has been insuring such deposits in the amount of up to $100,000 in the aggregate. The former FSLIC did not have a comparable regulation governing the deposits of entities registered or subject to registration under the 40 Act. The former FSLIC treated deposit accounts maintained by unit investment trusts at FSLIC-insured savings institutions as irrevocable trust accounts and insured them on a "pass-through" basis in the amount of up to $100,000 for the interest of each beneficiary of (investor in) such trusts.

Section 220(b)(2) of the FIRRE Act mandates that, within six months of the date of enactment of the FIRRE Act, the FDIC must "transmit to the Congress a report containing its findings and recommendations relating to the pass-through of deposit insurance either to individual investors in unit investment trust funds or to individual participants in pension or profit sharing plans qualified under section 401 of the Internal Revenue Code of 1986." Moreover, section 220(b)(2) requires that the report contain the FDIC's "assessment of the potential effects of broadening deposit insurance coverage on the safety of the insurance funds and the operation of capital markets."

In conducting this study on "pass-through" insurance, the FDIC is interested in receiving comments, suggestions and nay data or statistics relating to the following issues:

1. The extent to which the FDIC should, as a matter of policy, provide pass-through deposit insurance for deposits of unit investment trusts, pension plans, profit-sharing plans and other trusted employee benefit plans;

2. The effect of pass-through insurance coverage on the safety of the insurance funds and the operation of capital markets;

3. The extent to which pass-through insurance coverage generally affects the liquidity of insured financial institutions;

4. The potential effects of expanding the existing insurance coverage to provide pass-through insurance coverage for individual investors in unit investment trusts.

Dated at Washington, DC, this 13th day of November 1989.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 89-27029 Filed 11-16-89; 8:45 am]

BILLING CODE 6714-01-M

[1] The recordkeeping requirements are enumerated at 12 CFR 330.4(b).

FEDERAL MARITIME COMMISSION

Spain-Italy/Puerto Rico Island Pool Agreement and USA-South Africa Discussion Agreement; Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212–011213–012.

Title: Spain-Italy/Puerto Rico Island Pool Agreement.

Parties:

Compania Transatlantica Espanola, S.A.

Nordana Line AS

Sea-Land Service, Inc.

Synopsis: The proposed amendment would admit d'Amico Societa di Navigazione S.p.A. as a party to the Agreement effective January 1, 1990. It would also recalculate the parties' pool shares to reflect the addition of a new participant in the arrangement.

Agreement No.: 203–011232–001

Title: USA-South Africa Discussion Agreement

Parties:

Lykes Bros. Steamship Co., Inc.

Navinter

Safbank Line, Ltd.

Mediterranean Shipping Company SA

Synopsis: The proposed amendment would add P&O Containers Ltd. as a party to the agreement. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: November 13, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–26996 Filed 11–16–89; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

A.B.N.-Stichting, et al.—Formulations of, Acquisition by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies; Correction

This Notice corrects a previous Federal Register Notice (FR Doc. 89–23252) published at page 40737 of the issue for Tuesday, October 3, 1989.

Under the Federal Reserve Bank of Chicago, the entry for A.B.N.-Stichting is amended to read as follows:

1. A.B.N.-Stichting, Amsterdam, The Netherlands; ABN/LaSalle North America, Inc., Chicago, Illinois; Algemene Bank Nederland N.V., Amsterdam, The Netherlands; and LaSalle National Corporation, Chicago, Illinois; to acquire 100 percent of the voting shares of Exchange Bancorp, Inc., Chicago, Illinois, and thereby indirectly acquire Exchange National Bank of Chicago, Chicago, Illinois; Exchange Bank of DuPage, Oak Brook, Illinois; Exchange Bank of River Oaks, Calumet City, Illinois; and Exchange Bank of Lake County, Vernon Hills, Illinois.

In connection with these applications, Applicants also propose to acquire Exchange Securities Corp., Hallandale, Florida, and thereby engage in underwriting and dealing in government obligations and money market instruments pursuant to § 225.25(b)(16); and to expand Company's activities to include engaging in broker activities for stocks, bonds and other securities pursuant to § 225.25(b)(15) of the Board's Regulation Y. Applicants also propose to acquire Union Realty Mortgage Co., Inc., Chicago, Illinois, and thereby engage in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Comments on this application must be received by December 1, 1989.

Board of Governors of the Federal Reserve System, November 13, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–27042 Filed 11–16–89; 8:45 am]

BILLING CODE 6210–01–M

Atlantic Bancshares, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 7, 1989.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. Atlantic Bancshares, Inc., Newington, New Hampshire; to become a bank holding company by acquiring 100 percent of the voting shares of Atlantic Trust Company, Newington, New Hampshire.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Arkansas National Banking Corporation, Rogers, Arkansas; to become a bank holding company by acquiring at least 94.51 percent of the voting shares of First National Bank, Bentonville, Arkansas; and at least 99.56 percent of the voting shares of Farmers and Merchants Bank, Rogers, Arkansas.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *American National Corporation,* Omaha, Nebraska; to acquire 100 percent of the voting shares of The Northern Corporation, Omaha, Nebraska, and thereby indirectly acquire Northern Bank, Omaha, Nebraska.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Broadway Bancshares of Delaware, Inc., Wilmington, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of Broadway Air Force National Bank, Randolph Air Force Base, Texas; Broadway National Bank, San Antonio, Texas; and Eisenhower National Bank, San Antonio, Texas. Comments on this

application must be received no later than December 1, 1989.

2. Golbalshares, Limited, Road Town, Texas; to become a bank holding company by acquiring 61.5 percent of the voting shaes of El Paso Financial Corporation, Wilmington, Delaware, and thereby indirectly acquire El Paso State Bank, El Paso, Texas.

Board of Governors of the Federal Reserve System, November 13, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-27043 Filed 11-16-89; 8:45 am]

BILLING CODE 6210-01-M

Valley Capital Corp., et al.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 1, 1989.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. Valley Capital Corporation, Las Vegas, Nevada; to engage *de novo* through its subsidiary, Pacific Century Finance Company, Las Vegas, Nevada, in providing financing on non-recourse dealer installment sales contracts and thereby engage in lending activities pursuant to § 225.25(b)(1)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 13, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-27044 Filed 11-16-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 1, 1989.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. David E. Worthen, Bountiful, Utah; to acquire an additional 1.29 percent of the voting shares of Brighton Bancorp, Salt Lake City, Utah, for a total of 25.81 percent, and thereby indirectly acquire Brighton Bank, Salt Lake City, Utah.

Board of Governors of the Federal Reserve System, November 13, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-27045 Filed 11-16-89; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

[Docket Nos. 8880 and 8956]

Modification of Prior Decisions; Reliable Mortgage Corp. et al. and Seekonk Freezer Meats, Inc. et al.

AGENCY: Federal Trade Commission.

ACTION: Notice of period for filing of amicus curiae briefs on proposed modification of prior decisions.

SUMMARY: The Commission has issued an order reopening the proceedings in Reliable Mortgage Corp. et al. (Dkt. 8956) to consider modifying the decision therein to clarify that the respondents' credit advertising practices that violated the Truth in Lending Act are also unfair and deceptive acts or practices, in violation of section 5(a) of the Federal Trade Commission Act. This document announces the opportunity for filing of amicus curiae briefs on the proposed modifications.

DATE: The deadline for filing amicus briefs in this matter is January 2, 1990.

ADDRESS: Briefs should be sent to the Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580. Requests for copies of the orders reopening these matters should be sent to Public Reference Branch, Room 130.

FOR FURTHER INFORMATION CONTACT: Carole L. Reynolds, Attorney, Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 (202) 326-3230.

SUPPLEMENTARY INFORMATION: The original order against Reliable Mortgage Corp. *et al.* in Docket No. 8956 was dated January 8, 1975, and published at 85 F.T.C. 21. The original order against Seekonk Freezer meats, Inc. *et al.* in Docket No. 8880 was dated March 15, 1973, and was published at 82 F.T.C. 1025. In *Reliable,* the Commission determined that respondents had violated the Truth in Lending Act (TILA), Pub. L. 90-321, 15 U.S.C. 1601 *et seq.* and Regulation Z, 12 CFR part 226, by stating an interest rate in an advertisement promoting their mortgage plans without stating the annual percentage rate as required. In *Seekonk,* the Commission determined that respondents had violated the TILA and Regulation Z in an advertisement promoting their installment credit plans without stating all credit terms required to be disclosed. The Commission's view has been that the credit advertising practices that were found to violate the TILA in *Reliable* and *Seekonk* also constitute unfair or deceptive acts or

practices in violation of Section 5(a) of the FTC Act. However, in *United States v. Hopkins Dodge, Inc.*, 849 F.2d 311 (8th Cir. 1988), the United States Court of Appeals for the Eighth Circuit held that the Commission's failure to explicitly state in these two cases that credit advertising violations of the TILA and Regulation Z are unfair or deceptive acts or practices precluded use of the two cases as predicates to civil penalty enforcement actions pursuant to section 5(m)(1)(B) of the FTC Act.

On January 31, 1989, the Commission issued an order against Reliable Mortgage Corp. *et al.* to show cause why the proceedings against them should not be reopened to consider modification of the decision therein to clarify that respondents' credit advertising violations of the TILA were also unfair and deceptive acts or practices in violation of the FTC Act. On January 31, 1989, the Commission also issued an order against Seekonk Freezer Meats *et al.* to show cause why the proceedings against them should not be reopened to consider modification of the decision therein to clarify that respondents' credit advertising violations of the TILA were either unfair or unfair and deceptive acts or practices in violation of the FTC Act. The Commission also issued a press release and published a notice in the **Federal Register** on February 17, 1989, announcing a 30-day period for public comment on the proposed reopenings.

Respondents failed to answer the show cause orders. (Respondent Reliable did, however, informally reply by letter to the FTC staff that it had no objections to the proposed reopening). No comments were received in response to the Federal Register notice.

As a result, on September 25, 1989, the Commission issued orders reopening the proceedings in *Reliable* and Seekonk, and directing briefs to consider modification of the decisions contained therein. The Commission now intends to decide whether to modify the decisions in *Reliable* and *Seekonk* to state expressly that the credit advertising practices addressed in *Reliable* constitute unfair and deceptive acts or practices in violation of section 5(a) of the FTC Act and that the credit advertising practices addressed in *Seekonk* constitute either unfair or unfair and deceptive acts or practices in violation of section 5(a) of the FTC Act. Interested parties may submit amicus curiae briefs as noted above.

By the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89-27089 Filed 11-16-89; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

On Fridays, the Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following are those information collections recently submitted to OMB.

1. Teenage Parent Demonstration: 24-Month Follow-up—New—This survey is part of the impact evaluation of the Teenage Parent Demonstration Projects being conducted in Illinois and New Jersey. The survey will gather information on outcomes from demonstration participants which will contribute to the evaluation of the demonstrations. The purpose of the demonstration projects is to identify interventions which promote self-sufficiency among teenage parents. *Respondents:* individuals; *Number of Respondents:* 4,774; *Frequency of Response:* One time; *Average Burden per Response:* 1.31 Hours; *Total Burden:* 6,244 Hours.

OMB Desk Officer: Shannah Koss-McCallum.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 245-6511. Written comments and recommendations for the proposed information collection 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.

Dated: November 8, 1989.

James F. Trickett,

Deputy Assistant Secretary for Management and Acquisition.

[FR Doc. 89-26945 Filed 11-16-89; 8:45 pm]

BILLING CODE 4150-04-M

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Meeting in December

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of one of the agency's advisory committees in the month of December 1989.

The initial review group will be performing review of applications for Federal assistance. Therefore, portions of the meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552(b) (6) and 5 U.S.C. app. 2 10(d).

Notice of this meeting is required under the Federal Advisory Committee Act, Public Law 92-463.

Committee Name: Mental Health Acquired Immunodeficiency Syndrome Research Review Committee, NIMH.

Date and Time: December 5-6: 8:00 a.m.

Place: The Canterbury Hotel, 1733 N Street NW., Washington, DC 20036.

Status of Meeting: Open—December 5: 8:30-9:15 a.m. Closed—Otherwise

Contact: Regina Thomas, Room 9C-15, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-6470.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of research and psychoneuroimmunological, psychosocial, behavioral, and psychological aspects of AIDS as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Substantive information, a summary of the meeting, and a roster of committee members may be obtained from Ms. Joanna Kieffer, NIMH Committee Management Officer, Room 9-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4333.

Dated: November 13, 1989.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 89-26992 Filed 11-16-89; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 89F-0462]

The Dow Chemical Co., E.I. Du Pont De Nemours and Co., B.F. Goodrich; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Dow Chemical Co., E.I. du Pont de Nemours and Co., and B.F. Goodrich have filed a petition proposing that the food additive regulations be amended to provide for the safe use of polyurethane resins, derived from reactions of diphenylmethane diisocyanate with 1,4-butanediol and polytetramethylene ether glycol, as rubber articles intended for repeated use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP OB4182) has been filed by the Dow Chemical Co., 1803 Bldg., Door 7, Midland, MI 48674, E.I. Du Pont de Nemours and Co., 1007 Market St., Wilmington, DE 19898, and B.F. Goodrich, 3925 Embassy Pkwy., Akron, OH 44313, proposed that § 177.2600 Rubber articles intended for repeated use (21 CFR 177.2600) of the food additive regulations be amended to provide for the safe use of polyurethane resins, derived from the reaction of diphenylmethane diisocyanate with 1,4-butanediol and polytetramethylene ether glycol, as rubber articles intended for repeated use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: November 8, 1989.

Richard J. Ronk,

Deputy Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-26990 Filed 11-16-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89F-0452]

Enzyme Bio-Systems Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Enzyme Bio-Systems Ltd. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of dimethylamine-epichlorohydrin and acrylamide acrylic acid resins as fixing agents for immobilizing glucose isomerase enzyme.

FOR FURTHER INFORMATION CONTACT: Geraldine E. Harris, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that Enzyme Bio-Systems Ltd., International Plaza, Route 9W, Englewood Cliffs, NJ 07632, has filed a petition (FAP 9A4175), proposing that the food additive regulations be amended to provide for the safe use of dimethylamine-epichlorohydrin and acrylamide acrylic acid resins as fixing agents for immobilizing glucose isomerase enzyme.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: November 8, 1989.

Richard J. Ronk,

Deputy Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-26988 Filed 11-16-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89F-0451]

ICI Americas, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that ICI Americas, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of polyethylene glycol(MW 1500-4000)/poly(12-hydroxystearic acid) copolymers as a stabilizer in the preparation of polyacrylamide retention and drainage aids used in the manufacture of paper and paperboard intended to contact aqueous and fatty food.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP OB4179) has been filed by ICI Americas, Inc., Concord Pike & Murphy Rd., Wilmington, DE 19877, proposing that § 176.170 Components of paper and paperboard in contact with aqueous and fatty foods (21 CFR 176.170) be amended to provide for the safe use of polyethylene glycol (MW 1500-4000)/poly(12-hydroxystearic acid) copolymers as a stabilizer in the preparation of polyacrylamide retention and drainage aids used in the manufacture of paper and paperboard intended to contact aqueous and fatty foods.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: November 8, 1989.

Richard J. Ronk,

Deputy Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-26989 Filed 11-16-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89F-0450]

ICI Americas, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that ICI Americas, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of poly(isobutene)/maleic anhydride, diethanolamine reaction product as a surfactant in the preparation of polyacrylamide retention and drainage aids used in the

manufacture of paper and paperboard intention to contact aqueous and fatty foods.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP OB4178) has been filed by ICI Americas, Inc., Concord Pike and Murphy Rd., Wilmington, DE 19897, proposing that § 176.170 Components of paper and paperboard in contact with aqueous and fatty foods (21 CFR 176.170) be amended to provide for the safe use of poly(isobutene)/maleic anhydrides, diethanolamine reaction product as a surfactant in the preparation of polyacrylamide retention and drainage aids used in the manufacture of paper and paperboard intended to contact aqueous and fatty foods.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: November 8, 1989.

Richard J. Ronk,

Deputy Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89–26991 Filed 11–16–89; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 89P–0225]

Ice Cream Deviating From the Standard of Identity; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to the Hershey Creamery Co. to market test a product designated as "light ice cream" that deviates from the U.S. standard of identity for ice cream (21 CFR 135.110). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product, identify mass production problems, and assess commercial feasibility.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than February 15, 1990.

FOR FURTHER INFORMATION CONTACT: Joanne Travers, Center for Food Safety and Applied Nutrition (HFF–414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0324.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of standards of identity promulgated under section 401 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to the Hershey Creamery Co., 301 South Cameron St., P.O. Box 1821, Harrisburg, PA 17105.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for ice cream in 21 CFR 135.110 in that: (1) The milkfat content of the product is reduced by at least 50 percent; and (2) sufficient vitamin A palmitate is added in a suitable carrier to ensure that a ½-cup serving of the product contains 8 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of this variation is to offer the consumer a product that is nutritionally equivalent to ice cream but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "light ice cream." The principal display panel of the label must include the statements "reduced calorie" and "reduced fat" following the name. In addition, the label must bear the comparative statements "⅓ fewer calories than our regular ice cream" and "50 percent less fat than our regular ice cream."

The product complies with reduced calories labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is a 50 percent reduction in the fat content of the product. The information panel of the label must bear nutrition labeling in accordance with 21 CFR 101.9.

The permit provides for the temporary marketing of a total of 500,000 cases of two half-gallon containers. The test product will be produced and packaged at the Hershey Creamery Co., Harrisburg, PA 17105, and will be distributed in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia.

Each of the ingredients used in the food must be stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced into interstate commerce, but no later than _____.

Dated: November 8, 1989.

Richard J. Ronk,

Deputy Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89–27056 Filed 11–16–89; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee; Advisory Council on Nurses Education

Notice is hereby given that pursuant to section 13 of Public Law 92–463, the Annual Report for the following Health Resources and Services Administration's Federal Advisory Committee has been filed with the Library of Congress:

Advisory Council on Nurses Education

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue SE., Washington, DC, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, Room G–400, 330 Independence Avenue SW., Washington, DC, telephone (202) 245–6791. Copies may be obtained from: Dr. Mary S. Hill, Executive Secretary, Advisory Council on Nurses Education, Room 5C–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6193.

Dated: November 13, 1989.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 89–26986 Filed 11–16–89; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

National Biotechnology Policy Board; Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub.

L. 92–463, 86 Stat. 770–776) and section 222 of the Public Health Service Act, as amended (42 U.S.C. 217a), the Acting Director, National Institutes of Health announces the establishment by the Secretary, Department of Health and Human Services, on October 31, 1989, of the National Biotechnology Policy Board.

The National Biotechnology Policy Board will review and appraise the various programs and activities of the Federal Government relating to biotechnology, including the amount and type of biotechnology-related research, research training, and career development activities, conducted or funded by Federal agencies; and nonconfidential, privately-funded biotechnology activities, including both basic and applied research, and the development of commercial biotechnology-related industries and products.

The Board will submit recommendations, through the Director, NIH, and/or the Secretary of Health and Human Services, to the President and Congress on policies to enhance basis and applied research; to enhance the competitiveness of the United States in the development of commercial biotechnology-related industries and products; to assure the training of sufficient scientists, engineers, and laboratory personnel for both research and commercial development; and to enhance the transfer of technology from university and Federal research laboratories to commercial laboratories.

The Board will also make recommendations regarding Federal research activities, as well as participation in cooperative research initiatives involving governmental and private entities; and regulatory policies that affect biotechnology industries and products, ensuring that the regulatory system protects the public health, safety and environment without unduly impeding academic and commercial activities.

Unless renewed by appropriate action prior to expiration, the National Biotechnology Policy Board shall terminate on October 31, 1991.

Dated: November 7, 1989.

William F. Raub,

Acting Director, National Institutes of Health.

[FR Doc. 89–26757 Filed 11–16–89; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting; National Diabetes Advisory Board

Pursuant to Pub. L. 92–463, notice is hereby given of the National Diabetes Advisory Board's meeting date which will be December 4, 1989. The meeting will begin at 6 p.m. and adjourn at approximately 10 p.m. The Board will meet at the Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue, NW., Washington, DC 20001. The purpose of the meeting is to discuss the Board's activities and to continue evaluation of the implementation of the long-range plan to combat diabetes mellitus. Although the entire meeting will be open to the public, attendance will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

For any further information, please contact Mr. Raymond M. Kuehne, Executive Director, National Diabetes Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 496–6045. His office will provide, for example, a membership roster of the Board and an agenda and summaries of the actual meetings.

Dated: November 9, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–27040 Filed 11–16–89; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on November 3, 1989.

(Call PHS Reports Clearance Officer on 202–245–2100 for copies of package)

1. Health Professions Student Loan (HPSL) and Nursing Student Loan (NSL) Administrative Requirements—Regulations and Policy—0915–0047—The information is needed to document that schools are properly administering the HPSL and NSL programs in accordance with statutory and regulatory requirements (e.g., reviewing financial aid transcripts, submitting required reports and maintaining student records and repayment records) *Respondents:* Individuals or households, non-profit institutions.

	No. of respondents	No. of hours per response	No. of responses per respondent
Students:			
Financial Aid Transcript, 57.206(a)(3) & 57.306(a)(2)	10,500	.25	1
Schools:			
Loan Repayment & Delinquent Accounts, 57.206(a)(2) & 57.210(b)(1)(x)	320	.05	113
Disability Cancellation, 57.211(a) & 57.311(a)	100	.50	1
Cost of Attendance 57.206(b)(2) & 57.306(b)(2)(ii)	850	.61	1
Death Cancellation, 57.211(b) & 57.311(b)	178	.017	1
HPSL Repayment Records, 57.215(b)(c)	320	28.75	1
NSL Repayment Records, 57.315(a)(2)(3)	1,360	2.5	1

Estimated Annual Burden: 17,606 hours.

2. The Youth Survey for the Community Intervention Trial for Smoking Cessation (COMMIT)—NEW—The National Cancer Institute (NCI) is conducting the Community Intervention Trial for Smoking Cessation (COMMIT), which will test whether community-based strategies can produce long-term cessation among smokers. Clearance is herein requested to pre-test and field

surveys to assess the impact of youth-based inteventions on the attitudes, beliefs and behaviors of ninth-grade students in the study communities. *Respondents:* Individuals or households; *Number of Respondents:* 4,033; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 0.67 hours; *Estimated Annual Burden:* 2,702 hours.

3. Black Lung Clinic Program (42 CFR 55a) and Program Guidelines—0915–0081—These program regulations and guidelines provide prospective Black Lung Clinic Program applicants with means to apply for grants and provide program officials with sufficient information to determine whether an applicant has an approvable project under current law and regulations. *Respondents:* State or local governments, non-profit institutions; *Number of Respondents:* 14; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 1,500 hours; *Estimated Annual Burden:* 21,000 hours.

4. Declarations of Net Quantity—0910–0238—Food manufacturers use the information to determine the amount and form of the declaration of quantity of contents that appears on product labels, since provisions of the Food, Drug and Cosmetic Act deem a product misbranded unless it contains an accurate statement. Food manufacturers are not required to submit any information concerning declarations of net quantity to FDA. *Respondents:* Businesses or other for profit, small businesses or organizations; *Number of Respondents:* 1,500; *Number of Responses per Respondent:* 2.2; *Average Burden per Response:* 2 hours; *Estimated Annual Burden:* 6,500 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.

Dated: November 9, 1989.

Phyllis M. Zucker,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

[FR Doc. 89–26937 Filed 11–16–89; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–89–1917; FR–2606–N–46]

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 17, 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) 755–7300; 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 and 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 about 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.

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: Department of Agriculture: Marsha Pruitt, USDA, 14th and Independence Avenue SW, South Bldg.,

Room 1566, Washington, DC 20250 (202) 477–5225; Department of Health and Human Services: Wayne Mullinex, U.S. Public Health Service, HHS, Room 17A–10, 5600 Fishers Lane, Rockville, MD 20857 (301) 443–2265.

Dated: November 13, 1989.

Stephen A. Glaude,

Deputy Assistant Secretary for Program Management.

Suitable Building (by State)

(Number of Properties [ ])

Minnesota

Isabella Ranger District [1], Superior National Forest, Lake County, MN, Landholding Agency: Agriculture
Location: Property #431; Township 60N Range 9W
Comment: one story metal; off site use only; structurally unsound

Isabella Ranger District [1], Superior National Forest, Lake County, MN, Landholding Agency: Agriculture
Location: Property #465; Township 60N Range 9W
Comment: one story wood bldg; off site use only; structurally unsound

Isabella Ranger District [1], Superior National Forest, Lake County, MN, Landholding Agency: Agriculture
Location: Property #450; Township 60N Range 9W
Comment: one story metal; off site use only; structurally unsound

Isabella Ranger District [1], Superior National Forest, Lake County, MN, Landholding Agency: Agriculture
Location: Property #460; Township 60N Range 9W
Comment: one story wood bldg; off site use only; structurally unsound

Isabella Ranger District [1], Superior National Forest, Lake County, MN, Landholding Agency: Agriculture
Location: Property #464; Township 60N Range 9W
Comment: two story cement block/wood bldg; off site use only; structurally unsound

Isabella Ranger District [1], Superior National Forest, Lake County, MN, Landholding Agency: Agriculture
Location: Property #451; Township 60N Range 9W
Comment: one story metal bldg; off site use only; structurally unsound

Isabella Ranger District [1], Superior National Forest, Lake County, MN, Landholding Agency: Agriculture
Location: Property #420; Township 60N Range 9W
Comment: one story wood bldg; off site use only; structurally unsound

Isabella Ranger District [1], Superior National Forest, Lake County, MN, Landholding Agency: Agriculture
Location: Property #411–1, 411–2, 411–3, 411–4; Township 60N Range 9W
Comment: one story wood dormitories; off site use only; structurally unsound

Isabella Ranger District [1], Superior National Forest, Lake County, MN, Landholding Agency: Agriculture
Location: Property #462; Township 60N Range 9W
Comment: one story metal gym; off site use only; structurally unsound

NEVADA

Indian Health Station [1], Carson City, NV, Landholding Agency: HHS
Location: On Stewart School Site
Comment: 5,858 sf; structurally needs rehab

Note: Corrections to **Federal Register** dated Nov. 3, 1989. GSA Control # for Madera Emp. Trng. Center and Sewage Lagoon, Madera Co., CA should read 9–CR–(1)–(CA)–864.

Fort Sill, Lawton, OK property TO 2532 listed twice. Property TO 2533 was omitted.

Fort Sill Property TO 4489 should read PO 4489.

[FR Doc. 89–27031 Filed 11–16–89; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[AA–760–09–4410–01–2410; 516 DM 6, Appendix 5]

National Environmental Policy Act; Revised Implementing Procedures

AGENCY: Department of the Interior.

ACTION: Notice of proposed revised instructions for the Bureau of Land Management (BLM).

SUMMARY: This notice announces proposed revised procedures for implementing the National Environmental Policy Act (NEPA) within the BLM. The revisions proposed will delete a number of obsolete and potentially misleading references and will refine the agency's list of actions that are categorically excluded from preparation of an environmental document. These revisions are based on the agency's continued experience with the Act.

DATES: Comments must be received by January 2, 1990.

ADDRESS: Comments should be sent to Jonathan P. Deason, Director, Office of Environmental Project Review, Office of the Secretary, U.S. Department of the Interior, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Jonathan P. Deason, Director, Office of Environmental Project Review, Office of the Secretary, (202) 343–3891; or Christopher Muller, Division of Planning and Environmental Coordination, BLM, (202) 653–8824.

SUPPLEMENTARY INFORMATION: The BLM's existing procedures for implementing the NEPA appear in appendix 5 to chapter 6, part 516 of the Departmental Manual (516 DM 6, appendix 5). These procedures were previously published in the **Federal Register** on September 26, 1983 (48 FR 43731). The revisions proposed in this notice will revise § 5.1 to reflect recent organizational changes in the BLM; will update the list of cross-referenced regulations in § 5.2; will delete from § 5.3 obsolete items in the list of BLM actions that normally require the preparation of an environmental impact statement (EIS); and will update in § 5.4 the list of BLM actions that are categorically excluded from NEPA documentation unless the action qualifies as an exception under 516 DM 2.3A(3).

The proposed list of BLM actions that normally require the preparation of an EIS differs from the existing list in three respects:

1. Approval of court ordered grazing and timber management activity plans has been deleted from the list as the BLM has filed all of the grazing and timber management EIS's it was scheduled to prepare. The impacts of these activities are now addressed through the EIS's the BLM prepares in conjunction with its resource management plans.

2. Issuance of coal preference right leases has been added to the list.

3. Proposals for wilderness, wild and scenic rivers and national trails have been added to the list.

The proposed list of categorically excluded actions differs from the existing list in several respects:

1. A number of existing categorical exclusions have been deleted. Some have been deleted because they are obsolete. Others have been deleted because the actions in question are covered by one of the categories on the existing Departmental list (appendix 1 of 516 DM 2). Still others have been deleted because the activities in question are now being addressed in the EIS's the BLM prepares in conjunction with its resource management plans or in programmatic environmental documents.

2. A number of the existing categorical exclusions have been revised. Some exclusions included unnecessary qualifiers which have been removed. Others have been revised to more clearly specify the category of activity that is being excluded.

3. A number of new exclusions have been added, including 5.4.A(3)–(6), 5.4.B(2), 5.4.C(6), 5.4.D(1)–(9), and 5.4.H(1)–(3). The agency has determined, based on its experience that these categories of actions do not individually or cumulatively have a significant effect on the human environment.

4. The order in which the exclusions are presented has been changed. The existing list is subdivided into nine sections: General, Realty, Transportation, Minerals, Recreation, Rangeland Management, Forestry, Wildlife, and Other. In the revised list, the sections appear in the following order: Fish and Wildlife, Fluid Minerals, Forestry, Rangeland Management, Realty, Solid Minerals, Transportation and Signs, and Other.

Comments on these proposed revisions are invited. To be considered in the preparation of the final revision, comments must be received by January 2, 1990.

Dated: October 31, 1989.

Jonathan McClean,

Director, Office of Environmental Project Review, Office of the Secretary, U.S. Department of the Interior.

516 DM 6—Appendix 5

* * * * *

Sections 5.1A through 5.1C are revised to read as follows:

A. The Director/Deputy Director are responsible for National Environmental Policy Act compliance for Bureau of Land Management activities.

B. The Assistant Director, Support Services, is responsible for policy interpretation, program direction, leadership, and line management for Bureau environmental policy, coordination and procedures.

(1) Division of Planning and Environmental Coordination which reports to the Assistant Director, Support Services, has Bureauwide environmental compliance responsibilities. These include providing program direction for environmental compliance and ensuring the incorporation and integration of the compliance process into Bureau management systems and decision processes. Information about Bureau environmental documents or the environmental review process can be obtained by contacting this office.

C. The Assistant Directors, Renewable Resources, Energy and Mineral Resources, and Management Services are responsible for cooperating with the Assistant Director, Support Services, to ensure that the environmental compliance process operates as prescribed within their areas of responsibility. This includes managing and ensuring the quality of environmental analyses, assigned environmental documents and records of decision.

* * * * *

Section 5.2 is revised to read as follows:

B. Regulations. The following partial list provides guidance to applicants on program regulations which may apply to a particular application. Many other regulations deal with proposals affecting public lands, some of which are specific to BLM while others are applicable across a broad range of Federal programs (e.g., Protection of Historic and Cultural Programs—36 CFR 800).

(1) Resource Management Planning—43 CFR 1610;

(2) Withdrawals—43 CFR 2300;

(3) Land Classification—43 CFR 2400;

(4) Disposition; Occupancy and Use—43 CFR 2500;

(5) Disposition; Grants—43 CFR 2600;

(6) Disposition; Sales—43 CFR 2700;

(7) Use; Rights-of-Way—43 CFR 2800;

(8) Use; Leases and Permits—43 CFR 2900;

(9) Oil and Gas Leasing—43 CFR 3100;

(10) Geothermal Resources Leasing—43 CFR 3200;

(11) Coal Management—43 CFR 3400;

(12) Leasing of Solid Minerals Other than Coal/Oil Shale—43 CFR 3500;

(13) Mineral Materials Disposal—43 CFR 3600;

(14) Mining Claims Under the General Mining Laws—43 CFR 3800;

(15) Grazing Administration—43 CFR 4100;

(16) Wild Free-Roaming Horse and Burro Management—43 CFR 4700;

(17) Forest Management—43 CFR 5000;

(18) Wildlife Management—43 CFR 6000; and

(19) Recreation Management—43 CFR 8300.

* * * * *

Section 5.3 is revised to read as follows:

A. The following types of Bureau actions will normally require the preparation of an environmental impact statement:

(1) Approval of resource management plans.

(2) Proposals for wilderness, wild and scenic rivers, and national trails.

(3) Approval of regional coal lease sales in a coal production region.

(4) Decision to issue a coal preference right lease.

(5) Approval of applications to the BLM for major actions in the following categories:

(a) Sites for major steam electric powerplants, petroleum refineries, synfuel plants and industrial facilities.

(b) Rights-of-way for major reservoirs, canals, pipelines, transmission lines, highways and railroads.

(6) Withdrawals from mineral entry under U.S. mining laws of 5,000 acres or more of public lands where evidence indicates minerals of more than normal value are present or serious interest in mineral development has been expressed.

(7) Approval of operations that would result in liberation of radioactive tracer materials or nuclear stimulation.

(8) Approval of proposed mining plans for a surface coal mining and reclamation operation that meets the following:

(a) The environmental impacts of the proposed mining operation are not adequately analyzed in an earlier environmental document covering the specific leases or mining activity; and

(b) The area to be mined is 1,280 acres or more, or the annual production level is 5 million tons or more; and

(c) Mining and reclamation operations will occur for 15 years or more.

(9) Approval of a new non-coal surface mine which would disturb a total of 640 acres or more.

(10) Approval of a new commercial surface oil shale mine plan, regardless of size.

(11) Approval of a new underground uranium mine plan in which 640 acres or more would be mined.

B. If, for any of these actions, it is anticipated that an environmental impact statement is not needed based on potential impact significance, an environmental assessment will be prepared and handled in accordance with § 1501.4(e)(2).

* * * * *

Section 5.4 is revised to read as follows:

In addition to the actions listed in the Departmental categorical exclusions outlined in appendix 1 of 516 DM 2, many of which the Bureau also performs, the following Bureau actions are designated categorical exclusions unless the action qualifies as an exception under 516 DM 2.3A(3):

A. Fish and Wildlife

(1) Modification of existing fences to provide improved wildlife ingress and egress.

(2) Modification of water developments to improve or facilitate wildlife use.

(3) Construction of perches, nesting platforms, islands and similar structures for wildlife use.

(4) Temporary emergency feeding of wildlife during periods of extreme adverse weather conditions.

(5) Routine augmentations such as fish stocking.

(6) Relocation of nuisance or depredating wildlife.

(7) Installation of devices to protect animal life such as raptor electrocution prevention devices.

B. Fluid Minerals

(1) Issuance of individual oil and gas or geothermal leases reserving the right to deny all lease activities.

(2) Issuance of future interest leases under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 354) where the subject lands are already in production.

(3) Approval of mineral lease adjustments and transfers, including assignments and subleases.

(4) Approval of minor modifications or minor variances from activities described in approved development/production plans, such as the relocation of a drill site(s).

(5) Approval of unitization agreements, communitization agreements, or development contracts.

(6) Approval of suspensions of operations, *force majeure* suspensions, and suspensions of operations and production.

(7) Approval of royalty determinations such as royalty rate reduction and operations reporting procedures.

(8) Reports to other Surface Management Agencies concerning mineral appraisals and applications for rights-of-way, leases, lease consolidation applications, lease assignments and bond determinations.

C. Forestry

(1) Land cultivation and silvicultural activities (excluding herbicides) in forest tree nurseries, seed orchards, and progeny test sites.

(2) Sale and removal of individual trees or small groups of trees which are dead, diseased, injured or which constitute a safety hazard, and where access for the removal requires no more than maintenance to existing rights-of-ways.

(3) Reseeding or reforestation of old timber sales or burn areas where no pesticides are used and there is no conversion of timber type or conversion of non-forested to forested land. Specific reforestation activities covered include: seeding and seedling plantings, shading, tubing (browse protection), paper mulching, bud caps, ravel protection, application of big game repellant, spot scalping, rodent trapping, fertilization of seed trees, fence construction around out-planting sites, and collection of pollen, scion and cones.

(4) Precommercial thinning activities using small mechanical devices.

(5) Disposal of small amounts of miscellaneous vegetation products such as Christmas trees, wildings, floral brush (ferns, boughs, etc.), cones, and firewood outside of established harvest areas.

D. Rangeland Management

(1) Approval of transfers of grazing preference.

(2) Placement and use of temporary (not to exceed one month) portable corrals and water troughs where no new access is needed.

(3) Temporary emergency feeding of livestock or wild horses and burros during periods of extreme adverse weather conditions.

(4) Removal of wild horses or burros from private lands at the request of the landowner.

(5) Processing (transporting, sorting, providing veterinary care to, vaccinating, testing for communicable diseases, training, gelding, marketing, maintaining, feeding, and trimming of hooves of) excess wild horses and burros.

(6) Approval of the adoption of healthy, excess wild horses and burros.

(7) Actions required to ensure compliance with the terms of Private Maintenance and Care Agreements.

(8) Issuance of title to adopted wild horses and burros.

(9) Destroying old, sick, and lame wild horses and burros as an act of mercy.

E. Realty

(1) Withdrawal extensions or modifications which only establish a new time period and entail no change in segregative effect or use.

(2) Withdrawal revocations, terminations, extensions or modifications and classification terminations or modifications which do not result in lands being opened or closed to the general land laws or to the mining or mineral leasing laws.

(3) Withdrawal revocations, terminations, extensions or modifications; classification terminations or modifications; or opening actions where the land would be opened only to discretionary land laws and where subsequent discretionary actions would be subject to the NEPA process.

(4) Withdrawal revocations, terminations, extensions or modifications; classification terminations or modifications; or opening actions that the Secretary of the Interior is required by law to execute.

(5) All non-discretionary land actions in Alaska pursuant to the Alaska Native Claims Settlement Act (ANCSA), Alaska Statehood Act and other statutes, including:

(a) Native allotments.

(b) Trade and manufacturing sites.

(c) Homesites.

(d) Headquarters sites.

(e) State selections.

(6) Administrative conveyances and leases to the State of Alaska to accommodate airports for which property rights existed prior to the enactment of NEPA.

(7) Actions taken in conveying mineral interests under section 209(b) of FLPMA.

(8) Resolution of class one color-of-title cases.

(9) Issuance of recordable disclaimers of interest under section 315 of FLPMA.

(10) Corrections of patents and other conveyance documents under section 316 of FLPMA and other applicable statutes.

(11) Renewals and assignments of leases, permits or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

(12) Transfer or conversion of leases, permits, or rights-of-way from one agency to another (e.g., conversion of Forest Service permits to a BLM Title V Right-of-Way).

(13) Conversion of existing right-of-way grants to Title V grants or existing leases to FLPMA section 302(b) leases where no new facilities or other changes are needed.

(14) Grants of rights-of-way wholly within the boundaries of other compatible rights-of-way.

(15) Amendments to existing rights-of-way such as the upgrading of existing facilities which entail no additional disturbances outside the right-of-way boundary.

(16) Grants of rights-of-way for an overhead line (no pole or tower on BLM land) crossing over a corner of public land.

(17) Transfer of land or interest in land to or from other Bureaus or Federal agencies where current management will continue and future changes in management will be subject to the environmental compliance process.

(18) Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.

(19) Grants of rights-of-way for pipelines, terminal access roads, single poled distribution or telephone lines, and utility drops to single family residences.

(20) Grants of a rights-of-way for buried telephone or utility distribution lines.

(21) Temporary placement of a pipeline above ground.

(22) Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.

(23) One time issuance of short-term (3 years or less) rights-of-way or land use authorizations which authorizes a trespass action where no new use or construction is allowed.

F. Solid Minerals

(1) Issuance of future interest leases under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 354) where the subject lands are already in production.

(2) Approval of mineral lease adjustments and transfers, including assignments and subleases.

(3) Approval of suspensions of operations, *force majeure* suspensions, and suspensions of operations and production.

(4) Approval of royalty determinations such as royalty rate reduction and operations reporting procedures.

(5) Reports to other Surface Management Agencies concerning mineral appraisals and applications for rights-of-way, leases, lease consolidation applications, lease assignments and bond determinations.

(6) Determination and designation of logical mining units (LMU's).

(7) Findings of completeness furnished to the Office of Surface Mining Reclamation and Enforcement for Resource Recovery and Protection Plans.

(8) Approval of minor modifications to or minor variances from activities described in an approved exploration plan for leasable minerals.

(9) Approval of minor modifications to or minor variances from activities described in an approved underground or surface mine plan for leasable minerals.

(10) Digging of exploratory trenches for mineral materials.

(11) Disposal of mineral materials such as sand, stone, gravel, pumice, pumicite, cinders, and clay, in amounts not exceeding 50,000 cubic yards or disturbing more than 5 acres.

G. Transportation and Signs

(1) Placing existing roads in any transportation plan when no new construction or upgrading is needed.

(2) Installation of routine signs, markers, culverts, ditches, waterbars, gates, or cattleguards on/or adjacent to existing roads.

(3) Temporary closure of roads.

(4) Placement of recreational, special designation or information signs, visitor registers, kiosks and portable sanitation devices.

H. Other

(1) Maintaining plans in accordance with 43 CFR 1610.5–4.

(2) Acquisition of existing water developments (e.g., wells and springs) on public land.

(3) Conducting preliminary hazardous material assessments and site investigations.

(4) Use of small sites for temporary field work camps where the sites will be restored to their natural or original condition.

(5) Issuance of special recreation permits to individuals or organized groups for search and rescue training, orienteering or similar activities and for dog trails, endurance horse races or similar events.

(6) Off road vehicle travel to drilling or data collection or observation sites.

(7) Construction of snow fences for safety purposes or to accumulate snow for small water facilities.

(8) Installation of devices to protect human life (e.g., grates across mines).

(9) Construction of small protective enclosures including those to protect reservoirs and springs and those to protect small study areas.

(10) Removal of non-valuable, recent structures and materials (including abandoned automobiles, fences and buildings) and reclamation of the site.

(11) Actions where BLM has concurrence or co-approval with another Bureau and the action is a categorical exclusion for that Bureau.

(12) Rendering formal classification of lands as to their mineral character and waterpower and water storage values.

* * * * *

[FR Doc. 89–26993 Filed 11–16–89; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Land Management

[NM–010–4320–12/GPO–0004]

Albuquerque District, New Mexico; District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Albuquerque District Grazing Advisory Board meeting.

SUMMARY: The BLM's Albuquerque District Grazing Advisory Board will meet on Wednesday, December 13, 1989, at 10:00 a.m. in the BLM District Office located at 435 Montano NE, Albuquerque, New Mexico. The agenda for the meeting will include the following:

Introduction and Opening Remarks.
Approval of Minutes of Last Meeting
Noxious Weed Video
Law Enforcement in BLM
Big Game Transplants
Public Comment Period (1:00 p.m.)
Rio Puerco Pipeline Assessment
Range Improvement Projects
Election of Officers

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Albuquerque District, 435 Montano NE, Albuquerque, New Mexico 87107.

Dated: November 8, 1989.

Patricia E. McLean,

Associate District Manager.

[FR Doc. 89–27052 Filed 11–16–89; 8:45 am]

BILLING CODE 4310–FB–M

[NV–050–00–4210–02]

Las Vegas District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

Notice is hereby given in accordance with Public Law 920463 that a meeting of the Bureau of Land Management, Las Vegas District Advisory Council will be held December 13, 1989, at 10:00 a.m. in the Las Vegas District Office at 4765 Vegas Drive, Las Vegas Nevada.

The meeting agenda will include:

1. Agenda approval and review and approval of minutes of the last meeting.
2. Election of Chairman.
3. Desert Tortoise Habitat Conservation Plan briefing on the status of the plan.
4. Sand and Gravel Permitting.
5. Wildhorse gathering proposals.
6. Clark County Resource . Management Plan (RMP) schedule and process.
7. Unfinished business.
8. Public Comments.

Advisory Council meetings are open to the public. Persons wishing to make oral statements to the Council must notify the District Manager, Bureau of Land Management, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126, prior to November 13, 1989.

Minutes of the meeting will be available, upon request, at the Las Vegas District Office on January 13, 1990.

Dated: November 8, 1989.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 89-27010 Filed 11-16-89; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Availability of a Draft Revised Recovery Plan for the Bayou Darter for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft revised recovery plan for the bayou darter. It occurs only in Bayou Pierre and its tributaries: White Oak Creek, Foster Creek, and Turkey Creek. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before January 16, 1990 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft revised recovery plan may obtain a copy by contacting the Complex Field Supervisor, U.S. Fish and Wildlife Service, Jackson Mall Office Center, 300 Woodrow Wilson Ave., Suite 316, Jackson, Mississippi 39213. Written comments and materials regarding the plan should be addressed to the Complex Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert Bowker at the above address (601/965-4900, FTS 490-4900).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, criteria for recognizing the recovery levels for reclassifying or delisting them, and initial estimates of times and costs to implement the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

Ethostoma rubrum (the bayou darter) is a threatened species under the Endangered Species Act of 1973, as amended. It is endemic to the Bayou Pierre and its larger tributaries in Mississippi. This draft revision Recovery Plan for the Bayou Darter is a revision of the plan first approved in 1983. The revision incorporates data gathered on this species since the original plan was approved and defines new criteria for satisfaction of the recovery objective and new recovery tasks.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: November 9, 1989.

Robert Bowker,

Complex Field Supervisor.

[FR Doc. 89-27007 Filed 11-16-89; 8:45 am]

BILLING CODE 4310-55-M

Availability of a Draft Recovery Plan for Mountain Sweet Pitcher Plant for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft recovery plan for mountain sweet pitcher plant. This plant occurs on public and private lands in the mountains of North Carolina and South Carolina. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before January 16, 1990 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Nora Murdock at the above address (704/259-0321; FTS 672-0321).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, criteria for recognizing the recovery levels for downlisting or delisting them, and initial estimates of time and costs to implement the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other

Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The primary species considered in this draft recovery plan is mountain sweet pitcher plant (*Sarracenia rubra* ssp. *jonesii*). The area of emphasis for recovery actions is the mountains of North Carolina and South Carolina. Habitat protection and management are major objectives of this recovery plan.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: November 8, 1989.

Brian P. Cole,

Field Supervisor.

[FR Doc. 89-27011 Filed 11-16-89; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: St. Louis Zoo, St. Louis, MO; *PRT-742489*

The applicant requests a permit to import one captive-born male amur leopard (*Panthera pardus orientalis*) from the Zurich Zoological Garden, Zurich, Switzerland, for the purpose of enhancement of propagation.

Applicant: St. Louis Zoo, St. Louis, MO; *PRT-742488*

The applicant requests a permit to import one captive-born female amur leopard (*Panthera pardus orientalis*) from the Helsinki zoo, Helsinki, Finland, for the purpose of enhancement of propagation.

Applicant: Falcon Research Group, Bow, WA; *PRT-742493*

The applicant requests a permit to import blood samples taken from wild captured arctic peregrine (*Falco peregrinus tundrius*) and cassins peregrine (*F. p.* cassini) falcons along the west coast of South America for scientific research purposes.

Applicant: U.S. Fish and Wildlife Service, Regional Director—Region 4, Atlanta, GA; *PRT-697819*

The applicant requests amendment and renewal of their current permit to allow take of additional species of wildlife and plants for purposes of scientific research purposes and enhancement of propagation or survival of the species in accordance with Recovery Plans, listing, or other Service work for those species.

Applicant: Edward Fernandez, Chicago, IL; *PRT-742854*

The applicant requests a permit to import one captive-born female black leopard (*Panthera pardus*) from the Jaragua Casino Hotel, Santo Domingo, Dominican Republic, for magic act performances during which the applicant will provide information on the leopard's ecological role and conservation needs.

Applicant: Gladys Porter Zoo, Brownsville, TX; *PRT-742847*

The applicant requests a permit to import one female Jentink's duiker (*Cephalophus jentinki*) of wild origin from the East Berlin Zoo, Germany, for the purpose of captive-propagation.

Applicant: Randy P. Fedak, San Diego, CA; *PRT-742848*

The applicant requests a permit to purchase two captive-hatched female radiated tortoises (*Geochelone radiata*) from Mr. Wayne Hill, Winterhaven, Florida, for the purpose of captive-propagation.

Applicant: Point Defiance Zoo & Aquarium, Tacoma, WA; *PRT-744058*

The applicant requests a permit to import one captive born female black lemur (*Lemur macaco*) from the Metro Toronto zoo, Toronto, Canada, for captive breeding and display purposes.

Applicant: Jordan Productions, Las Vegas, NV; *PRT-739597*

The applicant requests a permit to export and reimport one captive born female tiger (*Panthera tigris*) for circus performances during which the applicant will provide information on the tiger's ecological role and conservation needs.

Applicant: Lion Country Safari, Inc., W. Palm Beach, FL; *PRT-744042*

The applicant requests a permit to export one pair of Asian elephants (*Elephas maxmus*) to African Lion Safari and Game Farm, Ltd., Cambridge, Ontario, Canada, for display and possible breeding purposes.

Applicant: Dr. George E. Lawrence, Tehachapi, CA; *PRT-743026*

The applicant requests a permit to live-trap and release Tipton kangaroo rats (*Dipodomys n. nitratoides*) and giant kangaroo rats (*D. ingens*) in Kern Country, California, in order to determine the presence or absence of these two species on lands included in a proposed Wildlife Preserve.

Applicant: National Marine Fisheries Service, Southwest Fisheries Center, La Jolla, CA; *PRT-744029*

The applicant requests a permit to import dead sea turtles and their parts salvaged from drift-nets operated by foreign vessels on the high seas for scientific research purposes and for development of conservation and management efforts for sea turtles in pelagic habitats.

Applicant: Sherry Broadhead, Meridian, MS; *PRT-744140*

The applicant requests a permit to import the sport-hunted trophy of a male bonetebok (*Damaliscus dorcus dorcus*) culled from the captive herd of A. Austin, Spitskop (Albany) Grahamstown, Republic of South Africa for the purpose of enhancement of propagation of the herd.

Applicant: Columbus Zoological Gardens, Powell, OH; *PRT-743076*

The applicant requests a permit to import two pairs of pygmy chimps (*Pan paniscus*) from the Limbrugse Zoo, Belgium. The males have been held in captivity since July 25, 1980. The females have been held in captivity since July, 1983. The import is for the purposes of breeding and zoological exhibition.

Applicant: Zoological Society of San Diego, Center for Reproduction of Endangered Species; *PRT-743073*

The applicant requests a permit to import samples of blood, skin, tissue and hair for scientific research purposes. The samples will be collected from 400 individual Western lowland gorillas (*Gorilla g. gorilla*) and Eastern lowland gorillas (*Gorilla gorilla graueri*). These gorillas will have been removed from the wild or born in captivity are located in zoological parks throughout the world.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 432, 4401 N. Fairfax Dr., Arlington, VA 22203, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 3507, Arlington, Virginia 22203-3507.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: November 13, 1989.

Karen Willson,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 89-27027 Filed 11-16-89; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Assessments for Incorrect or Late Reports and Failure to Report

November 1, 1989.

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of assessment rates.

SUMMARY: The Minerals Management Service (MMS) has existing regulations at 30 CFR 216.40 and 218.40 which provide for assessments in the nature of liquidated damages for incorrect or late reports and failure to report production and royalty information by payors, operators, or lessees on Federal and Indian leases. The regulations require that the assessment amount (rate) for each violation will be established periodically based on MMS's experience with costs and improper reporting and that a Notice of the established assessment rate will be published in the **Federal Register**. This Notice establishes the assessment rate in accordance with the regulations.

EFFECTIVE DATE: The assessment rates established in this Notice will apply to reports received on or after January 1, 1990. These rates will remain in effect until a subsequent Notice is published in the **Federal Register** which changes the assessment rates.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Minerals Management Service, P.O. Box 25165, MS-652, Building 85, Denver Federal Center, Denver, Colorado, telephone (303) 231-3432.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public of assessment rates for incorrect and late reports and failure to report production and royalty information to the MMS automated Production Accounting and Auditing System (PAAS) and the Auditing and Financial System (AFS) on Federal and Indian leases pursuant to established regulations. The regulations at 30 CFR 216.40 and 218.40 were amended by the **Federal Register** Notice published July 22, 1987 (52 FR 27593), which provides that the assessment would be a variable amount not to exceed $10 per day for each late report or $10 per day for each erroneous report. Prior to that Notice, the regulations fixed the assessments at $10 per day for each late report and $10 per day for each erroneous report. A report is defined at 30 CFR 216.40(c) and 218.40(c) as each line of required production or royalty information. The AFS assessment rates have not changed from the Federal Register Notice published on July 22, 1987, (52 FR 27593).

Nonrespondent Exceptions

Paragraph (a) at 30 CFR 216.40 and 218.40 provides that an assessment of an amount not to exceed $10 per day may be charged for each production or royalty report not received by MMS by the designated due date. This includes both late reports and failure to report which are classified by MMS as "nonrespondent exceptions" will be $10 per month under AFS. The rates were established by MMS for PAAS on non-respondent reports will be $3 per month. The rate established by MMS for "nonrespondent exceptions" will per month under AFS. The rates were established based on a study of the actual costs associated with the effort to resolve the exceptions and the number of lines on the report involved with the exception. These rates will be assessed for each line item of production or royalty information that is due at MMS on or after the effective date of this Notice, received late by MMS, or not reported to MMS. The total assessment shall not exceed $10,000 per operator or payor code per report month.

Erroneous Reporting

PAAS

Paragraph (b) at 30 CFR 216.40 provides that an assessment of an amount not to exceed $10 per day may be charged for each production report under the PAAS received by the designated due date but which is incorrectly completed. Based on actual costs incurred to correct erroneous reports, MMS has established an assessment of $10 per line each month for erroneous reports made to PAAS.

The rates may be assessed for each operator caused incorrect line item of production information received by MMS after the effective date of this Notice. The total assessment shall not exceed $10,000 per operator code per report month for reports made to the PAAS.

AFS

Paragraph (b) at 30 CFR 218.40 provides that an assessment of an amount not to exceed $10 per day may be charged for each royalty report received by the designated due date but which is incorrectly completed. Based on actual costs incurred to correct erroneous reports, MMS has established the following assessment rate schedule for erroneous royalty reporting.

1-100 lines in error—$5.00 per line each month

101-500 lines in error—$8.00 per line each month

Over 500 lines in error—$10.00 per line each month

A reduced rate of $3 per line each month will be assessed for erroneous lines caused by a header error, or for erroneous lines caused by the same error which is repeated on every line of a royalty report.

The rates were established based on a study of the actual costs associated with the effort to resolve the exceptions, the number of lines on the report involved with the exception, and the type of error on the report.

These rates will be assessed for each incorrect line item of royalty information received by MMS after the effective date of this Notice. The total assessment shall not exceed $10,000 per payor code per report month for reports made to the AFS.

Dated: November 13, 1989.

Jerry D. Hill,

Associated Director for Royalty Management.

[FR Doc. 89-27051 Filed 11-16-89; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting will be held Saturday, December 9, 1989 at the Kennedy Center, Washington, DC. The Commission was established by Pub. L. 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mrs. Sheila Rabb Weidenfield, Chairman, Washington, DC.

Mrs. Dorothy Tappe Grotos, Arlington, Virginia

Mr. Samuel S.D. Marsh, Bethesda, Maryland

Mr. James F. Scarpelli, Sr., Cumberland, Maryland

Ms. Elise B. Heinz, Arlington, Virginia

Professor Charles P. Pound, Jr., Chantilly, Virginia

Captain Thomas F. Hahn, Shepherdstown, West Virginia

Mr. Rockwood H. Foster, Washington, DC.

Mr. Barry A. Passett, Washington, DC.

Mrs. Jo Reynolds, Potomac, Maryland

Ms. Nancy C. Long, Glen Echo, Maryland
Mrs. Minny Pohlmann, Dickerson, Maryland
Dr. James H. Gilford, Frederick, Maryland
Mr. Edward K. Miller, Hagerstown, Maryland
Mrs. Sue Ann Sullivan, Williamsport, Maryland
Mrs. Josephine L. Beynon, Cumberland, Maryland
Mr. Robert L. Ebert, Cumberland, Maryland

Matters to be discussed at this meeting include:

1. Old and new business,
2. Superintendent's report,
3. Committee reports,
4. Public comments.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact James D. Young, Acting Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Minutes of the meeting will be available for public inspection six (6) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: November 13, 1989.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 89–26984 Filed 11–16–89; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30186 (Sub No. 2)]

Tongue River Railroad Co.; Construction and Operation of Additional Rail Line From Ashland to Decker, in Rosebud and Big Horn Counties, Montana

AGENCY: Interstate Commerce Commission.

ACTION: Notice of intent to prepare a supplemental environmental impact statement (EIS) and to hold public scoping meetings.

SUMMARY: The Tongue River Railroad Company will formally seek ICC authorization in the coming months to construct and operate a 42-mile rail line from a point approximately 8 miles south of Ashland to a point near the Spring Creek mine north of Decker in Rosebud and Big Horn Counties, MT. Because of the potential for significant environmental impacts which may be associated with the construction and operation of the proposed project, preparation of a supplemental EIS is necessary and informal public scoping meetings will be held.

DATES: December 6, 1989, 7–9 p.m.; December 7, 1989, 10 a.m.–1 p.m.

Comments regarding environmental concerns may be submitted at the scoping meetings. Also, written comments may be submitted directly to the ICC no later than January 19, 1990.

PLACE: Old Gymnasium, St. Labre Indian School, Ashland, MT.

ADDRESSES: Written comments and/or requests for the draft EIS or final EIS should be sent to: Dana White, Section of Energy and Environment, Interstate Commerce Commission, Room 3214, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Dana White (202) 275–6869 or Elaine K. Kaiser, Section Chief, (202) 275–7684. (TDD for hearing impaired: (202) 275–1721).

SUPPLEMENTARY INFORMATION: The proposed Ashland to Decker rail line will be an extension of the planned 81-mile rail line between Miles City and Ashland in Custer, Rosebud, and Powder River Counties, MT for which the Tongue River Railroad Company has already obtained ICC authorization (ICC decision granting construction and operation authority in F.D. 30186, served September 4, 1985) and for which an EIS has already been completed (EIS in F.D. 30186, served August 23, 1985). The Tongue River Railroad, a common carrier, anticipates that the principal commodity moved on the proposed rail extension will be coal. Informal public scoping meetings will be held to inform the public about the proposed project and to encourage public participation in the identification of environmental issues and concerns that need to be addressed in the EIS.

By the Commission, John F. Hennigan, Jr., Director, Office of Transportation Analysis.

Noreta R. McGee,

Secretary.

[FR Doc. 89–27097 Filed 11–16–89; 8:45 am]

BILLING CODE 7035–01–M

Release of Waybill Data for Use by DRI/McGraw-Hill

The Commission has received a request from DRI/McGraw-Hill for permission to use certain data from the Commission's 1988 ICC Waybill Sample. For each of 24 railroads (listed below), DRI request a listing of all interchanging railroads, and the number of carloads interchanged with each. If an interchanging railroad exchanges traffic with one of the listed railroads at more than one point, then the information requested is the total number of carloads interchanged not the number exchanged at each point. No commodity, revenue information or data on where the interchanges occurred is requested.

Railroads

Conrail
Florida East Coast
Illinois Central
Atchison, Topeka & Santa Fe
Chicago & North Western
Kansas City Southern
Southern Pacific
Union Pacific
Genessee & Wyoming
Paducah & Louisville
Duluth, Missabe & Iron Range
Lake Superior & Ishpeming
CSX Transportation
Grand Trunk Western
Norfolk Southern
Burlington Northern
Denver & Rio Grande Western
Soo Line
St. Louis Southwestern
Elgin, Joliet & Eastern
Monongahela
Richmond, Fred. & Potomac
Green Bay & Western
Wisonsin Central

The Commission requires rail carriers to file waybill sample information if any of the past three years they terminated on their lines; (1) 4,500 revenue carloads or (2) 5 percent of revenue carloads in any one State (49 C.F.R. Part 1244). From the waybill information, the Commission has developed a Public Use Waybill File that has satisfied the majority of all our waybill data request while protecting the confidentiality of proprietary data submitted by the railroads. However, if confidential or potentially confidential waybill data are requested, as in this case, we will consider releasing the data only after certain protective conditions are met and public notice is given. More specifically, under the Commission's current policy for handling waybill requests, we will not release any confidential waybill data until after: (1) Public notice is provided so affected parties have an opportunity to object and (2) certain requirements designed to protect the data's confidentiality are agreed to by the requesting party [Ex Parte No. 385 (Sub-No. 2), 52 FR 12415, April 16, 1987].

Accordingly, if any parties object to this request, they should file their objections (an original and 2 copies) with the Director of the Commission's Office of Transportation Analysis (OTA) within 14 calendar days of the Publication of this notice. They should also include all grounds for objections to the full or partial disclosure of the requested data. The Director of OTA will consider these objections in determining whether to release the requested waybill data. Any parties who

objected will be timely notified of the Director's decision.

Contact: James A. Nash (202) 275–6864

Noreta R. McGee,

Secretary.

[FR Doc. 89–27093 Filed 11–16–89; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55; Sub-No. 323X]

CSX Transportation, Inc.—Abandonment Exemption—in Saginaw County, MI

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon its 0.2-mile line of railroad between mileposts 34+39 and 45+00, at Superior Street, in Saginaw, Saginaw County, MI.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on December 17, 1989 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by November 27, 1989.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by December 7, 1989, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Patricia Vail, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by November 22, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: November 14, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–27096 Filed 11–16–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31552]

Consolidated Rail Corp.; Joint Project for Relocation of a Line of Railroad Exemption—The Grand Trunk Western Railroad Co.

On October 12, 1989, Consolidated Rail Corporation (Conrail) filed a notice of exemption under 49 CFR 1180.2(d)(5) for the relocation of a portion of its line and operations in Chicago, IL, to a paralled and adjacent 1.48-mile line to be acquired from The Grand Trunk Western Railroad Company (GTW). The line to be acquired extends from GTW Valuation Station 112+00±, at milepost 6.97±, just east of Oakley Avenue, to GTW Valuation Station 189+82±, at milepost 8.45±, just east of St. Louis Avenue. The purpose of the relocation is to accommodate the construction of a local transit project, by the City of Chicago (City), over Conrail's existing right-of-way.

The joint project involves the relocation of a line of railroad that does not disrupt service to shippers, and incidental thereto, Conrail's abandonment of its existing line and construction of connecting track. The Commission will assume jurisdiction over the abandonment and construction components of a relocation project only in cases where the proposal involves, for example, a change in service to shippers, expansion into new territory, or a change in existing competitive situations. *See, generally, Denver & R.G.W.R. Co.—Jt. Proj.—Relocation Over BN*, 4 I.C.C.2d 95 (1987). Under these standards, the abandonment and construction of track are not subject to the Commission's jurisdiction. The remainder of the joint relocation project qualifies under the class exemption procedures at 49 CFR 1180.2(d)(5).

To ensure that all employees who may be affected by the transaction are given the minimum protection afforded under 49 U.S.C. 10505(g)(2) and 49 U.S.C. 11347, the labor conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), are imposed.

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Charles E. Mechem, Consolidated Rail Corporation, 1138 Six Penn Center, Philadelphia, PA 19103-2959.

Dated: November 13, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–27094 Filed 11–16–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31541]

Indiana Hi-Rail Corp., Trackage Rights Exemption—Central Railroad Co., of Indianapolis

Central Railroad Company of Indianapolis (CERA) has agreed to grant local trackage rights to Indiana Hi-Rail Corporation (IHRC) between milepost I–

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[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

108.6, at Argos, IN, and milepost I-74.2, at Peru, IN. CERA leases the involved line from Norfolk and Western Railway Company and expects that the lessor will consent to the trackage rights grant.[1] The trackage rights were to have become effective October 25, 1989.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: John D. Heffner (for IHRC), Gerst, Heffner, Carpenter & Podgorsky, Suite 1107, 1700 K Street NW., Washington, DC 20006; and Carl Miller (for CERA), Miller & Miller, 407 Broadway, New Haven, IN 46774.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to Norfolk and Western Ry. Co—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Dated: November 7, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-26947 Filed 11-16-89; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31557]

Union Pacific Railroad Co.; Joint Project for Relocation of a Line of Railroad and Trackage Rights Exemptions—Burlington Northern Railroad Co.

On October 12, 1989, Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1180.2(d) (5) and (7) for a joint project with Burlington Northern Railroad Company (BN) for the relocation of UP's operations through acquisition of overhead trackage rights over BN's 20.7-mile line between milepost 0.5, near Lincoln, and milepost 80.3, near Crete, in Lancaster and Saline Counties, NE. The trackage rights became effective on October 19, 1989.

The joint project involves relocation of a line of railroad that does not disrupt service to shippers, and incidental thereto, abandonment of UP's existing 6.04-mile line between milepost 13, near Kramer, and milepost 19.04, near Crete, in Lancaster and Saline Counties, NE. The Commission will assume jurisdiction over the abandonment component of a relocation project only in cases where the proposal involves, for example, a change in service to shippers, expansion into new territory, or a change in existing competitive situations. *See, generally, Denver & R.G.W.R. Co.—Jt. Proj.—Relocation Over BN,* 4 I.C.C.2d 95 (1987). Under these standards, the abandonment of UP's line is not subject to the Commission's jurisdiction. The remainder of the joint relocation project, involving the acquisition of overhead trackage rights, qualifies under the class exemption procedures at 49 CFR 1180.2(d) (5) and (7).

Use of this exemption will be conditioned on appropriate labor protection. Any employees affected by the trackage rights agreement will be protected by the conditions in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Lawrence E. Wzorek, Union Pacific Railroad Company, 1416 Dodge Street, Omaha, NE 68179.

Dated: November 13, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-27095 Filed 11-16-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and machanics 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.

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[1] IHRC notes that it has not concluded its discussions with the lessor, but does not specifically state whether the lease requires the lessor's permission for the acquisition of trackage rights. This notice does not constitute a ruling whether the lessee can lawfully grant trackage rights in question.

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 Determination, 200 Constitution Avenue, NW., 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 II: Texas	TX89-54	p. 1136k p. 1136l

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:		
Connecticut	CT89-1 (Jan. 6, 1989)	p. 61
Florida	FL89-13 (Jan. 6, 1989)	pp. 62-66 p. 129
New York	NY89-3 (Jan. 6, 1989)	p. 130 p. 701
New York	NY89-13 (Jan. 6, 1989)	p. 705 p. 799
West Virginia	WV89-2 (Jan. 6, 1989)	pp. 800-801 p. 1209 p. 1210 p. 1216 p. 1219
Volume II:		p. 1079
Missouri	MO89-2 (Jan. 6, 1989)	p. 647
Missouri	MO89-9 (Jan. 6, 1989)	p. 651 pp. 693
Nebraska	NE89-2 (Jan. 6, 1989)	p. 695 p. 719
Texas	TX89-2 (Jan. 6, 1989)	pp. 720-721 p. 981
Texas	TX89-51 (Jan. 6, 1989)	p. 982 p. 1136c p. 1136d
Volume III:		
Alaska	AK89-1 (Jan. 6, 1989)	p. 1
California	CA89-1 (Jan. 6, 1989)	pp. 2-3 p. 33
California	CA89-2 (Jan. 6, 1989)	pp. 36-37 p. 43
Colorado	CO89-1 (Jan. 6, 1989)	p. 52 p. 105
Hawaii	HI89-1 (Jan. 6, 1989)	p. 106 p. 135
Nevada	NV89-1 (Jan. 6, 1989)	p. 136 p. 241
Nevada	NV89-2 (Jan. 6, 1989)	p. 243 p. 263
Nevada	NV89-3 (Jan. 6, 1989)	p. 264 p. 269
Nevada	NV89-4 (Jan. 6, 1989)	p. 270 p. 277
Nevada	NV89-5 (Jan. 6, 1989)	p. 278 p. 287 p. 288

Corrections to General Wage

Determination Decisions

Pursuant to the provisions of the Regulations set forth in title 29 of the Code of Federal Regulations, part 1, section 1.6(d), the Administrator of the Wage and Hour Division may correct any wage determination that contains clerical errors.

Corrections being issued in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are indicated by Volume and are included immediately following the transmittal sheet(s) for the appropriate Volume (s).

Volume III:
Wage Decision No. CA88-4, Modifications 7 through 13
Wage Decision No. CA89-4, through Modification 8
Wage Decision No. WA89-1, Modifications 5 through 12

Pursuant to the Regulations, 25 CFR part 1, section 1.6(d), such corrections shall be included in any bid specifications containing the wage determinations, or in any on-going contracts containing the wage determinations in question, retroactively to the start of construction.

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 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 9th Day of November 1989.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 89-26853 Filed 11-16-89; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC. 20506; telephone 202/786-0322.

SUPPLEMENTARY INFORMATION: The proposed meetings 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 discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency action, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

1. *Date:* December 1, 1989.
Time: 9 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review applications submitted to Humanities Projects in Libraries and Archives programs, for the December 1989 deadline, to the Division of General Programs, for projects beginning after April 1, 1990.

2. *Date:* December 1, 1989.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review State and Regional Exemplary Award proposals submitted by Stae humanities councils to the Division of State Programs, for projects beginning after May 1, 1990.

3. *Date:* December 1, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316-2.
Program: This meeting will review Summer Stipends applications in European History II, submitted to the Division of Fellowship and Seminars, for projects beginning after May 1, 1990.

4. *Date:* December 1, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Stipends applications in Sociology, Psychology, and Education, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1990.

5. *Date:* December 4, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Stipends applications in American History I, submitted to the Division of Fellowship and Seminars, for projects beginning after April 1, 1990.

6. *Date:* December 4, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316-2.
Program: This meeting will review Summer Stipends applications in Anthropology, Folklore, and New World Archaeology, submitted to the Division of Fellowships and Seminars, for projects beginning after May, 1990.

7. *Date:* December 4, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Summer Stipends applications in Art History and Architecture submitted to the Division of Fellowships and Seminars, for prjects beginning after may 1, 1990.

8. *Date:* December 5, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Stipends applications in Foreign Languages and Literatures I, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1990.

9. *Date:* December 5, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316-2.
Program: This meeting will review Summer Stipends applications in American Literature, submitted to the Division of Education Programs, for projects beginning after May 1, 1990.

10. *Date:* December 6, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316-2.
Program: This meeting will review Summer Stipends applications in Two-Year Colleges, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1990.

11. *Date:* December 7, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Stipends applications in Philosophy I, submitted to the Division

of Fellowships and Seminars, for projects beginning after May 1, 1990.

12. *Date:* December 8, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Stipends applications in European History I, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1990.

13. *Date:* December 8, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Summer Stipends applications in British Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1990.

14. *Date:* December 8, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Summer Stipends applications in Classical and Medieval Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1990.

15. *Date:* December 6, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Stipends applications in Philosophy II, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1990.

16. *Date:* December 11, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Summer Stipends applications in African, Asian, and Latin American History and Politics, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1990.

17. *Date:* December 12, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Summer Stipends applications in Political Science I, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1990.

18. *Date:* December 12, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Stipends applications in Modern American and Modern British Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1990.

19. *Date:* December 13, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Summer Stipends applications in Foreign Languages and Literature II, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1990.

20. *Date:* December 14, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Summer Stipends applications in Political Science II, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1990.

21. *Date:* December 14, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Stipends applications in Religious Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1990.

22. *Date:* December 15, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Summer Stipends applications in Music and Dance, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1990.

23. *Date:* December 15, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Stipends applications in American History II, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1990.

24. *Date:* December 13, 1989.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Stipends applications in Communications, Rhetoric, Theater, and Film, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1990.

Stephen J. McCleary,
Advisory Committee, Management Officer.
[FR Doc. 89–27024 Filed 11–16–89; 8:45 am]
BILLING CODE 7536–01–M

National Endowment for the Arts; Literature Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Literary Publishing Section) to the National Council on the Arts will be held on December 6, 1989, from 2:00 p.m.–6:00 p.m. and on December 7–8, from 9:00 a.m.–6:00 p.m. and on December 9 from 9:00 a.m.–3:00 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on December 9, 1989, from 12:00 p.m.–3:00 p.m. The topic for discussion will be policy.

The remaining portions of this meeting on December 6 from 2:00 p.m.–6:00 p.m., on December 7–8 from 9:00 a.m.–6:00 p.m., and on December 9 from 9:00 a.m.–12:00 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 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.

Dated: November 9, 1989.

Yvonne M. Sabine,
Director, Council and Panel Operations, National Endowment for the Arts.
[FR Doc. 89–27008 Filed 11–16–89; 8:45 am]
BILLING CODE 7537–01–M

National Endowment for the Arts; Museum Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Museum Purchase Plan Section) to the National Council on the Arts will be held on December 6, 1989 from 9:15 a.m.–5:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on December 6, 1989, from 9:15 a.m.–10:30 a.m. The topic for discussion will be opening remarks.

The remaining portion of this meeting on December 6 from 10:00 a.m.–5:30 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 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, 202/683–5532, 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.

Dated: November 9, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89–27009 Filed 11–16–89; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–423]

Northeast Nuclear Energy Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–49 and issued to Northeast Nuclear Energy Company, et al (the licensee), for the Millstone Nuclear Power Station, Unit 3, located at the licensee's site in New London County, Connecticut.

The proposed amendment would modify the Technical Specifications as follows:

(1) TS 4.2.2.2.2 would be changed to revise the Fxy formula for three-loop operation.

(2) TS 3/4.7.1.5 would require that main steam isolation valves (MSIVs) be OPERABLE in Mode 4. In addition, the action statement and surveillance requirements would be revised to reflect an MSIV closure time of 120 seconds for Mode 4. Two related, proposed, changes to the TS are:

(a) Table 3.3–3, Engineered Safety Features Actuation System (ESFAS) Instrumentation, would be revised to add Mode 4 operability requirements for containment spray and containment isolation (Phase B) on High-3 containment pressure and for main steam isolation on manual initiation, automatic actuation logic, and High-2 containment pressure.

(b) Table 4.3–2, ESFAS Instrumentation Surveillance Requirements, would be revised to require surveillance in Mode 4 of containment spray actuation and Phase B containment isolation on High-3 containment pressure and steam line isolation manual initiation, automatic actuation logic, and High-2 containment pressure.

(3) TS Tables 3.3–6, 3.3–10, 4.3–3, 4.3–7 would be changed to eliminate the inconsistency between the tables, and represent the actual function of containment purge exhaust area radiation monitors RE41 and 42 (fuel drop monitors).

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By December 18, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to

intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated July 20, 1989 supplemented October 16, 1989 which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room, Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Dated at Rockville, Maryland, this 9th day of November 1989.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-27067 Filed 11-16-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-443-OL and 50-444-OL; Offsite Emergency Planning]

Public Service Company of New Hampshire, et al. (Seabrook Station, Units 1 and 2); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for that portion of the offsite emergency planning phase of this operating license proceeding concerned with the Massachusetts Radiological Emergency Response Plan. As reconstituted, this Appeal Board will consist of the following members:

G. Paul Bollwerk, III, Chairman
Alan S. Rosenthal
Howard A. Wilber

Dated: November 13, 1989.

Barbara A. Tompkins,

Secretary to the Appeal Board.

[FR Doc. 89-27065 Filed 11-16-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket 70-25; ASLBP No. 89-594-01-ML]

Rockwell International Corp.; Time Extended for Intervention

November 9, 1989.

In the matter of Rockwell International Corporation, Rocketdyne Division (Special Material License Number SNM-21) before Atomic Safety and Licensing Board Administrative Judge Peter B. Bloch; request to renew until October 30, 1990; time extended for intervention.

On November 2, 1989, Rockwell International Corporation requested[1] an amendment of the license extension request that was the subject of the notice of "Limited Time Within Which to Intervene," issued by me on October 2, 1989. In light of that amendment it is appropriate to extend the time within which to intervene to November 25, with extensions beyond that time permitted only upon a showing of good cause.[2]

All further filings in this case are to be by overnight mail service or by regular mail only if mailed at least five days prior to the deadline for the filing.

The Rockwell amendment would: 1. Reduce the use limit to less than 6g of Pu for research and development activities; 2. Reduce the possession limit to 400g of special nuclear material (SNM) to cover the 6g of Pu for use and up to 394g of SNM contamination distributed in the Rockwell International Hot Laboratory; 3. limit the term of the renewal request until October 30, 1990; and 4. stipulate that after October 30, 1990, the only activities under lciense SNM-21 will be decontamination and decommissioning. The combined extension-amendment does not, however, contain a request for a license that will cover decontamination and decommissioning.

Upon consideration of the entire record in this case, it is so Ordered.

Peter B. Bloch,

Presiding Officer.

[FR Doc. 89-27066 Filed 11-16-89; 8:45 am]

BILLING CODE 7590-01-M

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[1] The amendment was received by me today.

[2] Since the previously granted license—as now reduced in scope by this amendment—is apparently permitted to remain in effect during the consideration of this combined request for an extension and amendment, it is urgent that speed be maintained in handling this matter before it becomes moot.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-27438; File No. SR-NASD-89-51]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Small Order Execution System Tier Size Classifications

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 2, 1989, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of section 19(b)(3)(A)(i) under the Act, the NASD is proposing an interpretation of an existing rule, pertaining to the Association's periodic reclassification of securities in the appropriate Small Order Execution System ("SOES") maximum order size tiers, as described more fully below.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the rule change is to notify the Commission of the reclassification of some 521 National Market System securities within the maximum SOES order size tier levels. The Association reviews the tier levels applicable to each security periodically (approximately every six months) to determine if the trading characteristics of the issue have changed so as to warrant a SOES tier level move. Such a review was conducted as of June 30, 1989, using second quarter, 1989 trading data and the following established criteria:

A 1,000-share maximum order size for NASDAQ/NMS securities with an average daily nonblock volume of 3,000 shares or more a day, a bid price less than or equal to $100, and three or more market makers;

A 500-share maximum order size for NASDAQ/NMS securities with an average daily nonblock volume of 1,000 shares or more a day, a bid price less than or equal to $250, and two or more market makers;

A 200-share maximum order size for NASDAQ/NMS securities with an average daily nonblock volume of less than 1,000 shares a day, a bid price less than or equal to $250, and less than two market makers.

The 521 NASDAQ/NMS securities that have been reclassified as of October 9, 1989, are set out as an Exhibit to the filing, Notice To Members 89–67.

The statutory basis for the proposed rule change is found in section 15A(b)(6) of the Act. Section 15A(b)(6) requires, among other things, that the rulemaking initiatives of the NASD be designed to "foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market." The NASD believes that the reassessment of securities within SOES tier levels will further these ends by providing an efficient mechanism to facilitate small order executions in the NASDAQ market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by December 8, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: November 13, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–27062 Filed 11–16–89; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

November 13, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Astrotech International Corp.
Warrants expiring 3/31/89 (purchase 1 Common at $6.00) (File No. 7–5497)
Burlington Resources, Inc.
Common Stock, $.01 Par Value (File No. 7–5498)
Eljer Industries, Inc.
Common Stock, $1.00 Par Value (File No. 7–5499)
Global Marine, Inc.
Warrants expiring 3/16/89 (purchase 1 Common at $3.00) (File No. 7–5500)
Gundle Environmental Systems, Inc.
Common Stock, $.01 Par Value (File No. 7–5501)
Illjnois Central Transportation Co.
Common Stock, $.01 Par Value (File No. 7–5502)
Interpublic Group of Companies, Inc.
Common Stock, $.10 Par Value (File No. 7–5503)
MCN Corporation
Common Stock, $1.00 Par Value (File No. 7–5504)
Medusa Corporation
Common Stock, No Par Value (File No. 7–5505)
Oryx Energy Co.
Common Stock, $1.00 Par Value (File No. 7–5506)
Repsol S.A.
American Depositary Shares (representing 1 Cap Share) (File No. 7–5507)
Rexene Corp.
Common Stock, $1.00 Par Value (File No. 7–5508)
RJR Holdings Group
Cum. Exch. Pfd. Stock, Common Stock, $.01 Par Value (File No. 7–5509)

Saatchi & Saatchi Co. plc
American Depositary Shares (representing 3 Ord. Shares par 10p) (File No. 7–5510)
Schwitzer, Inc.
Common Stock, $.10 Par Value (File No. 7–5511)
Scotsman Industries
Common Stock, $.10 Par Value (File No. 7–5512)
Sotheby's Holdings, Inc.
Common Stock, $.10 Par Value (File No. 7–5513)
WCI Holdings
15.50% Cum. Exch. Pfd. Stock, Common Stock, $.01 Par Value (File No. 7–5514)
Crane Company
Common Stock, $1.00 Par Value (File No. 7–5515)
Lee Pharmaceuticals
Common Stock, $.10 Par Value (File No. 7–5516)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 5, 1989, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–27063 Filed 11–16–89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–17210; 811–3080]

Morgan Keegan Daily Cash Trust; Application for Deregistration

November 9, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Morgan Keegan Daily Cash Trust ("Applicant").

RELEVANT 1940 ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

FILING DATES: The application on Form N–8F was filed on January 3, 1989 and an amendment thereto on July 10, 1989.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 7, 1989, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certicate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC. 20549. Applicant, Federal Investors Tower, Pittsburgh, Pennsylvania 15222–3779.

FOR FURTHER INFORMATION CONTACT: Patricia Copeland, Legal Technician, (202) 272–3009, or Max Berueffy, Branch Chief, (202) 272–3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant is an open-end diversified management investment company organized under the laws of the Commonwealth of Massachusetts. On July 28, 1980, Applicant filed a Notification of Registration pursuant to section 8(b) of the 1940 Act. On that same date, Applicant filed a registration statement under the Securities Act of 1933 on Form N–1A which was declared effective December 8, 1980, and the initial public offering commenced on December 9, 1980.

2. Proxy materials with respect to a proposal to liquidate Applicant were distributed to shareholders and filed with the SEC on or about November 10, 1988. On November 16, 1988, Applicant's Board of Trustees (the "Trustees") approved the Plan of Liquidation ("Plan") of Applicant.

3. At a special meeting of shareholders held on December 23, 1988, the shareholders voted to approve the Plan.

4. As of December 21, 1988, Applicant had 84,723,351.17 shares outstanding, with a net asset value per share of $1.00. On or before December 28, 1988, all shares were voluntarily redeemed by the shareholders at their net asset value. Applicant was liquidated on December 28, 1988, pursuant to its Declaration of Trust and applicable state law.

5. On January 23, 1989 Applicant withdrew its Business Certificate from the City of Boston. Also, on January 24, 1989, Applicant filed a Certificate of Liquidation with the Secretary of State of Massachusetts. These filings became effective upon the filing date.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–27059 Filed 11–16–89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–17207; 812–7370]

RGS (AEGCO) Funding Corporation; Application

November 9, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: RGS (AEGCO) Funding Corporation.

RELEVANT 1940 ACT SECTION: Exemption requested under section 6(c) from all provisions.

SUMMARY OF APPLICATION: Applicant seeks an order to permit it to assist in the financing and refinancing of certain property through leveraged lease transactions in which AEP Generating Company ("AEGCO") will be the lessee.

FILING DATE: The application was filed on August 3, 1989 and amended on November 8, 1989.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on December 5, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request

notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 1209 Orange Street, Wilmington, Delaware 19801.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272–3022, or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant is a Delaware corporation and all of its shares of common stock are owned by the Corporate Trinity Company ("CTC"), a company controlled by The Corporate Trust Company ("CT"). There is, and in the future will be, no class of equity securities of Applicant other than its common stock. AEGCO is a wholly-owned subsidiary of American Electric Power Company, Inc., a New York corporation and registered public utility holding company ("AEP").

2. Applicant's sole purpose is to assist the Lessor (as defined below) in the financing and refinancing, in whole or in part, of its undivided interest in Unit No. 2 ("Unit 2") of the Rockport Generating Station ("Rockport Plant") acquired in one or more leveraged lease transactions ("Leveraged Lease Transactions") in which AEGCO will be the lessee (the "Lessee").[1] In each Leveraged Lease Transaction, the Lessee will sell a portion of its 50% undivided ownership interest in Unit 2 to Wilmington Trust Company as owner trustee ("Owner Trustee") under six grantor trusts (each such trust being for the benefit of a single beneficiary or "Owner Participant"). (Wilmington Trust Company, in its capacity as lessor in the Leveraged Lease Transaction, is also referred to as "Lessor.") The Lessor will lease such interest back to the Lessee pursuant to a long-term lease agreement (each such agreement, a "Lease"). Each Lessor will obtain the funds for the payment of the purchase price of the undivided interest in Unit 2 in part from an equity investment to be made by its Owner Participant and in part from non-recourse loans that will be evidenced by notes of such Lessor ("Lessor Notes"). It is expected that the majority of the aggregate principal amount of the loans to be made to each Lessor will be interim loans made by a syndicate of banks ("Bank Loans"), and that the remainder will be term loans made by the Applicant with the proceeds of the sale of several series of its debt securities ("Lease Bonds"). If the Bank Loans are not refunded in full at the time of the issuance of the Lease Bonds, no bank would have greater rights under the Lease Indentures (as defined below) than those available to the holders of the Lease Bonds.

3. CTC and CT have entered into an agreement with AEGCO under which CTC and CT have agreed to cause Applicant to participate in one or more Leveraged Lease Transactions, and AEGCO has agreed to indemnify CTC and CT with respect to such participation. AEGCO and Indiana Michigan Power Company ("I&M"), each of which currently owns a 50% undivided ownership interest in the Rockport Plant, have entered into an agreement establishing their respective rights and obligations as owners for the construction and ownership of the Rockport Plant (the "Owners' Agreement"), an agreement providing for the operation and maintenance of the Rockport Plant (the "Operating Agreement") and an agreement providing for AEGCO to make available to I&M all of the power and associated energy available to AEGCO from its undivided interest in the Rockport Plant (the "Unit Power Agreement") (these agreements are hereinafter collectively referred to as the "Rockport Plant Agreements"). Under the Rockport Plant Agreements, I&M is authorized to act as agent for AEGCO in connection with, and has primary responsibility for and control over, the construction, operation and maintenance of the Rockport Plant. AEGCO's rights under the Rockport Plant Agreements will not be assigned to the Lessor. Under other leveraged lease transactions, such agreements usually are assigned to the lessor and then to a lease indenture trustee as security for the lessor notes. These assignments are intended to assure that a capable operator is contractually obligated to operate and maintain the plant for the benefit of the equity and debt investors. In this instance, these investors demanded an operating agreement with more extensive provisions for their benefit than the present Operating Agreement between AEGCO and I&M. Thus, I&M has entered into another operating agreement (the "Unit 2 Operating Agreement") directly with the Lessor which will become effective upon the expiration of any Lease. The Unit 2 Operating Agreement will be assigned by the Lessor to the Lease Indenture Trustees as security for the Lessor Notes and thus will ultimately secure payments on the Lease Bonds.

4. The Applicant's obligation to participate in any Leverage Lease Transaction, and the conditions to such participation, are set forth in a participation agreement ("Participation Agreement"). Such obligation will be limited to participating, upon the request of the Owner Participant in such Leveraged Lease Transaction, in: (a) The financing of the Lessor's purchase of an undivided interest in Unit 2 on the closing date for such transaction, (b) the refinancing from time to time of all or a portion of any series of Lessor Notes issued by such Lessor (and because of their "pass-through" nature, the related Lease Bonds), and (c) the financing from time to time of such Lessor's share of the cost of capital improvements to Unit 2.[2] In each case, the Applicant's participation will involve issuing one or more series of its Lease Bonds and lending the proceeds thereof on a non-recourse basis to the Lessor in exchange for Lessor Notes, and will be subject to the conditions described in section I.A.11. of the application to assure proper documentation and a security interest for repayment from the Lessor. Applicant expects that the Lessor Notes will be offered and sold under circumstances making such transactions exempt from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act").

[1] The SEC granted orders in Holding Company Act Release Nos. 35–24872 (April 25, 1989) and 35–24910 (June 22, 1989) permitting the sale and leaseback by AEGCO and Indiana Michigan Power Company of their respective 50% undivided ownership interest in Unit 2. The SEC also has issued a notice in Holding Company Act Release No. 35–24932 (August 3, 1989) in connection with the long-term debt financing.

[2] Financing the cost of capital improvements and refinancing of the Lesaor Notes will be infrequent and undertaken only in circumstances in which the Owner Participant determines it would be economically advantageous to the participants to do so. Refinancing decisions would be based on factors similar to those considered by any obligor, such as the level of prevailing market interest rates. Any net savings in interest expense would accrue on a dollar-for-dollar basis to the Lessee. In addition, refinancing would occur only in connection with the refunding by the Lessor of the Lessor Notes evidencing the Bank Loans or the retirement of one or more series of Lease Bonds. Each series of Lease Bonds will be backed by Lessor Notes of like aggregate principal amount, interest rate, redemption and other terms and conditions. Applicant will not be obligated to pay for any refinancing costs. The Lessor initially is expected to pay such costs and would recover them from the Lessee.

5. Any successor Owner Trustee (and thus any Lessor) will be required to be a bank or trust company incorporated and doing business within the United States and have a combined capital and surplus of at least $100,000,000. Each of the Owner Participants purchasing beneficial interests in the grantor trusts will be a sophisticated investor. All such beneficial interests have been offered and will be sold in transactions not involving any public offering within the meaning of section 4(2) of the Securities Act. The nature and availability of the tax benefits of the beneficial interest in a grantor trust, the large investment required, the legal and regulatory framework of the Leveraged Lease Transactions and the complex financial analysis required assure that only sophisticated institutional investors will be potential transferees of any such beneficial interest. As long as the Lessor Notes are outstanding, the Applicant will receive assurances from each Lessor and its Owner Participant that they are not and will not be an investment company within the meaning of Section 3(a) of the 1940 Act or are and will be deemed to be excluded from the definition of an investment company by virtue of the provisions of section 3(b) or section 3(c) of the 1940 Act.

6. Each Lease will be a "net lease" under which the Lessee will be unconditionally obligated to make rental and other payments sufficient to pay the principal of, and premium, if any, and interest on, the Lessor Notes issued in connection therewith, without any right of counterclaim, setoff, deduction or defense on the part of the Lessee.[3] The documentation evidencing each Leveraged Lease Transaction (the "Transaction Documents") will require that each series of Lessor Notes pledged as security for the Lease Bonds contain redemption provisions which correlate to the redemption provisions of the related series of Lease Bonds. The Transaction Documents will also require that, so long as no event of default shall have occurred under the related Lease, the related Lease Indenture Trustee (as defined below) shall not take or cause to be taken any action contrary to the Lessee's rights under such Lease, including the right to quiet use, enjoyment and possession of the undivided interest in Unit 2.

7. The Lessor Notes of each Lessor will be issued pursuant to separate but substantially identical trust indentures, mortgage and security agreements with The Connecticut National Bank acting as trustee for the holders of the Lessor Notes issued thereunder (in each case, a "Lease Indenture" with a "Lease Indenture Trustee"). Pursuant to each Lease Indenture, the Lessor will grant to the Lease Indenture Trustee an assignment of basic rent and certain other payments to be made by the Lessee under the applicable Lease (the "Lease Indenture Estate"). All Lessor Notes issued under each Lease Indenture will be secured equally and ratably by a lien on and security interest in the Lease Idenfure Estates. Applicant will not participate in any Leverage Lease Transaction unless the Lease Indenture Estate securing the Lessor Notes includes (a) all right, title and interest in and to such Lessor's undivided ownership interest in Unit 2; (b) substantially all of such Lessor's rights under the Lease, including the right to receive all basic rent and other amounts payable by the Lessee; and (c) such Lessor's rights under the Unit 2 Operating Agreement and its easements and rights to certain ancillary services and facilites after the end of the Lease term.

8. Applicant will not purchase any Lessor Note unless such Lessor Note and all other Lessor Notes, if any, are issued in respect of leased property having an aggregate fair market sales value (measured at the time such leased property was first financed under the Leases) equal at least to 110% of the original principal amount of such Lessor Note and such other Lessor Notes.

9. All Lease Bonds will be issued under a single collateral trust indenture (the "Collateral Trust Indenture") to be entered into by the Applicant and The Connecticut National Bank as trustee (the "Collateral Trust Trustee"). For each series of Lease Bonds there will be a separate supplemental indenture that will establish the terms of those Lease Bonds. The Applicant will pledge to the Collateral Trust Trustee, as security for the payment of the principal of, and premium, if any, and interest on all Lease Bonds, all Lessor Notes issued to the Applicant for the equal and ratable benefit of the holders of all Lease Bonds. Such pledged Lessor Notes will be registered in the name of the Collateral Trust Trustee as pledgee. Each such Lessor Note, in turn, will be secured by, among other things: (i) A security interest in substantially all the rights of the Lessor under the related Lease, including the right of the Lessor to receive basic rent and certain other amounts payable by Lessee thereunder, and (ii) the property leased under the related Lease. The Connecticut National Bank also will be the Lease Indenture Trustee under each Lease Indenture and the trustee under a collateral trust indenture to be entered into with RGS (I&M) Funding Corporation in a transaction similar to the one described in this notice involving I&M, another subsidiary of AEP. However, The Connecticut National Bank is not affiliated with any of the Lessors and is not a trustee under any indenture to which AEP or its subsidiaries is a party. Applicant believes that The Connecticut National Bank's position as trustee under both the Lease Indentures and the Collateral Trust Indentures is permitted by the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act").

10. The various series of Lease Bonds will have terms that may differ as to maturity dates, interest rates, sinking fund obligations, provisions for redemption and other matters. The interest rates, maturities and principal amounts and other terms of each series of Lease Bonds issued from time to time will be determined by reference to prevailing market conditions. Until any funds received by the Collateral Trust Trustee for the redemption of any Lease Bonds are required to be so applied, the Collateral Trust Trustee may, and at the request of Applicant shall, invest such funds in certain investments ("Permitted Investments," as defined in condition 6 below) maturing at such times as are required to redeem such Lease Bonds on the date or dates specified therefor. However, the cash required to service the Applicant's obligations under the Lease Bonds will never be greater than the cash that the Applicant is entitled to receive in respect of the Lessor Notes.

11. The initial issuance of Lease Bonds is expected to be through a private placement of one or more Series of Lease Bonds having a maximum aggregate principal amount of $400 million. Although AEGCO will not be the actual obligor or guarantor in respect of the Lease Bonds of any series, under the analysis customarily applied in leveraged lease transactions, AEGCO will be considered the issuer of the Lease Bonds of any series issued in respect of a Lease to which it is a party under the Securities Act and the obligor under the Trust Indenture Act. If the registration requirements of the Securities Act are applicable to an issuance of Lease Bonds, AEGCO will file a registration statement under the Securities Act covering such Lease Bonds and the Collateral Trust Indenture will be qualified under the Trust Indenture Act. Any registration statement filed under the Securities Act

[3] As Lessee under a net lease, AEGCO will be responsible for paying all taxes, insurance premiums, operating and maintenance costs, and all other similar costs associated with the undivided interest in Unit 2.

relating to the Lease Bonds will name AEGCO as the registrant thereof and will be signed on behalf of AEGCO by its officers and directors as required by the Securities Act and the rules and regulations thereunder. Accordingly, the provisions of section 11 of the Securities Act will apply to AEGCO. Subsequent Lease Bonds may also be issued in private placement pursuant to section 4 (2) of the Securities Act, in underwritten public offerings, and, possibly, in distributions exempt from registration because they will come to rest outside the United States. In the case of any offering of Lease Bonds outside the United States, the Applicant will obtain an opinion of United States counsel that registration under the Securities Act is not required and will enter into agreements and follow procedures reasonably designed to prevent such Lease Bonds from being offered or sold in the United States or to United States persons (except as United States counsel may then advise is permissible).

12. The collateral Trust Trustee will be required, upon the occurrence of any default under any Lease Indenture or of any event of default, event of loss, or deemed loss event under the Lease of which the Collateral Trust Trustee has actual knowledge, to give notice thereof in accordance with the provisions of the Collateral Trust Indenture to all holders of Lease Bonds. Upon the occurrence of any such event, any holder of a Lease Bond may at any time request the Collateral Trust Trustee to direct, or to participate in the direction of, any action under such Lease Indenture to the extent allowed. Upon receiving any directions from holders of Lease Bonds, the Collateral Trust Trustee will be required to report to the Lease Indenture Trustee the principal amount of the pledged Lessor Notes which is opposed to, in favor of, or is taking no position with respect to any action or vote. The principal amount of the pledged Lessor Notes will be voted in proportion to the principal amount of Lease Bonds taking or abstaining from taking corresponding positions. The Lease Indenture Trustee will be required to follow the directions of the holders of a majority in principal amount of the Lessor Notes outstanding which, in the case of each Lease Indenture under which pledged Lessor Notes are issued, will mean the holders of a majority in aggregate principal amount of the Lease Bonds then outstanding acting through the Collateral Trust Trustee. By virtue of this passthrough voting mechanism, the rights and remedies provided under each Lease Indenture to the holders of Lessor Notes, acting through their fiduciary, the Lease Indenture Trustee, will be exercisable directly by the holders of the Lease Bonds acting through their fiduciary, the Collateral Trust Trustee. In the event that the Collateral Trust Trustee does not receive directions from holders of Lease Bonds as described above, the Collateral Trust Trustee will be required to use the same degree of care and skill in its exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs. Similarly, if the Lease Indenture Trustee has not received a directive within a stated period of time, it also will be required to act as a prudent man would in the case of his own property.

13. Accordingly, if AEGCO were to default under the Leases in the payment of that portion of the rent required to pay amounts then due and payable in respect of the Lessor Notes pledged to the Collateral Trust Trustee, the Lease Indenture Trustees would have the right, and, upon the receipt of a directive given by the holders of a majority in principal amount of the pledged Lessor Notes under each Lease Indenture would be required, to declare all pledged Lessor Notes immediately due and payable and to exercise concurrently with the Lessors any remedies available to them under the Lease and the remedies available under the Lease Indentures. Such remedies would include the right to demand after a specified grace period that the Lessee pay all unpaid basic rent plus a stipulated amount which, in all cases, will be sufficient to pay the principal of, and premium, if any, and interest on, all Lessor Notes. The holders of the Lease Bonds would therefore have access under the Collateral Trust Indenture and the Lease Indentures to the credit of the Lessee and would be entitled to realize on their collateral up to the aggregate unpaid amont of such Lessor Notes, free of any rights of the Lessee or any creditor thereof.

Applicant's Legal Conclusions

1. Applicant's requested exemption from Section 6(c) of the 1940 Act is appropriate in the public interest, and consistent with the protection of investors and with the purposes fairly intended by the policy and provisions of the 1940 Act for the following reasons. The activities of the Applicant are essentially those of a special purpose finance company. Leveraged leases are designed to provide business, financial and other benefits to the lessees, lessors and lenders involved. Such transactions provide companies such as AEGCO with a financially favorable method of acquiring the use of capital assets necessary to conduct their businesses. Until relatively recently, parties to leveraged lease transactions were faced with a limited source of debt financing. Such financing had been available almost exclusively from the institutional private placement market. Consequently, lessees, whose rental payments must be sufficient to service the debt incurred by their lessors, were generally confined to the terms offered by the institutional private placement market. The proposed issuance of the Applicant's Lease Bonds would provide a convenient mechanism for AEGCO to obtain the benefits of access to public as well as other segments of the debt capital markets in a manner similar to that afforded to other similarly situated lessees.

2. The Applicant's Lease Bonds will not be guaranteed by AEGCO or its affiliates. However, because of the unconditional obligations of AEGCO under the Leases, in conjunction with the remedies under the Lease Indentures and the Collateral Trust Indenture, the purchasers of the Lease Bonds will have access to the credit of AEGCO. As the assignee of rentals and other payments under the related Leases as security for payment of the Lessor Notes, the Lease Indenture Trustees directly will be entitled to exercise, subject to the provisions of the Lease Indentures, on behalf of and for the benefit of the Lease Bondholders, all of the rights and remedies against AEGCO provided in the Leases. The exercise of such rights and remedies will occur at the direction of Lease Bondholders through the Collateral Trust Trustee's instruction to the related Lease Indenture Trustees. The Lease Bondholders would therefore have access to the credit of the Lessee and would be entitled to realize on their collateral (primarily the Lessor Notes pledged to the Collateral Trust Trustee) up to the aggregate unpaid amount of such Lessor Notes free of any rights of the Lessee or any creditor thereof.

Applicant's Conditions

If the requested order is granted, Applicant agrees to the following conditions:

1. In the future, all outstanding shares of Applicant's common stock will be owned by CTC or CT or a successor to, or assignee of, CTC or CT performing similar functions, and there will be no pubic offering of the common stock or of any other equity security of Applicant.

2. Applicant's sole purpose is and will be limited to operating as a "pass-through" vehicle for the financing and refinancing of the several undivided ownership interests in Unit 2 to be purchased by the Lessors.

3. The Lease Indenture Estate securing the Lessor Notes will include (i) all right, title and interest in and to such Lessor's undivided ownership interest in Unit 2; (ii) substantially all of such Lessor's rights under the Lease to which it is a party, including the right to receive all basic rent and certain other amounts payable by the Lessee thereunder; and (iii) such Lessor's rights under the Unit 2 Operating Agreement and its easements and rights to certain ancillary services and facilities in respect of such undivided interest in Unit 2 after the end of the Lease term.

4. Payments of the principal of, and premium, if any, and interest on, the Lessor Notes issued to the Applicant will be due in such amounts and at such times as will be sufficient to pay the principal of, and premium, if any, and interest on, the Lease Bonds on the scheduled payment dates therefor, including sinking fund payment dates.

5. AEGCO, in its capacity as Lessee under each Lease, will covenant that: (i) It will not, directly or indirectly, create, incur, assume or permit to exist any lien or other encumbrance on or with respect to the Leased Property, the Lessor's title thereto, or any interest of the Lessor therein, except certain "permitted liens" listed in Section IV of the application, and (ii) it will promptly at its own expense take such action as may be necessary duly to discharge any such lien, except permitted liens.

6. Applicant will not invest, reinvest in, own, hold or trade securities other than Lessor Notes and Permitted Investments, the latter such term being limited under the Transaction Documents to securities having a maturity of 90 days or less that are: (i) direct obligations of the United States of America; (ii) obligations fully guaranteed by the United States of America; (iii) certificates of deposit issued by commercial banks under the laws of the United States of America or of any political subdivision thereof having a combined capital and surplus of at least $500,000,000 and having long-term unsecured debt securities then rated at the rating assigned to the Lease Bonds by Standard & Poor's Corporation or Moody's Investors Service, Inc. or at a higher rating (but no more than $10,000,000 in principal amount from any one bank); or (iv) open market commercial paper of any corporation incorporated or doing business under the laws of the United States of America or of any political subdivision thereof having a rating assigned by Standard & Poor's Corporation or Moody's Investors Service, Inc. equal to the highest rating assigned by such organization to commercial paper (but not more than $12,000,000 in principal amount at any given time from any one company).

7. At least 85% of the proceeds received by Applicant from the sale of the Lease Bonds will be used to finance or refinance the undivided interests in Unit 2 as soon as practicable but in no event later than six months after Applicant's receipt thereof.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-27060 Filed 11-16-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17208; 812-7369]

RGS (I&M) Funding Corporation; Application

November 9, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: RGS (I&M) Funding Corporation.

RELEVANT 1940 ACT SECTION: Exemption requested under section 6(c) from all provisions.

SUMMARY OF APPLICATION: Applicant seeks an order to permit it to assist in the financing and refinancing of certain property through leveraged lease transactions in which Indiana Michigan Power Company ("I&M") will be the leasee.

FILING DATE: The application was filed on August 3, 1989 and amended on November 8, 1989.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on December 5, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESS: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 1209 Orange Street, Wilmington, Delaware 19801.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272-3022, or Stephanie M. Monaco, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is a Delaware corporation and all of its shares of common stock are owned by Corporate Trinity Company ("CTC"), a company controlled by the Corporate Trust Company ("CTC"). There is, and in the future will be, no class of equity securities of Applicant other than its common stock. I&M is a wholly-owned subsidiary of American Electric Power Company, Inc., a New York coproation and registered public utility holding company ("AEP").

2. Applicant's sole purpose is to assist the Lessor (as defined below) in the financing and refinancing, in whole or in part, of its undivided interest in Unit No. 2 ("Unit 2") of the Rockport Generating Station ("Rockport Plant") acquired in one or more leveraged lease transactions ("Leveraged Lease Transactions") in which I&M will be the leasee (the "Lessee").[1] In each Leveraged Lease Transaction, the Lessee will sell a portion of its 50% undivided ownership interest in Unit 2 to Wilmington Trust Company as owner trustee ("Owner Trustee") under six grantor trusts (each such trust being for the benefit of a single beneficiary or "Owner Participant"). (Wilmington Trust Company, in its capacity as lessor in the Leveraged Lease Transaction, is also referred to as "Lessor.") The Lessor will lease such interest back to the Lessee pursuant to a long-term lease agreement (each such agreement, a "Lease"). Each Lessor will obtain the funds for the payment of the purchase price of the undivided interest in Unit 2 in part from an equity investment to be made by its Owner Participant and in part from non-recourse loans that will be evidenced by notes of such Lessor ("Lessor Notes"). It is expected that the majority of the aggregate principal amount of the loans to be made to each Lessor will be interim loans made by a syndicate of banks ("Bank Loans"), and that the remainder will be term loans made by the Applicant with the proceeds of the sale of several series of its debt securities ("Lease Bonds"). If the Bank Loans are not refunded in full

[1] The SEC granted orders in Holding Company Act Release Nos. 35-24872 (April 25, 1989) and 35-24910 (June 22, 1989) permitting the sale and leaseback by AEP Generating Company and I&M of their respective 50% undivided ownership interest in Unit 2. The SEC also has issued a notice in Holding Company Act Release No. 35-24932 (August 3, 1989) in connection with the long-term debt financing.

at the time of the issuance of the Lease Bonds, no bank would have greater rights under the Lease Indentures (as defined below) than those avaialble to the holders of the Lease Bonds.

3. CTC and CT have entered into an agreement with I&M under which CTC and CT have agreed to cause Applicant to participate in one or more Leveraged Lease Transactions, and I&M has agreed to indemnify CTC and CT with respect to such participation. AEP Generating Company ("AEGCO") and I&M, each of which currently owns a 50% undivided ownership interest in the Rockport Plant, have entered into an agreement establishing their respective rights and obligations as owners for the construction and ownership of the Rockport Plant (the "Owners' Agreement"), an agreement providing for the operation and maintenance of the Rockport Plant (the "Operating Agreement") and an agreement providing for AEGCO to make available to I&M all of the power and associated energy avaialble to AEGCO from its undivided interest in the Rockport Plant (the "Unit Power Agreement") (these agreements are hereinafter collectively referred to as the "Rockport Plant Agreements"). Under the Rockport Plant Agreements, I&M is authorized to act as agent for AEGCO in connection with, and has primary responsibility for and control over, the construction, operation and maintenance of the Rockport Plant. I&M's rights under the Rockport Plant Agreements will not be assigned to the Lessor. Under other leveraged lease transactions, such agreements usually are assigned to the lessor and then to a lease indenture trustee as security for the lessor notes. These assignments are intended to assure that a capable operator is contractually obligated to operate and maintain the plant for the benefit of the equity and debt investors. In this instance, these investors demanded an operating agreement with more extensive provisions for their benefit than the present Operating Agreement between AEGCO and I&M. Thus, I&M has entered into another operating agreement (the "Unit 2 Operating Agreement") directly with the Lessor which will become effective upon the expiration of any Lease. The Unit 2 Operating Agreement will be assigned by the Lessor to the Lease Indenture Trustees as seucrity for the Lessor Notes and thus will ultimately secure payments on the Lease Bonds.

4. The Applicant's obligation to participate in any Leverage Lease Transaction, and the conditions to such participation, are set forth in a participation agreement ("Participation Agreement"). Such obligation will be limited to participating, upon the request of the Owner Participant in such Leveraged Lease Transaction, in: (a) The financing of the Lessor's purchase of an undivided interest in Unit 2 on the closing date for such transaction, (b) the refinancing from time to time of all of a portion of any series of Lessor Notes issued by such Lessor (and because of their "pass-through" nature, the related Lease Bonds), and (c) the financing from time to time of such Lessor's share of the cost of capital improvements to Unit 2.[2] In each such case, the Applicant's participation will involve issuing one or more series of its Lease Bonds and lending the proceeds thereof on a non-recourse basis to the Lessor in exchange for Lessor Notes, and will be subject to the conditions described in section I.A.11. of the application to assure proper documentation and a security interest for repayment from the Lessor. Applicant expects that the Lessor Notes will be offered and sold under circumstances making such transactions exempt from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act").

5. Any successor Owner Trustee (and thus any Lessor) will be required to be a bank or trust company incorporated and doing business within the United States and have a combined capital and surplus of at least $100,000,000. Each of the Owner Participants purchasing beneficial interests in the grantor trusts will be a sophisticated investor. All such beneficial interests have been offered and will be sold in transactions not involving any public offering within the meaning of section 4(2) of the Securities Act. The nature and availability of the tax benefits of the beneficial interest in a grantor trust, the large investment required, the legal and regulatory framework of the Leveraged Lease Transactions and the complex financial analysis required assure that only sophisticated institutional investors will be potential transferees of any such beneficial interest. As long as the Lessor Notes are outstanding, the Applicant will receive assurances from each Lessor and its Owner Participant that they are not and will not be an investment company within the meaning of section 3(a) of the 1940 Act or are and will be deemed to be excluded from the definition of an investment company by virtue of the provisions of section 3(b) or section 3(c) of the 1940 Act.

6. Each Lease will be a "net lease" under which the Lessee will be unconditionally obligated to make rental and other payments sufficient to pay the principal of, and premium, if any, and interest on, the Lessor Notes issued in connection therewith, without any right of counterclaim, setoff, deduction or defense on the part of the Lessee.[3] The documentation evidencing each Leveraged Lease Transaction (the "Transaction Documents") will require that each series of Lessor Notes pledged as security for the Lease Bonds contain redemption provisions which correlate to the redemption provisions of the related series of Lease Bonds. The Transaction Documents will also require that, so long as no event of default shall have occurred under the related Lease, the related Lease Indenture Trustee (as defined below) shall not take or cause to be taken any action contrary to the Lessee's rights under such Lease, including the right to quiet use, enjoyment and possession of the undivided interest in Unit 2.

7. The Lessor Notes of each Lessor will be issued pursuant to separate but substantially identical trust indentures, mortgage and security agreements with The Connecticut National Bank acting as trustee for the holders of the Lessor Notes issued thereunder (in each case, a "Lease Indenture" with a "Lease Indenture Trustee"). Pursuant to each Lease Indenture, the Lessor will grant to the Lease Indenture Trustee an assignment of basic rent and certain other payments to be made by the Lessee under the applicable Lease (the "Lease Indenture Estate"). All Lessor Notes issued under each Lease Indenture will be secured equally and ratably by a lien on and security interest in the Lease Indenture Estates. Applicant will not participate in any Leverage Lease Transaction unless the Lease Indenture Estate securing the

[2] Financing the cost of capital improvements and refinancing of the Lessor Notes will be infrequent and undertaken only in circumstances in which the Owner Participant determines it would be economically advantageous to the participants to do so. Refinancing decisions would be based on factors similar to those considered by any obligor, such as the level of prevailing market interest rates. Any net savings in interest expense would accrue on a dollar-for-dollar basis to the Lessee. In addition, refinancing would occur only in connection with the refunding by the Lessor of the Lessor Notes evidencing the Bank Loans or the retirement of one or more series of Lease Bonds. Each series of Lease Bonds will be backed by Lessor Notes of like aggregate principal amount, interest rate, redemption and other terms and conditions. Applicant will not be obligated to pay for any refinancing costs. The Lessor initially is expected to pay such costs and would recover them from the Lessee.

[3] As Lessee under a net lease, I&M will be responsible for paying all taxes, insurance premiums, operating and maintenance costs, and all other similar costs associated with the undivided interest in Unit 2.

Lessor Notes includes: (a) All right, title and interest in and to such Lessor's undivided ownership interest in Unit 2; (b) substantially all of such Lessor's rights under the Lease, including the right to receive all basic rent and other amounts payable by the Lessee; and (c) such Lessor's rights under the Unit 2 Operating Agreement and its easements and rights to certain ancillary services and facilities after the end of the Lease term.

8. Applicant will not purchase any Lessor Note unless such Lessor Note and all other Lessor Notes, if any, are issued in respect of leased property having an aggregate fair market sales value (measured at the time such leased property was first financed under the Leases) equal at least to 100% of the original principal amount of such Lessor Note and such other Lessor Notes.

9. All Lease Bonds will be issued under a single collateral trust indenture (the "Collateral Trust Indenture") to be entered into by the Applicant and The Connecticut National Bank as trustee (the "Collateral Trust Trustee"). For each series of Lease Bonds there will be a separate supplemental indenture that will establish the terms of those Lease Bonds. The Applicant will pledge to the Collateral Trust Trustee, as security for the payment of the principal of, and premium, if any, and interest on all Lease Bonds, all Lessor Notes issued to the Applicant for the equal and ratable benefit of the holders of all Lease Bonds. Such pledged Lessor Notes will be registered in the name of the Collateral Trust Trustee as pledgee. Each such Lessor Note, in turn, will be secured by, among other things: (i) A security interest in substantially all the rights of the Lessor under the related Lease, including the right of the Lessor to receive basic rent and certain other amounts payable by Lessee thereunder, and (ii) the property leased under the related Lease. The Connecticut National Bank also will be the Lease Indenture Trustee under each Lease Indenture and the trustee under a collateral trust indenture to be entered into with RGS (AEGCO) Funding Corporation in a transaction similar to the one described in this notice involving AEGCO, another subsidiary of AEP. However, The Connecticut National Bank is not affiliated with any of the Lessors and is not a trustee under any indenture to which AEP or its subsidiaries is a party. Applicant believes that The Connecticut National Bank's position as trustee under both the Lease Indentures and the Collateral Trust Indentures is permitted by the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act").

10. The various series of Lease Bonds will have terms that may differ as to maturity dates, interest rates, sinking fund obligations, provisions for redemption and other matters. The interest rates, maturities and principal amounts and other terms of each series of Lease Bonds issued from time to time will be determined by reference to prevailing market conditions. Until any funds received by the Collateral Trust Trustee for the redemption of any Lease Bonds are required to be so applied, the Collateral Trust Trustee may, and at the request of Applicant shall, invest such funds in certain investments ("Permitted Investments," as defined in condition 6 below) maturing at such times as are required to redeem such Lease Bonds on the date or dates specified therefor. However, the cash required to service the Applicant's obligations under the Lease Bonds will never be greater than the cash that the Applicant is entitled to receive in respect of the Lessor Notes.

11. The initial issuance of Lease Bonds is expected to be through a private placement of one or more Series of Lease Bonds having a maximum aggregate principal amount of $400 million. Although I&M will not be the actual obligor or guarantor in respect of the Lease Bonds of any series, under the analysis customarily applied in leveraged lease transactions, I&M will be considered the issuer of the Lease Bonds of any series issued in respect of a Lease to which it is a party under the Securities Act and the obligor under the Trust Indenture Act. If the registration requirements of the Securities Act are applicable to an issuance of Lease Bond, I&M will file a registration statement under the Securities Act covering such Lease Bonds and the Collateral Trust Indenture will be qualified under the Trust Indenture Act. Any registration statement filed under the Securities Act relating to the Lease Bonds will name I&M as the registrant thereof and will be signed on behalf of I&M by its officers and directors as required by the Securities Act and the rules and regulations thereunder. Accordingly, the provisions of section 11 of the Securities Act will apply to I&M. Subsequent Lease Bonds may also be issued in private placements pursuant to section 4(2) of the Securities Act, in underwritten public offerings, and, possibly, in distributions exempt from registration because they will come to rest outside the United States. In the case of any offering of Lease Bonds outside the United States, the Applicant will obtain an opinion of United States counsel that registration under the Securities Act is not required and will enter into agreements and follow procedures reasonably designed to prevent such Lease Bonds from being offered or sold in the United States or to United States persons (except as United States counsel may then advise is permissible).

12. The Collateral Trust Trustee will be required, upon the occurrence of any default under any Lease Indenture or of any event of default, event of loss, or deemed loss event under the Leases of which the Collateral Trust Trustee has actual knowledge, to give notice thereof in accordance with the provisions of the Collateral Trust Indenture to all holders of Lease Bonds. Upon the occurrence of any such event, any holder of a Lease Bond may at any time request the Collateral Trust Trustee to direct, or to participate in the direction of, any action under such Lease Indenture to the extent allowed. Upon receiving any directions from holders of Lease Bonds, the Collateral Trust Trustee will be required to report to the Lease Indenture Trustee the principal amount of the pledged Lessor Notes which is opposed to, in favor of, or is taking no position with respect to any action or vote. The principal amount of the pledged Lessor Notes will be voted in proportion to the principal amount of Lease Bonds taking or abstaining from taking corresponding positions. The Lease Indenture Trustee will be required to follow the directions of the holders of a majority in principal amount of the Lessor Notes outstanding which, in the case of each Lease Indenture under which pledged Lessor Notes are issued, will mean the holders of a majority in aggregate principal amount of the Lease Bonds then outstanding acting through the Collateral Trust Trustee. By virtue of this pass-through voting mechanism, the rights and remedies provided under each Lease Indenture to the holders of Lessor Notes, acting through their fiduciary, the Lease Indenture Trustee, will be exercisable directly by the holders of the Lease Bonds acting through their fiduciary, the Collateral Trust Trustee. In the event that the Collateral Trust Trustee does not receive directions from holders of Lease Bonds as described above, the Collateral Trust Trustee will be required to use the same degree of care and skill in its exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs. Similarly, if the Lease Indenture Trustee has not received a directive within a stated period of time, it also will be required to act as a prudent man would in the case of his own property.

13. Accordingly, if I&M were to default under the Leases in the payment

of that portion of the rent required to pay amounts then due and payable in respect of the Lessor Notes pledged to the Collateral Trust Trustee, the Lease Indenture Trustees would have the right, and, upon the receipt of a directive given by the holders of a majority in principal amount of the pledged Lessor Notes under each Lease Indenture would be required, to declare all pledged Lessor Notes immediately due and payable and to exercise concurrently with the Lessors any remedies available to them under the Lease and the remedies available under the Lease Indentures. Such remedies would include the right to demand after a specified grace period that the Lessee pay all unpaid basic rent plus a stipulated amount which, in all cases, will be sufficient to pay the principal of, and premium, if any, and interest on, all Lessor Notes. The holders of the Lease Bonds would therefore have access under the Collateral Trust Indenture and the Lease Indentures to the credit of the Lessee and would be entitled to realize on their collateral up to the aggregate unpaid amount of such Lessor Notes, free of any rights of the Lessee or any creditor thereof.

Applicant's Legal Conclusions

1. Applicant's requested exemption from section 6(c) of the 1940 Act is appropriate in the public interest, and consistent with the protection of investors and with the purposes fairly intended by the policy and provisions of the 1940 Act for the following reasons. The activities of the Applicant are essentially those of a special purpose finance company. Leveraged leases are designed to provide business, financial and other benefits to the lessees, lessors and lenders involved. Such transactions provide companies such as I&M with a financially favorable method of acquiring the use of capital assets necessary to conduct their businesses. Until relatively recently, parties to leveraged lease transactions were faced with a limited source of debt financing. Such financing had been available almost exclusively from the institutional private placement market. Consequently, lessees, whose rental payments must be sufficient to service the debt incurred by their lessors, were generally confined to the terms offered by the institutional private placement market. The proposed issuance of the Applicant's Lease Bonds would provide a convenient mechanism for I&M to obtain the benefits of access to public as well as other segments of the debt capital markets in a manner similar to that afforded to other similarly situated lessees.

2. The Applicant's Lease Bonds will not be guaranteed by I&M or its affiliates. However, because of the unconditional obligations of I&M under the Leases, in conjunction with the remedies under the Lease Indentures and the Collateral Trust Indenture, the purchasers of the Lease Bonds will have access to the credit of I&M. As the assignee of rentals and other payments under the related Leases as security for payment of the Lessor Notes, the Lease Indenture Trustees directly will be entitled to exercise, subject to the provisions of the Lease Indentures, on behalf of and for the benefit of the Lease Bondholders, all of the rights and remedies against I&M provided in the Leases. The exercise of such rights and remedies will occur at the direction of Lease Bondholders through the Collateral Trust Trustee's instructions to the related Lease Indenture Trustees. The Lease Bondholders would therefore have access to the credit of the Lessee and would be entitled to realize on their collateral (primarily the Lessor Notes pledged to the Collateral Trust Trustee) up to the aggregate unpaid amount of such Lessor Notes free of any rights of the Lessee or any creditor thereof.

Applicant's Conditions

If the requested order is granted, Applicant agrees to the following conditions:

1. In the future, all outstanding shares of Applicant's common stock will be owned by CTC or CT or a successor to, or assignee of, CTC or CT performing similar functions, and there will be no public offering of the common stock or of any other equity security of Applicant.

2. Applicant's sole purpose is and will be limited to operating as a "pass-through" vehicle for the financing and refinancing of the several undivided ownership interests in Unit 2 to be purchased by the Lessors.

3. The Lease Indenture Estate securing the Lessor Notes will include: (1) All right, title and interest in and to such Lessor's undivided ownership interest in Unit 2; (ii) substantially all of such Lessor's rights under the Lease to which it is a party, including the right to receive all basic rent and certain other amounts payable by the Lessee thereunder; and (iii) such Lessor's rights under the Unit 2 Operating Agreement and its easements and rights to certain ancillary services and facilities in respect of such undivided interest in Unit 2 after the end of the Lease term.

4. Payments of the principal of, and premium, if any, and interest on, the Lessor Notes issued to the Applicant will be due in such amounts and at such times as will be sufficient to pay the principal of, and premium, if any, and interest on, the Lease Bonds on the scheduled payment dates therefor, including sinking fund payment dates.

5. I&M, in its capacity as Lessee under each Lease, will covenant that: (i) It will not, directly or indirectly, create, incur, assume or permit to exist any lien or other encumbrance on or with respect to the Leased Property, the Lessor's title thereto, or any interest of the Lessor therein, except certain "permitted liens" listed in Section IV of the application, and (ii) it will promptly at its own expense take such action as may be necessary duly to discharge any such lien, except permitted liens.

6. Applicant will not invest in, reinvest in, own, hold or trade securities other than Lessor Notes and Permitted Investments, the latter such term being limited under the Transaction Documents to securities having a maturity of 90 days or less that are: (i) Direct obligations of the United States of America; (ii) obligations fully guaranteed by the United States of America; (iii) certificates of deposit issued by commercial banks under the laws of the United States of America or of any political subdivision thereof having a combined capital and surplus of at least $500,000,000 and having long-term unsecured debt securities then rated at the rating assigned to the Lease Bonds by Standard & Poor's Corporation or Moody's Investors Service, Inc. or at a higher rating (but no more than $10,000,000 in principal amount from any one bank); or (iv) open market commercial paper of any corporation incorporated or doing business under the laws of the United States of America or of any political subdivision thereof having a rating assigned by Standard & Poor's Corporation or Moody's Investors Service, Inc. equal to the highest rating assigned by such organization to commercial paper (but not more than $12,000,000 in principal amount at any given time from any one company).

7. At least 85% of the proceeds received by Applicant from the sale of the Lease Bonds will be used to finance or refinance the undivided interests in Unit 2 as soon as practicable but in no event later than six months after Applicant's receipt thereof.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-27061 Filed 11-16-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24982]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

November 9, 1989.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and

any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 4, 1989 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Consolidated Natural Gas Company (70–6306)

Consolidated Natural Gas Company ("Consolidated"), CNG Tower, Pittsburgh, Pennsylvania 15222–3199, a registered holding company, has filed a post-effective amendment to its declaration filed under sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

By prior orders of the Commission dated November 27, 1985 and March 20, 1986 (HCAR Nos. 23925 and 24053, respectively), Consolidated was authorized to issue 364,616 shares of its common stock, $2.75 par value, from time-to-time through December 31, 1989, pursuant to its dividend reinvestment plan ("DRIP") and pursuant to the employee stock ownership plan ("ESOP") of Consolidated and its participating subsidiaries. It is anticipated that approximately 210,348 and 154,268 of said common stock allocated to the DRIP and the ESOP, respectively, will remain unissued as of December 31, 1989.

Consolidated now proposes to issue and sell, from time-to-time through December 31, 1994, up to 210,348 shares of its common stock, $2.75 par value, pursuant to its DRIP and up to 154,268 shares of its common stock, $2.75 par value (collectively, "Common Stock"), pursuant to its ESOP. The agent established pursuant to the DRIP and the trustee established pursuant to the ESOP will purchase the Common Stock. Consolidated requests an exception from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a)(5) for its issuance of the Common Stock.

Consolidated will, at the option of its Board of Directors, offer participants in the DRIP and ESOP either authorized and unissued common stock or outstanding common stock purchased in the open market. Authorized and unissued common stock will be used whenever additional equity capital is needed by Consolidated. Whenever additional equity capital is not needed, common stock will be acquired through open market purchases. In either event, Consolidated will absorb all brokerage commissions and administrative charges.

Consolidated Natural Gas Company (70–7170)

Consolidated Natural Gas Company ("Consolidated"), CNG Tower, Pittsburgh, Pennsylvania 15222–3199, a registered holding company, has filed a post-effective amendment to its declaration filed under sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

By orders of the Commission dated November 27, 1985 and March 20, 1986 (HCAR Nos. 23926 and 24052, respectively) Consolidated was authorized to issue and sell up to 1,500,000 shares of its common stock, $2.75 par value, from time-to-time through December 31, 1989 pursuant to its dividend reinvestment plan ("DRIP"). It is anticipated that as of December 31, 1989 none of the 1,500,000 shares of common stock authorized to be issued will have been issued.

Consolidated now requests authorization to issue and sell, from time-to-time through December 31, 1994, to AmeriTrust Company National Association, as agent, up to 1,500,000 shares of its common stock ("Common Stock"), $2.75 par value, pursuant to the DRIP. Consolidated requests an exception from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a)(5) for its issuance of the Common Stock.

Consolidated will, at the option of its Board of Directors, offer participants either authorized and unissued common stock or outstanding common stock purchased in the open market. Authorized and unissued common stock will be used whenever additional equity capital is needed by Consolidated. Whenever additional equity capital is not needed, common stock will be acquired through open market purchases. In either event, Consolidated will absorb all brokerage commissions and administrative charges.

The Connecticut Light and Power Company (70–7634)

The Connecticut Light and Power Company ("CL&P"), Selden Street, Berlin, Connecticut 06037, an electric public-utility subsidiary company of Northeast Utilities, a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

The proposed transaction relates to the financing of CL&P's share of the costs of acquiring, constructing, and installing certain pollution control and/or sewage or solid waste disposal facilities at the Seabrook Nuclear Power Station, Unit 1. It is proposed that, on or before December 31, 1989, the Industrial Development Authority of the State of New Hampshire ("NHIDA") issue pollution control revenue bonds ("Bonds") in the principal amount of up to $20 million for a term not exceeding 30 years, the proceeds of which would be loaned by NHIDA to CL&P pursuant to and in accordance with a financing agreement between CL&P and NHIDA ("Financing Agreement"). It is further proposed that on or before December 31, 1989 CL&P issue one or more of its First and Refunding Mortgage Bonds, Series TT ("First Mortgage Bond") in a corresponding principal amount of up to $20 million to evidence its borrowing from NHIDA of such proceeds.

Under the Financing Agreement, CL&P will agree to make payments corresponding to the amounts needed to pay the principal of, and premium, if any, and interest on, the Bonds as they become due. The Bonds will bear interest at a fixed rate and will be subject to optional and mandatory redemption provisions. The terms of the First Mortgage Bond will correspond with the terms of the Bonds. Additionally, the Bonds may be secured by an insurance policy which will permit the trustee to draw funds from the issuing entity to pay unpaid principal and interest on the Bonds. If the Bonds are so secured, CL&P will pay a premium for such insurance policy.

The terms of the proposed First Mortgage Bond would not be in accordance with the Statement of Policy Regarding First Mortgage Bonds Subject to the Public Utility Holding Company Act of 1935 (HCAR No. 13105, February 16, 1956, as supplemented by HCAR No. 16369, May 8, 1969) ("Policy") regarding redemption provisions. CL&P requests authority to deviate from the Policy.

CL&P has also requested an exemption from the competitive bidding requirements pursuant to Rule 50(a)(5) with respect to its borrowing under the

Financing Agreement and the issuance of the First Mortgage Bond. CL&P requests that it may begin negotiations with potential underwriters so that a lead or sole underwriter may be tentatively selected and such underwriter may begin negotiating and documenting the terms of the transaction. CL&P may do so.

Entergy Corporation, et al. (70–7679)

Entergy Corporation ("Entergy"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, and its electric public-utility subsidiary companies, Arkansas Power & Light Company ("AP&L"), 425 W. Capitol Street, Little Rock, Arkansas 72203; Louisiana Power & Light Company ("LP&L"), 317 Baronne Street, New Orleans, Louisiana 70112; Mississippi Power & Light Company ("MP&L"), 308 East Pearl Street, Jackson, Mississippi 39201; and System Energy Resources, Inc. ("SERI"), Echelon One, 1340 Echelon Parkway, Jackson, Mississippi 39213; have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b), and 13(b) of the Act and Rules 45, 86–91, 93 and 94 thereunder.

Entergy proposes to form and capitalize a new, wholly owned service subsidiary company, Entergy Operations, Inc. ("EOI"), to act as agent and perform services for all Entergy system companies which own nuclear power plants with respect to the possession, use, operation, management and/or construction of any such nuclear plants. AP&L, LP&L and SERI are owners of nuclear power plants ("Plant Owners"). AP&L is the owner and operator of the Arkansas Nuclear One Generating Station, Units 1 and 2; LP&L is the owner and operator of Unit No. 3 (nuclear) of the Waterford Steam Electric Generating Station; and SERI is the holder of a 90% undivided ownership and leasehold interest in, and operator of, Grand Gulf Nuclear Generating Station ("Grand Gulf") Unit No. 1 ("Grand Gulf 1") and a holder of a 90% ownership interest in Grand Gulf Unit No. 2 ("Grand Gulf 2"),[1] which has been cancelled as of September 2, 1989 (collectively "Nuclear Plants").

EOI proposes to issue and sell, and Entergy proposes to acquire, up to 1,000 shares of EOI's common stock for an aggregate purchase price of $1 million. Entergy and EOI also propose to enter into a Loan Agreement ("Loan Agreement"), under which EOI could borrow from Entergy, from time-to-time through June 30, 1992, up to an aggregate principal amount of $20 million at any one time outstanding, such borrowings to be evidenced by the issuance of a note ("Note"). The Note will mature on June 30, 1992 and will bear interest, payable quarterly, on the unpaid principal amount thereof at the rate of interest publicly announced by Morgan Guarantee Trust Company of New York in New York, New York from time-to-time as its prime rate, and may be prepaid in whole or in part at any time, without premium or penalty.

EOI's borrowings under the Loan Agreement will be in addition to its borrowings under the Entergy system money pool ("Money Pool"), for which EOI will seek authority from the Commission by post-effective amendment in File No. 70–7575 (See HCAR No. 24798). EOI's borrowings under the Loan Agreement, through the Money Pool, and/or through such other borrowing arrangements as may be authorized by the Commission shall not exceed an aggregate principal amount of $20 million at any one time outstanding. EOI's borrowings outstanding at any one time through the Money Pool shall not exceed an amount equal to the aggregate unused portion of the lines of credit then available to EOI pursuant to the Loan Agreement and/or such other borrowing arrangements as may hereafter be entered into by EOI and authorized by the Commission.

EOI's agency responsibilities and the limitations on its agency authority with respect to each Nuclear Plant will be set forth in separate operating agreements ("Operating Agreements") to be entered into between EOI and each Plant Owner. The Operating Agreements will also provide for certain indemnification agreements in connection with EOI's service activities. The Operating Agreements will not affect the ownership of the nuclear plants and will recognize that each Plant Owner will continue to own all of the capacity and energy of that Nuclear Plant to which it would otherwise be entitled. Under the Operating Agreements, the Plant Owners will retain control over EOI's spending and contracting authority as their respective agent, and will continue to provide all funds for operating, maintenance and decommissioning by EOI of the Nuclear Plants.

All operating services supplied by EOI pursuant to the Operating Agreements will be performed for the Plant Owners at cost and will be accounted for and billed to the Plant Owners as prescribed by Rules 91 and 93 and the uniform system of accounts prescribed thereunder. EOI will follow the Uniform System of Accounts for Mutual and Subsidiary Service Companies as prescribed by the Commission from time-to-time in accordance with Rule 93.

SERI and MP&L also propose to terminate their June 21, 1974 Service Agreement and their December 1, 1986 Partial Termination Agreement and to enter into a: (1) Support Agreement, pursuant to which MP&L will provide certain miscellaneous support services for Grand Gulf 1 and (2) Switchyard and Transmission Interface Agreement setting forth commitments regarding the Grand Gulf 1 switchyard and related matters, both of which will designate EOI as the agent of SERI to exercise all rights SERI may have under such agreements. AP&L and LP&L will enter into Support and Switchyard and Transmission Interface Agreements directly with EOI. Entergy Services, Inc., a service subsidiary company of Entergy, will also provide certain accounting and other related services to EOI under a Service Agreement.

Southwestern Electric Power Company (70–7687)

Southwestern Electric Power Company ("SWEPCO"), 428 Travis Street, Shreveport, Louisiana 71156, a wholly owned electric public-utility subsidiary company of Central and South West Corporation, a registered holding company, has filed a declaration under section 12(d) of the Act and Rule 44 thereunder.

SWEPCO proposes to sell to Oklahoma Gas & Electric Company ("OG&E"), a nonassociate public-utility company, approximately 4.84 miles of 161 kv transmission line between SWEPCO's Bonanza Substation south of Ft. Smith, Arkansas and the Ft. Smith, Arkansas Substation owned by OG&E, for a cash purchase price of $302,000. SWEPCO states that it believes that the sale would be financially prudent and in the best interests of its investors and consumers.

Entergy Services, Inc., et al. (70–7689)

Entergy Corporation ("Entergy"), a registered holding company, and its subsidiary service company, Entergy Services, Inc. ("Services"), both of 225 Baronne Street, New Orleans, Louisiana 70112, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 12(f) of the Act and Rule 45 thereunder.

[1] South Mississippi Electric Power Association, a Mississippi cooperative, owns the remaining 10% of Grand Gulf 1 and Grand Gulf 2. EOI will assume responsibility for Grand Gulf 2 from SERI.

By order dated December 28, 1987 (HCAR No. 24546), Services was authorized to borrow and reborrow from Entergy from time-to-time through December 31, 1989 up to an aggregate principal amount of $30 million at any one time outstanding. Services now requests authorization through December 31, 1991 to effect such unsecured borrowing in an aggregate amount of up to $35 million at any one time outstanding, pursuant to a new loan agreement ("Loan Agreement") with Entergy. These borrowings will be in addition to Service's borrowings from time-to-time through the Middle South Electric System Money Pool ("Money Pool"), as authorized by order of the Commission dated December 30, 1988 (HCAR No. 24798); provided, however, that: (i) The aggregate principal amount of the borrowings by Services outstanding at any one time, pursuant to the Loan Agreement, through the Money Pool and through such other borrowing arrangements as may hereafter be entered into by Services pursuant to authorization of the Commission, shall not exceed $35 million, and (ii) the aggregate principal amount of borrowings by Services outstanding at any one time through the Money Pool shall not exceed an amount equal to the aggregate unused portion of the line(s) of credit then available to Services pursuant to the Loan Agreement and/or such other borrowing arrangements as may hereafter be entered into by Services. Borrowings by Services from Entergy from time to time pursuant to the Loan Agreement will be evidenced by a note of Services bearing interest on the unpaid amount thereof at the rate of interest publicly announced by Manufacturers Hanover Trust Company in New York, New York from time to time as its prime rate.

Services also proposes to issue unsecured promissory notes to one or more banks in an aggregate principal amount of up to $35 million at any time outstanding, such notes to evidence external bank borrowings. The commitment(s) of any such bank(s) would reduce correspondingly Entergy's commitment to Services under the Loan Agreement. Entergy requests authorization to guarantee Service's obligations to such bank(s). Based upon certain assumptions regarding interest rates and compensating balances, Services states that the effective interest cost for borrowings from a bank or banks would be approximately 13.9% per annum.

Central Power and Light Company (70–7690)

Central Power and Light Company ("CP&L"), 539 N. Carancahua Street, Corpus Christi, Texas 78401, a wholly owned electric public-utility subsidiary company of Central and South West Corporation, a registered holding company, has filed a declaration under Section 12(d) of the Act and Rule 44 thereunder.

CP&L proposes to sell to its industrial customer, Hoechst-Celanese ("Celanese"), certain distribution facilities ("Distribution Facilities") located on Celanese's premises near Bishop, Texas, for a cash purchase price of $300,000. Celanese is using the Distribution Facilities to transport self-generated power, and has interconnected with its customer-owned distribution facilities CP&L's Distribution Facilities. It is stated that the Distribution Facilities are not adaptable, at that location, for use in serving any other customer.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–27064 Filed 11–16–89; 8:45 am]

BILLING CODE 8010–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Investment Policy Advisory Committee; Meeting and Determination of Closing of Meeting

The meeting of the Investment Policy Advisory Committee to be held November 21, 1989 from 9:00 a.m. to 12:00 p.m., in Washington, DC, will include the development, review and discussion of current issues which influence the trade policy of the United States. Pursuant to section 2155(f)(2) of title 19 of the United States Code, I have determined that this meeting will be concerned with matters of disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions.

Additional information can be obtained by contacting Mollie Van Heuven, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, DC 20506.

Julius L. Katz,

Acting United States Trade Representative.

[FR Doc. 89–27050 Filed 11–16–89; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Issuance by Government of Japan of Certificates Verifying Non-Cuban Origin of Nickel-Bearing Materials Manufactured by Certain Japanese Steel Corporations

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Brown, Senior Enforcement Policy Analyst, Office of Foreign Assets Control, Treasury Department, 1331 G Street, NW., Washington, DC 20220, tel.: 202/376–0431.

Certificates of origin are now available for importation into the United States from Japan of nickel-bearing materials produced by the Shunan Works of Nisshin Steel Corporation. These certificates are issued pursuant to an arrangement between the Government of Japan and the Government of the United States. The certificates, which are issued by the Japanese Ministry of International Trade and Industry, attest that the materials with respect to which they are issued do not contain nickel of Cuban origin. Each certificate will bear the following statement:

> The Ministry of International Trade and Industry (MITI) hereby certifies that the nickel-bearing products described herein do not contain nickel of Cuban origin and that this certificate has been issued in accordance with procedures administered by MITI to which prior consent was given by the Government of the United States on June 27, 1983." Each certificate shall bear as a footnote the statement: "Issued in connection with the United States Cuban Assets Control Regulations.

Nickel-bearing material produced by the Shunan Works of the Nisshin Steel Corporation may be imported under the general license in § 515.536(c) of the Cuban Assets Control Regulations (31 CFR part 515) in accordance with the provisions of that section and of § 515.808 of the Regulations. Such merchandise will be permitted entry through United States Customs if a certificate of origin as described above and issued by MITI is presented to the U.S. Customs authorities at the point of entry. Nickel-bearing material produced by other Japanese steel producers is not required to be accompanied by a certificate as a condition for entry into the United States.

(Sec. 5, 40 Stat. 415, as amended, 50 U.S.C. App. 5; Sec. 620(a), 75 Stat. 445, 22 U.S.C. 2370(a); Proc. 3447, 27 FR 1085, 3 CFR 1959–

1963 Comp.; E.O. 9193, 7 FR 5205, 3 CFR 1938–1943 Cum Supp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR 1943–1948 Comp., p. 748)

Dated: October 17, 1989.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: November 3, 1989.

Salvatore R. Martoche,

Assistant Secretary (Enforcement).

[FR Doc. 89–27172 Filed 11–15–89; 10:46 am]

BILLING CODE 4810-25-M

DEPARTMENT OF VETERANS AFFAIRS

Special Medical Advisory Group; Open Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 that a meeting of the Special Medical Advisory Group will be held on December 7–8, 1989. The session on December 7 will be held at the Capital Hilton Hotel, 16th and "K" Streets, NW., Washington, DC, and the session on December 8 will be held in the Omar Bradley Conference Room (10th floor) at the Department of Veterans Affairs Central Office, 810 Vermont Avenue, NW., Washington, DC. The purpose of the Special Medical Advisory Group is to advise the Secretary and Chief Medical Director relative to the care and treatment of disabled veterans, and other matters pertinent to the Department's Veterans Health Services and Research Administration. The session on December 7 (held at the Capital Hilton Hotel) will convene at 6 p.m. and the session on December 8 will convene at 8:30 a.m. All sessions will be open to the public up to the seating capacity of the rooms. Because this capacity is limited, it will be necessary for those wishing to attend to contact Lorri Fertal, Office of the Chief Medical Director, Department of Veterans Affairs (phone 202/233–3985) prior to December 1, 1989.

Dated: November 8, 1989.

By direction of the Secretary.

Laurence M. Christman,

Executive Assistant to the Deputy Assistant Secretary for Program Coordination and Evaluation.

[FR Doc. 89–26985 Filed 11–16–89; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 221
Friday, November 17, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, November 22, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Guidelines for Federal Reserve Bank of Philadelphia employee salary structure adjustments.

Discussion Agenda

2. Proposed amendments to Regulation B (Equal Credit Opportunity) to implement the Equal Credit Opportunity Act regarding applications for business credit. (Proposed earlier for public comment; Docket No. R-0671)

3. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: November 15, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-27170 Filed 11-15-89; 10:31 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 10:30 a.m., Wednesday, November 22, 1989, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 15, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-27171 Filed 11-15-89; 10:31 am]

BILLING CODE 6210-01-M

Corrections

Federal Register
Vol. 54, No. 221
Friday, November 17, 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.

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

7 CFR Part 1610

Determination of the 1989 Fiscal Year Interest Rate on Rural Telephone Bank Loans

Correction

In rule document 89-25682 beginning on page 45729 in the issue of Tuesdau, October 31, 1989, make the following corrections:

1. On page 45729, in table 1., the heading for the fifth column should read "(Amount × rate)/Advances (percent).

2. On page 45730, in table 2., the heading for the fifth column should read "(Advances × Cost Rate)/Total Advances (percent).

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

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

Correction

In notice document 89-25048 appearing on page 43447 in the issue of Wednesday, October 25, 1989, make the following correction:

On page 43447, in the 3rd column, in the 1st complete paragraph, in the 12th line, remove the period following "amps/torr".

BILLING CODE 1505-01-D

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Changes to the CHAMPUS DRG-Based Payment System Rates and Weights

Correction

Document 89-26149, beginning on page 46728 in the issue of Tuesday, November 7, 1989, was published in the "Rules and Regulations" section of the issue. It should have appeared in the "Notices" section.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-930-00-4212-12; MTM 72921]

Notice of Conveyance and Order Providing for Opening of Public Land in Carbon County, MT

Correction

In notice document 89-24734 beginning on page 43142 in the issue of Friday, October 20, 1989, make the following correction:

On page 43142, in the third column, the seventh line from the bottom of the page should read "T. 9 S., R. 28 E.".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-930-09-4214-11; MTM 41514]

Proposed Continuation of Withdrawal; Montana

Correction

In notice document 89-24183 beginning on page 42054, in the issue of Friday, October 13, 1989, make the following correction:

On page 42055, in the first column, under "**Principal Meridian**", in "T. 14 S., R. 5 W., Sec. 1" in the third line remove the "comma" after "S½".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-943-00-4214-11;GPO-017, et al.]

Proposed Continuation of Withdrawals; Oregon

Correction

In notice document 89-25027 appearing on page 43341 in the issue of Tuesday, October 24, 1989, make the following correction:

On page 43341, in the 2nd column, under **Rogue River National Forest**, the 13th line should read "T. 28 S., R. 4 E., W.M., Secs. 34, 35, and 36."

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Independence Valley Speckled Dace and Clover Valley Speckled Dace

Correction

In rule document 89-23814 beginning on page 41448 in the issue of Tuesday, October 10, 1989, make the following correction:

§ 17.11 [Corrected]

On page 41453, in § 17.11(h), in the table, in the second column, the second entry should read *Rhinichthys osculus lethoporus*.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Determination of Valid Existing Rights Within the Wayne National Forest

Correction

In notice document 89-26659 appearing on page 47416, in the issue of Tuesday, November 14, 1989, make the following correction:

On page 47416, in the 2nd column, under **SUMMARY**, in the 17th line, after "information", insert "for

consideration by OSM until November 29, 1989".

BILLING CODE 1505-01-D

THE PRESIDENT

3 CFR

Presidential Determination No. 90-3 of October 26, 1989, for the Secretary of State

Determination Under Subsections 402(a) and 409(a) of the Trade Act of 1974--Emigration Policies of the Republic of Hungary

Correction

In the Presidential document 89–26236 in the issue of Monday, November 6, 1989, on page 46591 make the following correction:

Substitute the heading "Presidential Determination No. 90-3 of October 26, 1989" for the top heading "Memorandum of October 26, 1989".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89-ASW-15]

Revision of Control Zone; Midland, TX

Correction

In rule document 89-25443 beginning on page 43959 in the issue of Monday, October 30, 1989, make the following correction:

§ 71.171 [Corrected]

On page 43960, in the second column, in § 71.171, under **Midland, TX [Revised]**, in the first line, remove "and" following "Midland".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89-ASW-38]

Proposed Revision of Transition Area; Clovis, NM

Correction

In proposed rule document 89-25451 beginning on page 43971 in the issue of Monday, October 30, 1989, make the following correction:

§ 71.181 [Corrected]

On page 43972, in the first column, in § 71.181, in the last line, "75" should read "7.5".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Tax on Certain Imported Substances; Filing of Petition

Correction

In notice document 89-25286 appearing on page 43887 in the issue of Friday, October 27, 1989, make the following corrections:

1. On page 43887, in the second column, under *Perchloroethylene*, in the formula, "CL_2" should read "$4CL_2$".

2. On the same page, in the third column, under *Trichloroethylene*, in the formula, insert "ethylene" following "C_2H_4".

BILLING CODE 1505-01-D

federal register

Friday,
November 17, 1989

Part II

Department of Health and Human Services

Public Health Service; Office of the Assistant Secretary for Health; Alcohol, Drug Abuse, and Mental Health Administration; National Institutes of Health; Centers for Disease Control; Agency for Toxic Substances and Disease Registry; Indian Health Service; Health Resources and Services Administration; and Food and Drug Administration

Privacy Act of 1974; Annual Publication of Systems of Records

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Office of the Assistant Secretary for Health

Privacy Act of 1974; Annual Publication of Systems of Records Notices

AGENCY: Public Health Service, HHS.

ACTION: Publication of minor changes to systems of records notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Office of the Assistant Secretary for Health (OASH) in the Public Health Service (PHS) is publishing minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION: OASH has completed the annual review of its systems of records. Since the publication of November 22, 1988, OASH has made the following changes to its inventory of systems of records: (1) OASH has added new system of records 09–37–0021, "AIDS Cost and Service Utilization Survey (ACSUS), HHS/OASH/NCHSR," 54 FR 9253, March 6, 1989., (2) System of records 09–37–0018, "Disaster Health Services Information Systems, HHS/OASH/DEP," has been deleted because the records are no longer maintained in OASH. (3) OASH made no changes to its system notices that affect the public's right or need to know, such as changes in the location of records or the address of a system manager. (4) A table of contents of active systems of records is published below. The complete text of the system notices was last published in the Office of the Federal Register's 1987 annual Compilation of Privacy Act Issuances.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

Dated: October 18, 1989.

Office of the Assistant Secretary of Health; Table of Contents

[FR Doc. 89–25287 Filed 11–16–89; 8:45 am]

BILLING CODE 4160–17–M

Alcohol, Drug Abuse, and Mental Health Administration

Privacy Act of 1974; Annual Publication of Revisions to Systems Notices

AGENCY: Department of Health and Human Services (DHHS); Public Health Service (PHS); Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA).

ACTION: Privacy Act; Annual publication of revisions to Privacy Act system notices.

SUMMARY: ADAMHA is publishing this document to meet the requirement of section 3.a.(8) of Appendix I to OMB Circular No. A–130, "Federal Responsibilities for Maintaining Records about Individuals," which require that agencies review each system of records annually and publish any minor changes in the **Federal Register** (FR). ADAMHA has reviewed all of its active systems and is publishing all minor changes to its systems notices.

SUPPLEMENTARY INFORMATION: ADAMHA has completed the annual review of its systems of records and is publishing below those minor changes which affect the public's right or need to know, such as routine uses, title and address changes, system location, and system manager(s).

1. Changes

The following minor changes have been made to systems of records as follows:

a. 09–30–0020

SYSTEM NAME:

Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1976) Treated at the PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky, HHS/ADAMHA/NIDA.

A minor alteration has been made to the system manager(s) of this system notice. The following category should be revised in its entirety:

SYSTEM MANAGER(S) AND ADDRESS:

Medical Director, Addiction Research Center, National Institute on Drug Abuse, Francis Scott Key Medical Center, P.O. Box 5180, Baltimore, Maryland 21224.

b. 09–30–0022

SYSTEM NAME:

National Institute on Drug Abuse, Addiction Research Center, Federal Prisoner and Non-Prisoner Research Files, HHS/ADAMHA/NIDA.

A minor alteration has been made to the system manager(s) of this system notice. The following category should be revised in its entirety:

SYSTEM MANAGER(S) AND ADDRESS:

Medical Director, NIDA Addiction Research Center, Francis Scott Key Medical Center—Building C, P.O. Box 5150, Baltimore, Maryland 21224.

c. 09–30–0037

SYSTEM NAME:

Psychotherapy of Opiate-Dependent Individuals, HHS/ADAMHA/NIDA.

A minor alteration has been made to the system manager(s) of this system notice. The following category should be revised in its entirety:

SYSTEM MANAGER(S) AND ADDRESS:

Project Officer, Psychotherapy of Opiate-Dependent Individuals, Technology Transfer Branch, Division of Clinical Research, National Institute on Drug Abuse, Room 10A–37, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

d. 09–30–0038

SYSTEM NAME:

Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse, HHS/ADAMHA/NIDA.

Minor alterations have been made to the retention and disposal and system manager(s) of this system notice. The following categories should be revised in their entirety:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Normal healthy adults who voluntarily participate in studies on the pharmacokinetics of drugs of abuse, at the University of North Carolina, during the period November 1979 through September 1984 and September 1987 through September 1990 and Langley Porter Psychiatric Institute, during the

period September 1987 through September 1992.

RETENTION AND DISPOSAL:

The records will be kept no later than September 1995 (5 years after the anticipated completion of the studies). At that time, the NIDA project officer will authorize in writing the clinical investigation to destroy the records by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Project Officer, Pharmacokinetic Studies on Drugs of Abuse, National Institute on Drug Abuse, Alcohol, Drug Abuse, and Mental Health Administration, Room 10A–31, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

e. 09–30–0039

SYSTEM NAME:

Drug Abuse Treatment Outcome Study (DATOS), HHS/ADAMHA/NIDA.

Minor alterations have been made to the system name, system location, categories of individuals covered by the system, categories of records in the system, purpose, routine uses of records, and system manager(s). The following categories should be revised in their entirety:

SYSTEM NAME:

Drug Abuse Treatment Outcome Studies, HHS/ADAMHA/NIDA.

SYSTEM LOCATION:

For the Treatment Outcome Prospective Study (TOPS):

Computer Application Center, Research Triangle Institute, Box 12194, Research Triangle Park, North Carolina 27709.

For the new FY 1990 study, the contract will be awarded in December 1989. Therefore, contractor location is not yet known.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Voluntary adult clients of federally funded treatment programs, including Treatment Alternative Street Crime (TASC) programs of the Department of Justice, who have requested to be included in the Treatment Outcome Prospective Study (TOPS) where data collection began in 1979 and continued through 1986. Also included will be new data on voluntary adult clients of federally funded treatment programs who have requested to be included in a new study entitled "Drug Abuse Treaty Outcome Study;" (DATOS). The new study will begin in 1990 and will continue through 1994.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories are: Demographic data indicators of physical and psychological health, drug abuse history and treatment outcome data, treatment process data, client locator information, and personal identifiers (name and assigned numerical identifier).

PURPOSE(S):

The purpose of the system is to compile information on drug abusers who obtain treatment in federally funded drug abuse treatment programs in order to derive information on the effectiveness of treatment outcome and environments and abusers behavior and characteristics subsequent to treatment. Researchers and drug abuse service providers may use the aggregate data to address issues and generate hypotheses to understand better the interactions among the client, clinic, and community.

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

1. Within the restrictions set forth in HHS regulations concerning the confidentiality of drug abuse patient records (42 CFR 2.56, we may disclose a record for a research purpose, when the Department: (a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (b) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (c) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except: (A) In emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; (d) has secured a written statement attesting to the recipient's understanding of, and willingness to, abide by these provisions.

2. An ADAMHA contractor (to be determined) uses the records in this system to accomplish the research purpose for which the records are collected. In the event of followup studies or continuation studies because the contract has been terminated for convenience by the Government, we may disclose records in this system to a subsequent ADAMHA contractor. We would require the new contractor to maintain Privacy Act safeguards with respect to such records.

SYSTEM MANAGER(S) AND ADDRESS:

Treatment Outcome Studies, Chief, Clinical Medicine Branch, Division of Clinical Research, National Institute on Drug Abuse, Alcohol, Drug Abuse, and Mental Health Administration, Room 10A–30, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

f. 09–30–0041

SYSTEM NAME:

Subject-Participants in Drug Abuse Research Studies Supporting New Drug Applications, HHS/ADAMHA/NIDA.

Minor alterations have been made to the system location and system manager(s) of this system notice. The following categories should be revised in their entirety:

SYSTEM LOCATION:

Addiction Research Center, National Institute on Drug Abuse, Francis Scott Key Medical Center, P.O. Box 5180, Baltimore, Maryland 21224.

SYSTEM MANAGER(S) AND ADDRESS:

Medications Development Coordinator, Addiction Research Center, National Institute on Drug Abuse, Francis Scott Key Medical Center, P.O. Box 5180, Baltimore, Maryland 21224.

g. 09–30–0043

SYSTEM NAME:

Shipment Records of Drugs of Abuse to Authorized Researchers, HHS/ADAMHA/NIDA.

Minor alterations have been made to the system location and system manager(s) of the system notice. The following categories should be revised in their entirety.

SYSTEM LOCATION:

Research Technology Branch, Division of Preclinical Research, National

Institute on Drug Abuse, Room 10A–31, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Research Triangle Institute, Research Triangle Park, North Carolina 27709.

SYSTEM MANAGER(S) AND ADDRESS:

Project Director, Drug Supply Program, Research Technology Branch, Division of Preclinical Research, Room 10A–31, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

2. Readers who notice any errors or omissions in ADAMHA system notices are invited to bring them to my attention at the following address:

Alcohol, Drug Abuse, and Mental Health, Administration, 5600 Fishers Lane, Room 12–105, Rockville, Maryland 20857.

Date: October 24, 1989.

Joseph R. Leone,

Executive Officer, ADAMHA.

3. Table of Contents

The following is a list of system notices which ADAMHA currently maintains:

09–30–0004 Intramural Research Program Records of Research Performed on In- and Out-Patients with Various Types of Mental Illness, HHS/ADAMHA/NIMH

09–30–0020 Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1978), HHS/ADAMHA/NIDA

09–30–0022 National Institute on Drug Abuse, Addiction Research Center, Federal Prisoner and Non-Prisoner Patient Files, HHS/ADAMHA/NIDA

09–30–0023 Records of Contracts Awarded to Individuals, HHS/ADAMHA/OA

09–30–0027 Grants and Cooperative Agreements: Research, Research Training, Research Scientist Development, Education, Demonstration, Prevention, Fellowships, Clinical Training, Community Programs, HHS/ADAMHA/OA

09–30–0029 Records of Guest Workers, HHS/ADAMHA/OA

09–30–0030 Records of Visiting Fellows, HHS/ADAMHA/OA

09–30–0033 Correspondence Files, HHS/ADAMHA/OA

09–30–0035 Three Mile Island Mental Health Survey Respondents Record, HHS/ADAMHA/NIMH

09–30–0036 Alcohol, Drug Abuse, and Mental Health Epidemiological and Biometric Research Data, HHS/ADAMHA/OA

09–30–0037 Psychotherapy of Opiate-Dependent Individuals, HHS/ADAMHA/NIDA

09–30–0038 Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse, HHS/ADAMHA/OA

09–30–0039 Drug Abuse Treatment Outcome Studies (TOPS), HHS/ADAMHA/NIDA

09–30–0041 Subject-Participants in Drug Abuse Research Studies Supporting New Drug Applications, HHS/ADAMHA/NIDA

09–30–0043 Shipment Records of Drugs of Abuse of Authorized Researchers, HHS/ADAMHA/NIDA

09–30–0047 Patient Records on Chronic Mentally Ill Merchant Seamen Treatment at Nursing Homes in Lexington, Kentucky (1942 to the Present), HHS/ADAMHA/NIMH

09–30–0048 Intramural Research Program Records in In- and Out-Patients With Various Types of Alcohol Abuse and Dependence, Relatives of Patients with Alcoholism, and Healthy Volunteers, HHS/ADAMHA/NIAAA

09–30–0049 Consultant Records Maintained by ADAMHA Contractors, HHS/ADAMHA/OA

09–30–0050 Clinical Research: Patient Medical Records, HHS-ADAMHA/OA

[FR Doc. 89–25556 Filed 11–16–89; 8:45 am]

BILLING CODE 4160–20–M

National Institutes of Health

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Public Health Service, DHHS.

ACTION: Privacy Act: Annual republication of notices of revised systems of records.

SUMMARY: The National Institutes of Health (NIH) has conducted a comprehensive review of all Privacy Act systems of records and is publishing the resulting revisions. None of the revisions meet the OMB criteria either for a new or altered system of records requiring an advance period for public comment. These changes are in compliance with Circular A–130, Appendix 1. The notices republished below are complete and accurate as of August 31, 1989.

Included is a list of two systems of records that have been deleted since the 1988 publication and a complete list of the systems of records that NIH currently maintains.

SUPPLEMENTARY INFORMATION:

The following information summarizes the current status of all systems of records which NIH maintains:

A. System Name.

The following systems have been updated to reflect a change in the name of the system:

09–25–0034, International Activities: Scholars-in-Residence Program, HHS/NIH/FIC, publ. **Federal Register**, Vol. 51, No. 226, p. 42404.

09–25–0035, International Activities: International Health Exchange Programs Participants, HHS/NIH/FIC, publ. **Federal Register**, Vol. 51, No. 226, p. 42404.

09–25–0075, Administration: Institutions Submitting Assurances for Protection from Research Risks and Animal Welfare, HHS/NIH/OD/OER, publ. **Federal Register**, Vol. 51, No. 226, p. 42407.

09–25–0077, Biological Carcinogenesis Branch Human Specimen Program, HHS/NIH/NCI, publ. **Federal Register**, Vol. 51, No. 226, p. 42435.

B. System Location.

The following systems have been updated to reflect a change in the system locations. These changes do not affect the access by the individual to the individual's records.

09–25–0005, Administration: Library Circulation and User I.D. File, HHS/NIH/OD, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 68.

09–25–0015, Clinical Research: Collaborative Clinical Epilepsy Research, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 472.

09–25–0016, Clinical Research: Collaborative Perinatal Project HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 473.

09–25–0021, Clinical Research: Guam Patient/Control Registry, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 475.

09–25–0026, Clinical Research: Nervous System Studies, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 476.

09–25–0028, Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 477.

09–25–0031, Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 477.

09–25–0044, Clinical Research: Sensory Testing Research Program, HHS/NIH/NIDR, publ. **Federal Register**, Vol. 51, No. 226, p. 42427.

09–25–0044, Clinical Research: Sensory Testing Research Program, HHS/NIH/NIDR, publ. **Federal Register**, Vol. 51, No. 51, No. 226, p. 42427.

09–25–0046, Clinical Research: Catalog of Clinical Specimens from Patients, Volunteers and Laboratory Personnel, HHS/NIH/NIAID, publ. **Federal Register**, Vol. 51, No. 226, p. 42428.

09–25–0069, NIH Clinical Center Admissions of the National Cancer Institutes, HHS/NIH/NCI, publ. **Federal Register**, Vol. 51, No. 226, p. 42406.

09–25–0075, Administration: Institutions Submitting Assurances for Protection from Research Risks and Animal Welfare, HHS/NIH/OD/OER, publ. **Federal Register**, Vol. 51, No. 226, p. 42407.

09–25–0093, Administration: Administration Authors, Reviewers and Members of the

Journal of the National Cancer Institute, HHS/NIH/NCI, publ. Federal Register, 1987 Comp. Vol. 1, p. 497.

09–25–0096, Contracts: National Cancer Institute Contract Management System Principal Investigators, Project Officers and Contract Specialists, HHS/NIH/NCI, publ. Federal Register, 1987 Comp. Vol. 1, p. 498.

09–25–0106, Administration: Executive Secretariat Correspondence Records, HHS/NIH/OD, publ. Federal Register, 1987 Comp. Vol. 1 p. 502.

09–25–0112, Extramural Awards: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD, publ. Federal Register,Vol. 51, No. 226, p. 42410.

09–25–0115, Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID, publ. Federal Register,Vol. 51, No. 226, p. 42436.

09–25–0128, Clinical Research: Neural Prosthesis and Biomedical Engineering Studies, HHS/NIH/NINDS, publ. Federal Register, 1987 Comp. Vol. 1, p. 509.

09–25–0134, Clinical Research: Epidemiology Studies, National Institute of Environmental Health Sciences, HHS/NIH/NIEHS, publ. Federal Register,Vol. 51, No. 226, p. 42418.

C. Categories of Individuals Covered by the System.

The following systems have been updated to reflect an increase in the number of individuals covered by the system. This change does not constitute a major modification and no advance publication is required.

09–25–0015, Clinical Research: Collaborative Clinical Epilepsy Research, HHS/NIH/NINDS, publ. Federal Register, 1987 Comp. Vol. 1, p. 472.

09–25–0028, Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. Federal Register, 1987 Comp. Vol. 1, p. 477.

09–25–0128, Clinical Research: Neural Prosthesis and Biomedical Engineering Studies, HHS/NIH/NiNDS, publ. Federal Register, 1987 Comp. Vol. 1 p. 509.

09–25–0140, International Activities: International Scientific Research in Intramural Laboratories at National Institutes of Health, HHS/NIH/FIC, publ. Federal Register, Vol. 51, No. 226, p. 42413.

09–25–0148, Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institute of Neurological Disorders and Stroke and the National Institute on Deafness and Other Communication Disorders, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. Federal Register,Vol. 51, No. 226, p. 42440.

D. Storage.

The following systems have been updated to reflect a change in the method of storing the records:

09–25–0010, Research Resources: Registry of Individuals Potentially Exposed to Microbial Agents, HHS/NIH/NCI, publ. Federal Register,Vol. 51, No. 226, p. 42424.

09–25–0060, Cinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI, publ. Federal Register,Vol. 51, No. 226, p. 42433.

E. Retrieval.

The following systems have been updated to reflect a change in the method of retrieving the records:

09–25–0069, NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI, publ. Federal Register,Vol. 51, No. 226, p. 42406.

F. System Manager(s) and Address(es).

The following systems have been updated to reflect a change in the system manager or the address of the system manager. These changes do not affect the access by the individual to the individual's records.

09–25–0005, Administration: Library Circulation and User I.D. File, HHS/NIH/OD, publ. Federal Register, 1987 Comp. Vol. 1, p. 468.

09–25–0010, Research Resources: Registry of Individuals Potentially Exposed to Microbial Agents, HHS/NIH/NCI, publ. Federal Register,Vol. 51, No. 226, p. 42424.

09–25–0015, Clinical Research: Collaborative Clinical Epilepsy Research, HHS/NIH/NINDS, publ. Federal Register, 1987 Comp. Vol. 1, p. 472.

09–25–0016, Clinical Research: Collaborative Perinatal Project HHS/NIH/NINDS, publ. Federal Register, 1987 Comp. Vol. 1, p. 473.

09–25–0021, Clinical Research: Guam Patient/Control Registry, HHS/NIH/NINDS, publ. Federal Register, 1987 Comp. Vol. 1, p. 475.

09–25–0026, Clinical Research: Nervous System Studies, HHS/NIH/NINDS, publ. Federal Register, 1987 Comp. Vol. 1, p. 476.

09–25–0028, Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. Federal Register, 1987 Comp. Vol. 1, p. 477.

09–25–0031, Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System, HHS/NIH/NINDS, publ. Federal Register, 1987 Comp. Vol. 1 p. 477.

09–25–0034, International Activities: Scholars-in-Residence Program, HHS/NIH/FIC, publ. Federal Register,Vol. 51 No. 226, p. 42404.

09–25–0035, International Activities: International Health Exchange Programs Participants, HHS/NIH/FIC, publ. Federal Register,Vol. 51 No. 226, p. 42404.

09–25–0046, Clinical Research: Catalog of Clinical Specimens from Patients, Volunteers and Laboratory Personnel, HHS/NIH/NIAID, publ. Federal Register,Vol. 51, No. 226, p. 42428.

09–25–0069, NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI, publ. Federal Register,Vol. 51, No. 226, p. 42406.

09–25–0075, Administration: Institutions Submitting Assurances for Protection from Research Risks and Animal Welfare, HHS/NIH/OD/OER, publ. Federal Register,Vol. 51, No. 226, p. 42407.

09–25–0087, Administration: Employees and Consultants, HHS/NIH/NIAID, publ. Federal Register,Vol. 51, No. 226, p. 42436.

09–25–0093, Administration: Administration Authors, Reviewers and Members of the Journal of the National Cancer Institute, HHS/NIH/NCI, publ. Federal Register, 1987 Comp. Vol. 1, p. 497.

09–25–0096, Contracts: National Cancer Institute Contract Management System Principal Investigators, Project Officers and Contract Specialists, HHS/NIH/NCI, publ. Federal Register, 1987 Comp. Vol. 1, p. 498.

09–25–0106 Administration: Executive Secretariat Correspondence Records, HHS/NIH/OD, publ. Federal Register, 1987 Comp. Vol. 1, p. 502.

09–25–0112, Extramural Awards: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD, publ. Federal Register, Vol. 51, No. 226, p. 42410.

09–25–0115, Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID, publ. Federal Register, Vol. 51, No. 226, p. 42436.

09–25–0128, Clinical Research: Neural Prosthesis and Biomedical Engineering Studies, HHS/NIH/NINDS, publ. Federal Register, 1987 Comp. Vol. 1, p. 509.

09–25–0134, Clinical Research: Epidemiology Studies, National Institute of Environmental Health Sciences, HHS/NIH/NIEHS, publ. Federal Register, Vol. 51, No. 226, p. 42418.

09–25–0140, International Activities: International Scientific Research in Intramural Laboratories at National Institutes of Health, HHS/NIH/FIC, pub. Federal Register, Vol. 51, No. 226, p. 42413.

09–25–0148, Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institute of Neurological Disorders and Stroke and the National Institute on Deafness and Other Communication Disorders, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. Federal Register, Vol. 51, No. 226, p 42440.

09–25–0153, Biomedical Research: Records of Subjects in Biomedical and Behavioral Studies of Child Health and Human Development, HHS/NIH/NICHD, publ. Federal Register, Vol. 51, No. 226, p. 42444.

09–25–0154, Biomedical Research: Records of Subjects in Cancer Studies of the

Division of Cancer Prevention and Control, HHS/NIH/NCI, publ. **Federal Register**, Vol. 51, No. 226, p. 42420.

09–25–0156, Records of Participants in Programs and Respondents in Surveys use to Evaluate Programs of NIH, HHS/NIH/OD, publ. **Federal Register**, Vol. 51, No. 226, p. 42447.

G. Record Access Procedures.

The following systems have been updated to reflect a change in the procedure for access to information contained in the record.

09–25–0112, Extramural Awards: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD, publ. **Federal Register**, Vol. 51, No. 226, p. 42410.

H. Record Source Categories.

The following systems have been updated to reflect a change in the source of the information contained in the record.

09–25–0069, NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI, publ. **Federal Register**, Vol. 51, No. 226, p. 42406.

I. Notification Procedures.

The following systems have been updated to reflect a change in the office, official, and/or address to write to determine whether or not the system contains a record about the individual.

09–25–0015, Clinical Research, Collaborative Clinical Epilepsy Research, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 472.

09–25–0016, Clinical Research: Collaborative Perinatal Project HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 473.

09–25–0021, Clinical Research: Guam Patient/Control Registry, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 475.

09–25–0026, Clinical Research: Nervous System Studies, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 476.

09–25–0028, Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 477.

09–25–0031, Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 477.

09–25–0042, Clinical Research: National Institute of Dental Research Patient Records, HHS/NIH/NIDR, publ. **Federal Register**, 1987 Comp. Vol. 51, No. 226, p. 42426.

09–25–0044, Clinical Research: Sensory Testing Research Program, HHS/NIH/NIDR, publ. **Federal Register**, Vol. 51, No. 226, p. 42427.

09–25–0112, Extramural Awards: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD, publ. **Federal Register**, Vol. 51, No. 226, p. 42410.

09–25–0128, Clinical Research: Neural Prosthesis and Biomedical Engineering Studies, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 509.

09–25–0148, Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institute of Neurological Disorders and Stroke and the National Institute on Deafness and Other Communication Disorders, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. **Federal Register**, Vol. 51, No. 226, p. 42440.

09–25–0152, Biomedical Research: Records of Subject in National Institute of Dental Research Contracted Epidemiological and Biometric Studies, HHS/NIH/NIDR, publ. **Federal Register**, Vol. 51, No. 226, p. 42442.

09–25–0153, Biomedical Research: Records of Subjects in Biomedical and Behavioral Studies of Child Health and Human Development, HHS/NIH/NICHD, publ. **Federal Register**, Vol. 51, No. 226, p. 42444.

09–25–0154, Biomedical Research: Records of Subjects in Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/NCI, publ. **Federal Register**, Vol. 51, No. 226, p. 42420.

09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of NIH, HHS/NIH/OD, publ. **Federal Register**, Vol. 51, No. 226, p. 42447.

J.

The following systems have been changed for clarity and editing purposes.

09–25–0028, Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 477.

09–25–0034, International Activities: Scholars-in-Residence Program, HHS/NIH/FIC, publ. **Federal Register**, Vol. 51, No. 226, p. 42404.

09–25–0035, International Activities: International Health Exchange Programs Participants, HHS/NIH/FIC, publ. **Federal Register**, Vol. 51, No. 226, p. 42404.

09–25–0060, Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI, publ. **Federal Register**, Vol. 51, No. 226, p. 42433.

09–25–0069, NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI, publ. **Federal Register**, Vol. 51, No. 226, p. 42406.

09–25–0140, International Activities: International Scientific Research in Intramural Laboratories at National Institutes of Health, HHS/NIH/FIC, publ. **Federal Register**, Vol. 51, No. 226, p. 42413.

09–25–0148, Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institute of Neurological Disorders and Stroke and the National Institute on Deafness and Other Communication Disorders, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. **Federal Register**, Vol. 51, No. 226, p. 42440.

K.

The following systems have a name change due to the renaming of the organization from National Institute of Neurological and Communicative Disorders and Stroke (NINCDS) to National Institute on Deafness and Other Communication Disorders (NINDS) as follows:

09–25–0015, Clinical Research: Collaborative Clinical Epilepsy Research, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 472.

09–25–0016, Clinical Research: Collaborative Perinatal Project, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 473.

09–25–0021, Clinical Research: Guam Patient/Control Registry, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 475.

09–25–0026, Clinical Research: Nervous System Studies, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 476.

09–25–0028, Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 477.

09–25–0031, Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 477.

09–25–0128, Clinical Research: Neural Prosthesis and Biomedical Engineering Studies, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 509.

09–25–0129, Clinical Research: Clinical Research Studies Dealing with Hearing, Speech, Language and Chemosensory Disorders, HHS/NIH/NIDCD, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 510.

09–25–0148, Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institute of Neurological Disorders and Stroke and National Institute on Deafness and Other Communication Disorders, HHS/NIH/NINDS and HHS/NIH/NIDCD, Publ. **Federal Register**, Vol. 51, No. 226, p. 42440.

L. DELETED SYSTEMS OF RECORDS

The following systems of records which appeared in the 1988 annual publication are now being deleted;

09–25–0019, Clinical Research: Genetic Counseling HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 474.

09–25–0020, Clinical Research: Genetics of Neurological Disorders, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 475.

We are publishing only those systems which have been changed to reflect minor modifications. All system notices were last published in the Federal Register, Privacy Act Issuances, 1987 Compilation, Volume 1, pp. 465–527, November 24, 1986, Vol. 51, No. 226 pp. 42398–42449 and selectively updated on November 24, 1987 in Vol. 52 No. 226 and on November 22, 1988 in Vol. 53, No. 225.

The following is a list of active systems of records maintained by NIH.

TABLE OF CONTENTS

09–25–0108, Personnel: Guest Researchers/ Student Scientists/Scientists Emeriti, HHS/NIH/DPM, publ. **Federal Register**, Vol. 51, No. 226, p. 42409.

09–25–0112, Extramural Awards: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD, publ. **Federal Register**, Vol. 51, No. 226, p. 42410.

09–25–0115, Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID, publ. **Federal Register**, Vol. 51, No. 226, p. 42436.

09–25–0118, Contracts: Professional Services Contractors, HHS/NIH/NCI, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 506.

09–25–0121, International Activities: Senior International Fellowships Program, HHS/NIH/FIC, publ. **Federal Register**, Vol. 51, No. 226, p. 42416.

09–25–0124, Administration: Pharmacology Research Associates, HHS/NIH/NIGMS, publ. **Federal Register**, Vol. 51, No. 226, p. 42412.

09–25–0126, Clinical Research: National Heart, Lung, and Blood Institute Epidemiological and Biometric Studies, HHS/NIH/NHLBI, publ. **Federal Register**, Vol. 51, No. 226, p. 42417.

09–25–0128, Clinical Research: Neural Prosthesis and Biomedical Engineering Studies, HHS/NIH/NINDS, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 509.

09–25–0129, Clinical Research: Clinical Research Studies Dealing with Hearing, Speech, Language and Chemosensory Disorders, HHS/NIH/NIDCD, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 510.

09–25–0130, Clinical Research Studies in the Division of Cancer Cause and Prevention, HHS/NIH/NCI, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 511.

09–25–0133, Clinical Research: Kidney Transplant Histocompatibility Study (KTHS), HHS/NIH/NIDDK, publ. **Federal Register**, Vol. 51, No. 226, p. 42438.

09–25–0134, Clinical Research: Epidemiology Studies, National Institute of Environmental Health Sciences HHS/ NIH/NIEHS, publ. **Federal Register**, Vol. 51, No. 226, p. 42418.

09–25–0140, International Activities: International Scientific Research in Intramural Laboratories at National Institutes of Health, HHS/NIH/FIC, publ. **Federal Register**, Vol. 51, No. 226, p. 42413.

09–25–0142, Clinical Research: Records of Subjects in Intramural Research, Epidemology, Demography and Biometry Studies on Aging, HHS/NIH/NIA, publ. **Federal Register**, 1987 Comp. Vol. 1, p. 515.

09–25–0143, Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Disease, HHS/NIH/NIAID, publ. **Federal Register**, Vol. 51, No. 226, p. 42439.

09–25–0148, Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institute of Neurological Disorders and Stroke and the National Institute on Deafness and Other Communication Disorders, HHS/ NIH/NINDS and HHS/NIH/NIDCD, publ. **Federal Register**, Vol. 51, No. 226, p. 42440.

09–25–0151, Administration: Public Health Service ALERT Records Concerning Individuals Under Investigation for Possible Misconduct In Science or Subject to Sanctions for Such Misconduct, HHS/PHS/NIH, publ. **Federal Register**, Vol. 52, No. 102, p. 19929.

09–25–0152, Biomedical Research: Records of Subjects in National Institute of Dental Research Contracted Epidemiological and Biometric Studies, HHS/NIH/NIDR, publ. **Federal Register**, Vol. 51, No. 226, p. 42442.

09–25–0153, Biomedical Research: Records of Subjects in Biomedical and Behavioral Studies of Child Health and Human Development, HHS/NIH/NICHD, publ. **Federal Register**, Vol. 51, No. 226, p. 42444.

09–25–0154, Biomedical Research: Records of Subjects in Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/NCI, publ. **Federal Register**, Vol. 51, No. 226, p. 42420.

09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of NIH, HHS/ NIH/OD, publ. **Federal Register**, Vol. 51, No. 226, p. 42447.

09–25–0158, Administration: Records of Applicants and Awardees of the NIH Intramural Research Training Awards Program, HHS/NIH/OD, publ. **Federal Register**, Vol. 52, No. 156, p. 30255.

Date: October 26, 1989.

William F. Raub,

Acting Director, National Institutes of Health.

09–25–0005

SYSTEM NAME:

Administration: Library Circulation and User I.D. File, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 10, Room 1L25B, 9000 Rockville Pike, Bethesda, MD 20892, and Building 12A, Room 3018, 9000 Rockville Pike, Bethesda, MD 20892, and Building 38, Room 1S33, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NIH employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Library records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act: 42 U.S.C. 241.

PURPOSE OF THE SYSTEM:

Library material, services and circulation control.

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

Records of Library users may be disclosed to NIH contractors and staff in order to accomplish library material, services and circulation control. Recipients are required to maintain Privacy Act safeguards with respect to those records.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored on computer tape and disc, and on file cards.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to Library staff members who need to verify that Library identification cards have been issued to those Library users

requesting services such as MEDLINE and other computer online bibliographic searches, translations and interlibrary loans. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

Physical Safeguards: The office housing the cabinets and file drawers for storage of records are locked during all library off-duty hours. During all duty hours offices are attended by employees who maintain the files.

Procedural Safeguards: Access to the file is strictly controlled by employees who maintain the files. Records may be removed from files only at the request of the system manager or other authorized employees. Access to computerized records is controlled by the use of security codes known only to authorized users.

RETENTION AND DISPOSAL:

Years at NIH: 3. Disposal methods include burning or shredding paper materials and erasing computer tapes.

SYSTEM MANAGER AND ADDRESS:

Chief, Reference and Bibliographic Services Section, Library Branch, Division of Research Services, Building 10, Room 1L21, NIH, 9000 Rockville Pike, Bethesda, MD 20892, and Librarian, Division of Computer Research and Technology, Building 12A, Room 3018, NIH, 9000 Rockville Pike, Bethesda, MD 20892, and Chief, Public Services Division, Library Operations, National Library of Medicine, Building 38, Room 1S33, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. You may also request a list of accountable disclosures that have been made of your record, if any.

CONTESTING RECORD PROCEDURE:

Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Individual, NIH Library ID card data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0010

SYSTEM NAME:

Research Resources: Registry of Individuals Potentially Exposed to Microbial Agents, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Executive Plaza North, Room 540, 6130 Executive Blvd., Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals potentially exposed to biohazardous microbial agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Microbial agents registry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241.

PURPOSE OF THE SYSTEM:

(1) To serve as a base for health and safety for individuals and organizations involved in use of potentially hazardous agents. (2) To identify potential hazards.

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

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored in file folders, on magnetic tape, and 3380 disks.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees authorized to use the records include professional staff in the Biological Carcinogenesis Branch who have been informed of the need for maintaining confidentiality of the records.

2. Physical Safeguards: Office records are kept in closed cabinets in offices which are locked during off-duty hours.

3. Procedure Safeguards: Access to the file is strictly controlled by the system manager and his designee, and records may be removed from files only at the request of the system manager or other authorized employee. Access to computerized records is controlled by the use of security codes known only to the authorized users.

The particular safeguards implemented at each site are developed in accordance with chapter 45-13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS.hf: 45-13, and part 6, "ADP Systems Security", of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER AND ADDRESS:

National Cancer Institute, Division of Cancer Etiology, Biological Carcinogenesis Program Coordinator, Research Resources Biological Carcinogenesis Branch, Executive Plaza

North, Room 540, 6130 Executive Blvd., Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Information is obtained from individuals and/or organizations providing specimens.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0015

SYSTEM NAME:

Clinical Research: Collaborative Clinical Epilepsy Research, HHS/NIH/NINDS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 12, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

Write to the system manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients participating in clinical epilepsy research sponsored by the National Institute of Neurological Disorders and Stroke (NINDS).

CATEGORIES OF RECORDS IN THE SYSTEM:

Clinical data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

Clinical research on epilepsy, specifically neurophysiological studies of patients and new drug studies designed to improve treatment of epilepsy.

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

Clinical research data are made available to approved or collaborating researchers, including HHS contractors and grantees.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored in file folders, and on magnetic tape and discs.

RETRIEVABILITY:

Records are retrieved by identifying number.

SAFEGUARDS:

Authorized Users: Employees who maintain records in this system are instructed to grant access to HHS researchers or the staff of the Epilepsy Branch. No other use is permitted without specific permission of the System Manager.

Physical Safeguards: Records are kept in a location which is locked during non-duty hours.

Procedural Safeguards: Records are used in the system location only and are returned to file cabinets at the end of each working day. Location is attended at all times during working hours. Personnel having access to system have received Privacy Act training.

RETENTION AND DISPOSAL:

Years at NIH: 10. Years at Federal Records Center: 15.

SYSTEM MANAGER AND ADDRESS:

Chief, Epilepsy Branch, NINDS, Federal Building, Room 114, 7550 Wisconsin Avenue, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: Chief, Administrative Services Branch, NINDS, Building 31, Room 8A49, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing, a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought,

and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Clinical treatment records from physicians, nurses and other sources of care.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0016

SYSTEM NAME:

Clinical Research: Collaborative Perinatal Project HHS/NIH/NINDS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Federal Building, NIH, 7550 Wisconsin Ave., Bethesda, MD 20892.

Write to the system manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Women in the perinatal study of NIH during their pregnancies, their children, husbands, fathers of children and other family members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical histories and examinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

Biomedical and behavioral research by HHS scientists to discover leads to the developmental disorders of childhood by relating events of pregnancy, labor and delivery, infancy and early childhood to subsequent development of the child.

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

A record may be disclosed for a research purpose, when the Department:

(A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(B) Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

(C) Has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law;

(D) Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

Certain infectious diseases are reported to state government as required by law.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored in file folders, on punch cards and magnetic tape, computer printouts, and on microfilm.

RETRIEVABILITY:

Records are retrieved by identifying number assigned to the mother.

SAFEGUARDS:

Authorized Users: Employees who maintain records in this system are instructed to grant access to HHS researchers and data processing support staff only upon receiving an approved written request from the System Manager which specifies the data to be received and the intended use of the data. A list of authorized users is maintained.

Physical Safeguards: Records are in an area with no other use which is locked when system is not in use.

Procedural Safeguards: Personnel having access are trained in Privacy requirements. Records of access to the system are maintained. Records are used in the system area or other designated work area.

RETENTION AND DISPOSAL:

Years at NIH: indefinite. Some records are sent to the Federal Records Center and held for 3 years.

SYSTEM MANAGER AND ADDRESS:

Chief, Developmental Neurology Branch, National Institute of Neurological Disorders and Stroke (NINDS), Federal Building, NIH, 7550 Wisconsin Avenue, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: Chief, Administrative Services Branch, NINDS, Building 31, Room 8A49, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing, a responsible representative who will be willing to review the record and inform

the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Mother, child, father, biomedical examiners, hospital and clinic records, schools.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0021

SYSTEM NAME:

Clinical Research: Guam Patient/Control Registry, HHS/NIH/NINDS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 36, Room 5D03, NIH, 9000 Rockville Pike, Bethesda, MD 20892. Write to the system manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Research patients of NIH on Guam.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical and demographic data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

Biomedical research on patients by HHS scientists who study selected diseases and conditions found on the island of Guam in the Pacific.

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

Clinical research data are made available to approved or collaborating researchers, including HHS contractors and grantees. Certain infectious diseases are reported to Territorial authorities as required by law. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored in file folders, on punch cards, magnetic tape, index cards, and print-out sheets.

RETRIEVABILITY:

Records are retrieved by name and ID number.

SAFEGUARDS:

Authorized Users: Employees who maintain records in this system are instructed to grant access only to HHS researchers or their authorized collaborators.

Physical Safeguards: Location is locked during non-working hours and records are returned to location at end of working day.

Procedural Safeguards: Persons having access to records are informed of the Privacy Act requirements and location is attended at all times during the working day.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the NIH Records Control Schedule, item 3000-G-3. A copy of the schedule may be obtained by writing to the system manager at the address below. Inactive records may be retired to a Federal Records Center.

SYSTEM MANAGER AND ADDRESS:

Director, Intramural Research, National Institute of Neurological Disorders and Stroke (NINDS), Building 10, Room 5N14, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact: Chief, Administrative Services Branch, NINDS, Building 31, Room 8A49, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing, a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the reasons for the correction, and the corrective action sought.

RECORD SOURCE CATEGORIES:

Individuals and their families.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0026

SYSTEM NAME:

Clinical Research: Nervous System Studies, HHS/NIH/NINDS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 36, Room 5B20, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

Write to the system manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Research patients in NIH-related studies having nervous system disorders.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical and demographic data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

Clinical research by HHS scientists on patients with special diseases of the nervous system, with particular emphasis on those diseases known or thought to be caused by slow or latent viruses.

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

Clinical research data are made available to approved or collaborating researchers, including HHS contractors and grantees.

Certain infectious diseases are reported to state government as required by law.

Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored in file folders, on magnetic tape, and on computer print-out sheets.

RETRIEVABILITY:

Records are retrieved by name, disease and attending physician name.

SAFEGUARDS:

Authorized Users: Employees who maintain records in this system are instructed to grant access only to scientists on the staff of the Central Nervous System Studies Laboratory and their assistants.

Physical Safeguards: Records are kept in a locked location.

Procedural Safeguards: Personnel having access to system are informed of Privacy Act requirements.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the NIH Records Control Schedule, item 3000–G–3. A copy of the schedule may be obtained by writing to the system manager at the address below. Inactive records may be retired to a Federal Records Center.

SYSTEM MANAGER AND ADDRESS:

Chief, Central Nervous System Studies Lab., Building 36, Room 5B21, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact: Chief, Administrative Services Branch, NINDS, Building 31, Room 8A49, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing, a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Attending physicians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0031

SYSTEM NAME:

Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System, HHS/NIH/NINDS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 36, Room 5B21, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients with possible perinatal, acute or chronic diseases and normal volunteers in NIH-related studies pertaining to the central nervous system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Laboratory findings for viruses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289h.

PURPOSE OF THE SYSTEM:

Clinical research by HHS scientists and their authorized collaborators and research on blood serum, specifically to discover the role of infections (particularly those caused by a virus) in diseases of the central nervous system and also to study the role of vaccines in these diseases.

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

Clinical research data are made available to approved or collaborating researchers, including HHS contractors and grantees.

Certain infectious diseases are reported to State Government as required by law.

Information may be used to respond to Congressional inquiries for constituents concerning admission to the NIH Clinical Center.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored on papers and in file folders.

RETRIEVABILITY:

Records are retrieved by name and number.

SAFEGUARDS:

Authorized Users: Employees who maintain records in this system are instructed to grant access only to HHS scientists and their assistants and authorized collaborators.

Physical Safeguards: Records are kept in cabinets which are locked at all times that system is not in use, in a location which is also locked when system is not in use.

Procedural Safeguards: Personnel having access to system have been trained in Privacy Act requirements. Records are used in a designated work area and the system location is attended at all times during working hours.

RETENTION AND DISPOSAL:

Years at NIH: 15. Years at Federal Records Center: 20.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief, Laboratory of Central Nervous Systems Studies, Intramural Research Program, Building 36, Room 5B21, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact: Chief, Administrative Services Branch, NINDS, Building 31, Room 8A49, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought.

RECORD SOURCE CATEGORIES:

Hospital records, volunteers, and laboratory data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0034

SYSTEM NAME:

International Activities: Scholars-in-Residence Program, HHS/NIH/FIC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 38A, Room 612, 9000 Rockville Pike, Bethesda, MD 20892.

Write to system manager at the address below for the address of the Federal Records Center where records may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Distinguished scientists and scholars invited to accept NIH scholarships.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment and education histories; references.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2421, "International Cooperation" of the PHS Act.

PURPOSE OF THE SYSTEM:

To administer and award scholarships to distinguished scientists.

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

Information is made available to authorized employees and agents of the Federal Government for purposes of investigations, inspections and audits, and in appropriate cases, to the Department of Justice for prosecution under civil and criminal laws.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the

particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to FIC program staff. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in locked file cabinets. Offices are locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Files may be removed only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Years at NIH: 1. At Federal Records Center: 5.

SYSTEM MANAGER AND ADDRESS:

Fogarty International Center, National Institutes of Health, Building 16, Room 202, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Requests for notification of or access to records should be addressed to the system manager, as listed above. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought.

RECORD SOURCE CATEGORIES:

Information is obtained from invitees, reference sources, and persons supplying recommendations.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0035

SYSTEM NAME:

International Activities: Health Scientist Exchange Programs, HHS/NIH/FIC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 38A, Room 612, 9000 Rockville Pike, Bethesda, MD 20892.

Write to system manager at the address below for the address of the Federal Records Center where records may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizens applying for participation in health scientist exchange programs through NIH.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications and associated records and reports, including curricula vitae and letters of reference.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2421.

PURPOSE OF THE SYSTEM:

To maintain records necessary to administer health scientist exchange programs.

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

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. To qualified experts not within the definition of Department employees as prescribed in Department Regulations for opinions as a part of the application review process.

3. Information is furnished to pertinent staff of the relevant foreign ministry for acceptance purposes.

4. Applications are made available to authorized employees and agents of the Federal Government for the purpose of inspections and audits, and, in appropriate cases, to the Department of Justice for investigation under civil and criminal laws.

5. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to FIC program staff. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in locked file cabinets. Offices are locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Files may be removed only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Years at NIH: 1. At Federal Records Center: 5. Destroy 6 years after close out (NIH Manual 1743, Appendix I, Section 2300-320-7).

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Program Specialist, Health Scientist Exchange Programs, International Coordination and Liaison, Branch, FIC, Building 38A, Room 612, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to system manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Information is obtained from applicants and individuals who supply references.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0042

SYSTEM NAME:

Clinical Research: National Institute of Dental Research Patient Records, HHS/NIH/NIDR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, Room 6S237, 9000 Rockville Pike, Bethesda, MD 20892.

Write to system manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients and other participants in current and past research projects of the National Institute of Dental Research (NIDR).

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical and dental histories, dental pathologies and therapies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 285h.

PURPOSE OF THE SYSTEM:

(1) To record the diagnosis and treatment of patients with diseases of the mouth, tongue, teeth and surrounding tissues; (2) To record the normal condition of the mouth, tongue, teeth and surrounding tissues of individuals referred to the dental clinic; (3) To provide clinical data for research into the etiology, treatment and prevention of oral diseases; (4) For review and planning of the NIDR clinical program.

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

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the clinical and research purposes for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain infectious diseases are reported to state governments as required by law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example, when a claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and hospital ID number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to dentists, physicians, dental hygienists, dental assistants and other health care personnel involved in the care and treatment of patients in the NIDR dental clinic, and to referring professionals. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are stored in a cabinet which is locked at all times when not in use.

3. Procedural Safeguards: Access is controlled by clerical staff of the Dental Clinic during clinic hours, and by the Officer of the Day when the clinic is closed.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule, Manual Chapter 1743 (HHS Records Management Manual, Appendix B-361), Manual Chapter 1743, item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Records will be destroyed by shredding or burning.

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Chief, Clinical Investigations and Patient Care Branch, NIDR, Building 10, Room 6S237A, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists contact: NIDR Privacy Act Coordinator, Building 31, Room 2C-35, 9000 Rockville Pike, Bethesda, MD 20892

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject

individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Individual, parents or guardians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0044

SYSTEM NAME:

Clinical research: Sensory Testing Research Program, HHS/NIH/NIDR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, Room 1-N-114, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Infants, children and adults participating in the Sensory Testing Research Program of the National Institute of Dental Research (NIDR).

CATEGORIES OF RECORDS IN THE SYSTEM:

Test results, extracts from medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 288a.

PURPOSE OF THE SYSTEM:

(1) To record the medical/dental histories of individuals participating in the Sensory Testing Research Program; (2) To record the results of chemosensory tests of individuals participating in the Sensory Testing Research Program; (3) For research on sensitivity to oral nasal stimulation; (4) For review and planning of the Clinical Investigations and Patient Care Branch program.

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

1. Disclosure may be made to HHS contractors, grantees, referring health professionals and collaborating researchers and their staff in order to accomplish the clinical and research purposes for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Certain infectious diseases are reported to state governments as required by law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example, when a claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored in file folders, data books and in a mini-computer maintained by the NIDR Scientific Systems Section.

RETRIEVABILITY:

Records are retrieved by name, date of observation and age of subject.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to Clinical Investigations Section staff, to scientist colleagues by invitation of the principal investigator and to referring professionals. Other one time and special access by other employees is granted on a need to know basis as specifically authorized by the System Manager.

2. Physical Safeguards: Records are stored in rooms which are locked at all times when not in use. Computer terminals are in secured areas. Access to computer file is controlled by software protection codes associated with each site.

3. Procedural Safeguards: Access is controlled by Clinical Investigation Section staff.

These safeguards are in compliance with the standards of chapter 45-13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS.hf: 45-13, and part 6, ADP Systems Security, of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule (HHS Records Management Manual, Appendix B-361), item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Disposal is by shredding or burning.

SYSTEM MANAGER AND ADDRESS:

Research Psychologist, Clinical Investigations, NIDR, Building 10, Room 1A05, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists contact: NIDR Privacy Act Coordinator, 9000 Rockville Pike, Building 31, Room 2C-35, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. An individual who requests notification of or access to a medical/dental record

shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Subject individual, cooperating clinician or health agency, family members.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0046

SYSTEM NAME:

Clinical Research: Catalog of Clinical Specimens from Patients, Volunteers and Laboratory Personnel, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 7, Rooms 106 and 202, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients, volunteers, laboratory personnel in the National Institute of Allergy and Infectious Diseases (NIAID).

CATEGORIES OF RECORDS IN THE SYSTEM:

Clinical specimens, attendant data and laboratory results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

For diagnostic and epidemiologic studies of viral respiratory diseases and hepatitis, conducted by NIAID staff.

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

Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

Certain infectious diseases are reported to state governments as required by law.

Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example, when a claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored in data books.

RETRIEVABILITY:

Records are retrieved by name, patient or study number.

SAFEGUARDS:

Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to HHS scientists conducting research, and staff whose duties require the use of such information. Other one time and special access by other employees is granted on a need to know basis as specifically authorized by the System Manager.

Physical Safeguards: Data books are kept in locked rooms. Offices are locked during off-duty hours.

Procedural Safeguards: Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the System Manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH Records Control Schedule, item 3000-G-3. The records control schedule may be obtained by writing to the System Manager at the address below.

SYSTEM MANAGER AND ADDRESS:

Chief, Respiratory Viruses Section, LID, NIAID, Building 7, Room 106, NIH, 9000 Rockville Pike, Bethesda, MD 20892, and Chief, Hepatitis Virus Section, NIAID, Building 7, Room 202, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to Privacy Act Coordinator, NIAID, Westwood Building, Room 703, 5333 Westbard Avenue, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedure above. Requesters should also reasonably specify the record contents being sought. You may also request a list of accountable disclosures that have been made of your record.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and

specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants and from medical records, field study records, and clinical research observations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0060

SYSTEM NAME:

Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 10, Room 13C103, 9000 Rockville Pike, Bethesda, MD 20892, and Frederick Cancer Research Center, Building 426, Frederick, MD 21701, and National Cancer Institute, Navy Hospital, Building 8, Room 3146, Bethesda, MD 21814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All patients who have been hospitalized or seen in outpatient clinics on treatment research protocols in the National Cancer Institute.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 241, 281, 282.

PURPOSE OF THE SYSTEM:

(1) Patient care and treatment. (2) Clinical and epidemiological research.

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

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored on magnetic tapes, microcomputer disks, index cards, and manual paper records.

RETRIEVABILITY:

Records are retrieved by patient name or number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute, or its contractors, whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in a limited access area. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual identification.

3. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users. Access codes are changed frequently.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH Records Control Schedule, item 3000-G-3. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER AND ADDRESS:

Head, Biostatistics and Data Management Section, National Institutes of Health, Building 10, Room 13C103, 9000 Rockville Pike, Bethesda, MD 20892, and Chief, Clinical Research Branch, Biological Response Modifiers Program, Frederick Cancer Research Center, 335 Park Avenue, Building 567, Room 129, Frederick, MD 21701, and Navy Hospital, Deputy Branch Chief, NCI—Naval Medical Oncology Branch, Building 8, Room 5101, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Write to system manager for the appropriate location to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or

incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought.

RECORD SOURCE CATEGORIES:

Hospital medical records, referring physician, referring hospitals, clinical laboratories, patient contact, and Central Tumor Registries.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0069

SYSTEM NAME:

NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Chief, Genetics Section, DCE, Executive Plaza North, Room 400, 6130 Executive Blvd., Bethesda, MD 20892, and National Institutes of Health, Division of Computer Research and Technology, Building 12A, 9000 Rockville Pike, Bethesda, MD 20892, and WESTAT, Inc., STSC Building, Suite 402, 2115 E. Jefferson Street, Rockville, MD 20852.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former cancer patients and their family members admitted to the NIH Clinical Center or the National Cancer Institute (NCI).

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical histories, reports and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 281, 282.

PURPOSE OF THE SYSTEM:

National Cancer Institute physicians and supporting staff are involved in research on the cause and diagnosis of disease and the treatment of patients, requiring the maintenance of working files to chart progress, responses to treatment, etc.

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

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored in file folders and on computer files.

RETRIEVABILITY:

Records are retrieved by identification number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute and the Clinical Center whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records are kept in limited access areas. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual identification.

3. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users. Access codes are changed frequently.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH Records Control Schedule, item 3000-G-3. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER AND ADDRESS:

National Institutes of Health, Epidemiology & Biostatistics, Clinical Epidemiology Branch, Division of Cancer Etiology, NCI, Chief, Clinical Genetics Section, Executive Plaza North, Suite 400, 6130 Executive Blvd., Bethesda, MD 20892, and Chief, Family Studies Section, Environmental Epidemiology Branch, Executive Plaza North, Suite 439, 6130 Executive Blvd., Bethesda, MD 20205.

NOTIFICATION PROCEDURE:

Write to system manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought.

RECORD SOURCE CATEGORIES:

Patients' personal physicians, NIH staff treating the patients or performing test, requested outside records, and patients themselves.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0075

SYSTEM NAME:

Administration: Principal Investigators Submitting Proposals for Protection from Research Risks, HHS/NIH/OD/OER.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, Room 5B59, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons submitting research proposals to the National Institutes of Health involving risks to subjects or matters pertaining to the protection of the rights and welfare of human research subjects.

CATEGORIES OF RECORDS IN THE SYSTEM:

Research protocol, identification of Principal Investigator, institution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241(c)(g).

PURPOSE OF THE SYSTEM:

Monitoring of research proposals that may involve undue risks to subjects or ethical considerations.

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

(1) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. (2) In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored on card file.

RETRIEVABILITY:

Records are retrieved by name of Principal Investigator.

SAFEGUARDS:

(1) Authorized Users: Members of the professional staff of the Office for Protection from Research Risks (OPRR) may use information from the file in connection with follow up procedures of research proposals identified as involving potential risk to the protection of the rights and welfare of human research subjects.

(2) Physical Safeguards: Records are maintained in offices which are monitored during business hours and are locked during off-duty hours.

(3) Procedural Safeguards: Requests for information from the file are made to the Compliance Coordinator who supervises and is responsible for the file. Computer files are password protected.

RETENTION AND DISPOSAL:

Records are kept for 6 years after the end of a research project or 6 years after final action in any case involving litigation.

SYSTEM MANAGER AND ADDRESS:

Director, OPRR, National Institutes of Health, Building 31, Room 5B59, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought.

RECORD SOURCE CATEGORIES:

Proposals submitted by individuals, but identified by employees or consultants of HHS as possibly involving undue hazards.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0077

SYSTEM NAME:

Biological Carcinogenesis Branch Human Specimen Program, HHS/NIH/NCI.

SECURITY CLASSIFICATION.

None.

SYSTEM LOCATION:

National Institutes of Health, Executive Plaza North, Rm. 540, 6130 Executive Blvd., Bethesda, MD 20892, and at private organizations under contract. Write to the system manager for a list of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Cancer and other patients, and normal donors of biopsy and tumor specimens, who are seen at clinically-oriented organizations under contract to the National Cancer Institute. Both adults and children are covered.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical history and diagnostic information about the donor, information on the type of specimen, location of repository (if specimen is stored before use), and distribution record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 241, 281, 282: "Research and Investigation," "National Cancer Institute," and "Cancer Research and Other Activities."

PURPOSE OF THE SYSTEM:

(1) For cancer research, using by-products of cancer treatment, such as biopsy and tumor specimens that would normally be discarded, to allow interpretation of experimental results; (2) To project future research needs; (3) To monitor and evaluate the NCI distribution system.

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

1. The Department contemplates that it may contract with a private firm for storage and preservation of specimens. Records necessary for identification, retrieval and research use will be disclosed to such a contractor. The contractor will be required to comply with the requirements of the Privacy Act with respect to such records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

File folders, magnetic tape, discs.

RETRIEVABILITY:

Retrieved by name of donor and cross-referenced by identifying number, procurement source, and various epidemiological characteristics.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute, or its contractors, whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records, computers and computer terminals are kept in limited access areas. Offices are locked during off-duty hours. Input data for computer files are coded to avoid individual identification.

3. Procedural Safeguards: Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users.

4. Contractor compliance is assured through inclusion of Privacy Act requirements in contract clauses, and through monitoring by contract and project officers. Contractors who maintain records in this system are instructed to make no disclosure of the records except as authorized by the system manager.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH Records Control Schedule, item 3000–G–3. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER AND MANAGER:

Coordinator, Research Resources, Biological Carcinogenesis Branch, Division of Cancer Etiology, NCI, National Institutes of Health, Executive Plaza North, Room 540, 6130 Executive Blvd., Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Specimen Report Form filled out by the organization providing specimens.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0087

SYSTEM NAME:

Administration: Employees and Consultants, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, Room 7A32, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former key professional employees of the Institute and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Press releases, curriculum vitae, nominations for awards and photographs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241(d) 289a.

PURPOSE OF THE SYSTEM:

For background records to provide public announcements on National Institute of Allergy and Infectious Diseases (NIAID) Council members, advisors and guest lecturers.

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

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

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

STORAGE:

Stored in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintained records in this system are instructed to grant regular access only to staff whose duties require the use of such information. Authorized users are located in the Office of the Director, NIAID. Other one time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Records in this system are stored in file folders which are kept in locked cabinets. The room is locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are kept until no longer needed for reference.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Communications, National Institutes of Health, Building 31, Room 7A32, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: National Instiutes of Health, Privacy Act Coordinator, NIAID, Westwood Building, Room 704, 5333 Westbard Avenue, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as record notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the address above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Individuals and newspaper clippings.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0093

SYSTEM NAME:

Administration: Authors, Reviewers and Members of the Journal of the National Cancer Institute, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 82, Room 235, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Authors and manuscript reviewers and members of the Journal of the National Cancer Institute (JNCI) editorial board.

CATEGORIES OF RECORDS IN THE SYSTEM:

Accepted, rejected and pending manuscripts and review comments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 281.

PURPOSE OF THE SYSTEM:

Manuscript review by NCI staff of manuscripts submitted for possible publications or oral presentations.

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

(1) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2) Disclosure may be made to qualified experts not within the definition of Department employees for opinions as a part of the review of manuscripts.

(3) In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and manuscript number.

SAFEGUARDS:

(1) Authorized Users: Employees who maintain records in this system are instructed to grant access only to JNCI staff personnel, the Editor in Chief, and members of the Board of Editors whose duties require the use of such information.

(2) Physical Safeguards: Records are kept in a limited access area where an employee is present at all times during

working hours. Office is locked during off-duty hours.

(3) Procedural Safeguards: Access to manual files is tightly controlled by office staff. Only authorized users may have access to the files.

Information that identifies reviewers is not maintained in computer files.

RETENTION AND DISPOSAL:

Years at NIH: 1. Disposal methods including burning or shredding.

SYSTEM MANAGER AND ADDRESS:

Managing Editor, JNCI, Building 82, Room 235, 9000 Rockville Pike, Bethesda, MD 20892

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Authors and reviewers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0096

SYSTEM NAME:

Contracts: National Cancer Institute Contract Management System Principal Investigators, Project Officers and Contract Specialists, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 12, 9000 Rockville Pike, Bethesda, MD 20852.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Principal investigators, project officers, and contract specialists.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contract projects administrative data (e.g., project titles and descriptions, contractor information, etc.), fiscal data (e.g., funding/cost data, obligations), and programmatic data (e.g., scientific classifications, scope of work).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241(g), 281.

PURPOSE OF THE SYSTEM:

(1) Provides administrative and financial information for administration and tracking of procurement activities of National Cancer Institute (NCI) contracts;

(2) Collects and maintains this information in an accurate and timely fashion for financial reporting and budgeting, as well as ad hoc queries on NCI contracting activities;

(3) Provides pre-award tracking and milestone data used to monitor and administer the total procurement process.

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

(1) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(2) Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

(3) In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored on magnetic tapes and on-line discs.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

(1) Authorized Users: The contractor maintaining this system has been instructed not to release any information from the contract management system without prior approval of the system manager.

(2) Physical Safeguards: Computer records are kept in a limited access area. Offices are locked during off-duty hours.

(3) Procedural Safeguards: The computer center protects files physically and with access controls. Files may be used only with the approval of the system manager.

RETENTION AND DISPOSAL:

Years at NIH: 10. Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the NIH Records Control Schedule. Disposal methods include erasing computer tapes and shredding of printed output.

SYSTEM MANAGER AND ADDRESS:

National Cancer Institute, Manager, NCI Contract Management System, Grants Financial and Data Analysis Branch, Executive Plaza South, Room 643, 6120 Executive Boulevard, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Negotiated Contract and Summary of Negotiations/IMPAC Code Sheet, NIH forms 1759–1 and 1759–2 generated by NIH staff.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0106

SYSTEM NAME:

Administration: Executive Secretariat Correspondence Records. HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Executive Secretariat, Office of the Director, Building 1, Room B1–55, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who request information on NIH programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

PURPOSE OF THE SYSTEM:

1. To locate and follow-up correspondence to assure prompt reply.
2. Incoming correspondence is forwarded to other HHS components when a response from them is warranted.

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

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. Disclosure may be made from this system of records by the Department of Health and Human Services (HHS) to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored by computer index and in file folders.

RETRIEVABILITY:

Records are retrieved by name, document number, date, and subject.

SAFEGUARDS:

Access to textual records is limited to authorized personnel (system manager and staff). Computer files are password protected.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH records Control Schedule, items 1700–C–1 and 1700–C–2. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER AND ADDRESS:

Director, Executive Secretariat, Building 1, Room B1–52, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction.

RECORD SOURCE CATEGORIES:

Records are derived from incoming and outgoing correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0112

SYSTEM NAME:

Grants: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

See Appendix I.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Grant applicants and Principal Investigators; Program Directors; Institutional and Individual Fellows; Research Career Awardees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grant applications and review history, awards, financial records, progress reports and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

"Research and Investigation," "National Library of Medicine," "National Cancer Institute," "National Heart, Lung and Blood Institute," "National Institute of Dental Research," "National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases," "National Institute of Neurological Diseases and Stroke, and Other Institutes," "National Institute of Child Health and Human Development," "National Institute of General Medical Sciences," "National Eye Institute," and "National Institute on Aging," of the Public Health Service Act, (42 U.S.C. 241, 276, 281, 287, 288, 289(a), (d), (e), (i), 289(k–2)).

PURPOSE OF THE SYSTEM:

1. Information provided is used by NIH staff for review, award, and administration of grant programs.

2. Information is also used to maintain communication with former fellows who have incurred an obligation through the National Research Service Award Program.

3. Staff may also use curriculum vitae to identify candidates who may serve as ad hoc consultants or committee and council members in the grant peer review process.

4. As a part of the cost analysis of a proposed grant, a budget review is conducted of the percentage of time and effort listed under personnel category, equipment and supply categories, and other items listed under "other" category.

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

Disclosure may be made:

1. Of assignments of research investigators and project monitors to specific research projects to the National Technical Information Service (NTIS), Department of Commerce, to contribute to the Smithsonian Science Information Exchange, Inc.

2. To the cognizant audit agency for auditing;

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

4. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual;

5. To qualified experts not within the definition of Department employees as prescribed in Department Regulations, 45 CFR 56.2, for opinions as a part of the application review and award administration processes;

6. To a Federal agency, in response to its request, in connection with the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter;

7. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected; or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

8. To a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in a system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records;

9. To the grantee institution in connection with performance or administration under the terms and conditions of the award, or in connection with problems that might arise in performance or administration if an award is made on a grant proposal.

10. To the profit institution's president or official responsible for signing the grant application in connection with the review or award of a grant application and in connection with the administration and performance of a grant under the terms and conditions of the awards.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12):

Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 168a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

The Department may disclose to consumer reporting agencies information on individuals who have failed to meet payback obligations incurred under awards made under authority of the National Research Service Awards Program (41 U.S.C. 2891–1). Information disclosed includes data identifying the individual, the amount, status and history of the obligation, and that the obligation arose from an award made under the National Research Service Awards Program.

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

STORAGE:

Stored in file folders, on computer tapes and discs, cards and in notebooks.

RETRIEVABILITY:

Retrieved by name and grant number.

SAFEGUARDS:

A variety of physical and procedural safeguards are implemented, as appropriate, at the various locations of this system:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to officials whose duties require use of the information. These officials include review groups, grants management staff, other extramural program staff, health scientist administrators, data processing and analysis staff and management officials with oversight responsibilities for extramural programs. Other one-time and special access is granted on an individual basis as specifically authorized by the system manager. Authorization for access to computerized files is controlled by the system manager or designated official and is granted on a need-to-know basis. Lists of authorized users are maintained.

2. Physical Safeguards: Secured facilities, locked rooms, locked cabinets, personnel screening; records stored in order of grant numbers which are randomly assigned.

3. Procedural Safeguards: Access to file rooms and files is strictly controlled

by files staff or other designated officials; charge-out cards identifying users are required for each file used; inactive records are transferred to controlled storage in Federal Records Center in a timely fashion; retrieval of records from inactive storage is controlled by the system manager or designated official and by the NIH Records Management Officer; computer files are password protected and access is actively monitored by the Computer Center to prevent abuse. Employees are given specialized training in the requirements of the Privacy Act as applied to the grants program.

These safeguards are developed in accordance with chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS.hf: 45–13, and part 6, ADP Systems Security, of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Years at NIH: For the appropriate Retention period and disposal method; refer to NIH Manual Chapter 1743: National Research Service Awards—chapter 4000–B–4, Construction Awards—chapter 4600 D–1, Funded Grants—Chapter 4000 B–1, Unfunded Grants—Chapter 4000 C–1.

SYSTEM MANAGER AND ADDRESS:

See Appendix II.

NOTIFICATION PROCEDURE:

Write to official at the address specified in Appendix II to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Write to the official at the address specified in Appendix IV to obtain access to a record, and provide the same information as is required under the Notification Procedures above. Requesters should also reasonably specify the record contents being sought.

Individuals may also request lists of accountable disclosures that have been made of their record(s).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified in Appendix II, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Information submitted by applicant; supplemented by outside reviewers and internal staff.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I: System Location

National Cancer Institute, Executive Plaza South, Suite T–42, 6120 Executive Boulevard, Bethesda, MD 20892.
National Heart, Lung and Blood Institute, Westwood Building, Room 4A09, 5333 Westbard Avenue, Bethesda, MD 20892.
National Library of Medicine, Building 38A, Room 5N509, 8600 Rockville Pike, Bethesda, MD 20892.
National Institute of Allergy and Infectious Diseases, Chief, Grants Management Branch, DEA, Westwood Building, Rooms 722 and 733, Bethesda, MD 20892.
National Institute of Allergy and Infectious Diseases, Chief, Data Control Section OAM, Westwood Building, Room 733, 5333 Westbard Avenue, Bethesda, MD 20892.
National Institute of Diabetes, Digestive and Kidney Diseases, Westwood Building, Room 610, 5333 Westbard Avenue, Bethesda, MD 20892.
National Institute of Arthritis and Musculoskeletal and Skin Diseases, Westwood Building, Room 8A18, 5333 Westbard Avenue, Bethesda, MD 20892.
National Institute of Child Health and Human Development, Landow Building, Room 6A21, 7910 Woodmont Avenue, Bethesda, MD 20892.
National Institute of Aging, Building 31, Room 5C39, 9000 Rockville Pike, Bethesda, MD 20892.
National Institute of Dental Research, Grants Management Officer, Westwood Building, Room 518, Bethesda, MD 20892.
National Institute of Environmental Health Sciences, Grants Management Officer, Building 2, Room 204, 104 Alexander Drive, Research Triangle Park, NC 27709.
National Institute of General Medical Sciences, Grants Management Officer, Westwood Building, Room 936, 5333 Westbard Avenue, Bethesda, MD 20892.
National Institute of Neurological Disorders and Stroke, Federal Building, Room 10A12, 7550 Wisconsin Avenue, Bethesda, MD 20892.
National Institute of Deafness and Other Communication Disorders, Federal Building, Room 10A12, 7550 Wisconsin Avenue, Bethesda, MD 20892.
National Eye Institute, Building 31, Room 6A47, 9000 Rockville Pike, Bethesda, MD 20892.
Division of Research Resources, Building 31, Room 5B32, 9000 Rockville Pike, Bethesda, MD 20892.
National Center for Nursing Research, Building 38A, Room B2E17, 9000 Rockville Pike, Bethesda, MD 20892.
Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409.

Appendix II: System manager and address

National Cancer Institute, Grants Management Officer, Executive Plaza South, Suite 216, 6120 Executive Boulevard, Bethesda, MD 20892.
National Heart, Lung and Blood Institute, Chief, Grants Operations Branch, Division of Extramural Affairs, Westwood Building, Room 4A10, 5333 Westbard Avenue, Bethesda, MD 20892.
National Heart, Lung, and Blood Institute, Administrative Officer, Division of Extramural Affairs, Westwood Building, Room 7A11, Bethesda, MD 20892.
National Library of Medicine, Associate Director for Extramural Programs, Building 38A, Room 5N505, 9000 Rockville Pike, Bethesda, MD 20892.
National Institute of Allergy and Infectious Diseases, Chief, Grants Management Branch, DEA, Westwood Building, Room 710, Bethesda, MD 20892.
National Institute of Allergy and Infectious Diseases, Chief, Data Control Section, ITEB, OAM, Westwood Building, Room 733, 5333 Westbard Avenue, Bethesda, MD 20892.
National Institute of Diabetes, Digestive and Kidney Disease, Grants Management Officer, Room 639, Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892.
National Institute of Child Health and Human Development, Chief, Office of Grants & Contracts, Executive Plaza North Room S01, 6130 Executive Building, Bethesda, MD 20892.
National Institute on Aging, Grants Management Officer, Room 5C07, Building 31, Bethesda, MD 20892.
National Institute of Dental Research, Grants Management Officer, NIDR, Westwood Building, Room 518, 5333 Westbard Avenue, Bethesda, MD 20892.
National Institute of Environmental Health Sciences, Grants Management Officer, Building 2, Room 204, 104 Alexander Drive, Research Triangle Park, N.C. 27709.
National Institute of General Medical Sciences, Grants Management Officer, NIGMS, Westwood Building, Room 936, Bethesda, MD 20892.
National Institute of Neurological Disorders and Stroke, Grants Management Officer, Federal Building, Room 1004A, Bethesda, MD 20892.
National Institute on Deafness and Other Communication Disorders, Grants Management Officer, Federal Building, Room 1004A, Bethesda, MD 20892.
National Center for Nursing Research, Acting Director, Division of Extramural Programs, Building 38A, Room B2E17, 9000 Rockville Pike, Bethesda, MD 20892.
National Eye Institute, Grants Management Officer, Building 31, Room 6A52, 9000 Rockville Pike, Bethesda, MD 20892.
Division of Research Resources, Director, Office of Grants and Contracts Management, Building 31, Room 5B32, 9000 Rockville Pike, Bethesda, MD 20892.

Appendix III: Notification Procedures

National Cancer Institute
See Appendix II.
National Heart, Lung and Blood Institute, Privacy Act Coordinator, Building 31, Room 5A50, Bethesda, MD 20892.
National Library of Medicine
See Appendix II.
National Institute of Allergy and Infectious Diseases
See Appendix II.
National Institute of Diabetes, Digestive, and Kidney Diseases, Administrative Officer, Building 31, Room 9A46, 9000 Rockville Pike, Bethesda, MD 20892.
National Institute of Child Health and Human Development
See Appendix II.
National Institute of Aging
See Appendix II.
National Institute of Dental Research, NIDR Privacy Act Coordinator, Building 31, Room 2C–35, 9000 Rockville Pike, Bethesda, MD 20892.
National Institute of Environmental Health Sciences
See Appendix II.
National Institute of General Medical Sciences
See Appendix II.
National Institute of Neurological Disorders and Stroke
See Appendix II.
National Institute on Deafness and Other Communication Disorders
See Appendix II.
National Eye Institute
See Appendix II.
National Center for Nursing Research
See Appendix II.
Division of Research Resources
See Appendix II.

Appendix IV: Records Access Procedures

National Cancer Institute, Privacy Act Coordinator, Building 31, Room 10A30, 9000 Rockville Pike, Bethesda, MD 20892.
National Heart, Lung, and Blood Institute
See Appendix III.
National Library of Medicine
See Appendix II.
National Institute of Allergy and Infectious Diseases, Privacy Act Coordinator, Westwood Building, Room 703, Bethesda, MD 20892.
National Institute of Arthritis, Diabetes, Digestive and Kidney Diseases
See Appendix III.
National Institute of Child Health and Human Development
See Appendix II.
National Institute on Aging
See Appendix II.
National Institute of Dental Research, Grants Management Officer, Westwood Building, Room 518, 5333 Westbard Avenue, Bethesda, MD 20892.
National Institute of Environmental Health Sciences
See Appendix II.
National Institute of General Medical Sciences, Privacy Act Coordinator, Westwood Building, Room 9A05, Bethesda, MD 20892.
National Institute of Neurological Disorders and Stroke, Chief, Administrative Services Branch, Building 31, Room 8A49, 9000 Rockville Pike, Bethesda, MD 20892.
National Institute on Deafness and Other Communication Disorders, Head, Administrative Management Section, Building 31, Room B162, 9000 Rockville Pike, Bethesda, MD 20892.
National Eye Institute, Administrative Officer, Building 31, Room 6A31, 9000 Rockville Pike, Bethesda, MD 20892.
Division of Research Resources, Privacy Act Coordinator, Building 31, Room 5B10, 9000 Rockville Pike, Bethesda, MD 20892.

09–25–0115

SYSTEM NAME:

Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, Room 7A51, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consultants and Clinical Investigators under National Institute of Allergy and Infectious Diseases (NIAID) Investigational New Drug Applications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Curriculum vitae.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a.

PURPOSE OF THE SYSTEM:

(1) To maintain a record of the investigators under Investigational New Drug (IND) applications. (2) To appoint consultants to the Clinical Research Subpanel (CRS).

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

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Stored in books.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to NIAID staff whose duties require the use of such information. Authorized users are located in the Clinical and Epidemiological Studies Branch, Microbiology and Infectious Diseases Program, NIAID. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: Building is locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Years at NIH: Indefinite.

SYSTEM MANAGER AND ADDRESS:

Chief, Clinical and Regulatory Affairs Section, DMID, NIAID, Building 31, Rm 7A51, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: NIAID Privacy Act Coordinator,

Westwood Building, Room 703, 5333 Westbard Avenue, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as record notification procedures.

Requesters should also reasonably specify the record contents being sought. You may also request a list of accountable disclosures that have been made of your record.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0128

SYSTEM NAME:

Clinical Research: Neural Prosthesis & Biomedical Engineering Studies. HHS/NIH/NINDS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Federal Building, Room 9C02, 7550 Wisconsin Ave., Bethesda, MD 20892, and: (1) At hospitals and medical centers under contract, and (2) Federal Records Centers. A list of locations is available upon request from the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients and normal volunteers, males and females, participating in clinical studies to determine the feasibility of neural prostheses, and in clinical studies related to the development of instrumentation for diagnosis and treatment of neurological and sensory disorders conducted under contract for the National Institute of Neurological Disorders and Stroke (NINDS).

CATEGORIES OF RECORDS IN THE SYSTEM:

Clinical research data as related to studies which seek to determine the feasibility of neural prostheses and to develop instrumentation for diagnosis and treatment of neurological and sensory disorders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 421, 289a, 289c.

PURPOSE OF THE SYSTEM:

(1) Clinical research on the development of neural prosthesis (artificial devices) to enhance function of individuals with various disorders of the central nervous system.

(2) Research on the development of new instruments to improve diagnosis and treatment of disorders of the nervous system.

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

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

(1) Authorized Users: Employees who maintain records in this system are instructed to grant access only to HHS scientists and their authorized collaborators.

(2) Physical Safeguards: Records are kept in a locked room when not in use.

RETENTION AND DISPOSAL:

Records are retained in accordance with the NIH Records Control Schedule, item 3000–G–3. The records control schedule may be obtained by writing to the system manager at the address below.

SYSTEM MANAGER AND ADDRESS:

Director, Fundamental Neurosciences Program, NINDS, Federal Building, Room 916, 7550 Wisconsin Ave., Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to: Chief, Administrative Services Branch, NINDS, Building 31, Room 8A49, 9000 Rockville Pike, Bethesda, MD 20892, and ask if a file with your name exists in the Neural Prothesis or Biomedical Engineering Studies.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Write to system manager and reasonably identify the record and specify the information to be contested,

and state the corrective action sought and the reasons for the correction.

RECORD SOURCE CATEGORIES:

Patients, patients' families, hospital records and clinical investigators.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0129

SYSTEM NAME:

Clinical Research: Clinical Research Studies dealing with Hearing, Speech, Language and Chemosensory Disorders. HHS/NIH/NIDCD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institute on Deafness and Other Communicative Disorders (NIDCD), Federal Building, NIH, 7550 Wisconsin Avenue, Bethesda, MD 20892, and, at hospitals, medical centers, universities and educational settings under contract. Inactive records may be stored at a Federal Records Center. A list of locations is available upon request from the System Manager at the address below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients and normal volunteers participating in clinical research studies dealing with hearing, speech, language and chemosensory disorders.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical findings, clinical research data, medical and educational histories and research data on the hearing, speech, language, cognition and chemosensory systems of subjects being tested.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

Clinical research on the disorders of speech, language, and hearing to discover factors leading to these disorders and to improve prevention, diagnoses, and treatment.

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

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Name or identifier code.

SAFEGUARDS:

(1) Authorized Users: Employees who maintain the system are instructed to grant access only to the principal investigator and staff assigned to a particular project, and to other authorized personnel (project officer, contracting officer).

(2) Physical Safeguards: Records are locked in cabinets when not in actual use and system location is locked during non-working hours.

(3) Procedural Safeguards: Personnel having access to system are trained in Privacy Act requirements. Records are returned to locked file cabinets at end of working day.

RETENTION AND DISPOSAL:

Years at NIH: One year to indefinitely, depending on the requirements of the specific study. Following completion of a specific study all individual identification are removed, or the records destroyed.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Communication Sciences and Disorders, NIDCD, Federal Building, Room 1C-11, NIH, 7550 Wisconsin Ave, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to: Head, Administrative Management Section, NIDCD, Building 31, Room B162, 9000 Rockville Pike, Bethesda, MD 20892, and ask if a file exists with your name in studies of the Division of Communication Sciences and Disorders. Please supply the following information:

1. Approximate date and place of examination and/or treatment.

2. Name of the study, if known.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Write to system manager and reasonably identify the record specify the information to be contested, and state the corrective action sought and the reasons for the correction.

RECORD SOURCE CATEGORIES:

Information provided by patients, patients' families, hospital records, school records, and clinical investigators.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0134

SYSTEM NAME:

Clinical Research: Epidemiology Studies, National Institute of Environmental Health Sciences. HHS/NIH/NIEHS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institute of Environmental Health Services (NIEHS), Epidemiology Branch, P.O. Box 12233, Research Triangle Park, North Carolina 27709, and at hospitals, medical schools, universities, research institutions, commercial organizations, state agencies, and collaborating government agencies. Inactive records may be stored in a Federal Records Center. A list of locations and contracts is available upon request made to the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Adults and minors, both male and female, with known or suspected diseases, maladies, chemical or biological contaminations, as well as normal or non-suspect individuals and minors in control or study groups for the purposes of comparison. Individuals included in this system of records normally have volunteered to participate in the study and voluntarily provided information for inclusion in the system.

The participants may be, but are not limited to, patients; workers subject to specific environments; individuals selected because of social, nutritional, physical, genetic and economic conditions and behavioral characteristics; and members of the general population subject to the variety of contaminants present in the environment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of records pertinent to an individual's current health status: Medical history; occupational history and work environments; and selected items of personal data such as smoking habits, family size, family medical history and domiciles. Examples of information which may be included in this system are name, Social Security Number, date of birth, weight, height, sex, race, medical history, blood type, laboratory results, examination findings, current and previous medications received, list of employers, descriptions of the work environment, substances or compounds routinely handled or exposed to, and a history of current and previous residences.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241.

PURPOSE OF THE SYSTEM:

National Institute of Environmental Health Sciences uses the data collected to:

1. Determine whether or not general conditions, chemicals and/or other substances found in the environment have effects on the health and well being of individuals or groups of individuals;

2. Determine how these conditions, chemicals or other substances, acting by themselves or in combination, produce adverse effects on health;

3. Identify individual or group characteristics that make a person susceptible to chemical contamination, disease or other adverse health effects from these environmental conditions or agents;

4. Determine whether there is a general or background level of exposure or other chemical effects in a local area, regional area, or nationally as well as within general or specific work environments;

5. Develop and/or validate epidemiologic or laboratory methods for detecting adverse effects due to environmental exposures;

6. Determine the scientific basis for advising regulatory agencies such as the Environmental Protection Agency, the National Institute of Occupational Safety and Health and the Department of Labor's Occupational Safety and Health Administration regarding the adverse health effects of substances and conditions found in the environment;

7. Determine the scientific basis for advising local, state, other governmental agencies and international governments regarding the adverse health effects of substances and conditions found in the environment;

8. Determine the scientific basis for advising the Congress, industry, workers, scientific or public agencies and other interested parties regarding the known or potential for adverse health effects from exposure to substances or conditions found in the environment.

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

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to a congressional office from the record of the individual in response to an inquiry from the congressional office, made at the request of the individual, and in the case of a minor, the minor's parent or legal guardian.

3. Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, Inc.

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

5. Where the appropriate official of the Department, pursuant to the Department's Freedom of Information Regulation determines that it is in the public interest to disclose a record which is otherwise exempt from a mandatory disclosure, disclosure may be made from this system of records.

6. The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

7. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Information is stored in one of a combination of the following mediums: file folders, data forms, punch card, magnetic tape discs.

RETRIEVABILITY:

Information is retrieved by personal identifier such as name or code number.

Social security numbers which are supplied on a voluntary basis also are used for retrieval.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

(1) Authorized users: Use of these records is limited to those persons whose official duties require such access. Access to the information is controlled by the Project Officer or his representative at remote locations. Contractors or collaborating researchers, by formal agreement, comply with the provisions of the Privacy Act and Department regulations.

(2) Physical safeguards: Hard copy data is maintained in locked file cabinets at the National Institute of Environmental Health Sciences or remote study locations. Information stored in computer systems is accessible only through proper sequencing of signal commands and access codes specifically assigned to the Project Officer or contractor in accordance with Departmental standards and National Bureau of Standards guidelines.

(3) Procedural safeguards: Subjects directly participating in studies are advised that their identity is known only to those persons involved in conducting the study, and that any published findings will be in a format which precludes individual identification.

The particular safeguards implemented at each site are developed in accordance with chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS.hf: 45–13, and part 6, ADP Systems Security, of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

The records are maintained until they are no longer required for the research purpose(s) for which the record was established. The records are destroyed by shredding, burning, or other appropriate means so as to render them illegible. Computer tapes and discs are erased.

SYSTEM MANAGER AND ADDRESS:

Chief, Epidemiology Branch, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709.

NOTIFICATION PROCEDURE:

Normally, individuals would know whether a file existed on the basis of their voluntary participation and provision of data. However, individuals may write to the system manager to determine if a file exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. In writing, they should provide the following data:

a. Complete name at the time of the study.

b. Birthdate.

c. Home address at the time of the study.

d. The facility where the examination was given or information otherwise collected.

e. Date, or approximate dates when information was collected or an examination conducted.

f. Name of study if known.

g. A current name, address and telephone number where they can be reached.

An individual who requests notification of or access to a medical or dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's description.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

The same information as outlined under notification procedures is needed for access to records. The request should be addressed to the System Manager.

CONTESTING RECORD PROCEDURE:

Write to the System Manager and specify the record and the information to be contested, and state the corrective action sought and the reasons for the correction.

RECORD SOURCE CATEGORIES:

HHS agencies, institutions under contract to the U.S. Government, universities, medical schools, hospitals, commercial, institutions, labor and trade organizations, State agencies, international agencies, foreign governments, other U.S. Government agencies, patients and normal volunteers, physicians, researchers and other collaborating personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0140

SYSTEM NAME:

International Activities: International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC.

SECURITY CLASSIFICATION:

None

SYSTEM LOCATION:

Fogarty International Center, Building 16A, Room 101, 9000 Rockville Pike, Bethesda, MD 20892, and Division of Computer Research and Technology, Building 12A, Room 3061, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

Ancillary records are located in the Office of the Associate Director for Intramural Affairs, laboratories, administrative and personnel offices where participants are assigned. Write to System Manager at the address below for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Health scientists at all levels of their postdoctoral or equivalent research careers who are invited to the National Institutes of Health for further training or to conduct research in their biomedical specialties under the auspices of FIC's administration of International Activities. Most of these scientists are foreign, however some may be resident aliens or U.S. citizens.

Individuals in these categories include Visiting Associates, Visiting Scientists, Foreign Special Experts who are employees and Visiting Fellows, Guest Researchers, Exchange Scientists, International Research Fellows, Fogarty Scholars, Special Volunteers, Adjunct Scientists and Residents who are not employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

History of fellowship, employment and/or stay at NIH; education, immigration data and references. For payroll purposes, social security numbers are requested of all applicants accepted into the program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 2421 and Section 307 of the Public Health Service Act.

PURPOSE OF THE SYSTEM:

To document the individual's presence at the NIH, to record immigration history of the individual in order to verify continued eligibility in existing programs, and to meet requirements in the Code of Federal Regulations (8 CFR Parts 8 & 22, "Aliens and Nationality").

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

1. Information is made available to authorized employees and agents of the U.S. Government including, but not limited to, the General Accounting Office, the Internal Revenue Service, and the FBI and Immigration and Naturalization Service, Department of Justice, for purposes of investigations, inspections and audits.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

3. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Records are stored in file folders and on file cards, computer tapes and microfilm.

RETRIEVABILITY:

By name, country of citizenship, institution, fellowship number, social security number, visa and immigration status, and home address.

SAFEGUARDS:

A variety of safeguards is implemented for the various sets of records included under this system according to the sensitivity of the data they contain.

1. Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to FIC program staff. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. Physical Safeguards: The records are maintained in locked file cabinets, and offices are locked during off-duty hours.

3. Procedural Safeguards: Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employees. For computerized records, access is controlled by the use of security codes known only to authorized users; access codes are changed periodically. The computer system maintains an audit record of all requests for access.

These practices are in compliance with the standards of chapter 45–13 of the HHS General Administration Manual, supplementary chapter PHS hf: 45–13, and Part 6, "ADP System Security" of the HHS Information Resource Management Manual.

RETENTION AND DISPOSAL:

Records of successful applicants are retained indefinitely.

SYSTEM MANAGERS AND ADDRESS:

Chief, International Services and Communications Branch, Building 16A, Room 101, Fogarty International Center, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

NOTIFICATION PROCEDURE:

Requests for notification of or access to records should be addressed to the system manager as listed above. Verification of identity is required.

RECORD ACCESS PROCEDURE:

Same as notification procedure. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Contact the official listed under notification procedure above, and reasonably identify the record, and specify the information to be contested, and state the corrective action sought and the reasons for the correction.

RECORD ACCESS CATEGORIES:

Subject individuals and other federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0143

SYSTEM NAME:

Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

At National Institutes of Health facilities in Bethesda, Maryland, and at hospitals, medical schools, universities, research institutions, commercial organizations, state agencies, and collaborating Federal agencies. Inactive records may be retired to Federal Records Centers. A list of locations is available upon request from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients with infectious diseases, immunologic diseases involving adverse reactions of the body (e.g., allergic reactions) and related diseases (e.g. Acquired Immunodeficiency Disease Syndrome/AIDS), normal healthy volunteers who serve as controls for comparison with patients, relatives of patients and other individuals whose characteristics or conditions are being studied for possible connections with the occurrence of the diseases under investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of clinical, medical, and epidemiological information resulting from or contained in direct observations, medical records and other histories, vital statistics reports, records on biological specimens (e.g., blood, urine, etc.), personal interviews, questionnaires, progress reports, correspondence or research findings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

This system will be used to support (1) Epidemiologic, clinical and biometric investigations into the causes, nature (morbidity and mortality), outcome, therapy and cost of infectious,

immunologic and related diseases; (2) Review and evaluation of the progress of these research projects, and identification of and planning for improvements or for additional research.

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

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosures may be made to the Department of Justice for the purpose of obtaining its advice.

5. The Department contemplates that it may contract with one or more private firms for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect to such records.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

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

STORAGE:

Data may be stored in file folders, computer-accessible forms (e.g. tapes or discs), punched cards, bound notebooks, microfilm, charts, graphs, and X-rays.

RETRIEVABILITY:

Information is retrieved by name and/or participant identification number.

SAFEGUARDS:

Access to or disclosure of information is limited to collaborating researchers, contractors and NIAID employees who are involved in the conduct, support or review and evaluation of the research activities supported by this system. Contractors and collaborating researchers are required to comply with the provisions of the Privacy Act and with Department regulations.

Data are kept in secured areas (e.g. rooms which are locked when not in regular use, buildings with controlled access). Data stored in computer-accessible form is accessed through the use of key words known only to principal investigators or authorized personnel; all other information is stored in locked files.

These and other appropriate safeguards are implemented in each project in accordance with chapter 45–13 of the HHS General Administration Manual, supplementary chapter PHS hf. 45–13, and part 6, Systems Security, of the HHS Information Resources Management Manual.

RETENTION AND DISPOSAL:

Records at contractor facilities are retained and destroyed according to the terms of the contract. Records at NIAID facilities are retained and destroyed in accordance with the authority provided in the NIH Records Control Schedule (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows the records to be kept until the system manager determines that the data has no further value for scientific research. Disposal methods include burning or shredding hard copy and erasing computer tapes and discs.

SYSTEM MANAGER AND ADDRESS:

Chief, Epidemiology and Biometry Branch, DMID, National Institute of Allergy and Infectious Diseases, Westwood Building, Room 739, Bethesda, Maryland 20892, and Chief, Epidemiology Branch, DATDS, Room 240P, Control Data Building, 6003 Executive Blvd., Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to:

NIAID Privacy Act Coordinator, Room 703, Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892, and provide the following information:

1. System name,
2. Complete name and home address at the time of the study,
3. Birthdate,
4. Facility conducting study,
5. Disease type (if known),
6. Approximate dates of enrollment in the research study.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an

individual under false pretenses is a criminal offense under the Act, subject to five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, other health professional, or other responsible individual, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. You may also request a list of accountable disclosures that have been made of your record.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants, from physicians, research investigators and other collaborating persons and from medical records and clinical research observations at hospitals, HHS agencies, universities, medical schools, research institutions, commercial institutions, state agencies, collaborating Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0148

SYSTEM NAME:

Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institute of Neurological Disorders and Stroke and the National Institute on Deafness and Other Communication Disorders, HHS/NIH/NINDS and HHS/NIH/NIDCD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

At National Institutes of Health facilities in Bethesda, Maryland, and at hospitals, medical schools, universities, research institutions, commercial organizations, state agencies, and collaborating Federal agencies. Inactive records may be retired to Federal Records Centers. A list of locations is available upon request from the respective System Managers of the subsystems included in this notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients with neurological diseases, communicative disorders, stroke, hearing loss, chemosensory deficits, and related diseases; normal, healthy volunteers who serve as controls for comparison with patients; relatives of patients; and other individuals whose characteristics or conditions are suited for possible connections with the occurrence of the diseases and disorders under investigations. Subject individuals include both adults and children.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of clinical, biomedical, and epidemiological information resulting from or contained in direct observations, medical records and other histories, vital statistics reports, records on biological specimens (e.g., blood, urine, etc.), personal interviews, questionnaires, progress reports, correspondence, or research findings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 241, Research and Investigation, and 289a, Establishment of Institutes, of the Public Health Service Act (42 U.S.C. 301, 431).

PURPOSE OF THE SYSTEM:

This system will be used to support (1) contracted and contract-related epidemiological, clinical and biometric investigations into the causes, nature, outcome, therapy, prevention and cost of neurological and communicative disorders, hearing loss, chemosensory deficits, and stroke; (2) review and evaluation of the progress of these research projects, and identification and planning for improvements or for additional research.

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

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosures may be made to the Department of Justice for the purpose of obtaining its advice.

5. The Department contemplates that it may contract with a private firm for

the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect to such records.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

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

STORAGE:

Data may be stored in file folders, computer-accessible forms (e.g. tapes or discs), punched cards, bound notebooks, microfilm, charts, graphs and X-rays.

RETRIEVABILITY:

Information is retrieved by name and/or patient identification number.

SAFEGUARDS:

Access to or disclosure of information is limited to collaborating researchers, contractors and employees, and other authorized biomedical researchers who are involved in the conduct, support or review and evaluation of the research activities supported by this system. Contractors and collaborating or other researchers are required to comply with the provisions of the Privacy Act and with HHS Privacy Act regulations.

Data are kept in secured areas (e.g. rooms which are locked when not in regular use, buildings with controlled access). Data stored in computer-accessible form is accessed through the use of key words known only to principal investigators or authorized personnel; all other information is stored in locked files.

These and other appropriate safeguards are implemented in each project in accordance with chapter 45–13 of the HHS General Administration Manual, supplementary chapter PHS hf. 45–13, and Part 6, Systems Security, of the HHS Information Resources Management Manual.

RETENTION AND DISPOSAL:

Records at contractor facilities are retained and destroyed as specified in individual contracts.

Records at NIH facilities are retained and destroyed in accordance with the NIH Records Control Schedule (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows the records to be kept until the system manager determines that the data has no further value for scientific research. Disposal methods include burning or shredding hard copy and erasing computer tapes and discs.

SYSTEM MANAGERS AND ADDRESSES:

NINDS and NIDCD research activities are divided, functionally and administratively. In effect, there are six subsystems within this single umbrella system. NINDS has five programs and NIDCD one. System Managers have been designated for each subsystem as follows:

Director, Division of Communication Sciences and Disorders, NIDCD, NIH, Federal Building, Room 1C11, 7550 Wisconsin Avenue, Bethesda, MD 20892, and Director, Division of Fundamental Neurosciences, NINDS, NIH, Federal Building, Room 916, 7550 Wisconsin Avenue, Bethesda, MD 20892, and Director, Division of Convulsive, Developmental and Neuromuscular Disorders, NINDS, NIH, Federal Building, Room 816, 7550 Wisconsin Avenue, Bethesda, MD 20892, and Director, Division of Demyelinating Atropic, and Dementing Disorders, NINDS, NIH, Federal Building, Room 812, 7550 Wisconsin Avenue, Bethesda, MD 20892, and Director, Division of Stroke and Trauma, NINDS, NIH, Federal Building, Room 8A08, 7550 Wisconsin Avenue, Bethesda, MD 20892, and Director, Division of Intramural Research, NIH, Building 10, Room 5N14, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to:

NINDS Privacy Act Coordinator, Federal Building, Room 816, 7550 Wisconsin Avenue, Bethesda, MD 20892, or NIDCD Privacy Act Coordinator, Federal Building, Room 1C–06, 7550 Wisconsin Avenue, Bethesda, MD 20892, and provide the following information:

1. System name,
2. Complete name and home address at the time of the study,
3. Birthdate,
4. Facility conducting the study,
5. Disease type (if known),
6. Approximate dates of enrollment in the research study.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

Individuals seeking notification of or access to medical records should designate a representative (including address) who may be a physician, other health professional, or other responsible individual, who would be willing to review the record and inform the subject individual of its contents, at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) of whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notifications procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURE:

Write to the system manager and reasonably identify the record, specify the information being contested and state the corrective action sought and the reasons for the correction.

RECORD SOURCE CATEGORIES:

Information in these records is obtained directly from individual participants, and from physicians, research investigators and other collaborating persons, and from medical records and clinical research observations at hospitals, HHS agencies, universities, medical schools, research institutions, commercial institutions, state agencies, and collaborating Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0153

SYSTEM NAME:

Biomedical Research: Records of Subjects in Biomedical and Behavioral Studies of Child Health and Human Development, HHS/NIH/NICHD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system are located in hospitals and clinics, research centers, educational institutions, commercial organizations, local and State agencies, and other Executive Branch agencies of the Federal Government under contract to the National Institute of Child Health and Human Development (NICHD), and in NICHD facilities in Bethesda, Maryland. Inactive records may be stored at Federal Records Centers. A list of specific locations and contractors is available upon request from the System Manager, whose address is listed below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in these studies include adults and children (a) who are presently or have been treated by the NICHD, (b) whose physical, genetic, social, economic, environmental, behavioral or nutritional conditions or habits are being studied by the NICHD, or (c) normal volunteers who have agreed to provide control data for purposes of comparison.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of clinical, medical, and statistical information collected in biomedical and behavioral research studies, such as medical histories, vital statistics, personal interviews, questionnaires, current addresses of study participants, radiographs, records on biological specimens, study models, and correspondence from or about participants in these studies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 301, Research and Investigation, and Section 441, National Institute of Child Health and Human Development, of the Public Health Service Act as amended (42 U.S.C. Sections 241, 298d).

PURPOSES OF THE SYSTEM:

This system is used: 1. For program review, evaluation, planning, and administrative management for research on child health and human development; 2. to monitor the incidence, prevalence or development of the disease, condition, behavior, or health status under investigation; 3. to determine the relation of various factors (e.g., social, economic, environmental, physical, and medical) to the occurrence of the disease, condition, development, behavior, or health status under investigation; 4. to identify abnormal disease, condition, or health status and inform the Centers for Disease Control (CDC) or the Food and Drug Administration (FDA) of the existence of such conditions. CDC uses this information in fulfilling its congressionally mandated responsibility for the monitoring of disease and prevention of epidemics. FDA uses this information in carrying out its congressional mandate for controlling certain potentially harmful products.

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

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff for the purpose of analyzing data and preparing scientific reports and articles in order to accomplish the research purpose for which the records are collected. The recipients are required to comply with the requirements of the Privacy Act with respect to such records.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review.

3. The Department contemplates that it may contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to comply with the requirements of the Privacy Act with respect to such records.

4. Certain infectious diseases are reported to State governments as required by law.

5. A record may be disclosed for a research purpose, when the Department:

(A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. In the event of litigation where the defendant is: (a) The Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Data may be stored in file folders, microfilm, magnetic tapes or disks, punched cards, or bound notebooks.

RETRIEVABILITY:

Information is retrieved by name and/or a participant identification number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

(1) Authorized Users: Employees who maintain records in this system are instructed to grant regular access only to contractor personnel; consultants to the contractor; the NICHD project officer; and NICHD employees whose duties require the use of such information. One time and special access to the data is controlled by the System Manager, the NICHD Project Officer, and the Contract and/or Project Director.

(2) Physical Safeguards: Records are stored in locked files or secured areas. Computer terminals are in secured areas.

(3) Procedural Safeguards: Names and other identifying particulars are deleted when data from original records is encoded for analysis. Encoded data is indexed by code numbers. Tables linking these code numbers with actual identifiers are maintained separately. Code numbers and identifiers are linked only if there is a specific need, such as alerting the volunteer subjects to any findings in the study that might affect their health. Data stored in computers is accessed through the use of passwords/keywords known only to the principal investigators or authorized personnel. These passwords/keywords are changed frequently.

The particular safeguards implemented in each project will be developed in accordance with chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS hf. 45–13; Part 6, "ADP Systems Security," of the HHS ADP Systems Manual, and the National Bureau of Standards Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule, Manual Chapter 1743 (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research.

Disposal methods include burning or shredding hard copy and erasing computer tapes and disks.

SYSTEM MANAGER AND ADDRESS:

Chief, Contracts Management Section, NICHD, Executive Plaza North, Room 610H, 6130 Executive Blvd., North Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to:

NICHD Privacy Act Coordinator, Building 31, Room 2A–17, 9000 Rockville Pike, Bethesda, MD 20892, and provide the following information in writing:

1. Full name and address at time of participation in the study.
2. Name or description of the study.
3. Location and approximate dates of participation.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of, or access to, a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, the medical record of a child or incompetent person shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify his or her relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURES:

Same as notification procedure above. Requesters should also reasonably specify the record contents being sought. You may also request a list of accountable disclosures that have been made of your record.

CONTESTING RECORD PROCEDURES:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants, medical and clinical research observations, and other federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

9–25–0154

SYSTEM NAME:

Biomedical Research: Records of Subjects in Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Executive Plaza North, Room 343K, 6130 Executive Blvd., Bethesda, MD 20892, and National Institutes of Health, Building 12, 9000 Rockville Pike, Bethesda, MD 20892, and at hospitals, medical schools, universities, research institutions, commercial organizations, collaborating State and Federal Government agencies, and Federal Records Centers. Write to system manager at the address below for the address of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Adults and children in the following categories: Patients with cancer; persons for whom cancer risk can potentially be lowered; and persons without signs or symptoms who may be identified through screening and detection methods as having cancer or being at increased risk of developing cancer. For certain types of epidemiologic studies, e.g., case-control studies, NCI may also collect, for purposes of comparison, records on other persons. These comparison groups could include normal individuals (e.g., family members or neighborhood controls), or other patient groups (e.g., hospital controls) who do not have cancer or are not at a particularly high risk of developing cancer.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information identifying participants (such as name, address, Social Security Number), medical records, progress reports, correspondence, epidemiological data, and records on

biological specimens (e.g., blood, tumors, urine, etc.).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 301, Research and Investigation, and Title IV, Part A, National Cancer Institute, of the Public Health Service Act (42 U.S.C. 241, and 281–286).

PURPOSES:

Records in this system will be used, (1) to evaluate cancer control programs, including prevention, screening, detection, diagnosis, treatment, rehabilitation, and continuing care; (2) to identify characteristics of persons who may be particularly susceptible to environmental or occupational factors for substances which cause or prevent cancer, and/or to cancer; (3) to determine risk factors or substances which cause or prevent cancer, and the ways in which they do so; (4) to evaluate statistical and epidemiological methodologies for risk factor assessment, clinical trials, cancer control studies, and the study of the natural history of cancers; (5) to plan for, administer, and review research activities as described in the above purposes; (6) information from this system may be reported to the Food and Drug Administration (FDA) as a condition for approval of clinical investigations of new drugs, or to report adverse effects of drugs so that FDA can make informed decisions on authorizing use of such drugs.

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

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purposes for which the records are collected. The recipients are required to comply with the requirements of the Privacy Act with respect to such records.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. The Department contemplates that it may contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to comply with the requirements of the Privacy Act with respect to such records.

4. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee—for example in defending a claim against the Public Health Service based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

File folders, microfilm, charts, graphs, computer tapes, disks, and punch cards.

RETRIEVABILITY:

By name, Social Security Number when supplied voluntarily or contained in existing records used in projects under this system, or other identifying number.

SAFEGUARDS:

Measures to prevent unauthorize disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. Authorized users: Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists, and support staff of the National Cancer Institute (NCI), or its contractors, grantees or collaborators who need such information in order to contribute to the research or administrative purposes of the system. The system manager specifically authorized one-time and special access by others on a need-to-know basis consistent with the purposes and routine uses of the system.

2. Physical safeguards: Records are kept in limited access areas. Offices and records storage locations are locked during off-duty hours. Input data for computer files is coded to avoid individual identification. Where possible, information on individual identities is kept separate from data used for analysis.

3. Procedural safeguards: Access to manual files is granted only to authorized personnel, as described above. Access to computer files is controlled through security codes known only to authorized users. Names and other details necessary to identify individuals are not included in data files used for analysis. These files are indexed by code numbers. Code numbers and complete identifiers are linked only if there is a specific need, such as for data verification.

Contractors, grantees or collaborators who maintain records in this system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by

the Privacy Act. Privacy Act requirements are specifically included in contracts and in agreements with grantees or collaborators participating in research activities supported by this system. HHS project director, contract officers and project officers oversee compliance with these requirements.

The particular safeguards implemented at each site are developed in accordance with chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS.hf: 45–13, and part 6, ADP Systems Security, of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

NCI retains research records in accordance with the NIH Records Control Schedule, item 3000–G–3, which allows the system manager to keep the records as long as they are useful in scientific research. Contractors, grantees and collaborators who receive disclosures of records from this system retain the records only as long as necessary to accomplish the purpose for which the disclosures are made. Inactive records may be transferred to a Federal Records Center. Disposal methods include burning hard copy and erasing computer tapes and disks.

SYSTEM MANAGER AND ADDRESS:

Associate Director, Surveillance Program, DCPC, National Cancer Institute, Executive Plaza North, Room 343K, 6130 Executive Blvd., Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a file exists, write to the system manager and provide the following information:

a. System name: "Biomedical Research: Records of Subjects in Cancer Studies of the Division of Cancer Prevention and Control Activities";

b. Complete name at time of participation;

c. Facility and home address at the time of participation;

d. In some cases, where records are retrieved by an identifying number, such as the Social Security Number or Hospital Identification Number, it may be necessary to provide that number. In some cases, to ensure proper identification it may be necessary to provide date(s) of participation (if known), birthdate, or disease type (if known), study name and location (if known).

The requester must also verify his or her identify by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a maximum fine of five thousand dollars.

Individuals seeking notification of or access to medical records should designate a representative (including address) who may be a physician, other health professional, or other responsible individual, who would be willing to review the record and inform the subject individual of its contents, at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURES:

Write to the system manager and provide the same information as requested under the notification procedure above. Requesters should also reasonably specify the record contents being sought. You may also request a list of accountable disclosures which have been made of your record.

CONTESTING RECORD PROCEDURES:

Write to the system manager, identify the record, and specify the information contested. State the corrective action sought and your reasons for requesting the correction, and provide supporting information to show that the record is inaccurate, incomplete, irrelevant, untimely, or unnecessary.

RECORD SOURCE CATEGORIES:

HHS agencies, institutions under contract to the U.S. Government, such as universities, medical schools, hospitals, research institutions, commercial institutions, state agencies, other U.S. Government agencies, patients and normal volunteers, physicians, research investigators and other collaborating personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0156

SYSTEM NAME:

Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institutes of Health, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system of records is an umbrella system comprising separate sets of records located either in the organizations responsible for conducting evaluations or at the sites of programs or activities under evaluation. Locations include National Institutes of Health (NIH) facilities in Bethesda, Maryland, or facilities of contractors of the NIH. Write to the appropriate System Manager below for a list of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system are those who provide information or opinions that are useful in evaluating programs or activities of the NIH, other persons who have participated in or benefited from NIH programs or activities; or other persons included in evaluation studies for purposes of comparison. Such individuals may include (1) participants in research studies; (2) applicants for and recipients of grants, fellowships, traineeships or other awards; (3) employees, experts and consultants; (4) members of advisory committees; (5) other researchers, health care professionals, or individuals who have or are at risk of developing diseases or conditions studied by NIH; (6) persons who provide feedback about the value or usefulness of information they receive about NIH programs, activities or research results; (7) persons who have received Doctorate level degrees from U.S. institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:

This umbrella system of records covers a varying number of separate sets of records used in different evaluation studies. The categories of records in each set depend on the type of program being evaluated and the specific purpose of the evaluation. In general, the records contain two types of information: (1) Information identifying subject individuals, and (2) information which enables NIH to evaluate its programs and services.

(1) Identifying information usually consists of a name and address, but it might also include a patient identification number, grant number, Social Security Number, or other identifying number as appropriate to the particular group included in an evaluation study.

(2) Information used for evaluation varies according to the program

evaluated. Categories of evaluative information include personal data and medical data on participants in clinical and research programs; personal data, publications, professional achievements and career history of researchers; and opinions and other information received directly from individuals in evaluation surveys and studies of NIH programs.

The system does not include any master list, index or other central means of identifying all individuals whose records are included in the various sets of records covered by the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for this system comes from the authorities regarding the establishment of the National Institutes of Health, its general authority to conduct and fund research and to provide training assistance, and its general authority to maintain records in connection with these and its other functions (42 U.S.C. 203, 241, 2891–1 and 44 U.S.C. 3101).

PURPOSE OF THE SYSTEM:

This system supports evaluation of the policies, programs, organization, methods, materials, activities or services used by NIH in fulfilling its legislated mandate for (1) conduct and support of biomedical research into the causes, prevention and cure of diseases; (2) support for training of research investigators; (3) communication of biomedical information.

This system is not used to make any determination affecting the rights, benefits or privileges of any individual.

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

1. Disclosure may be made to HHS contractors and collaborating researchers, organizations, and State and local officials for the purpose of conducting evaluation studies or collecting, aggregating, processing or analyzing records used in evaluation studies. The recipients are required to protect the confidentiality of such records.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. The Department may disclose information from this system of records to the Department of Justice, to court or other tribunal, or to another party before such tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

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

STORAGE:

Data may be stored in file folders, bound notebooks, or computer-accessible media (e.g., magnetic tapes or discs).

RETRIEVABILITY:

Information is retrieved by name and/or participant identification number within each evaluation study. There is no central collection of records in this system, and no central means of identifying individuals whose records are included in the separate sets of records that are maintained for particular evaluation studies.

SAFEGUARDS:

A variety of safeguards is implemented for the various sets of records in this system according to the sensitivity of the data each set contains. Information already in the public domain, such as titles and dates of publications, is not restricted. However, sensitive information, such as personal or medical history or individually identified opinions, is protected according to its level of sensitivity. Records derived from other systems of records will be safeguarded at a level at least as stringent as that required in the original systems. Minimal safeguards for the protection of information which is not available to the general public include the following:

1. Authorized Users: Regular access to information in a given set of records is limited to NIH or to contractor employees who are conducting, reviewing or contributing to a specific evaluation study. Other access is granted only on a case-by-case basis, consistent with the restrictions required by the Privacy Act (e.g., when disclosure is required by the Freedom of Information Act), as authorized by the system manager or designated responsible official.

2. Physical Safeguards: Records are stored in closed or locked containers, in areas which are not accessible to unauthorized users, and in facilities which are locked when not in use. Records collected in each evaluation project are maintained separately from those of other projects. Sensitive records are not left exposed to unauthorized persons at any time. Sensitive data in machine-readable form may be encrypted.

3. Procedural Safeguards: Access to records is controlled by responsible employees and is granted only to authorized individuals whose identities are properly verified. Data stored in computers is accessed only through the use of keywords known only to authorized personnel. Contracts for operation of this system of records require protection of the records in accordance with these safeguards; NIH project and contracting officers monitor contractor compliance.

These practices are in compliance with the standards of chapter 45–13 of the HHS General Administration Manual, supplementary chapter PHS hf: 45–13, and Part 6, Systems Security, of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

Studies, analyses, reports, and statistical compilations created or collected in evaluation of NIH mission-related activities are scheduled for permanent retention by the National Archives as part of the historical record of the NIH, as provided by the NIH Records Control Schedule, section 1100–C–2. Working papers, extra copies, or records not used in evaluations of major programs of the NIH or any of its Bureaus, Institutes or Divisions are destroyed no later than 5 years after completion of the evaluation study (NIH Records Control Schedule, items 1100–C–12d, 1100–C–14b, 1100–C–15b). Policy coordination for this system is provided by:

Director, Division of Planning and Evaluation, National Institutes of Health, Building 31, Room 4B25, 9000 Rockville Pike, Bethesda, MD 20892.

SYSTEM MANAGERS AND ADDRESSES:

See Appendix 1.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the official of the organization

responsible for the evaluation, as listed in Appendix 2. If you are not certain which component of NIH was responsible for the evaluation study, or if you believe there are records about you in several components of NIH, write to NIH Privacy Act Coordinator, Building 31, Room 3B07, 9000 Rockville Pike, Bethesda, MD 20892.

Requesters must provide the following information:

1. Full name;

2. Name and location of the evaluation study or other NIH program in which the requester participated or the institution at which the requester was a student or employee, if applicable; and

3. Approximate dates of participation, matriculation or employment, if applicable.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, other health professional, or other responsible individual, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. You may also request a list of accountable disclosures that have been made of your record.

CONTESTING RECORD PROCEDURES:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants; from systems of records 09–25–0036, "Grants: IMPAC (Grants/Contract Information), HHS/NIH/DRG;" 09–25–0112, "Grants: Research, Research Training, Fellowship and Construction Applications and Awards, HHS/NIH/OD"; NSF–6, "Doctorate Record File", NSF–43, "Doctorate Work History File" (previously entitled "NSF–43, Roster and Survey of Doctorate Holders in The United States" and other records maintained by the operating programs of NIH; the National Academy of Sciences and other contractors; grantees or collaborating researchers; or publicly available sources such as bibliographies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix 1: System managers

National Institutes Health, Office of the Director, Director, Division of Planning and Evaluation, Building 31, Room 4B25, 9000 Rockville Pike, Bethesda, MD 20892

National Heart, Lung and Blood Institute (NHLBI), Director, Office of Program Planning & Evaluation, Building 31, Room 5A03, Bethesda, MD 20892

National Library of Medicine (NLM), Special Assistant for Operations Research, Office of the Director, Building 38, Room 2S18, Bethesda, MD 20892

National Eye Institute (NEI), Associate Director for Program Planning, Analysis and Evaluation, Building 31, Room 6A25, Bethesda, MD 20892

National Cancer Institute (NCI), Public Health Educator, OCC, NCI, National Institutes of Health, Building 31, Room 4B43, Bethesda, MD 20892

National Institute on Aging (NIA), Chief, Office of Planning, Analysis, Technical Information and Evaluation, Federal Building, Room 6A09, 7550 Wisconsin Avenue, Bethesda, MD 20892

National Institute of Allergy and Infectious Diseases (NIAID), Chief, Information Technology and Evaluation Branch, Office of Administrative Management, Building 31, Room 7A17, Bethesda, MD 20892

National Institute of Child Health and Human Development (NICHD), Chief, Office of Planning and Evaluation, Building 31, Room 2A10, Bethesda, MD 20892

National Institute of Dental Research (NIDR), Chief, Office of Planning, Evaluation Section, Building 31, Room 2C36, Bethesda, MD 20892

National Institute of Environmental Health Sciences (NIEHS) Program, Analyst, Office of Program Planning and Evaluation, P.O. Box 12233, Research Triangle Park, NC 27709

National Institute of General Medical Sciences (NIGMS), Associate Director for Evaluation, Westwood Building, Room 9A18, 5333 Westbard Avenue, Bethesda, MD 20892

Fogarty International Center (FIC), National Institutes of Health, Assistant Director for Planning and Evaluation, Building 38A, Room 607, Bethesda, MD 20892

Division of Research Grants (DRG), Assistant Director for Special Projects, Westwood Building, Room 457, 5333 Westbard Avenue, Bethesda, MD 20892

Division of Research Resources (DRR), Evaluation Officer, Office of Program Planning and Evaluation, NIH, Building 31, Room 5B54, Bethesda, MD 20892

National Center for Nursing Research (NCNR), Chief, Office of Program Planning and Evaluation, Building 38, Room B2E17, Bethesda, MD 20892

Appendix 2: Notification and access officials

NIH, Office of the Director, Associate Director for Science, Policy and Legislation, Building 1, Room 137, 9000 Rockville Pike, Bethesda, MD 20892

National Heart, Lung and Blood Institute (NHLBI), Privacy Act Coordinator, Building 31, Room 5A29, Bethesda, MD 20892

National Library of Medicine (NLM), Special Assistant for Operations Research, Office of the Director, Building 38, Room 2S18, Bethesda, MD 20892

National Eye Institute (NEI), Executive Officer, Building 31, Room 6A25, Bethesda, MD 20892

Fogarty International Center (FIC), Assistant Director for Planning and Evaluation, Building 38A, Room 607, Bethesda, MD 20892

Division of Research Grants (DRG), Assistant Director for Special Projects, Westwood Building, Room 457, 5333 Westbard Avenue, Bethesda, MD 20892

Division of Research Resources (DRR), Program Analyst, Office of Program Planning and Evaluation, Building 31, Room 5B54, Bethesda, MD 20892

National Cancer Institute, Privacy Act Coordinator, National Institutes of Health, Building 31, Room 10A30, Bethesda, MD 20892

[FR Doc. 89–25809 Filed 11–16–89; 8:45 am]

BILLING CODE 4101–01–M

Centers for Disease Control

Privacy Act of 1974: Annual Publication of Systems of Records

AGENCY: Centers for Disease Control, HHS.

ACTION: Publication of minor changes to notices of systems of records.

SUMMARY: In accordance with the Office of Management and Budget Circular No. A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Centers for Disease Control (CDC) is publishing the

table of contents and minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION: CDC has completed the annual review of its systems of records and is publishing below the table of contents and those minor changes which affect the public's right or need to know, such as system deletions, changes in the system location of records or organizational changes affecting the designation and address of system managers. Categories covering safeguards and storage information have also been revised, where appropriate, to reflect the provisions of CDC's systems security plans.

1. Centers for Disease Control

Table of Contents

A. The following CDC active systems of records were last published in the **Federal Register**, 51 FR 42449, November 24, 1986:

09–20–0000 Cooperative Mycoses Study. HHS/CDC/CID.
09–20–0001 Certified Interpreting Physician File. HHS/CDC/NIOSH.
09–20–0055 Administrative Files for Research/Demonstration and Training Grants, and Cooperative Agreements Applications. HHS/CDC/NIOSH.
09–20–0059 Division of Training Mailing List. HHS/CDC/NIOSH.
09–20–0089 Studies of Treatment of Tuberculosis and Other Mycobacterioses. HHS/CDC/CPS.
09–20–0090 Studies of Testing for Tuberculosis and Other Mycobacterioses. HHS/CDC/CPS.
09–20–0096 Records of Tuskegee Study Health Benefit Recipients. HHS/CDC/CPS.
09–20–0102 Alien Mental Waiver Program. HHS/CDC/CPS.
09–20–0103 Alien Tuberculosis Follow-up Program. HHS/CDC/CPS.
09–20–0106 Specimen Handling for Testing and Related Data. HHS/CDC/CID.
09–20–0112 CDC Exchange Visitor and Guest Researcher Records. HHS/CDC/PMO.
09–20–0113 Epidemic Investigation Case Records. HHS/CDC/CID.
09–20–0117 Medical and Test Record Results of Individuals Involved in NIOSH Laboratory Studies. HHS/CDC/NIOSH.
09–20–0118 Study at Work Sites Where Agents Suspected of Being Occupational Hazards Exist. HHS/CDC/NIOSH.
09–20–0136 Epidemiologic Studies and Surveillance of Disease Problems. HHS/CDC/CID.
09–20–0137 Passport File. HHS/CDC/IHPO.
09–20–0138 Epidemic Intelligence Service Officers Files. HHS/CDC/EPO.
09–20–0147 Occupational Health Epidemiological Studies. HHS/CDC/NIOSH.
09–20–0149 Morbidity Studies in Coal Mining, Metal and Non-metal Mining and General Industry. HHS/CDC/NIOSH.
09–20–0153 Mortality Studies in Coal Mining, Metal and Non-metal Mining and General Industry. HHS/CDC/NIOSH.
09–20–0154 Medical and Laboratory Studies. HHS/CDC/NIOSH.
09–20–0157 Clinical Laboratory Personnel Proficiency Test Results (Medicare). HHS/CDC/PHPPO.
09–20–0159 Records of Subjects in Certification, Testing, Studies of Personal Protective Devices, and Accident Investigations. HHS/CDC/NIOSH.
09–20–0160 Records of Subjects in Health Promotion and Education Studies. HHS/CDC/CCDPHP.
09–20–0161 Records of Health Professionals in Disease Prevention and Control Training Programs. HHS/CDC/CPS.
09–20–0162 Records of Subjects in Agent Orange, Vietnam Experience, and Selected Cancers Studies. HHS/CDC/CEHIC.

B. The following National Center for Health Statistics (NCHS) systems, renumbered to reflect the organizational realignment under CDC, were last published in the **Federal Register**, 51 FR 42368, November 24, 1986:

09–20–0163 Applicants for National Center for Health Statistics Technical Assistance. HHS/CDC/NCHS. (Formerly numbered 09–37–0009.)
09–20–0168 Curricula Vitae of Consultants to the National Center for Health Statistics. HHS/CDC/NCHS. (Formerly numbered 09–37–0014.)
09–20–0169 Users of Health Statistics. HHS/CDC/NCHS. (Formerly numbered 09–37–0016.)

C. The following NCHS systems, similarly renumbered to reflect the organizational realignment under CDC, were last published in the **Federal Register**, 49 FR 37692, September 25, 1984:

09–20–0164 Health and Demographic Surveys Conducted in Probability Samples of the United States Population. HHS/CDC/NCHS. (Formerly numbered 09–37–0010.)
09–20–0165 Health Manpower Inventories and Surveys. HHS/CDC/NCHS. (Formerly numbered 09–37–0011.)
09–20–0166 Vital Statistics for Births, Deaths, Fetal Deaths, Marriages, and Divorces Occurring in the United States During Each Year. HHS/CDC/NCHS. (Formerly numbered 09–37–0012.)
09–20–0167 Health Resources Utilization Statistics. HHS/CDC/NCHS. (Formerly numbered 09–37–0013.)

D. Revised categories of the following CDC systems of records, reflecting changes in the system location of records or the system manager and address category, were last published in the **Federal Register**, 53 FR 47345, November 22, 1988:

09–20–0055 Administrative Files for Research/Demonstration and Training Grants, and Cooperative Agreements Applications. HHS/CDC/NIOSH.
09–20–0106 Specimen Handling for Testing and Related Data. HHS/CDC/CID.

E. CDC has deleted system 09–20–0027, Radiation Exposure Records for NIOSH Employees, HHS/CDC/NIOSH. Records are maintained under 09–10–0008, Radiation Protection Program Personnel Monitoring System, HHS/FDA/CDRH, previously published in the **Federal Register**, 51 FR 42531, November 24, 1986.

2. The following systems are revised to reflect changes in the system location of records or the system manager and address category. The revised categories are published in their entirety below:

09–20–0096

SYSTEM NAME:

Records of Tuskegee Study Health Benefit Recipients, HHS/CDC/CPS.

Minor alterations have been made to this system notice. The following category is revised in its entirety:

* * * * *

SYSTEM LOCATION:

Center for Prevention Services, 1600 Freeway Office Park, Rm. 311, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

* * * * *

09–20–0102

SYSTEM NAME:

Alien Mental Waiver Program, HHS/CDC/CPS.

Minor alterations have been made to this system notice. The following category is revised in its entirety:

* * * * *

SYSTEM LOCATION:

Visa Medical Activity, Division of Quarantine, Center for Prevention Services, 1644 Freeway Office Park, Room 1323A, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

* * * * *

09–20–0103

SYSTEM NAME:

Alien Tuberculosis Follow-up Program, HHS/CDC/CPS.

Minor alterations have been made to this system notice. The following category is revised in its entirety:

* * * * *

SYSTEM LOCATION:

Visa Medical Activity, Division of Quarantine, Center for Prevention Services, 1644 Freeway Office Park, Room 1327A, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

* * * * *

09-20-0136

SYSTEM NAME:

Epidemiologic Studies and Surveillance of Disease Problems, HHS/CDC/CID.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

Center for Infectious Diseases, Bldg. 1, Rm. 6013, Centers for Disease Control 1600 Clifton Road, Atlanta, GA 30333.

San Juan Laboratories, Center for Infectious Diseases, Centers for Disease Control, San Juan, Puerto Rico 00936.

Center for Prevention Services, 1600 Freeway Office Park, Rm. 313, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Center for Environmental Health and Injury Control, Chamblee Bldg. 27, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Epidemiology Program Office, Bldg. 1, Rm. 5009, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Public Health Practice Program Office, Executive Park, Bldg. 24, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Center for Chronic Disease Prevention and Health Promotion, Bldg. 3, Rm. 117, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

A list of contractor sites where individually identifiable data are currently located is available upon request to the appropriate system manager.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Center for Infectious Diseases, Bldg. 1, Rm. 6013, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Director, Center for Prevention Services, 1600 Freeway Office Park, Rm. 310, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Director, Center for Environmental Health and Injury Control, Chamblee, Bldg. 27, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Director, Epidemiology Program Office, Bldg. 1, Rm. 5009, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Director, Public Health Practice Program Office, Executive Park, Bldg. 24, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Director, Center for Chronic Disease Prevention and Health Promotion, Bldg. 3, Rm. 117, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Policy coordination is provided by: Director, Office of Program Support, Bldg. 1, Rm. 2011, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

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09-20-0137

SYSTEM NAME:

Passport File, HHS/CDC/IHPO.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

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SYSTEM LOCATION:

International Health Program Office, Bldg. 16, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

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SYSTEM MANAGER AND ADDRESS:

Director, International Health Program Office, Bldg. 16, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

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09-20-0138

SYSTEM NAME:

Epidemic Intelligence Service Officers Files, HHS/CDC/EPO.

Minor alterations have been made to this system notice. The following category is revised in its entirety:

* * * * *

SYSTEM LOCATION:

Epidemiology Program Office, Bldg. 1, Rm. 5112, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

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09-20-0157

SYSTEM NAME:

Clinical Laboratory Personnel Proficiency Test Results (Medicare), HHS/CDC/PHPPO.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

Public Health Practice Program Office, Executive Park, Bldg. 24, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

A list of contractor sites where individually identifiable data are currently located is available upon request to the system manager.

* * * * *

SYSTEM MANAGER AND ADDRESS:

Director, Public Health Practice Program Office, Executive Park, Bldg. 24, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

* * * * *

09-20-0160

SYSTEM NAME:

Records of Subjects in Health Promotion and Education Studies, HHS/CDC/CCDPHP.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

Center for Chronic Disease Prevention and Health Promotion, Bldg. 3, Rm. 117, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

A list of contractor sites where individually identifiable data are currently located is available upon request to the system manager.

* * * * *

SYSTEM MANAGER AND ADDRESS:

Director, Center for Chronic Disease Prevention and Health Promotion, Bldg. 3, Rm. 117, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

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09-20-0161

SYSTEM NAME:

Records of Health Professionals in Disease Prevention and Control Training Programs, HHS/CDC/CPS.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

Center for Prevention Services, 1600 Freeway Office Park, Rm. 310, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Public Health Practice Program Office, Executive Park, Bldg. 24, Centers for

Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

A list of contractor sites where individually identifiable data are currently located is available upon request to the appropriate system manager.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Center for Prevention Services, 1600 Freeway Office Park, Rm. 310, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Director, Public Health Practice Program Office, Executive Park, Bldg. 24, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

Policy coordination is provided by: Director, Office of Program Support, Bldg. 1, Rm. 2011, Centers for Disease Control, 1600 Clifton Road, Atlanta, GA 30333.

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3. To further reflect the provisions of CDC's system security plans, the safeguards information in a number of automated systems is being revised.

A. System notices 09–20–0089, 09–20–0090, 09–20–0103, 09–20–0106, 09–20–0113, and 09–20–0136 which describe records maintained at CDC, Atlanta, Georgia, are amended to contain the following new Safeguards category:

* * * * *

SAFEGUARDS:

1. *Authorized users:* A database security package is implemented on CDC's mainframe computer to control unauthorized access to the system. Attempts to gain access by unauthorized individuals are automatically recorded and reviewed on a regular basis. Access is granted to only a limited number of physicians, scientists, statisticians, and designated support staff of the Centers for Disease Control (CDC), or its contractors, as authorized by the system manager to accomplish the stated purposes for which the data in this system have been collected.

2. *Physical Safeguards:* Access to the CDC Clifton Road facility where the mainframe computer is located is controlled by a card key system. Access to the computer room is controlled by a card key and security code (numeric keypad) system. Access to the data entry area is also controlled by a card key system. The hard copy records are kept in locked cabinets in locked rooms. The local fire department is located directly across the street from the Clifton Road buildings. The computer room is protected by an automatic sprinkler system, automatic sensors (e.g., water, heat, smoke, etc.) are installed, and portable fire extinguishers are located throughout the computer room. The system is backed up on a nightly basis with copies of the files stored off site in a secure fire proof safe. The 24-hour guard service in buildings provides screening of visitors. Electronic anti-intrusion devices are in effect at the Federal Records Center.

3. *Procedural safeguards:* System security includes automatic suspension of accounts, forced password changes, and control of systems and data set access. Protection for computerized records includes programmed verification of valid user identification code, account code and password prior to acceptance of a terminal session or job submission, frequently changed passwords, and Vault Management System. When Privacy Act tapes are erased, a special "certified" process is performed in which tapes are completely written over to avoid inadvertent data disclosure. Additional safeguards may be built into the program by the system analyst as warranted by the sensitivity of the data.

CDC and contractor employees who maintain records are instructed to check with the system manager prior to making disclosures of data. When individually identified data are being used in a room, admittance at either CDC or contractor sites is restricted to specifically authorized personnel. Privacy Act provisions are included in contracts, and the CDC Project Director, contract officers and project officers oversee compliance with these requirements. Upon completion of the contract, all data will be either returned to CDC or destroyed, as specified by the contract.

4. *Implementation Guidelines:* The safeguards outlined above are developed in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45–13; Part 6, "Automated Information System Security," of the HHS Information Resources Management Manual; the National Bureau of Standards Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31). FRC safeguards are in compliance with GSA Federal Property Management Regulations, Subchapter B—Archives and Records.

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B. System notices 09–20–0149 and 09–20–0153 which describe records maintained at CDC's National Institute for Occupational Safety and Health (NIOSH), Morgantown, West Virginia, are amended to contain the following Safeguards category:

* * * * *

SAFEGUARDS:

1. *Authorized users:* The NIOSH mainframe computer, located within the Morgantown facility, uses a security package to control unauthorized access to the system. Attempts to gain access by unauthorized individuals are automatically recorded and reviewed on a daily basis. Access is granted to only a limited number of physicians, scientists, statisticians, and designated support staff of the Centers for Disease Control (CDC), or its contractors, as authorized by the system manager to accomplish the stated purposes for which the data in this system have been collected.

2. *Physical safeguards:* Access to the facility is monitored, and controlled after hours, by a 24-hour guard service. Hard copy records are kept in locked cabinets in locked rooms. Access to the computer room is controlled by a punch lock system. System print-outs are made available to the requester through the use of "pigeon-hole" mailboxes which are individually secured by (combination) locking doors. The local fire department is one mile from the facility, which is of structural steel and cement block construction, with pre-cast cement panels on the envelope. No combustible materials are used in the building construction, including all interior walls. The computer room is protected by a Halon gas, built-in extinguisher system. Heat sensors are installed, and portable fire extinguishers are located throughout the computer room. The active system files are backed up on a weekly basis. The entire system is backed up, with copies of the files stored in a secure, fireproof safe in a separate location within the facility.

3. *Procedural safeguards:* System security includes automatic suspension of accounts, forced password changes, and control of systems and data set access. Protection for computerized records includes programmed verification of valid user identification code, account code and password prior to acceptance of a terminal session or a job submission. Additional safeguards may be built into the program by the system analyst as warranted by the sensitivity of the data.

CDC and contractor employees who maintain records are instructed to check with the system manager prior to making disclosures of data. When individually identified data are being used in a room, admittance at either CDC or contractor sites is restricted to

specifically authorized personnel. Privacy Act provisions are included in contracts, and the CDC Project Director, contract officers and project officers oversee compliance with these requirements. Upon completion of the contract, all data will be either returned to CDC or destroyed, as specified by the contract.

4. *Implementation guidelines:* The safeguards outlined above are developed in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45–13; Part 6, "Automated Information System Security," of the HHS Information Resources Management Manual; the National Bureau of Standards Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

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C. System notice 09–20–0147 which describes records located at CDC's National Institute for Occupational Safety and Health (NIOSH), Cincinnati, Ohio, is amended to contain the following Safeguards category:

* * * * *

SAFEGUARDS:

1. *Authorized users:* A detabase software security package is utilized to control unauthorized access to the system. Access is granted to only a limited number of physicians, scientists, statisticians, and designated support staff or contractors, as authorized by the system manager to accomplish the stated purposes for which the data in this system have been collected.

2. *Physical safeguards:* Hard copy records are kept in locked cabinets in locked rooms. Guard service in buildings provides screening of visitors. The limited access, secured computer room contains fire extinguishers and an overhead sprinkler system. Computer terminals and automated records are located in secured areas. Electronic anti-intrusion devices are in operation at the Federal Records Center.

3. *Procedural safeguards:* Data sets are password protected and/or encrypted. Protection for computerized records includes programmed verification of valid user identification code, account code and password prior to acceptance of a terminal session or a job submission. Additional safeguards may be built into the program by the system analyst as warranted by the sensitivity of the data.

Employees and contractor staff who maintain records are instructed to check with the system manager prior to making disclosures of data. When individually identified data are being used in a room, admittance at either Government or contractor sites is restricted to specifically authorized personnel. Privacy Act provisions are included in contracts, and the Project Director, contract officers and project officers oversee compliance with these requirements. Upon completion of the contract, all data will be either returned to CDC or destroyed, as specified by the contract.

4. *Implementation guidelines:* The safeguards outlined above are developed in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45–13; Part 6, "Automated Information System Security," of the HHS Information Resources Management Manual; the National Bureau of Standards Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31). FRC safeguards are in compliance with GSA Federal Property Management Regulations, Subchapter B—Archives and Records.

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4. Notices for systems 09–20–0055, 09–20–0112, 09–20–0117, 09–20–0118, 09–20–0154, and 09–20–0159 are amended to more accurately describe the Storage and Safeguards categories of these manual systems:

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STORAGE:

File folders.

* * * * *

SAFEGUARDS:

1. *Authorized users:* Access is granted to only a limited number of physicians, scientists, statisticians, and designated support staff of the Centers for Disease Control (CDC), as authorized by the system manager to accomplish the stated purposes for which the data in this system have been collected.

2. *Physical safeguards:* Records are kept in locked cabinets in locked rooms. Guard service in buildings provides screening of visitors. Electronic anti-intrusion devices are in operation at the Federal Records Center.

3. *Procedural safeguards:* Users of individually identified data protect information from public scrutiny, and only specifically authorized personnel may be admitted to the record storage area. CDC employees who maintain records are instructed to check with system manager prior to making disclosures of data.

4. *Implementation guidelines:* HHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual. FRC safeguards are in compliance with GSA Federal Property Mangement Regulations, subchapter B—Archives and Records.

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Dated: November 3, 1989.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 89–26393 Filed 11–16–89; 8:45 am]

BILLING CODE 4160–18–M

Agency for Toxic Substances and Disease Registry

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Agency for Toxic Substances and Disease Registry, HHS.

ACTION: Publication of minor changes to notice of system of records.

SUMMARY: In accordance with the Office of Management and Budget Circular No. A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Agency for Toxic Substances and Disease Registry (ATSDR) is publishing the table of contents and minor changes to its notice of system of records.

SUPPLEMENTARY INFORMATION: ATSDR has completed the annual review of its system of records and is publishing below the table of contents and those minor changes which affect the public's right or need to know, such as changes in the system location of records or organizational changes affecting the designation or address of the system manager.

Table of Contents

1. The following system notice currently maintained by ATSDR was published in the **Federal Register**, 53 FR 30720, August 15, 1988:

09–19–0001 Records of Persons Exposed or Potentially Exposed to Toxic or Hazardous Substances, HHS/ATSDR/DHS.

2. The following system reflects changes in the system location of records and the designation and address of the system manager. The revised categories are published in their entirety below:

09–19–0001

SYSTEM NAME:

Records of Persons Exposed or Potentially Exposed to Toxic or Hazardous Substances, HHS/ATSDR/DHS.

Minor alterations have been made to this system notice. The following categories are revised in their entirety:

* * * * *

SYSTEM LOCATION:

Division of Health Studies (DHS), Agency for Toxic Substances and Disease Registry, Executive Park, Bldg. 35, 1600 Clifton Road, Atlanta, GA 30333.

Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

Data are also located at contractor sites. A list of contractor sites where individually identified data are currently located is available upon request to the system manager.

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SYSTEM MANAGER AND ADDRESS:

Director, Division of Health Studies, Agency for Toxic Substances and Disease Registry, Executive Park, Bldg. 35, 1600 Clifton Road, Atlanta, GA 30333.

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Dated: November 3, 1989.

Walter R. Dowdle,

Acting Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 89-26392 Filed 11-16-89; 8:45 am]

BILLING CODE 4160-70-M

Indian Health Service

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Indian Health Service, PHS, HHS.

ACTION: Annual publication of systems of records notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A-130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Indian Health Service (IHS) is publishing the table of contents of its systems of records.

SUPPLEMENTARY INFORMATION: IHS has completed the annual review of its systems of records and is publishing the listing below. There are no changes to report which affect the public's right or need to know.

The following systems notice currently maintained by IHS was published in the **Federal Register**, 53 FR 47347, November 22, 1988:

Table of Contents

Dated: November 6, 1989.

Edgar Caster,

Director, Division of Management Policy.

[FR Doc. 89-26777 Filed 11-16-89; 8:45 am]

BILLING CODE 4160-16-M

Health Resources and Services Administration

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Department of Health and Human Services; Public Health Service (PHS); Health Resources and Services Administration (HRSA).

ACTION: Publication of minor changes to systems of records notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A-130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," HRSA is publishing minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION: HRSA has completed the annual review of its systems of records and is publishing below those minor changes which affect the public's right or need to know, such as system deletions, title changes, and changes in the system location of records, or the address of systems managers.

1. HRSA has added the following systems of records during the year:

09-15-0056 National Vaccine Injury Compensation Program, HHS/HRSA/BHPr, 53 FR 51012-51014, December 1988
09-15-0057 Scholarships for the Undergraduate Education of Professional Nurses Grant Programs, HHS/HRSA/BHPr, 54 FR 39578-39581, September 27, 1989.

2. Other minor system notice changes affecting individual categories are published below.

Dated: October 20, 1989.

James A. Walsh

Associate Administrator for Operations and Management.

Table of Contents

The following table of contents lists all currently active Privacy Act systems of records maintained by the Health Resources and Services Administration:

09-15-0022

SYSTEM NAME:

Accounts Receivable, HHS/HRSA/OA. Minor alterations have been made to this system notice. The following category should be revised:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Policy Coordinating Official: Director, Division of Fiscal Services, Health Resources and Services Administration, Room 16-05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Chief, Debt Management Branch, Division of Fiscal Services, Health Resources and Services Administration, Room 16A–09, 5600 Fishers Lane, Rockville, MD 20857.

Director, Gillis W. Long Hansen's Disease Center, Carville, LA 70721.

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09–15–0029

SYSTEM NAME:

PHS Beneficiary-Contract Medical/ Health Care Records, HHS/HRSA/ BHCDA. Minor alterations have been made to this system notice. The following category should be revised:

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 320 of the Public Health Service Act, as amended (42 U.S.C. 255) Receipt, Apprehension, Treatment and Release of Lepers; section 321 of the Public Health Service Act, as amended (42 U.S.C. 248), Hospitals Medical Examinations, and Medical Care; and Section 326 of the Public Health Service Act, as amended (42 U.S.C. 253), Services to National Oceanic and Atmospheric Administration and Public Health Service.

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09–15–0037

SYSTEM NAME:

Public Health Service (PHS) and National Health Service Corps (NHSC) Health Care Provider Records System, HHS/HRSA/BHCDA. Minor alterations have been made to the system notice. The following categories should be revised in their entirety:

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CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for, who have been approved to receive, who are receiving, and who have received funds under the PHS and NHSC scholarship programs and NHSC Loan Repayment Program; individuals who have volunteered for service in the NHSC; scholarship recipients who are fulfilling their PHS and/or NHSC scholarship obligations; and individuals who include an interest in employment in or an assignment to a medical facility located in a health manpower shortage area or a medically underserved population area, including public and Federal medical facilities, such as community health centers, Indian Health Service (IHS) medical facilities, and other federally sponsored public health centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, Social Security number, scholarship application, Loan Repayment Program application, and associated forms, employment data, professional performance, and credentialing history of licensed health professionals; preference for site-selection; personal, professional, and demographic background information; progress reports (which include related data, correspondence, and professional performance information consisting of continuing education, performance awards, and adverse or disciplinary actions); payroll forms, loan repayment forms, deferment and placement data; and repayment/delinquent/default status information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 333 of the Public Health Service Act, as amended (42 U.S.C. 254f), Assignment of Corps Personnel;

Section 338 of the Public Health Service Act, as amended (42 U.S.C. 254), Scholarship Program and Loan Repayment Program;

Section 202 of title II of Pub. L 92–157 (42 U.S.C. 3505d), National Health Manpower Clearinghouse;

Debt Collection Act of 1982, Pub. L. 97–365 (5 U.S.C. 5514 note);

Section 4 of the Debt Collection Act of 1982, Pub. L. 97–365 (5 U.S.C. 5514 note), Requirement That Applicant Furnish Taxpayer Identifying Number; and

Section 215(a) of the Public Health Service Act, as amended (42 U.S.C. 216(a)), for PHS commissioned officers, and 5 U.S.C. 3301 for civil service employees, both of which authorize verification of an individual's suitability for employment.

PURPOSE(S):

The purposes of this system of records are: (1) To select applicants for the PHS and NHSC scholarship programs and Loan Repayment Program; (2) to monitor scholarship-related activities, such as payment tracking, deferment of service obligation, default, placement, and claims determination; (3) to select and match PHS and NHSC scholarship recipients, NHSC volunteers, and other individuals for assignment to or employment with a private or group practice or to a medical facility located in a health manpower shortage area or a medically underserved population area, including other public and federally sponsored medical programs, such as IHS medical facilities and community health centers; (4) to monitor services provided by NHSC or PHS health providers; (5) to maintain records on and to verify individual's educational background, previous and current professional employment data, and performance history information to verify that all claimed background and employment data are valid and all claimed credentials are current and in good standing; and (6) to assist Bureau of Health Care Delivery and Assistance (BHCDA) officials in the collection of overdue debts owed under the PHS and NHSC scholarship programs and Loan Repayment Program.

Records in this system are also used by HHS Regional Offices and IHS for the purpose of negotiating site assignment, and by PHS for the purpose of recruiting health professionals for PHS programs.

Records may be transferred to System No. 09–15–0045, "Health Resources and Services Administration Loan Repayment/Debt Management Records System, HHS/HRSA/QA," for debt collection purposes when BHCDA officials are unable to collect overdue debts owed under the PHS and NHSC scholarship programs and Loan Repayment Program.

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NOTIFICATION PROCEDURES:

To find out if the system contains records about you, contact the Policy-Coordinating Official. The Policy-Coordinating Official will then refer the requester to the appropriate System Manager or Regional Office.

Requests in person: A subject individual who appears in person at a specific location seeking access to or disclosure of records relating to him/her shall provide his/her name, current address, Social Security number or other identifying numbers, dates of enrollment in the scholarship program or loan program, and at least one piece of tangible identification such as driver's license, passport, or voter registration card. Identification papers with current photographs are preferred but not required. If a subject individual has no identification but is personally known to an agency employee, such employee shall make a written record verifying the subject individual's identity. Where the subject individual has no identification papers, the responsible agency official shall require that the subject individual certify in writing that he/she is the individual who he/she claims to be and that he/she understands that the knowing and willful request or acquisition of a record concerning an individual under false pretenses is a criminal offense subject to a $5,000 fine.

Requests by mail: A written request must contain the name and address of the requester, Social Security number or

other identifying numbers, and his/her signature which is either notarized to verify his/her identity or includes a written certification that the requester is the person he/she claims to be and that he/she understands that the knowing and willful request or acquisition of records pertaining to an individual under false pretenses is a criminal offense subject to a $5,000 fine. In addition, the following information is needed: Dates of enrollment in the scholarship program or loan program, and current enrollment status, such as pending application approval, deferment of service obligation, or shortage area placement.

Requests by telephone: Since positive identification of the caller cannot be established, telephone requests are not honored.

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RECORD SOURCE CATEGORIES:

Individuals whose records are contained in the system; educational institutions attended; internship and/or residency training progress reports; NHSC Site Selection Questionnaires; NHSC Private Practice Option Agreements; Bureau of Health Professions Area Resources File tapes; PHS Commissioned Personnel Operations Division and U.S. Office of Personnel Management personnel records; health professional associations; DHHS contractors/subcontractors; consumer reporting agencies/credit bureaus; or participating lending institutioins; other Federal agencies, including but not limited to the Department of Treasury, the Internal Revenue Service (IRS), and the U.S. Postal Service; State or local government medical licensing board and/or the Federation of State Medical Boards or a similar nongovernment entity; and third parties who provide references concerning the subject individual.

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09-15-0038

SYSTEM NAME:

Disability Claims of the Nursing Student Loan Program, HHS/HRSA/BHPr. Minor alterations have been made to this system notice. The following categories should be revised:

* * * * *

SYSTEM LOCATION:

Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Room 8-34, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409.

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SYSTEM MANAGER(S) AND ADDRESS:

Chief, Student and Institutional Support Branch/Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8-48, 5600 Fishers Lane, Rockville, MD 20857

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09-15-0039

SYSTEM NAME:

Disability Claims in the Health Professions Student Loan Program, HHS/HRSA/BHPr. Minor alterations have been made to this system notice. The following categories should be revised:

* * * * *

SYSTEM LOCATION:

Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Student and Institutional Support Branch/Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Room 8-34, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

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09-15-0040

SYSTEM NAME:

Health Professions Student Loan Repayment Program, HHS/HRSA/BHPr. Minor alterations have been made to this system notice. The following categories should be revised:

* * * * *

SYSTEM LOCATION:

Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Division of Computer Research and Technology, NIH Building 12, 9000 Rockville Pike, Bethesda, MD 20205.

Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409.

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SYSTEM MANAGER(S) AND ADDRESS:

Chief, Student and Institutional Support Branch/Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Room 8-34, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

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09-15-0041

SYSTEM NAME:

Health Professions Student Loan Cancellation, HHS/HRSA/BHPr. Minor alterations have been made to this system notice. The following categories should be revised:

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SYSTEM LOCATION:

Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Student and Institutional Support Branch/Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Room 8-34, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

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09-15-0042

SYSTEM NAME:

Physician Shortage Area Scholarship Program, HHS/HRSA/BHCDA. Minor alterations have been made to this system notice. The following category should be revised:

* * * * *

SYSTEM LOCATION:

Division of Health Services Scholarships, Bureau of Health Care Delivery and Assistance, 5600 Fishers Lane, Rockville, MD 20857.

Division of Computer Research and Technology, NIH Building 12, 9000 Rockville Pike, Bethesda, MD 20205.

Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409.

Gillis W. Long Hansen's Disease Center, Carville, LA 70721.

* * * * *

09-15-0045

SYSTEM NAME:

Health Resources and Services Administration Loan Repayment/Debt Management Records Systems, HHS/HRSA/OA. Minor alterations have been

made to the system notice. The following category should be revised:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Policy-Coordinating Official: Associate Administrator for Operations and Management, Health Resources and Services Administration, Room 14A–03, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Office of the Administrator: Chief, Debt Management Branch, Division of Fiscal Services, Health Resources and Services Administration, Room 16A–09, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Indian Health Service: Chief, Financial Management Branch, Indian Health Service, Room 5A–38, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Bureau of Health Professions; Director, Office of Debt Management, Bureau of Health Professions, Room 8A–43, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

* * * * *

09–15–0052

SYSTEM NAME:

Nurse Practitioner and Midwifery Traineeship Programs, HHS/HRSA/BHPr. Minor alterations have been made to this system notice. The following category should be revised:

* * * * *

SYSTEM NAME:

Nurse Practitioner and Nurse Midwifery Traineeship Programs, HHS/HRSA/BHPr.

* * * * *

[FR Doc. 89–25150 Filed 11–16–89; 8:45 am]

BILLING CODE 4160–15–M

Food and Drug Administration

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Publication of minor changes to systems of records notices.

SUMMARY: In accordance with Office of Management and Budget Circular No. A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Food and Drug Administration (FDA) is publishing minor changes to its notices of systems of records.

SUPPLEMENTARY INFORMATION: FDA has completed the annual review of its systems of records and is publishing below (1) a table of contents which lists all active systems of records in FDA, and (2) those minor changes which affect the public's right or need to know, such as title changes, and changes in the systems location or the address of system managers.

Dated: October 19, 1989.

Jeffrey A. Nesbit,

Associate Commissioner for Public Affairs.

Table of Contents

Minor alterations have been made to the following system notices:

9–10–0002

SYSTEM NAME:

Regulated Industry Employee Enforcement Records, HHS/FDA/OC. The organizational symbols for this system notice have been revised to reflect organizational changes.

SYSTEM LOCATION:

Appendixes A and B, location of Field/District Offices and location of Federal Record Centers are being republished in their entirety to reflect current addresses.

Appendix A: Addresses and working hours of the Food and Drug Administration Field Offices

The following is a list of the Food and Drug Administration Field Offices, their addresses and working hours where individuals may have access to records in Food and Drug Administration Privacy Act Record Systems:

NORTHEAST REGION

Regional Office

830 Third Avenue, Brooklyn, NY 11232, Office hours: 8:00 a.m. to 4:30 p.m. (e.s.t.).

District Offices

One Montvale Avenue, 3rd Floor, Stoneham, MA 02180, Office hours: 8:00 a.m. to 4:30 p.m. (e.s.t.).

850 Third Avenue, 4th Floor, Brooklyn, NY 11232–1593, Office hours: 8:00 a.m. to 4:30 p.m. (e.s.t.).

599 Delaware Avenue, Buffalo, NY 14202, Office hours: 8:00 a.m. to 4:30 p.m. (e.s.t.).

Regional Laboratory

850 Third Avenue, 4th Floor, Brooklyn, NY 11232–1593, Office hours: 8:00 a.m. to 4:30 p.m. (e.s.t.).

Winchester Engineering and Analytical Center (WEAC), 109 Holton Street, Winchester, MA 01890.

MID-ATLANTIC REGION

Regional Office

2nd and Chestnut Streets, Room 900, Philadelphia, PA 19106, Office hours: 8:00 a.m. to 4:30 p.m. (e.s.t.).

District Offices

2nd and Chestnut Streets, Room 900, Philadelphia, PA 19106, Office hours: 8:00 a.m. to 4:30 p.m. (e.s.t.).

61 Main Street, West Orange, NJ 07052, Office hours: 8:00 a.m. to 4:30 p.m. (e.s.t.).

900 Madison Avenue, Baltimore, MD 21201, Office hours: 7:45 a.m. to 4:15 p.m. (e.s.t.).

1141 Central Parkway, Cincinnati, OH 45202–1097, Office hours: 8:00 a.m. to 4:30 p.m. (e.s.t.).

SOUTHEAST REGION

Regional Office

60 Eighth Street, NE., Atlanta, GA 30309, Office hours: 8:00 a.m. to 4:30 p.m. (e.s.t.).

District Offices

60 Eighth Street, NE., Atlanta, GA 30309, Office hours: 8:00 a.m. to 4:30 p.m. (e.s.t.).

297 Plus Park Boulevard, Nashville, TN 37217, Office hours: 8:00 a.m. to 4:30 p.m. (c.t.).

7200 Lake Ellenor Drive, Suite 120, Orlando, FL 32809, Office hours: 8:00 a.m. to 4:30 p.m. (e.s.t.).

4298 Elysian Fields Avenue, New Orleans, LA 70122, Office hours: 8:00 a.m. to 4:30 p.m. (c.t.).

Fernandez Juncos Avenue, Puerta de Tierra, San Juan, PR 00906–5719, Office hours: 8:00 a.m. to 4:30 p.m. (e.s.t.).

Regional Laboratory

60 Eighth Street, NE., Atlanta, GA 30309, Office hours: 8:00 a.m. to 4:30 p.m. (e.s.t.).

MIDWEST REGION

Regional Office

20 N. Michigan Avenue, Room 550, Chicago, IL 60602, Working hours: 8:00 a.m. to 4:30 p.m. (e.s.t.).

District Offices

433 W. Van Buren Street, Room 1222, Chicago, IL 60607, Working hours: 8:00 a.m. to 4:30 p.m. (e.s.t.).

1560 East Jefferson Avenue, Detroit, MI 48207, Office hours: 8:00 a.m. to 4:30 p.m. (e.s.t.).

240 Hennepin Avenue, Minneapolis, MN 55401, Office hours: 8:00 a.m. to 4:30 p.m. (c.t.).

SOUTHWEST REGION

Regional Office

3032 Bryan Street, Dallas, TX 75204, Office hours: 8:00 a.m. to 4:30 (c.t.).

District Offices

3032 Bryan Street, Dallas, TX 75204, Office hours: 8:00 a.m. to 4:30 (c.t.).

1009 Cherry Street, Kansas City, MO 64106, Office hours: 8:00 a.m. to 4:30 p.m. (c.t.).

Denver Federal Center, Building 20, P.O. Box 25087, Denver, CO 80225–0087, Working hours: 8:00 a.m. to 4:30 p.m. (m.t.).

PACIFIC REGION

Regional Office

Federal Office Building, Room 526, 50 U.N. Plaza, San Francisco, CA 94102, Working hours: 8:00 a.m. to 4:30 p.m. (p.t.).

District Offices

Federal Office Building, Room 526, 50 U.N. Plaza, San Francisco, CA 94102, Working hours: 8:00 a.m. to 4:30 p.m. (p.t.).

1521 W. Pico Boulevard, Los Angeles, CA 90015–2486, Office hours: 8:00 a.m. to 4:30 p.m. (p.t.).

22201 23rd Drive, S.E., Bothell, WA 98021–4421, Office hours: 8:00 a.m. to 4:30 p.m. (c.t.).

Appendix B—General Services Administration, Federal Archives, and Records Centers

National Centers:

District of Columbia, Maryland, Virginia, and West Virginia except for U.S. Court records for Maryland, Virginia, and West Virginia: Washington National Records Center, Washington, DC 20409.

National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118.

National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, St. Louis, MO 63132.

Regional Centers

Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island, Federal Archives and Records Center, 380 Trapelo Road, Waltham, MA 02154.

New York, New Jersey, Puerto Rico, the Virgin Islands, and the Panama Canal Zone, Federal Records Center, Military Ocean Terminal, Building 22, Bayonne, NJ 07002–5388.

Delaware, Pennsylvania, and U.S. Court records for Maryland, Virginia, and West Virginia, Federal Records Center, 5000 Wissahickon Avenue, Philadelphia, PA 19144.

North Carolina, South Carolina, Tennessee, Mississipi, Alabama, Georgia, Florida and Kentucky, Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

Illinois, Wisconsin, Minnesota, and U.S. Court records for Indiana, Michigan, and Ohio, Federal Records Center, 7358 South Pulaski Road, Chicago, IL 60629.

Indiana, Michigan, and Ohio except for U.S. Court records, Federal Records Center, 3150 Springboro Road, Dayton, OH 45439.

Kansas, Iowa, Nebraska, and Missouri, Federal Records Center, 2306 East Bannister Road, Kansas City, MO 64131.

Texas, Oklahoma, Arkansas, Louisiana, and New Mexico, Federal Records Center, P.O. Box 6216, Fort Worth, TX 76115.

Shipping address only (do not use for mail), 4900 Hemphill Street, Building 1, Dock 1, Fort Worth, TX.

Colorado, Wyoming, Utah, Montana, North Dakota, and South Dakota, Federal Records Center, P.O. Box 25307, Denver, CO 80225.

American Samoa, California, except Southern California, and Nevada, except Clark County, Federal Records Center, 1000 Commodore Drive, San Bruno, CA 94066.

Arizona; Clark County, Nevada; and Southern California (counties of San Luis Obispo, Kern, San Bernardino, Santa Barbara, Ventura, Los Angeles, Riverside, Orange, Imperial, Inyo, and San Diego). Federal Records Center, 24000 Avila Road, 1st Floor, P.O. Box 6719, Laguna Niguel, CA 92677.

Washington, Oregon, Idaho, Alaska, Hawaii, and Pacific Ocean areas (except American Samoa), Federal Records Center, 6125 Sand Point Way NE., Seattle, WA 98115.

09–10–0003

SYSTEM NAME:

FDA Credential Holder File, HHS/FDA/OC. The organizational symbols for this system notice have been revised to reflect organizational changes.

09–10–0004

SYSTEM NAME:

Communications (Oral and Written) With the Public, HHS/FDA/OC. The organizational symbols for this system notice have been revised to reflect organizational changes.

09–10–0010

SYSTEM NAME:

Bioresearch Monitoring Information System, HHS/FDA. The system location and system manager(s) portion of this notice have been revised to reflect current addresses and titles.

SYSTEM LOCATION:

Center for Drug Evaluation and Research, Office of Compliance, Division of Scientific Investigations (HFD–340), 7520 Standish Place, Rockville, MD 20855.

Center for Biologics Evaluation and Research, Office of Compliance, Bioresearch Monitoring Staff (HFB–130), 8800 Rockville Pike, Rockville, MD 20892.

Center for Devices and Radiological Health, Office of Compliance and Surveillance, Bioresearch Monitoring Staff (HFZ–341), 1390 Piccard Drive, Rockville, MD 20850.

SYSTEM MANAGER(S) AND ADDRESSES:

Deputy Director, Division of Scientific Investigations (HFD–341), Center for Drug Evaluation and Research, Office of Compliance, 7520 Standish Place, Rockville, MD 20855.

Director, Division of Regulations and Bioresearch Monitoring (HFB–130), Center for Biologics Evaluation and Research, Office of Compliance, 8800 Rockville Pike, Bethesda, MD 20892.

Director, Bioresearch Monitoring Staff (HFZ–341), Center for Devices and Radiological Health, Division of Compliance Operations, 1390 Piccard Drive, Rockville, MD 20850.

09–10–0015

SYSTEM NAME:

Blood Donors for Tissue Typing Sera and Cell Analysis and Related Research, HHS/FDA/CBER. The organizational symbols for this system notice have been revised to reflect organizational changes, the location and system managers portions of this notice have been revised to reflect current address and title.

SYSTEM LOCATION:

Center for Biologics Evaluation and Research, Division of Blood and Blood Products (HFB–400), 8800 Rockville Pike, Bethesda, MD 20892.

SYSTEM MANAGER(S) AND ADDRESSES:

Director, Division of Blood and Blood Products (HFD–830), Center for Biologics Evaluation and Research, 8800 Rockville Pike, Bethesda, MD 20892.

[FR Doc. 89–25152 Filed 11–16–89; 8:45 am]

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federal register

Friday
November 17, 1989

Part III

Department of Energy

Office of Conservation and Renewable Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Two Types of Consumer Products; Final Rule and Determinations and Analyses of Competitive Impacts

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CE-RM-87-102]

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Two Types of Consumer Products

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Final rule.

SUMMARY: The Energy Policy and Conservation Act (EPCA), as amended by the National Energy Conservation Policy Act (NECPA), the National Appliance Energy Conservation Act (NAECA), and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), prescribes energy conservation standards for certain major household appliances, and requires the Department of Energy (DOE or Department) to administer an energy conservation program for these products. Among other things, NAECA requires DOE to consider amending the energy conservation standards for refrigerators, refrigerator-freezers, and freezers; and to establish standards for small gas furnaces, and to consider prescribing standards for television sets.

The Department of Energy has determined that revised energy conservation standards for refrigerators, refrigerator-freezers and freezers would result in significant conservation of energy and be economically justified. Therefore, the Department is today amending title 10, part 430 of the Code of Federal Regulations (part 430) to add new standards for this product. More stringent standards, including the maximum technologically feasible level, were considered by the Department, but rejected based upon consideration of the economic analysis.

For small gas furnaces, the Department has determined that standards would result in a significant conservation of energy and be economically justified. Therefore, the Department is today amending part 430 to add standards for this product which are the maximum allowable by law.

For television sets, DOE has determined a new analysis is necessary and is not now making a determination on the need for standards on televisions.

EFFECTIVE DATES: This action amending § 430.32(a), the standards for refrigerators, refrigerator-freezers and freezers, is effective as of January 1, 1993.

This action amending § 430.32(e), setting the standards for small gas furnaces (input rate less than 45,000 Btu/hr), is effective as of January 1, 1992.

ADDRESSES: A copy of the Technical Support Document may be read at the DOE Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E-190, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6020, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Copies of the Technical Support Document may be obtained from: U.S. Department of Energy, Office of Conservation and Renewable Energy, Forrestal Building, Mail Station CE-132, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9127.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Forrestal Building, Mail Station CE-132, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9127

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC-12, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9507

U.S. Department of Energy, CE-43.1, Docket No. CE-RM-87-102, Forrestal Building, Room 6B-025, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9320

SUPPLEMENTARY INFORMATION:

I. Introduction

a. Authority

Part B of title III of the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, as amended by the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, the National Appliance Energy Conservation Act (NAECA), Pub. L. 100-12, and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Pub. L. 100-357,[1] created the Energy Conservation Program for Consumer Products other than Automobiles. The consumer products subject to this program (often referred to hereafter as "covered products") are: Refrigerators, refrigerator-freezers and freezers; dishwashers; clothes dryers;

[1] Part B of title III of EPCA, as amended by NECPA, NAECA, and NAECA 1988, is referred to in this notice as the "Act." Part B of title III is codified at 42 U.S.C. 6291 *et seq.* Part B of title III of EPCA, as amended by NECPA only, is referred to in this notice as NECPA.

water heaters; central air conditioners and central air conditioning heat pumps; furnaces; direct heating equipment; television sets; kitchen ranges and ovens; clothes washers; room air conditioners; fluorescent lamp ballasts; and pool heaters; as well as any other consumer product classified by the Secretary of Energy. Section 322. To date, the Secretary has not so classified any additional products.

Under the Act, the program consists essentially of three parts: testing, labeling, and mandatory energy conservation standards. The Department of Energy, in consultation with the National Institute of Standards and Technology (NIST), is required to amend or establish new test procedures as appropriate for each of the covered products. Section 323. The purpose of the test procedures is to provide for test results that reflect the energy efficiency, energy use, or estimated annual operating costs of each of the covered products. Section 323(b)(3). The test procedures are an integral part of the energy conservation standards. The energy performance standards, i.e., efficiency and consumption, are based on the test procedures found in subpart B to 10 CFR part 430. The test procedures are used by manufacturers to certify compliance with the standards and will be used by the Department to determine compliance with the standards.

The Federal Trade Commission (FTC) is required by the Act to prescribe rules governing the labeling of covered products for which test procedures have been prescribed by DOE. Section 324(a). These rules generally require that each particular model of a covered product bear a label that indicates its annual operating cost and the range of estimated annual operating costs for other models of that product. Section 324(c)(1). At the present time there are FTC rules requiring labels for the following products: Room air conditioners, furnaces, clothes washers, dishwashers, water heaters, freezers, refrigerators and refrigerator-freezers, central air conditioners and central air conditioning heat pumps, and fluorescent lamp ballasts. 44 FR 66475, November 19, 1979, 52 FR 46888, December 10, 1987, and 54 FR 28031, July 5, 1989.

For each of the 12 covered products, the Act prescribes an initial Federal energy conservation standard. Section 325(b)–(h). The Act establishes effective dates for the standards in 1988, 1990, 1992 or 1993, depending on the product, and specifies that the standards are to be reviewed by the Department within 3 to 10 years, also depending on the product. Section 325(b)–(h). After the specified period, DOE may promulgate new standards for each product; however, the Secretary may not prescribe any amended standard that increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product. Section 325(l)(1). The Department's first review of standards is for refrigerators, refrigerator-freezers and freezers.

The Act also directs DOE to prescribe an energy conservation standard for small gas furnaces, i.e., gas furnaces having an input of less than 45,000 Btu per hour and manufactured on or after January 1, 1992. Section 325(f)(1)(B).

With regard to another covered product, television sets, the Act allows the Department to prescribe an applicable standard; however, such standard may not become effective before January 1, 1992. Section 325(i)(3).

Two products (refrigerators, refrigerator-freezers, and freezers; and small gas furnaces) are the subject of this rulemaking. As noted below in the product-specific discussion, the Department is postponing a final decision on standards for television sets and will conduct a new analysis for television sets and publish a proposed rule based on that analysis.

Any new or amended standard is required to be designed so as to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. Section 325(l)(2)(A).

Section 325(l)(2)(B)(i) provides that before DOE determines whether a standard is economically justified, it must first solicit comments on a proposed standard. After reviewing comments on the proposal, DOE must then determine that the benefits of the standard exceed its burdens, based, to the greatest extent practicable, on a weighing of the following seven factors:

(1) The economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

(2) The savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of the covered products which are likely to result directly from the imposition of the standard;

(3) The total projected amount of energy savings likely to result directly from the imposition of the standard;

(4) Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

(5) The impact of any lessening of competition, determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

(6) The need for national energy conservation; and

(7) Other factors the Secretary considers relevant.

In addition, section 325(l)(2)(B)(ii) establishes a rebuttable presumption of economic justification in instances where the Secretary determines that "the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure * * *"

Section 327 of the Act addresses the effect of Federal rules concerning testing, labeling, and standards on State laws or regulations concerning such matters. Generally, all such State laws or regulations are superseded by the Act. Section 327(a)–(c). Exceptions to this general rule include: (1) State standards prescribed or enacted before January 3, 1987, and applicable to appliances produced before January 3, 1988, may remain in effect until the applicable standard begins (section 327(b)(1)); (2) State procurement standards which are more stringent than the applicable Federal standard (section 327 (b)(2) and (e)) and certain building code requirements for new construction, if certain criteria are met, are exempt from Federal preemption (section 327 (b)(3) and (f) (1)–(4)); (3) State regulations banning constant burning pilot lights in pool heaters; and (4) State standards for television sets effective on or after January 1, 1992, may remain in effect in the absence of a Federal standard for such product (section 327(b)(6) and 327(c)).

Another exception to Federal preemption concerns standards for refrigerators, refrigerator-freezers and freezers. The Act specifies that if DOE does not publish a final rule before January 1, 1990, relating to the revision of Federal standards for this product category, the State of California's December 14, 1984, standards (effective January 1, 1992) for these products, would become effective in California beginning January 1, 1993, and may not be preempted by any Federal standard. This exemption from preemption by a Federal standard would exist as long as

the California standard was not made more stringent. Section 325(b)(3)(A)(ii)(I) and section 327(c).

In addition, if DOE does not publish a final rule before January 1, 1992, relating to the revision of standards for refrigerators, refrigerator-freezers, and freezers, any State regulation which applies to such products manufactured on or after January 1, 1995, is exempt from Federal preemption until the effective date of a Federal standard. Section 325(b)(A)(ii)(II).

b. Background

The purpose of this rulemaking is two-fold: (1) To review the energy conservation standards for refrigerators, refrigerator-freezers, and freezers (hereafter referred to as refrigerators) that have been established by the Act; and, (2) to propose energy efficiency standards which are not less than 71 percent and not more than 78 percent AFUE (annual fuel utilization efficiency) [2] for small gas furnaces, i.e., those having an input rate less than 45,000 Btu per hour.

As directed by the Act, DOE published an advance notice of proposed rulemaking, with a 60-day comment period that ended February 5, 1988. (Hereafter referred to as the advance notice.) 52 FR 46367, December 7, 1987. The advance notice presented the product classes that DOE planned to analyze, and provided a detailed discussion of the analytical methodology and analytical models that the Department expected to use in performing the analysis to support this rulemaking. The Department invited comments and data on the accuracy and feasibility of the planned methodology and encouraged interested persons to recommend improvements or alternatives to DOE's approach. In addition, on January 28, 1988, a public hearing was held on the advance notice.

On December 2, 1988, DOE published a Notice of Proposed Rulemaking concerning refrigerators, refrigerator-freezers, and freezers; small gas furnaces and television sets. (Hereafter referred to as the proposed rule.) 53 FR 48798, December 2, 1988. The Department proposed to establish an energy conservation standard of 78 percent AFUE for small gas furnaces which was the highest level within the range (71 to 78 percent AFUE) for DOE to consider as set by the Act. For television sets, the Department proposed that an energy conservation standard would not be economically justified. For refrigerators, DOE did not propose a specific standard level; rather, DOE solicited comments and information within a range of standard levels. This range of standard levels considered is shown in Table 1–1 below. The standards prescribed by the Act, effective January 1, 1990, and those prescribed today, effective January 1, 1993, are shown in Table 1–2 below. During the 60-day comment period ending January 31, 1989, DOE received 120 written comments and testimony from 33 participants at the public hearing held in Washington, DC, on January 12 and 13, 1989. The issues raised are addressed in section III of this notice.

TABLE 1–1.—PROPOSED RANGE OF ENERGY STANDARDS EQUATIONS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

Product class	Energy standards equations (Kwh/yr)
1. Refrigerators and refrigerator-freezers with manual defrost	(16.3AV+316) to (11.9AV+258)
2. Refrigerator-freezer—partial automatic defrost	(21.8AV+429) to (14.1AV+305)
3. Refrigerator-freezers—automatic defrost with: Top-mounted freezer without through-the-door ice service	(23.5AV+471) to (16.8AV+363)
4. Refrigerator-freezers—automatic defrost with: Side-mounted freezer without through-the-door ice service	(27.7AV+488) to (13.1AV+540)
5. Refrigerator-freezers—automatic defrost with: Bottom-mounted freezer without through-the-door ice service	(27.7AV+488) to (17.9AV+386)
6. Refrigerator-freezers—automatic defrost with: Top-mounted freezer with through-the-door ice service	(26.4AV+535) to (17.6AV+380)
7 Refrigerator-freezers—automatic defrost with: Side-mounted freezer with through-the-door ice service	(30.9AV+547) to (15.2AV+652)
8. Upright freezers with: manual defrost	(10.9AV+422) to (12.3AV+181)
9. Upright freezers with: automatic defrost	(16.0AV+623) to (18.0AV+264)
10. Chest freezers and all other freezers	(14.8AV+223) to (11.2AV+163)

AV=Total adjusted volume, expressed in Ft.^{3} as determined in Appendices A1 and B1 of Subpart B.

TABLE 1–2.—JANUARY 1, 1990, AND JANUARY 1, 1993, ENERGY STANDARDS EQUATIONS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

Product class	Energy standards equations (Kwh/yr)	
	Effective Jan. 1, 1990	Effective Jan. 1, 1993
1. Refrigerators and refrigerator-freezers with manual defrost	(16.3AV+316)	(19.9AV+98)
2. Refrigerator-freezer—partial automatic defrost	(21.8AV+429)	(10.4AV+398)
3. Refrigerator-freezers—automatic defrost with: Top-mounted freezer without through-the-door ice service [1]	(23.5AV+471)	(16.0AV+355)
4. Refrigerator-freezers—automatic defrost with: Side-mounted freezer without through-the-door ice service	(27.7AV+488)	(11.8AV+501)
5. Refrigerator-freezers—automatic defrost with: Bottom-mounted freezer without through-the-door ice service	(27.7AV+488)	(14.2AV+364)
6. Refrigerator-freezers—automatic defrost with: Top-mounted freezer with through-the-door ice service	(26.4AV+535)	(17.6AV+391)
7 Refrigerator-freezers—automatic defrost with: Side-mounted freezer with through-the-door ice service	(30.4AV+547)	(16.3AV+527)
8. Upright freezers with: manual defrost	(10.9AV+422)	(10.3AV+264)
9. Upright freezers with: automatic defrost	(16.0AV+623)	(14.9AV+391)
10. Chest freezers and all other freezers	(14.8AV+223)	(12.0AV+124)

[1] Including all refrigerators with automatic defrost
AV=Total adjusted volume, expressed in Ft.^{3}, as determined in appendices A1 and B1 of Subpart B of this Part.

[2] AFUE is the ratio of annual fuel output energy to annual fuel input energy, expressed as a percent.

II. General Discussion

a. Maximum Technological Feasible Levels

The Act requires that, in considering any new or amended standards, the Department must consider those that "shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified." (Section 325 (1)(2)(A)). Accordingly, for each class of product that was under consideration in this rulemaking, a maximum technologically feasible level was identified. The maximum technologically feasible level is one that can be carried out by the addition of design options, both commercially feasible and prototypes, to the baseline units without affecting the product's utility. DOE believes that the maximum technologically feasible level must be capable of being assembled, but not necessarily manufactured, by the effective date of a standard.

The maximum technologically feasible levels were derived by adding energy-conserving engineering design options to the respective classes in order of decreasing consumer paybacks. Accordingly, the maximum technologically feasible level for refrigerator-freezers includes dual compressors and evacuated panels. A complete discussion of each maximum technologically feasible level, and the design options included in each, is found in the Engineering Analysis. *See* Technical Support Document, chapter 3.

The "max tech" levels presented in this notice are predicated on the assumption that CFC–11 and –12 will not be available for refrigerator production. In the Engineering Analysis the Department applied a five percent efficiency penalty for the CFC–11 substitute. *See* Technical Support Document, chapter 3. If CFC–11 and –12 were available for these designs, then the "max tech" levels could be even more efficient. A complete set of engineering cost-efficiency curves are presented in the Engineering Analysis for refrigerators, including those with CFC–11 and –12.

Table 2–1 presents the Department's maximum technologically feasible levels for the 10 refrigerator classes and 2 small gas furnace classes:

TABLE 2–1.—MAXIMUM TECHNOLOGICALLY FEASIBLE LEVELS

Products & product classes	Unit energy consumption [1]
Refrigerators:	
Manual defrost (17.0 cu. ft.) [2]	325 kWh/yr.
Partial automatic defrost (16.8 cu. ft.)	502 kWh/yr.
Automatic defrost top mount (20.8 cu. ft.)	490 kWh/yr.
Automatic defrost side-by-side (24.1 cu. ft.)	564 kWh/yr.
Automatic defrost side-by-side with through-the-door service features (31.9 cu. ft.)	746 kWh/yr.
Automatic defrost top mount with through-the-door service features (20.8 cu. ft.)	540 kWh/yr.
Automatic defrost bottom mount (22.8 cu. ft.)	498 kWh/yr.
Freezers:	
Chest, manual defrost (22.5 cu. ft.)	250 kWh/yr.
Upright, manual defrost (26.1 cu. ft.)	423 kWh/yr.
Upright, automatic defrost (25.3 cu. ft.)	588 kWh/yr.
Small Gas Furnaces:	
Non-weatherized (indoor)	97% AFUE [3].
Weatherized (outdoor)	97% AFUE [3].

[1] These maximum technologically feasible energy consumption levels for refrigerators/refrigerator-freezers/freezers are based on design options that use substitutes for CFC–11 and –12.
[2] Adjusted volume.
[3] 78 percent AFUE is the maximum standard level that is allowed by the Act for small gas furnaces.

The Department believes that these are the maximum technologically feasible energy conservation levels from an engineering standpoint; with the exception of small gas furnaces, each of these levels was evaluated in accordance with the economic justification factors specified in the Act to determine if the levels were economically justified. The maximum technologically feasible levels for small gas furnaces were excluded from the analysis, since these levels are beyond the legislated range in which the Department has to establish standards.

The Department evaluated each maximum technologically feasible level to determine if it would be economically justified at the time of the effective date of the standard. DOE rejected energy conservation standards that have unacceptable impacts on consumers or manufacturers, e.g., unusually long payback periods and negative impacts on manufacturers' returns-on-equity, or result in the changing of the utility of the product.

b. Energy Savings

1. *Determination of Savings.* The Department forecasts energy consumption through the use of the Lawrence Berkeley Laboratory Residential Energy Model (LBL–REM). The LBL–REM forecasts energy consumption over the period of analysis (1993–2015) for candidate standards and the base case.[3] The Department quantified the energy savings that would be attributable to a standard as the difference in energy consumption between the candidate standard's case and the base case.

The LBL–REM is fully explained in the Technical Support Document. Appendix B to that document addresses the LBL–REM in detail. The LBL–REM contains algorithms to project average efficiencies, usage behavior, and market shares for each product.

The LBL–REM is used to project residential energy use over the relevant time periods. By comparing the energy consumption projection at alternative standards or no standards (for small furnaces), and at alternative standard levels or the Act's 1990 standards (for refrigerators), the Department estimated the amount of energy projected to be saved during the period 1993–2015.[4] The

[3] For refrigerators, the base case represents no standards beyond the Act's 1990 standards; for small gas furnaces, the base case represents no standards.

[4] LBL–REM analyzed a single standard level or alternative levels over the entire period. That is, the fact that a standard might be revised during subsequent rulemakings was not considered by the model. The Department believes that it is not possible to predict what result such reviews may

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energy saved is expressed in Quads, i.e., quadrillion Btu's. With respect to electricity, the savings are quads of source or primary energy, which includes the energy necessary to generate and transmit electricity. The Act defines "energy use" as the quantity of energy directly consumed by a consumer product at point of use. This is generally called "site" energy, as opposed to "source" energy. There are major differences between these types of energy. In 1987, the amount of electrical energy consumed at the site was less than one-third of the amount of source energy that was required to generate and transmit the site electrical energy.[5] Therefore, it is important to identify whether the electricity involved is site or source energy.

The LBL–REM projections are dependent on many assumptions. Among the most important are responsiveness of household appliance purchases to changes in energy prices and consumer income, future energy prices, future levels of housing construction, and options that exist for improving the energy efficiency of appliances. As is the case with any complicated computer model simulation, the validity of the outputs is critically dependent on the inputs.

Under section 325(l)(3)(B) of the Act, the Department is prohibited from adopting a standard for a product if that standard would not result in "significant" energy savings. While the term "significant" has never been defined in the Act, the Department believes that a standard level option need not meet a threshold level of energy savings to be considered a "significant" saver of energy. The U.S. Court of Appeals, *NRDC* v. *Herrington*, 768 F.2d 1355 (D.C. Cir. 1985), concluded that Congressional intent in using the word "significant" was to mean "non-trivial." *Id.* at 1373. Thus, for this rulemaking, DOE believes that each candidate standard considered results in significant energy savings.

c. *Rebuttable Presumption*

NAECA established new criteria for determining whether a standard level is economically justified. Section 325(l)(2)(B)(iii) states:

> If the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure, there shall be a rebuttable presumption that such standard level is economically justified. A determination by the Secretary that such criterion is not met shall not be taken into consideration in the Secretary's determination of whether a standard is economically justified.

If the increase in initial price of an appliance due to a conservation standard would repay itself to the consumer in energy savings in less than three years, then it can be presumed that such standard is economically justified.[6] This presumption of economic justification can be rebutted upon a proper showing.

d. Economic Justification

As noted earlier, section 325(l)(2)(B)(i) of the Act provides seven factors to be evaluated in determining whether a conservation standard is economically justified.

1. *Economic Impact on Manufacturers and Consumers.* The engineering analysis identified improvements in efficiency along with the associated costs to manufacturers for each class of product. For each design option, these costs constitute the increased per unit cost to manufacturers to achieve the indicated energy efficiency levels. Manufacturer, wholesaler, and retailer markups will result in a consumer purchase price higher than the manufacturer cost.

To assess the likely impacts of standards on manufacturers, and to determine the effects of standards on different-sized firms, the Department used a computer model that simulated hypothetical firms in the industries under consideration. This model, the Lawrence Berkeley Laboratory Manufacturer Impact Model (LBL–MIM), is explained fully in the Technical Support Document. *See* Technical Support Document, Appendix C. LBL–MIM provides a broad array of outputs. The outputs are shipments, price, revenue, net income, and return-on-equity (ROE). An "Output Table" lists values for all these in the base case and in each of the standards cases under consideration. It also gives a range for each of these estimates. A "Sensitivity Chart" shows how ROE would be affected by a change in any one of the model's nine control variables.

For consumers, measures of economic impact are the changes in purchase price and annual energy expense. The purchase price and annual energy expense of each standard level are presented in Chapter 6 of the Technical Support Document.

2. *Life-Cycle Costs (LCC).* One measure of the effect of proposed standards on consumers is the change in life-cycle costs resulting from standards. This is quantified by the difference in life-cycle cost (LCC) between the base and standards case for the appliance classes analyzed. The LCC is the sum of the purchase price and the operating expense, incuding maintenance expenditures, discounted over the lifetime of the appliance.

The LCC was calculated for the range of efficiencies in the Engineering Analysis for each class of product in the year standards are imposed. The purchase price is based on the factory costs in the Engineering Analysis and includes a factory markup plus a distributor and retailer markup. Energy price forecasts are inputs that are taken from the 1989 *Annual Energy Outlook* of the Energy Information Administration. Appliance usage inputs for refrigerators are taken from the refrigerator test procedure and for small gas furnaces are taken from the furnace test procedure and modified to adjust from laboratory to field usage.

The differences in life-cycle costs between the base case and various levels of standards for refrigerators and small gas furnaces are presented in Tables 6.1–6.3 of the Technical Support Document. These LCC's are calculated at a seven percent discount rate; a higher rate, e.g., ten percent, gives a smaller difference between standards cases and the base case, while a lower rate, e.g., five percent, produces a greater difference. This results because the consumer benefits, i.e., reduced operating expenses accrue over the life of the appliance and are discounted back to some base year. Therefore, the lower the discount rate, the greater the resulting consumer benefits after discounting. In addition, as can be seen in the various LCC curves, the use of a higher discount rate results in a flatter curve.

When the LCC numbers are plotted graphically (on the Y axis) against unit energy consumption (on the X axis), the data generally produce a curve that is concave from above in shape. This means that at first the LCC curve will decline as efficiency improvements are made, will reach a minimum (which may or may not be discrete), and then rise. This indicates that the first efficiency

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have, and therefore it would be speculative to model any particular result. Therefore, for purposes of this reulemaking, each standard level that was analyzed was projected to have been in place from the time of implementation to the year 2015.

[5] Energy Information Administration, *Electric Power Annual 1987*, Tables 25 and 82, DOE/EIA–0348(87), 1988.

[6] For this calculation, cost-of-operation, i.e., energy saving, is derived from the DOE test procedures. See §§ 430.22 (a) and (n). Consumers who use the products less than the test procedure assumes will experience a longer payback while those who use them more than the test procedure assumes will have a shorter payback.

improvements will produce energy savings, the value of which will more than pay for the design change. As additional efficiency improvements are made, it becomes increasingly costly to save more energy, and, eventually, the value of the energy savings will not cover the expenditures for the design improvements. *See* Technical Support Document, Figures 6.1–6.12.

The minimum of the LCC curve was of particular interest in the analysis. The minimum of the curve represents that level of efficiency improvements that maximizes the difference between the value of energy saved and the additional consumer expenditures for the relevant efficiency improvements. Therefore, design options that corresponded to the minimum point were of special consideration in establishing standard levels.

The Department conducted a net present value (NPV) analysis to assess the differential economic impacts on consumers that would occur from the adoption of standards (for small gas furnaces) and amended standards (for refrigerators) compared to a base case with no-standards (for small gas furnaces) and the Act's 1990 standards (for refrigerators). *See* Technical Support Document, Chapter 5. The LBL–REM calculates the total expenditure for each product (discounted total value of energy consumption from 1992 through the last year of use for those products purchased through the year 2015, plus the total discounted expenses for equipment purchased from 1992 through 2015), with and without standards (for small furnaces), and with more stringent standards and with the Act's 1990 standards (for refrigerators). The NPV analysis is similar to the LCC analysis, in that the greatest NPV should occur at the standard level that corresponds to the LCC minimum for the product.[7] The NPV for each product at the different standard levels is identified in section IV of this notice.

3. *Energy Savings.* While the significant conservation of energy is a separate statutory requirement for imposing an energy conservation standard, the Act requires DOE, in determining the economic justification of a standard, to consider the total projected savings that are expected to result directly from new or revised standards. DOE used the LBL–REM results, discussed earlier, in its consideration of total projected savings. The savings are provided in section IV of this notice.

4. *Lessening of Utility or Performance of Products.* This factor cannot be quantified. In establishing classes of products and design options, the Department tried to eliminate any degradation of utility or performance in the two products under consideration in this rulemaking. That is, to the extent that comments, or DOE's own research, indicated that a product included a utility or performance-related feature that affected energy efficiency, a separate class with a different efficiency standard was created for this product. In this way the Department attempted to minimize the impact of this factor as a result of the standards that were analyzed. However, other factors, in conjunction with standards, could affect the utility or performance of products subject to standards. For example, the EPA limitations on chlorofluorocarbon (CFC) production could cause refrigerator manufacturers to adopt alternatives to the regulated CFCs which could affect the referigerator's utility or performance. If this occurs, DOE is not able to assure that utility and performance would not be affected by standards.

5. *Impact of Lessening of Competition.* The determination of this factor is to be made by the Attorney General. This determination is presented for each product in section IV of today's notice. In addition, a copy of the Attorney General's letter containing the findings is published in today's **Federal Register.**

6. *Need of the Nation to Conserve Energy.* With increasing concern about the prospects of polluted air, acid rain and global warming, some have argued that energy conservation, including more stringent energy conservation standards, is necessary to help alleviate those prospects. Accordingly, results from the environmental assessment for each product will be reported concerning this factor in the product specific discussion (section IV) of this notice.

7. *Other Factors.* This provision allows the Secretary of Energy, in determining whether a standard is economically justified, to consider any other factors that he deems to be relevant. The only such factor that has been identified is the EPA regulation to restrict the production of certain CFCs. This factor, too, is discussed in section IV of this notice.

III. Discussion of Comments

The Department received 120 written comments in response to the December 1988 proposed rule, and received testimony from 33 persons at the January 12–13, 1989, public hearing. These comments addressed all aspects of the analysis. In this section, the Department will discuss the general analytical issues raised by the comments; and then, the product-specific issues.

a. General Analytical Comments

1. Energy Projections

In the analysis for the proposed rule, the Department used energy price forecasts from the 1986 Annual Energy Outlook of the Energy Information Administration. The American Gas Association (AGA) contended that these price forecasts should be updated. (AGA, No. 128, at 16–17).[8]

The Department agrees with AGA and has updated the energy price projections by incorporating the forecasts from the 1989 Annual Energy Outlook (DOE/EIA–0383(89)).

2. Discount Rate Selection

In the Department's analysis for the proposed rulemaking, a seven percent discount rate was used to calculate consumer life-cycle costs and net present values.

The Department received numerous comments on the choice of an appropriate discount rate.[9] Among those supporting a lower rate, generally either three or four percent, were the Rocky Mountain Institute (RMI) (RMI, No. 49, at 1), the Natural Resources Defense Council (NRDC) (NRDC, No. 81, at 8–9), the Northwest Conservation Act Coalition (NCAC) (NCAC, No. 91, at 1), Massachusetts Executive Office of Energy Resources (Mass) (Mass, No. 107, at 5), the California Energy Commission (CEC) (CEC, No. 108, at 17), Edison Electric Institute (EEI) (EEI, No. 127, at 10), Ohio Office of the Consumer's Counsel (Ohio) (Ohio, No. 138, at 7), and Representative Edward J. Markey (Markey, No. 151, at 3).

The principal argument offered in support of a lower rate is that appliance energy conservation standards have

[7] The net present value (NPV) of a standard, per appliance, is calculated for all affected appliances that are purchased in the projection period, while the life-cycle cost (LCC) is calculated only for the lifetime of an appliance that is purchased in the first year of the relevant standard. Therefore, NPV and LCC estimates, per appliance, may not correlate exactly

[8] Comments on the proposed rule have been assigned docket numbers and have been numbered consecutively. Statements that were presented at the January 12 and 13, 1989, public hearing are identified as Testimony.

[9] Since the benefits of improved efficiency and the expenses of obtaining and maintaining the more efficient equipment accrue at different rates over time, the values must be stated in terms of a common point in time. Usually this common time is the present, and the expense and benefit flows are discounted to present values through the application of an appropriate discount rate. This rate is typically independent of price changes and tax considerations; as such, it is a real, after-tax rate.

benefits that accrue to all of society, and these positive benefits should be accounted for by a reduction in the discount rate for the individual purchasers of the energy saving appliances.

The Department agrees that all of society benefits from energy-conserving appliances, e.g., more energy-efficient appliances can help reduce the need to build additional electrical generating plants, and thereby have positive economic and environmental effects that can be enjoyed by all members of society. It is also true, however, that most of the benefits from more efficient appliances are realized by the individual purchasers of those appliances, while those benefits that are collective in nature and benefit all members of society, e.g., the environmental benefits mentioned above, are properly tallied in the environmental assessment that the Department must conduct for the rulemaking, and are considered under the economic justification factors. Such external benefits from the purchase of energy conserving appliances should not be used to support a lower discount rate for calculating the benefits to the individual purchasers.

Social discount rates can be appropriate in situations where there are significant societal benefits that cannot be estimated. However, even in those circumstances, there is a practical problem in determining what that rate should be, that is, by what amount the private discount rate should be lowered in order to account for the benefits that accrue to all of society. Most of the comments that argue for a social discount rate suggested, as noted above, lowering the individual purchaser's rate to three or four percent. None of these comments, however, offers any theoretical or empirical basis to support such a reduction, and the Department, therefore, rejects such calls for lowering the individual purchaser's discount rate. Furthermore, as noted above, many of the benefits that accrue to all of society from more energy-efficient appliances are, the Department believes, environmental benefits, which are calculated in the Environmental Assessment (DOE/EA–0386). Any additional social benefits that might exist from an individual's purchase of more energy-efficient appliances are, DOE believes, not sufficiently large or inestimable to warrant reducing the consumer's discount rate.

The use of a three percent discount rate has no reasoned theoretical basis. It is not related to the opportunity cost of money for purchasing consumer durables. It represents the extreme of the calculations of the social discount rate in a more general context, and is thus suspect on these grounds. Finally, the use of a three percent discount rate does not change the results qualitatively. For refrigerators, as seen in the Technical Support Document, standard level 3 has certain positive benefits, greater in magnitude than results calculated at a higher discount rate. Level 4 has even higher benefits, but is rejected for reasons not related to the discount rate and the calculated life-cycle-cost and net present value.

The principal exception to those who argued for a lower discount rate was a comment offerd by Battelle (Battelle) on behalf of the Association of Home Appliance Manufacturers (AHAM). (Battelle, No. 110, at 8–18 and 32–34). Battelle stated that consumers' past implicit discount rates [10] for appliances have been calculated to be in the 40 to 100 percent range. These rates are implicit discount rates, developed from data on past consumer purchases. Based on these data, Battelle contends that the discount rate, to be used in the analysis, should be no lower than 20 percent.

DOE reviewed these comments and found several problems with Battelle's recommendation. First, the implicit discount rate is a value, initially calculated from historical data, that is used by LBL–REM in the projection of efficiency choices. LBL–REM uses implicit (market) discount rates that characterize the market-place's trade-off of purchase price against operating expense. For refrigerators, these values are calculated from purchase data, including the shipment weighted energy factor for 1987, which was obtained from AHAM. The implicit discount rates used in the proposed rule were reported for each class in table B.2 of the Technical Support Document, and range from 78 to 279 percent. Implicit discount rates for the small gas furnace classes were calculated to be 16 and 20 percent; these were used in the proposed rule and are also reported in Table B.2 of the Technical Support Document.

Secondly, household appliances are considered to be consumer durable goods, not investment goods. This definition has been accepted elsewhere in the Federal government; for example, the U.S. Department of Commerce's *Survey of Current Business* reports expenditures on appliances in this way. A consumer durable good is one that is expected to last more than one year. All of the appliances that are covered by the Act fall into this category.

The return to a consumer of an appliance is the utility that is derived from having and using the product. The consumer will spend on appliances up to the point that the marginal utility that he derives is equal to the purchase price.

The idea of a monetary payback from consuming an appliance is contrary to economic thought. Only investment goods are expected to yield a monetary return. Furthermore, to calculate a rate of return to consumers from consuming an appliance, one would need some cardinal measure of their individual utility schedules, and would need to make interpersonal comparisons of them. Both of these concepts are contrary to economic theory and application.[11]

Although the concept of paybacks from the consumption of a consumer durable is contrary to economics, such is the approach that has been taken by those who argue that the "correct" discount rates to use in consumer life-cycle cost and net present value calculations for the appliance standards program are the implicit discount rates derived from past consumer appliance purchase data.

It has been suggested by some that, since many of the appliances under this program are "necessities," the average model should be considered a consumer durable, but that any additional price paid for a more energy-efficient model could be considered a consumer investment, against which monetary returns can be calculated. It is then suggested that the rate of these returns should be used as discount rates in the life-cycle-cost and net present value calculations.

This approach has some conceptual appeal; however, there would be problems with its implementation. Such a calculation would be appropriate where the more energy-efficient model differed from the average model only in its improved energy-efficiency. If there were other differences in features between the two appliances, the extra price for the more energy-conserving model could be at least partly related to those different features; therefore, the extra price would not be solely for the energy conserving aspect of the more efficient machine, and calculating rates of return based on that extra price

[10] The implicit discount rate is a measure of marketplace behavior where, using historical data, a discount rate is calculated that would result in the shipment weighted energy factor (SWEF) coinciding with the minimum LCC point.

[11] See, for example, Donald Stevenson Watson, *Price Theory and its Uses*, Boston: Houghton Mifflin Company, 1963, Chs. 4 and 5, esp. pages 59–61 and 68–71. For an additional critique of the practicality of cardinal measurement of utility, see William S. Vickrey, *Microstatics*, New York: Harcourt Bruce & World, Incorporated, 1964, pp. 36–51.

would not produce a rate of return from the aspect of investing in energy-efficiency.

Finally, the proposal to use a discount rate of 20 percent is counter to the practice of government agencies that are evaluating either regulatory program or government investments. In the evaluation of regulations, regulatory agencies often use (real) discount rates of three to seven percent. For example, the Environmental Protection Agency (EPA) in performing its regulatory impact assessment of the Montreal Protocol, used a 3 percent real discount rate. DOE, in evaluating Voluntary Energy Conservation Performance Standards for Commercial and Multi-family High Rise Residential Buildings used a seven percent real discount rate.

Even if the arguments for the use of a higher discount rate were accepted, they would not change the results of the analysis qualitatively. For refrigerators, at a ten percent discount rate, the level 3 standards would have some positive benefits (although reduced from the benefits calculated at seven percent. The net benefits of the level 3 standards would be higher than level 2 or level 4.

In deriving the seven percent discount rate that was used in the proposed rule, DOE was guided by the Court decision. *NRDC* v. *Herrington, supra* at 110. In the December 22, 1982, and August 1983 final rules concerning appliance energy efficiency standards, DOE used a ten percent discount rate. In dismissing the ten percent discount rate, the Court presented, without comment, a methodology for calculating a discount rate for consumer life-cycle cost and net present value calculations.

The methodology was a calculation of the interest charged on consumer loans, minus the tax deductibility of such interest, minus the rate of inflation; this yields a real, after-tax, rate of interest.

The applicability of that methodology changed considerably with passage of the Tax Reform Act of 1986 (Pub. L. 99–514). The Tax Reform Act phases out the tax deductibility of interest paid on consumer loans (the phase-out will be complete at the end of 1990). DOE used that methodology in calculating a discount rate for the December 1988 proposed rule. The Department examined interest rates on consumer loans (then about 12 percent) and deducted the expected annual rate of price increases (often used as a measure of the inflation rate) in the early 1990's (then forecasted to be around 5 percent).

With the passage of the Tax Reform Act, the issue became more complex. To the extent that purchases of more efficient appliances occur along with the sale of new homes, then the purchase prices of those appliances are often being financed by the interest rate on the mortgage, which is typically lower than interest on consumer installment loans, and is also fully tax deductible. Therefore, in order to derive an appropriate discount rate for these purchasers, it is necessary to estimate the expected mortgage interest rates, as well as the percentage of shipments of refrigerators and small furnaces that are expected to be installed in new homes. When this rule is effective in 1993, there are projections that the fixed contract mortgage rate for conventional commitments will be 10.78 percent.[12] For a purchaser in a marginal tax rate of, say, 28 percent, the after tax rate of interest paid would be 7.76 percent (10.78 x .72). Furthermore, it is estimated that the annual rate of price increases in 1993 will be 4.7 percent.[13] Therefore, the net, after tax, real rate of interest to these consumers would be 3.06 percent (7.76–4.70).

However, only a fraction of the units are expected to be installed in new homes and, thus, qualify for such a favorable interest rate. According to projections in the LBL–REM, around 60 percent of the small furnace shipments, and more than 30 percent of refrigerator shipments in 1993 are expected to be installed in new homes.

Presumably, then, 40 percent of small furnace shipments and 70 percent of refrigerator shipments in 1993 will be purchased as replacements and installed in existing homes. How these units are purchased would indicate an appropriate discount rate. For example, some replacement purchases could be made through home equity loans, the interest for which would be fully tax deductible. Many other replacements will be bought with cash that is withdrawn from savings or by an unsecured, personal loan.

For cash purchases, the relevant interest expense is the foregone interest that those savings could have earned. In 1993, time deposits, i.e., savings accounts, are expected to be earning between 7.72 and 7.79 percent interest.[14] Since such interest, if earned, would be fully taxable, the net, after tax earnings that are foregone are between 5.55 and 5.61 percent for an individual in a 28 percent marginal tax bracket. Subtracting the expected rate of price increases (4.7 percent), one obtains a resulting discount rate of 0.85 to 0.91 percent.

Many consumers, however, will purchase their appliances by taking out unsecured, personal loans, which are likely to carry interest rates of 18 to 20 percent; these interest payments would not be tax deductible. The discount rate for this group of purchasers would be as high as 13.3 to 15.3 percent.

As the foregoing discussion indicates, there is a wide range of possible discount rates to be used in calculating life-cycle costs and net present values. The range is from approximately 1 percent to slightly more than 15 percent.

Although many of the purchasers of these appliances should have real, after tax interest payments below 7 percent, many will have payments in excess of 15 percent; thus it would appear that the use of a seven percent rate in the consumer life-cycle cost and net present value calculations is justified. Since one discount rate is to apply in all the calculations, the Department used a rate approximately at the mid-point of the potential consumer discount rates.

This approach has several advantages. First, it has a reasoned theoretical justification in that it is related to the opportunity cost of money for purchasing consumer durables; as such, it is justified in terms of the alternate consumer investment opportunities that are forgone in order to finance the purchases of the appliances. Secondly, use of a higher rate would arbitrarily bias the LCC results upward, while a lower rate would create biases in the opposite direction.

3. Selection of Candidate Standard Levels

In the proposed rule, the Department indicated that its selection of candidate standard levels was dependent on the consumer life-cycle cost curves that were developed in the analysis. These curves were calculated by estimating the expected initial price increase that such additional design options would cause, adding the discounted value of maintenance and operating expenses, and comparing them to the discounted value of energy savings that would result from those design options. The selection criteria were to consider as possible standard levels as many points from the curves as would be practical. Two levels that were considered as standards were the maximum technologically feasible levels, as required by the Act, and the LCC minima which, at least theoretically, should maximize the benefits to the consumer. In addition, in the case of classes of refrigerators, the Department considered, as candidate standard

[12] DRI/McGraw-Hill, *U.S. Long-Term Review: Winter 1988–89, Table 6.*

[13] *Idid.*, Table 1.

[14] *Ibid.*, Table 23.

levels, up to three points less efficient than the LCC minima.

NCAC and Ohio suggested that LCC points occurring between the LCC minima and the maximum technologically feasible should be considered as viable candidate levels. (NCAC, No. 91, at 2; Ohio, No. 138, at 3).

DOE disagrees with the comment. The Department analyzed the LCC minima and maximum technologically feasible levels for refrigerators, and found both levels not to be economically justified. While there is an engineering design that falls between the LCC minima and the maximum technologically feasible, the Department believes that if two standard levels are found not to be economically justified, the levels between them are also not economically justified.

The CEC said that the establishment of a revised standard that is less efficient than the lowest LCC point is not economically justified. (CEC, No. 108, at 30).

The Department disagrees with the CEC's statement; the standards decision is based on a review of the analytical results, after taking all seven factors of economic justification into consideration. The LCC results are just one of the factors that is considered.

Jon Leber (Leber), a professional engineer, noted that DOE incorrectly stated that "at efficiency levels beyond the LCC minima, the incremental first cost of the product exceeds the value of the energy savings such that the average consumer does not realize a benefit from the investment." DOE agrees; Mr. Leber correctly notes that, in such a situation, "The consumers will still realize a benefit from the investment but the ratio of the benefit to the cost will now be less than one." (Leber, No. 155, at 1).

Ohio maintained that Congress clearly did not intend for DOE to exclude considering the benefits of energy efficiency that go beyond those that are represented in a life-cycle cost comparison. (Ohio, No. 138, at 7).

The Department agrees with Ohio, and notes that the LCC comparison was just one of the seven factors of economic justification that was consider.

4. Calculation of Energy Savings

Some comments questioned the Department's calculations of energy savings. The CEC contended that historically the average efficiency resulting from a new standard has overshot the theoretical market minimum by five to ten percent, and that DOE has underestimated the actual energy savings and economic benefits that will accrue from standards by at least that amount. (CEC, Testimony, January 12, 1989).

The Department notes overshoot means the positive difference between maximum unit energy consumption standard levels, and the average unit energy consumption actually attained by models sold after standards are implemented. For example, actual unit energy consumption may be five percent or more lower than standard levels.

DOE did not assume an overshoot, but adhered to its methodology, that, in the base case, the market will demand a range of efficiencies such that the SWEF exceeds the 1990 standard (in the case of refrigerators). In the standards cases, designs which met or went beyond the standard were considered to be available for purchase and were used to calculate a new SWEF. While no arbitrary overshoot was assumed, the average efficiency projected after standards by this method is allowed to go beyond the standard by an amount depending upon the base case distribution of efficiencies. In looking at the SWEF under each standard level, the Department is confident that it has captured all of the energy savings that each candidate standard level could generate.

It should be noted that the more stringent the standard level, the closer that the SWEF will be to the standard level, and the lower that the overshoot will be. LBL–REM SWEF projections are found in Tables 5.6, 5.7, and 5.16 of the Technical Support Document.

5. Reporting of the Environmental Benefits of Standards

In reporting the results of the analysis in the proposed rule, the Department presented the environmental effects of standards only in the Environmental Assessment (DOE/EA–0372, November 1988). The Solar Energy Association of Oregon (SEAO) commented that, in determining the economic justification of candidate standards, the Department should consider the environmental benefits that it calculates would result from candidate standards. (SEAO, No. 44, at 2). In addition, Representative Markey commented that mitigating global warming and pollution are important for our national security. (Markey, No. 151, at 2).

Under the economic justification factor, Need of the Nation to Conserve Energy, as discussed above, the Department considered the environmental effects that are expected to result from standards. These effects are reported for each product in section IV of this notice.

6. Choice of Proposed Standard Levels

In the proposed rule, the Department proposed a range of refrigerator standards, from not amending the 1990 standards through standard level 3. All of these possible standards were found to save a significant amount of energy, be technologically feasible, and be economically justified.

RMI commented that although the Department found that standard levels 4 and 5 also satisfied those requirements, it did not propose either, thereby "violating the law." (RMI, No. 49, at 2).

The Department notes that RMI is mistaken; in fact, in the proposed rule, the Department said that both standard levels 4 and 5 would be technologically feasible and would result in a significant conservation of energy, but that the Department found that they were not economically justified.

GE and AHAM commented that the Department should not adopt refrigerator standards that are based on the scenario used for the proposed rule (in which it was assumed that CFC–11 and –12 would be available for refrigerator production), since that analysis did not consider the phase-out of CFCs. (GE, No. 125, at 7; and AHAM, No. 137, at 2).

While there is much speculation and many proposals concerning the phase-out of CFC–11 and –12, the Montreal Protocol calls for an immediate rollback of production to 1986 levels with a 50 percent cut of those levels by 1998. As a result, various chemical companies and laboratories are doing research on finding replacement chemicals. However, the record is fairly clear that replacement chemicals will not be available by 1993 when these standards go into effect.

DOE believes that CFC–11 and –12 will be available to refrigeration manufacturers in 1993 and probably will still be available in 1997, although at higher prices. The Department believes that, short of some new treaty or legislation, any transition from CFC–11 and –12 over the 1993 to 1998 time span will occur voluntarily. However, DOE believes that such a transition would likely occur; therefore, the analysis was modified to include the possibility that it occurs before 1998. To accomplish this, the analysis was divided into two parts. For the period 1993 through 1995, it was assumed that CFC–11 and –12 are available, and for the period 1996 and beyond, it was assumed they are replaced.

For this later time period, the engineering analysis was modified as discussed, *supra*, in the "Product-

Specific Analytical Comments for Refrigerators" to include features such as enhanced heat transfer for evaporators and dual compressors. Other features, such as the 5.3 EER compressor and enhanced performance foam insulation (k=.10), were deleted, since such designs are not likely to be achievable without CFCs. A 5.3 EER compressor needs CFC–12 as a working fluid to achieve its maximum efficiency. Based on announcements from Dupont, it was assumed that a replacement for CFC–12 becomes available with no performance penalty. In addition, based on results of tests conducted by the Mobay Corporation [15], it was assumed that the replacement for CFC–11 will have a five percent penalty in insulation performance. The thermal conductivity of 0.1275 Btu-in/hr°F ft ^{2} was used in the analysis for today's final rule.

In addition to a performance penalty for the CFC–11 substitute, the Department also assumed a price penalty for both CFC–11 and CFC–12 substitutes. This penalty was to assume a three-fold increase in price.

The engineering analysis presented in the proposed rule is still used for the earlier time period; the Department chose to modify the engineering analysis only slightly, because the Department believes it still is generally representative of the possibilities with CFC–11 and –12 being available. The slight modifications included increasing the estimates of evacuated panel costs, and, as baseline volumes were adsjusted, recomputing the baseline cost estimates.

All impacts of the refrigerator standards presented today are a result of the original engineering analysis being used for 1993 through 1995 and the modified engineering analysis, with its different costs and features, being used from 1996 and beyond. The Department believes that this represents a conservative but plausible scenario for the possibility of a transition away from the CFC–11 and –12.

Both the with- and without CFC–11 and –12 scenarios were used in the LBL–REM, LBL–MIM, and in the environmental analyses. As the scenarios changed inputs to LBL–REM, the LBL–REM fed into LBL–MIM and the environmental analyses and affected their results, also.

The Department notes that in the above scenario the consumer paybacks presented are based on the earlier CFC case, since the Department believes that the Act requires those estimates to be presented for the year in which the standards are to be effective. The trial standard levels, however, were based on costs and efficiencies achievable with alternatives to CFC–11 and –12, i.e., the post-1995 scenario.

b. Product-Specific Analytical Comments

1. Refrigerators

A. *Engineering Analysis:* The comments on the engineering analysis of refrigerators dealt with a variety of issues, ranging from the Department's methodological approach and assumptions to its estimates and calculations.

Evacuated Panel Costs and Energy Efficiency

One comment contended that, in the analysis for the proposed rule, the Department had underestimated the costs and overestimated the associated K value for evacuated panel insulation. (Admiral, No. 135, at 2). General Electric's (GE's) comment, however, supported the K value (of 0.05 for a composite of evacuated panel and foam insulation) used by the Department. (GE, No. 125, in Appendices 6 and 7).

With regard to the underestimation of cost, for the analysis for the final rule, the Department agrees that an increase in its estimate of evacuated panel costs is justified after receiving comments from Admiral, who has performed research on the development of vacuum panels.

DOE agrees with GE that the K value for a composite wall of foam insulation ands an evacuated panel is correctly represented by 0.05. The Department realizes that Admiral's original estimate of K value was speculative. However, DOE is relying more on GE's comment, since that company has actually manufactured powder filled panels in refrigerator-freezers, and, therefore, has actual knowledge of what the K factor can be.

Evacuated panel availability

Amana Refrigeration, Inc., (Amana, No. 87, at 1–3) believes that the arguments concerning the future availability of evacuated panels for industry wide use are ill-considered. The statement identified a single, but all-important facet of this emerging technology; namely, the supply of ultra-fine silica powders which have thus far been the best candidates for filler material for two types of panels.

Amana stated that based upon the several patents issued and other literature covering this subject area, fumed silica and precipitated silica are the premier candidates for filler material in evacuated panels. When utilized in a plastic pouch and evacuated to an absolute pressure of approximately 0.1 Torr, the densified silica weighs approximately 8.0 to 9.8 lbs per ft^3. (This is the powder-filled panel produced by GE). Fumed silica tends to have a smaller particle size (0.8 um) than the fine precipitated silicas (1.3 to 2.0 um), thus tending to be a more consistent insulator.

With this information, Amana provided a "what if" scenario, for a hypothetical use of evacuated panels in the industry's refrigerator and refrigerator/freezer products. First, Amana made several assumptions:

(1) The industry's annual production of 6.9 million refrigerators and refrigerator/freezers in 1988 will continue at that level.

(2) The 18 cu. ft. top freezer model described in the Technical Support Document represents an "average" model for the purpose of calculating material requirements.

(3) That a composite insulation structure consisting of ½" thick panels (R=10) and foamed-in-place polyurethane represents a viable structure for consideration.

(4) That the evacuated panels should substantially cover the entire inner surface (5 sides) of the refrigerator outer case to achieve the benefits of enhanced insulation. For the assumed model described in the Technical Support Document engineering analysis, this could require as much as 45 ft^2 of evacuated panel. The silica material required then ranges from 15.5 to 18.6 lbs. per unit. (The lower number refers to fumed silica fillers; the higher to precipitated silica.)

DOE believes that these four assumptions are reasonable for this analysis. Amana's fifth and all important assumption is that the entire Industry has to install evacuated panels in all its products by 1993—a purely hypothetical scenario.

Amana, using the assumptions above, demonstrates that industry requirements for fumed and precipitated silica for evacuated panel use are in the range of from 107 to 128 million pounds, annually. Since the entire United States' production capability for manufacturing these materials is estimated to be approximately 200 million pounds annually, the refrigeration industry's requirements could consume over 60 percent of the entire national supply. This would be an untenable situation, and the suppliers of silica powders

[15] Dietrich, K. W. and H. P. Doerge, "Performance of Alternative Chlorofluorocarbons in Rigid Urethane Appliance Foams," in *Proceedings of SPI: 31st Annual Technical/Marketing Conference*, October 16–21, 1988, pp. 141–147.

would need to enhance their productive capability significantly.

A fumed silica manufacturing plant with an annual capacity of 11 million pounds represents a $40 million investment, not including the siting and environmental protection costs. To meet the hypothetical demand noted above, ten such plants would be needed. Erection and prove-out time requirements would range from 3 to 4 years after site selection, zoning approvals, environmental impact statements, and other preliminary procedures were completed.

Quantum Optics testified that "Aerogels are now available only in limited quantities, but several projects are underway that could lead to production for the entire refrigerator industry by 1993 if adequate investment capital is committed." (Quantum Optics, Testimony, January 12, 1989).

DOE has reviewed the comments, and believes that the chemical industry will not be able to make sufficient quantities of silica commercially available by 1993; and, therefore rejects this technology as being economically justified.

Additivity of Energy Impacts of Design Options

White Consolidated Industries (WCI) stated that the analysis was "not adequate for standard setting. Often various design changes interact with each other or with existing systems. The results are rarely additive as simplistically assumed by (the Department's) analysis." (WCI, No. 78, at 5).

The Department agrees that because designs can interact, the energy impacts are not necessarily additive. That is why the Department computed independently the energy impacts of each combination of designs. Simulations were run for each combination of design options as shown in the Technical Support Document. Interactions among design options were accounted for as part of the simulation model.

Estimates of Improved Thermal Conductivity Values

WCI stated that the Department's analysis of improved insulations goes "far beyond anything we believe will be available." (WCI, No. 78, at 6). Specifically, WCI argued that the assumption that .11 and .10 K values can be achieved with MDI foam is not valid.

In response, the Department notes that GE testified that it presently achieves a K value equal to 0.11. (GE, Testimony, January 12, 1989). Since a K value equal to 0.11 is available now, the Department has no reason to believe that it will not still be available in 1993, when this rule will be in effect. On the other hand, because of the expected product development, e.g., drying, rigidity, and other implementation issues, that the Department expects will be needed to achieve the availability of .10 foam, DOE agrees with WCI that such foam is not likely to be available, in necessary quantities, in 1993. Therefore, in its analysis for this final rule, the Department limited its consideration of a maximum improvement in thermal conductivity value to 0.11.

Substitution of Foam Insulation for Fiberglass

In the proposed rule, the Department reported that it had estimated a 12 percent reduction in energy-use as a result of substituting foam for fiberglass under the lid of a chest freezer. WCI argued, however, that when it made a similar substitution, there were zero energy savings. (WCI, No. 78, at 5).

The Department's estimate of energy savings from foaming the lid of a chest freezer was obtained from an analysis of K factors for fiberglass and foam insulation. With the area and temperature difference being equal, the Department believes that the superior K factor of foam should provide a noticeable savings.

Furthermore, even assuming a penalty for the replacement of CFC–11, the Department estimated that foaming the lid of a chest freezer would still result in an 8.6 percent reduction in energy-use for this design option.

In addition, the substitution of foam for fiberglass should provide superior insulating qualities, at least theoretically, and, therefore, provide some energy savings. Empirically, such substitutions have produced energy savings in other refrigeration applications. The Department, therefore, does not understand why WCI's substitution of foam for fiberglass in a chest freezer lid produced no energy savings.

Energy Savings With the 5.0 EER Compressor

In the proposed rule, the Department reported that its energy model predicted an 11.2 percent energy reduction when a 5.0 EER compressor was substituted for a 4.5 EER compressor in the case of an 18 cubic foot, top-mount, automatic defrost refrigerator-freezer. Admiral, however, commented that its simulation model "predicts a 7.1 percent energy reduction for the same change." (Admiral, No. 123, at 7).

The Department's simulations modeled actual compressors with data supplied by compressor manufacturers. The 5.0 EER compressor that was modeled was actually a 5.05 EER compressor at the standard rating conditions (130°F condensing temperature and −10°F evaporator temperature). The Department has changed its designation of the 5.0 EER compressor to a 5.05 EER compressor in the substitute CFC analysis. The 4.5 EER compressor is actually a 4.3 EER compressor at the rating point. If both compressors operated at the same standard conditions, the efficiency improvement for the refrigeration system would be (5.05−4.3)/4.3=17.4 percent. The energy reduction, (assuming no auxiliary electric energy use) would be 14.8 percent. However, since only about 75 percent of the total energy use for the top-mount automatic defrost refrigerator-freezer is for the compressor, the efficiency improvement would be only 11.1 percent (.75 (14.8 percent)). Therefore, if the evaporator and condenser temperatures were at −10°F and 130°F, respectively, 11.1 percent would be the expected energy savings. The Department had an 11.2 percent energy savings. It should be noted that the simulation model solves iteratively for the condenser and evaporator temperatures. Therefore, the actual compressor EER is rarely equal to the nominal value.

Baseline Model

A number of comments claimed that the baseline models are inaccurate; that is, they do not properly represent the features of average models to be sold in 1990. These comments also stated that the average unit represented by the shipment-weighted energy factor (SWEF) would be substantially higher, i.e., more efficient, than the 1990 standard. (AHAM, No. 137, at 3 and 16; GE, No. 125, at 22–24. Battelle, No. 110, at 1, and Testimony, January 13, 1989; and Admiral, No. 123, at 7).

In response, the Department notes that the purpose of the baseline models is to provide a basis for estimating changes in unit energy consumption and production costs associated with implementing engineering design changes. The baseline models in the analysis for today's final rule are generally representative of units that marginally comply with the 1990 standard. In the proposed rule, DOE stated that the baseline models for refrigerators, refrigerator-freezers, and freezers "represent a typical model within an appliance class that will be sold during 1990, the year NAECA standards first take effect."

The Department's baseline unit contained designs that were meant to represent only one combination that can be used to meet the 1990 standard. The baseline description should not be interpreted as being unique. Indeed, there are many ways to achieve a particular energy-use. The baselines that were chosen represent one set of descriptions for units close to the 1990 standards. Where the baseline consumption was greater than the expected 1993 SWEF, an adjusted baseline (from the cost-efficiency curve) was established with which to calculate economic quantities such as payback periods. The Department believes that it is reasonable to expect that the baseline unit should have characteristics that are similar to marginally compliant units that will be produced in 1990. The Department believes that recent manufacturer data submitted to the Department by Battelle show that objective was accomplished. (Battelle, No. 110).

The Department has responded to Battelle's comment by adding a point in the engineering analysis' cost-efficiency curves that reflects the BEM, and has used that information in the LBL-REM. This point was used as the 1990 SWEF, from which calculations of energy savings were made. In addition, its use in the LBL-REM influenced the other parts of the analysis that use LBL-REM output as input, e.g., the LBL-MIM, environmental analysis payback calculations.

In selecting a baseline unit, the Department chose units that had adjusted volumes that are representative of the different models sold. Comments that the baselines chosen had adjusted volumes that differed from the industry averages, which were provided by Battelle, are not relevant. That is because energy standards are not in terms of a single maximum allowable energy consumption regardless of size, but, rather, the standards are equations that relate energy-use to adjusted volume. Therefore, differently sized units of the same class have different maximum allowable levels of energy consumption.

According to data submitted by Battelle, in many cases, the industry has planned design changes to meet the 1990 standards which differ from those characterized by the DOE baseline model. DOE recognizes the diverse methods by which industry can meet the 1990 standards, and is not implying that a specific design will be adopted by all manufacturers. For some classes, the DOE baseline units do not meet the 1990 standards. In those classes, a design option is identifiable which will meet the 1990 standard. DOE assumes that the most cost-effective designs will be incorporated first.

Compressor Efficiencies for Smaller Capacity Units

WCI contended that the proposed rule failed "to take into account the very important difference that size makes in compressor efficiency." (WCI, No. 78, at 5).

Specifically, WCI pointed out that in smaller refrigerators, the correspondingly smaller compressors are less energy-efficient.

This point was also raised at the hearing in testimony offered by Mr. Hardt of the Embraco Corporation. (Hardt, Testimony, January 12, 1989).

After extensive review of the subject, the Department agrees with WCI's and Embraco's contention. As a result, the analysis for this rulemaking limited its evaluation of the maximum feasible compressor efficiency to 4.0 EER for the very small refrigerator-freezers. This consideration was applied only to the manual defrost refrigerator class, since that is the class in which virtually all of the relevant smaller units fall.

Accuracy of the Simulation Model

GE stated that "using the simulation program that GE normally uses for design guidance, the results showed the baseline model would use 1016 kWh/yr., compared with 947 kWh/yr. as shown in the TSD." (GE, No. 125, at 21).

In response, the Department notes that it is difficult to compare two simulation programs without knowing all the details about them. However, there is a very important difference between GE's baseline unit and DOE's. The Department's description of the schematic drawing of its baseline in Appendix A of the proposed rule's Technical Support Document was in error. It describes a 20 ft^3, rather than an 18.0 ft^3, top-mount automatic defrost refrigerator-freezer. The simulations were done for an 18.0 ft^3 unit as described in the proposed rule. The Department, however, placed the wrong schematic in the appendix. Therefore, GE would be expected to obtain a higher energy consumption for its baseline than the Department did. The adjusted volume for the unit pictured in Appendix A is actually 23.4 ft^3 rather than 20.8, a 2.6 ft^3 increase over the baseline adjusted volume. DOE believes that the difference in adjusted volume accounts for the higher energy use of GE's baseline unit.

Analysis of Several Refrigerator Design Options

Several comments contended that the Department had failed to analyze properly several significant design options. These included dual compressor units; two-stage, two-evaporator systems; hybrid evaporators; variable-speed compressors; and, silica aerogel insulation. (American Council for an Energy-Efficiency Economy (ACEEE), ACEEE, No. 77, at 1–4; NRDC, No. 81, at 38–55; NYSEO, No. 156, at 125; CEC, No. 108, at 10; and RMI, No. 49, at 3–5). Each of these will be discussed.

There are at least three variants of two-evaporator systems. These are the two-stage, two-evaporator system, e.g., the LaBrecque cycle; the two-compressor, two-evaporator system; and the hybrid evaporator system. The energy savings arise by having the refrigerator evaporator operate at a higher (about 20 °F) temperature than the freezer evaporator (about −13 °F). A reduction in defrost energy is also possible since there is less condensation of moisture from food in the refrigerator at the higher evaporator temperature. Food will also keep longer because it will not get as dehydrated.

The two-stage, two-evaporator LaBrecque cycle refrigerator-freezer is being developed. Theoretical estimates are that this design can save 20–25 percent of compressor energy currently consumed.

The hybrid evaporator is a two-evaporator system with one compressor. A valve controls the flow of refrigerant to the two evaporators. Two companies have commented that it did not perform well. Amana stated that "variations in the temperatures had a marked effect on the compressor cycling pattern and on thermal performance of the unit." (Amana, Testimony, January 13, 1989).

The two-compressor, two-evaporator system received much attention in the comments (ACEEE, No. 77, at 3; RMI, No. 49, at 4; NRDC, No. 81, at 49–53). These comments identified the Norgard prototype as a low energy prototype that uses this technology. It must be noted that the Norgard prototype also uses thicker insulation than is normal for similarly sized U.S. refrigerator-freezers. There are no anti-sweat heaters and no condenser fan. The Norgard paper [16]

[16] Per Henrik Pedersen, Jorgen Schjaer-Jacobsen, and Jorgen S. Norgard, *Reducing Electricity Consumption in American Type Combined Refrigerator/freezer*, paper presented at 37th Annual International Appliance Technical Conference, Purdue University, May 6–7, 1986.

estimates about 20 percent energy savings for the refrigeration system. Using the Norgard equations and the Department's data results in a 17 percent energy savings for the compressor. Norgard does not provide data on the compressor EERs or additional cost for the refrigeration system. One comment stated that the Norgard prototype can be built for $150–$200 more than conventional models, and the price premium would fall with increased production. (RMI, No. 49, at 4). This price increase is supposed to cover all changes in the prototype relative to the conventional model. Two-compressor, two-evaporator system models are built by Sub-Zero in the U.S. and by Bosch in Germany.

After analyzing the three different two-evaporator systems, the Department has added such a design option to the analysis. DOE selected the two-evaporator, two-compressor system for the analysis.

The Department attempted to obtain data on variable-speed compressors from refrigerator and compressor manufacturers, but was unable to. In the future, manufacturers may go to this technology to match loads better to compressor capacity. This will reduce cycling losses and allow for higher evaporator temperatures in the refrigerator compartment. The cost of such a system and the performance are not yet known. This design could eventually be considered as another alternative for the two-evaporator system; that is, a variable-speed compressor could operate with an electronically controlled valve and two evaporators to supply refrigerant to the cabinet that requires it.

Since the Department's original analysis, aerogel insulation has been more seriously considered as a replacement for foam insulation in refrigerators and freezers. A prototype is being constructed by a manufacturer in concert with Quantum Optics, Inc. (Quantum) (Quantum, Testimony, January 12, 1989). DOE performed some analysis of this design option, e.g., the development of cost-efficiency data, but chose instead to let powder-filled panels be the representative for evacuated panel insulation. Powder-filled evacuated panels have been used in some refrigerators marketed in the United States, and the Department believes that the data on their cost and performance characteristics are more reliable for use in modeling the energy-conserving possibilities of evacuated panels.

Two comments argued that the Department's analysis was insufficient in treating alternative refrigerants, condenser gas heating, and improved gaskets. (NRDC, No. 81, at 44–55; and CEC, No. 108, at 10).

Improved gaskets reduce heat leakage and thus reduce compressor energy use. This can be done by improving single gasket designs or changing to a double gasket design. NRDC commented that improved single gaskets should be considered. (NRDC, No. 81, at 57). The Department's proposed rule assumed a 10 percent improvement in gasket heat leakage for its baseline models. The Department does not see that further improvements can be made. Therefore, for the final rule, the Department continued to assume a 10 percent improvement in gasket heat leakage for the baseline models.

Since the proposed rule was prepared, new research has been performed on alternative refrigerants. Alternatives, such as HFC–134a and HCFC–22, and mixtures have been considered. The former will not provide an efficiency as high as that of CFC–12, although both HFC–134a has the advantage of no ozone depleting potential (ODP) and HCFC–22 a much lower ODP than that of CFC–12. For mixtures, such as CFC–12 and DME, preliminary Oak Ridge National Laboratory (ORNL) data show an improvement in efficiency relative to that of CFC–12 alone. However, the work at ORNL is only preliminary and more testing is necessary. The Dupont mixture, consisting of HCFCs–22 and –124, and HFC–152a, is reported to be approximately equal to CFC–12 in efficiency. The new blend is reported to be a drop-in, and oil compatibility is not reported to be a problem. The ODP is very low (0.03) relative to CFC–12 (1.0). Toxicity testing is needed for HCFC–124. Only limited commercial quantities could be provided before 1993–94 (Dupont, No. 113, at 2).

Two comments contended that substitution of condenser gas heating for anti-sweat heaters around the doors of refrigerators and freezers will save energy because the electric energy use of the heaters is saved. (NRDC, No. 81, at 56; and RMI; No. 49, at 5). This is a controversial issue. It is not clear if the heat flowing into the cabinets due to the increased wall temperature would be greater than that provided by the electric heaters. Since any additional internal heat would have to be removed by the refrigeration system, condenser gas heating may not be more energy efficient than electric anti-sweat heating. One participant at the hearing stated that it is unclear whether using condenser gas heating saves energy. (Sub-Zero Freezer Company, Inc. (Sub-Zero), Testimony, January 12, 1989).

NRDC assumes that condenser gas heating will save energy because most of the heat energy will flow outwards (due to the higher R-value of the walls). However, DOE believes this may not occur since the wall temperature may still be higher than without condenser gas heating. Therefore, DOE rejects condenser gas heating as an energy saving design.

Natural Convection in Lieu of Fans

RMI commented that the Department should have included the use of natural convection currents instead of fans in some situations. (RMI, No. 49, at 5).

The Department notes that it may be possible to remove fans in a two-evaporator design where air need not be circulated from the freezer to the refrigerator compartment. The Norgard design uses one fan in the freezer compartment, and none in the refrigerator cabinet. Sub-Zero's design, on the other hand, uses fans in each cabinet.

Where two-evaporator systems were studied, the Department's analysis included a four watt evaporator fan in the freezer compartment, and no fan in the refrigerator compartment. By modeling this design, which is similar to the Norgard one, the Department's analysis does address the savings potential of natural convection currents.

Inclusion of Enhanced Heat Transfer for Evaporators

Two comments stated that DOE should have included in its analysis enhanced heat transfer for evaporators. Heat exchanger heat transfer can be improved by increased area, increased air flow over the refrigerant tubes or other heat transfer enhancement. (ACEEE, No. 77, at 4; and CEC, at 10). All of these approaches allow the evaporator temperature to be increased, which results in less compressor energy use. Heat exchanger area can be increased by increasing face area or adding more rows of refrigerant tubes. Increased area will result in increased evaporator heat transfer effectiveness. Increasing the volume occupied by the heat exchanger will reduce the internal volume since evaporators are located inside the cabinets. Simulations with the top-mount, automatic defrost refrigerator-freezer indicate that an increase in evaporator "heat transfer-area product" of 10 percent will result in a 1.1 percent energy use decrease.

DOE added this design option to the analysis.

Another alternative is to add fins or redesign the fins so as to increase the rate of heat transfer. For example, the

amount of material used in the fins could be kept constant while changing the shape of the fins, and possibly increasing their density. Alternate materials could be used that have higher rates of heat transfer to the surrounding air. The heat transfer on the interior of the heat exchanger tubes can also be enhanced by adding grooves or other modifications. Data provided by coil manufacturers to the Department indicate that an energy savings of 1.5–2.0 percent is possible for enhanced evaporator heat transfer for an additional cost of $1.225 million (all tooling and expenses, covering all applicable refrigerator and freezer classes). Although there is no confirmation of this cost estimate, DOE has converted this tooling cost into a per unit cost.

The ACEEE further stated that a paper by Mr. Bohman of Amana discusses the potential savings with improved evaporator heat transfer. In that paper, an example was given where the uA value [17] for the evaporator is increased from 65 to 113, and the compressor can operate at −10 °F rather than −15 °F. This results in an energy savings of 7.5 percent for a 74 percent increase in heat transfer effectiveness. This is similar to the simulation results cited above. The analysis is over-simplified since space limitations and other factors must still be considered. Costs of such an improvement were not provided in any comments received. Therefore, DOE is using the data that was used previously to estimate energy savings and costs for enhanced evaporator heat transfer.

Improved Expansion Valves and Fluid Control Valves

One comment states that data should be gathered on improved expansion valves and fluid control valves, since fluid control valves could be used to reduce off-cycle refrigerant movement. (CEC, No. 108, at 10). Fluid control valves would cause a compressor to start against an unequalized pressure condition. This has been accomplished for rotary, but not for reciprocating compressors. Fluid control valves have not been effective with reciprocating compressors; and, it was reciprocating compressors that the Department simulated in its analysis. Therefore, the Department has not modeled any energy savings from the use of fluid control valves with reciprocating compressors.

Although DOE has comments requesting an evaluation of improved expansion valves, no new data have been forthcoming. As stated in the proposed rule, it is expected that some energy savings would be possible from this design option in the non steady-state mode. Another complication is that the test procedure may not be suitable to demonstrate the savings from this design option. Additional information from the laboratory as well as in-use data are needed to evaluate this design accurately.

There were no new data submitted on either of these design options.

B. *Consumer Analysis:* The comments on the consumer analysis of refrigerators dealt with a number of issues including the baseline models and efficiencies for 1990 and the Department's projections of no improvement in energy use and efficiency levels for refrigerators.

Energy Use Projections

Battelle submitted data that support the energy consumption estimates that had been attributed to specific designs by the Department. These data indicate that manufacturers plan to exceed the 1990 standards. Battelle did not criticize the costs associated with the design options.

DOE continues to calculate energy savings and net present value of proposed standards by comparing the trial standards cases to the base case, which includes the 1990 standards. DOE welcomes the AHAM data submitted by Battelle, since it is useful for calibrating the base case in 1990, as noted above.

Based on revisions to the engineering data and modeling inputs, e.g., energy price projections and heat pump shipments, the Department has calculated a new projection of efficiencies for refrigerators. These revised projections are reported in the Technical Support Document accompanying today's final rule. *See* Technical Support Document, Appendices A and B.

NYSEO criticized the Department's questioning of its own projection that, in the absence of more stringent refrigerator standards, no improvement in refrigerator efficiency would be likely. NYSEO characterized the Department's statement as a "turnaround" for which DOE had provided no justification. (NYSEO, No. 156, at 20).

While the Department believes that conservation improvements in refrigerators will occur, nevertheless, the analysis for the final rule continues to project that in the absence of more stringent standards, there would be no improvement in refrigerator energy efficiency. The Department continues to question the LBL-REM's forecast of no improvement in SWEF over the analysis period (1993–2015). The Department finds that the improvement in efficiency which has occurred and the improvements that are possible, as shown in the engineering analysis, make it highly unlikely that, on average, there will be no improvement in refrigerator efficiency over the next 25 years.

Shipments

One comment on the proposed rule suggested that the Department's projections of refrigerator shipments under the different standards cases were too high. (Battelle, No. 110, at 2, 23). Battelle not only does not expect shipments to increase in the standards cases, as DOE had projected in the proposed rule, but expects instead that shipments would decline under standards, at least in the short term. (Battelle, No. 110, at 21).

DOE agrees with comments raised by Battelle.

DOE obtained the results of increasing shipments in the standards' cases primarily because of the operating expense elasticities in the LBL-REM, which were based on a cross-sectional analysis that was done in 1976. In response to Battelle's comments, the Department has revised, but not eliminated, operating expense elasticities, in order to prevent refrigerator sales from increasing in the standards' cases. Values of the operating cost elasticities for refrigerators and for freezers are presented in the Technical Support Document.

Battelle also contended that "consumers switching to efficient models only steal sales from inefficient models." (Battelle, No. 110, at 22).

The Department believes that this view is unsupported. Although effectively all households in the U.S. now own a refrigerator, the saturation did not stop at 100 percent. In fact, many households now own two, and in some cases three, refrigerators. If the operating expense of an appliance decreases, it could become more attractive to a larger population.

Maintenance Expenses

Another critique of the consumer analysis of refrigerators was that the Department did not include additional maintenance expenses that would be associated with more efficient refrigerator designs. Battelle suggested, in fact, that more efficient designs impose an incremental maintenance expense equal to five percent of the incremental price. (Battelle, No. 110, at 16). In addition, while not suggesting a specific amount, GE also complained

[17] uA is the engineering factor for heat transfer-area usually given in units of Btus/hr/°F.

that the economic analysis that was reported in the proposed rule did not consider maintenance expenses. (GE, No. 125, at 34).

In the proposed rule, DOE assumed that there would be no incremental maintenance expenses for the refrigerator, refrigerator-freezer, and freezer design options considered. The Department does not believe that incremental maintenance expenses are accurately represented by simply taking five percent of the incremental price as proposed by Battelle. The information presented is insufficient to justify including such expenses as proportional to equipment prices. In addition, the Department does not believe that the designs under consideration, e.g., more efficient compressors and improved gaskets, would be sufficiently different in design from their less energy-conserving counterparts that their estimated reliability should be lower. The Department, therefore, continued to assume no incremental maintenance expenses in its analysis for the final rule.

C. *Manufacturer Analysis:* The comments on the proposed rule's analysis of impacts on refrigerator manufacturers dealt with four areas: the markups used in the analysis; profitability questions; the discount rate from the manufacturers' perspective; and, the "worst case" refrigerator sensitivity scenario. Each of these are discussed, below:

Markup

CEC and NRDC argued that the constant markup assumption in the manufacturers' impact model (LBL–MIM) was unrealistically high, and they requested documentation of its origin. (CEC, No. 108, at 14–16; and NRDC, No. 81, at 111–113).

The Department notes that the Manufacturer Analysis uses a manufacturer markup, which varies with the product class, and a retail markup which is constant. To arrive at the retail price, the manufacturer's cost is multiplied by the manufacturer markup and the retail markup.

The LBL–MIM computes a set of manufacturer markups based on estimates of the average markup and the ratio of the highest to the lowest markup, and on the assumption that markup is linearly related to the price of the appliance class, that is, the greater the price, the greater the markup that is contained within that price. These three pieces of information completely define the manufacturer markup for each appliance class.

The first use of these markups is to estimate the unit variable cost in the calibration, or present-day, case. This is done by taking the retail prices for calibration-case appliance models, and dividing, first, by a constant retail markup, and then by the manufacturer markup for the appropriate class.

The central economic calculations of the LBL–MIM (found in the long-run module) divides the cost of a baseline (calibration) unit into fixed and variable components. It is assumed that fixed costs cannot be marked up, but that variable costs are. From this assumption, a markup for variable cost is computed; this markup reproduces the estimate of the industry's average ROE. This markup is then applied to the long-run variable cost component of all cost increases, and is constant over all design options. At this stage of the model, classes are not considered.

The manufacturer analysis is based on manufacturer price, which is calculated as just described. In addition, one final calculation using markups is made for the benefit of other parts of the analysis. That is the calculation of retail prices for the individual classes. This begins with the manufacturing price in the calibration case, and adds to this the change in long-run variable cost times the manufacturer markup for the particular class under consideration. (This is the markup described above; it varies from class to class.) These new prices are then all multiplied by a factor (near one in value) which is designed to ensure that the average price, when computed by weighing all classes by their shipments, is the same as the price that is computed by the long-run module, and is used in the LBL–MIM analysis.

The comments requested documentation to validate these markups. There are no "real market data" on markups at either the manufacturer or retail level, since these data are highly confidential. The manufacturer markups used in the analysis were developed for the proposed rule from data and information collected from refrigerator manufacturers.

The retail markup is an average retail markup that covers a range of actual markups and it is not meant to represent any one type of retail distribution channel. NRDC asserts that the retail markup will decrease rather than stay constant as standards impose a higher first cost of refrigerators. (NRDC, No. 81, at 111). However, NRDC does not provide any data to support its claim or to show how much the markup should decrease. There is no reason to believe that retailers will not mark up cost increases induced by standards. The Department did not use any data to arrive at the constantness of the retail markup assumption, because no data exist, but believes that assumption is more plausible than any alternative.

Profitability

The questions about refrigerator manufacturers' profitability involved projections about profitability in the short- and long-run, as well as the projected differences in forecasted profitability under five standards cases.

In commenting on the likely short-run profitability results, Battelle stated, "the cost increases that will accompany more stringent standards will not be fully recovered or immediately reflected in higher prices, resulting in lower profits and returns in the short run." (Battelle, No. 110, at 22).

In response, it must be noted that if standards lead to a decrease in shipments, the LBL–MIM does predict a short-run fall in profits. LBL–MIM predicts, however, that there will not be a decline in shipments or profits in the short run for refrigerator manufacturers. Nevertheless, the dynamic process of adapting to a new situation—the process of reaching a new equilibrium of demand and supply—is difficult to model. It is difficult to predict what production, marketing, and pricing strategies different manufacturers would choose in adapting to more stringent standards, and it is possible that some manufacturers would make choices that would result in lower profits in the short run until they learn how to operate in the new environment.

On the issue of long-run profitability, Battelle contends that, under revised standards, refrigerator and freezer shipments will decrease rather than increase (as the Department had projected in the proposed rule), and, therefore, profits will decrease. In addition, for any chance for profits to increase, shipments would need to increase. (Battelle, No. 110, at 22). The Department of Justice (DOJ) also questions the conclusion that the proposed refrigerator standards could increase profits. (DOJ, No. 162, at 4).

The Department notes that for improved profitability, it is not necessary for shipments to increase under revised standards. If a manufacturer sells fewer units that are higher priced or that have higher profit margins, it is possible that profits would increase.

Battelle does state that "because cost increases cannot be passed on, immediately or completely in this price competitive market, profits and ROE (return-on-equity) cannot increase." (Battelle, No. 110, at 22).

In response, the Department questions the inevitability of this result, since Battelle gives no data to support the assertion that costs cannot be passed on completely, nor to what extent they can be passed on. Observation of the marketplace strongly supports the view that increases in variable costs generally are passed on, often with a markup. No single manufacturer could independently make substantially more efficient machines and expect an increase in his profitability, because his product's purchase price would be higher to the consumer than would his competitor's less-efficient product. Because of that manufacturer's higher prices, and the fact that the average consumer does not consider life-cycle expenses, that manufacturer, by acting alone to produce a more energy-efficient appliance, would likely experience declines in profitability and ROE. However, standards are likely to raise the production costs of major refrigerator manufacturers similarly, thereby increasing the likelihood that costs can be passed on in the form of higher consumer prices for refrigerators. Furthermore, the extent to which costs are passed on is determined by the proportion that is variable as opposed to fixed, as discussed under markup above.

In urging support for standard level 4, the Oregon Department of Energy (ODE) contended that "level 4 results in a more positive economic impact on manufacturers than level 3." (ODE, No. 83, at 2).

The Department notes that the ODE did not describe what criteria it was using for "positive economic impact;" from the analytical results in support of the proposed rule, however, the Department consistently used ROE as the normal measure of impact, and ROE was reported to be 0.03 percentage point lower at standard level 4 than at standard level 3.

Manufacturers' discount rate

Battelle asserts that "From the manufacturers' perspective, use of a 7 percent real discount rate is also unsupportable" for a manufacturer analysis. (Battelle, No. 110, at 33). Battelle's concern appears to be that the correct discount rate be used in estimating the economic impacts of energy conservation standards on manufacturers.

In response, the Department notes that the LBL–MIM used a real interest rate of six percent in modeling the interest rate paid for debt incurred by the firm. This figure was reported on pages C–45 and C–59 of the proposed rule's Technical Support Document. Battelle concurs with using this interest rate for this part of a manufacturer's operations. (Battelle, No. 110, at 33).

LBL–MIM uses the firm's weighted average cost of capital (WACC) (which includes both return-on-equity and return on debt) in analyzing the impacts of additional investments induced by standards, and LBL–MIM uses a WACC rate of 12.1 percent for refrigerator manufacturers (See proposed rule TSD, p. C–59). Battelle uses ROE for the manufacturers discount rate. Although WACC is a different measure from ROE, the rate that is used is similar to what Battelle suggests the analysis should use: "Based on our knowledge and experience, an industry like the refrigerator/freezer industry would likely require a return-on-equity between 10 and 20 percent, though probably in the mid to lower half of this range * * * *" (Battelle, No. 110, at 33).

Thus, it seems that Battelle's disagreement with the discount rate used in the Manufacturers Analysis is a result of misunderstanding what numbers are used in what portions of LBL–MIM.

Sensitivity Analysis

The NRDC commented that the refrigerator sensitivity analysis that was used in a "worst case" scenario, which consisted of a low consumer operating expense elasticity, was implausible and should not be used. (NRDC, No. 81, at 113–117).

In response, the Department notes that the NRDC correctly states that if the operating cost elasticity is zero, "consumers pay no attention whatever to operating costs," but then incorrectly concludes that "market forces will never save a single kilowatt-hour of energy consumption in refrigerators, but instead that standards will be and have been responsible for 100 percent of the efficiency improvement that can ever take place." (NRDC, No. 81, at 113–114). In fact, increased efficiency is often the by-product of technological change driven by very different market forces. DOE does not believe that all scenarios are possible. This one is offered as a way of providing a firm bound on the estimated values. The Department agrees with NRDC that a zero operating cost elasticity is highly improbable, but lacks the data to estimate that probability.

NRDC also states that even if consumers are totally unresponsive to savings in operating costs, there will still be an operating cost elasticity, because consumers are saving money on operating expenses, and thus will buy more refrigerators. This is referred to as the "income effect," which, the Department believes, would be small in this case because: (1) The operating cost savings in any one year are extremely small relative to a consumer's income; and, (2) the consumer is not restricted to buying appliances with the money saved—he or she can spend it in any way desired.

Regarding the industry price elasticity, the Department agrees with NRDC's analysis that the data showing a price elasticity of −1 are improbable. That price elasticity was used, however, only in the sensitivity analysis. Sensitivity analyses are meant to help set upper and lower bounds on the results of an analysis, and as such are supposed to be unlikely. Thus, the Department believes that its choices of industry price elasticity and operating cost elasticity for the sensitivity analysis are good choices.

2. Comments on Small Furnace Analysis

A. Engineering Analysis

The engineering comments related to the energy use of an induced draft fan, the space required for induced draft fans in narrow units, low maintenance costs, and low installation costs. Each of these will be addressed.

Energy Use

Lone Star Gas (LSG) correctly states that DOE did not include the cost of electricity to operate the induced draft fan motor in a 78 percent AFUE small gas furnace. (LSG, No. 130, at 9).

The Department has not included electrical consumption in the determination of AFUE for any gas or oil furnaces. However, as furnaces have become more sophisticated with items such as induced draft fans, to include electricity consumption in the determination of AFUE has become a growing concern. While the AFUE calculation for small gas furnaces does not include any fan energy consumption, the Department did include, in the analysis for the final rule, an operating cost for a 50W electric power demand for the induced draft fan in the 78 percent AFUE small gas furnace.

Size

Energen and Alabama Gas Corporation (E&AGC) state that induced draft fan designs are currently not available in the narrow sizes (10.5"–12.25") that are often used in multifamily housing. (E&AGC, No. 82, at 4).

Presently designed induced draft units may not fit some of the narrowest spaces now being used. DOE believes that there are no technical reasons, however, to preclude the design of narrower induced draft fan units. It is difficult for DOE to predict exactly what

new models will look like but the Department does not believe that the compact, narrow furnace market will be abandoned. Additionally, some of the relatively new gas units that combine water and space heating in one unit may be appropriate where compactness is required.

Maintenance Costs

LSG and Southern Gas Association (SGA) state that DOE maintenance costs are too low and that DOE should include the cost of replacing a circuit board which, they claim, is likely to fail during the life of a small gas furnace. (LSG, No. 130, at 7; and SGA, No. 51, at 6).

DOE does not consider the control electronics for the induced draft unit to be basically any more complex than for the IID design required for the 71 percent AFUE furnace. There are only simple controls such as thermostats, sensors and switches to test for air flow. The Department does not expect any increased circuit board maintenance costs for the induced draft furnace relative to the 71 percent AFUE design and, therefore, the maintenace costs have not been changed.

Installation Costs

A number of gas supply companies stated that increased installation costs would result from the replacement of old furnaces with 78 percent AFUE induced draft furnaces, because of venting modifications to accommodate atmospheric gas water heaters. LSG estimated an increase of $60–$150. (LSG, No. 30, at 6). SGA estimated an increase of $0–$400 with an average of $175. (SGA, No. 51, at 5). Florida Natural Gas Association (FNG) estimated an increase of $200. (FNG, No. 115, at 3). AGA projected an unspecified increased cost. (AGA, No. 128, at 13).

Common venting of induced draft gas furnaces and atmospheric water heaters is a complex issue. Building codes vary throughout the nation and most localities may require some modifications to common venting systems, including prohibiting them. Such modifications would be expected to cause some increase in installation cost. The costs would fall most heavily on replacement furnaces in multifamily buildings, since changes from current venting practices can be accounted for in designs for new construction and single family units, where venting can often be done directly through the sidewall. DOE does not have any data that provides an estimate of how frequently additional installation costs would be incurred. To account for these increased costs, the final rule included a $200 estimated extra installation cost for all replacement furnaces in multifamily units.

B. Consumer Analysis

There were comments on many consumer issues dealing with small gas furnaces. These included end-use specific gas prices, conversion expenses, fuel-switching, oversizing factors, rebound effects, maintenance expenses, heat pump shipments, fan energy consumption, calculations of AFUE, and the furnace-water heating fuel linkage. Each of these will be addressed.

End-Use Gas Price

Enserch Corporation (Enserch) commented that for the Department to employ end-use specific electricity prices for the analysis of those appliances that consume electricity, and not to employ end-use specific natural gas prices for the small furnace analysis is both "illogical and erroneous." (Enserch, No. 51, at 8).

In response, the Department notes that while it agrees in principle with using end-use specific energy prices for natural gas in the small furnace analysis, neither the Energy Information Administration, nor the AGA (in its Home Househeating Survey) collects direct information on natural gas prices by end-use consumption.

The Department does not believe, therefore, that the price of natural gas that is utilized by small gas furnaces can be determined from any existing data base. Therefore, DOE continued to assume that the price of natural gas for small gas furnaces was the average residential price of natural gas.

Shift to Electric Resistance Heating

The Act required that the Department analyze the extent to which the prices associated with conservation standards on small gas furnaces could cause consumers to switch from natural gas to electric resistance heat. In the analysis for the proposed rule, the Department did not account for any additional consumer expense in undertaking such a switch. This assumption was criticized by the Edison Electric Institute (EEI) and by the American Electric Power System and Southern Company (AEPSSC). (EEI, No. 127, at 6–7; and AEPSSC, No. 136, at 10). EEI stated that this expense would not be insignificant. According to the 1988 edition of "Means Electrical Cost Data," EEI reported that to upgrade a home with electrical service capacity of 60 amperes to 200 amperes would cost the consumer $860. Even to upgrade to 150 ampere service, EEI reported, would cost the consumer $715. (EEI, No. 127, at 6).

In response, the Department included, in the LBL–REM modeling runs for this final rule, expenses that could be involved in the replacement market to convert from gas heat to electric heat.

A number of comments were received concerning the Department's belief that a 78 percent AFUE standard on small gas furnaces would not result in a significant shift to electric resistance heating. The Department proposed this conclusion as a result of its estimation of expected market shares from LBL–REM. In Table 5.20 of the proposed rule's Technical Support Document, the Department had estimated that a 78 percent AFUE standard or small gas furnaces would not lead to a shift to electric resistance heat. The analysis projects that standards would lead to an increase in small gas furnace shipments, compared to the base case, over the 1992–2015 time period. This increase was expected to come at the expense of larger gas furnaces and electric heat pumps. A similar shift is found in this final rule.

The small gas furnace methodology is based on historical data on space heating choices in new homes from 1976–79. In addition, the method effectively assumes that the elasticities are a function of climate, energy prices, and other variables, and are not constant.

As a result, the Department is confident in its analysis of market shares.

Nevertheless, numerous comments suggested that a 78 percent AFUE standard on small gas furnace would lead to initial price increases, the result of which would be a significant shift to electric resistance heat, especially in new construction where, it is argued, builders, who are concerned primarily with the initial purchase price, make the purchase decision. Among those presenting these conclusions were Southern Gas Company (SGC) (SGC, No. 51, at 3 and 9); Atlantic Gas Light Company (AGLC) (AGLC, No. 70, at 1); Mobile Gas Service Company (MGSC) (MGSC, No. 72, at 2); Hope Gas, Inc. (HGI, No. 112, at 2); Florida Natural Gas Association (FNGA) (FNGA, No. 115, at 3); Laclede Gas Company (LGC) (LGC, No. 121, at 2–5); AGA (AGA, No. 128, at 6 and 12); Southern California Gas Company (SCGC, No. 134, at 2 and 6); and ENTEX and Arkansas Louisiana Gas (ENTEX) (ENTEX, No. 161, at 3).

A number of comments, on the other hand, supported the Department's conclusion that a 78 percent AFUE standard on small gas furnaces would not result in a significant shift from natural gas to electric resistance heat.

Bard Manufacturing Company (Bard) and GAMA concluded that a 78 percent AFUE small furnace standard should not result in a loss of market share by gas utilities because: (1) The price differential between a 71 percent AFUE and a 78 percent AFUE furnace in today's marketplace would not apply in 1992 when NAECA standards go into effect; (2) the cost to upgrade older homes to the 200 amp service needed for electric heating makes it unlikely that gas furnaces would lose market share to electric resistance heating in replacement markets; (3) in the new construction market in the South, gas furnaces compete against heat pumps, not against electric resistance heating; and, (4) in new construction, the cost of venting a 78 percent AFUE fan-assisted combustion system gas furnace through the wall is, in most cases, less than the cost of venting a 71 percent AFUE atmospheric combustion gas furnace, which would require construction of a chimney for venting. (Bard, No. 90, at 1–2; and GAMA, No. 129, at 3–6).

Market Share

In response to comments received, DOE revised several assumptions that have an impact on the market shares of gas furnaces, including: Energy price projections, maintenance costs of efficient gas furnaces, conversion costs from gas to electric heat, and retrofit costs for replacing small gas furnaces. These changes are reported in the Technical Support Document.

GAMA data indicate that 40 percent of 1985 shipments of all gas warm air central furnaces were at or above 71 percent AFUE, and that 61 percent of small gas furnaces sold in 1985 were at or above 71 percent AFUE. (1985 is the most recent year for which data on small gas furnace shipments are available). In 1988, 52 percent of all gas furnaces shipped were at or above 71 percent AFUE. DOE believes that the more efficient furnaces are being bought both for replacement and for use in new housing. AGA data show increasing market shares for gas heating, and a substantial number of conversions from electric heat to gas heat. (AGA, No. 128, Attachment 1, at 4 and 11). In light of the current market for gas furnaces, DOE does not believe that purchasers, including builders, are sensitive only to equipment costs. Therefore, DOE has modeled the market decisions based upon observed market behavior. *See* Technical Support Document, Appendix B.

Fuel Switching

In a related comment, ENTEX charged that the Department had not adequately addressed fuel-switching because LBL–REM "does not emulate the marketplace for furnaces in new residential construction, where builders decide on which type of heating equipment is installed, and are extremely sensitive to the initial cost of the equipment." (ENTEX, No. 161, at 3).

As described in the proposed rule, LBL–REM had been modified for the purpose of analyzing small gas furnaces, to take account of the sensitivity to initial equipment cost and other sensitivities that have been reflected in actual market purchases in new homes. In addition, LBL–REM models the sensitivity to first cost as a function of climate, with purchasers in milder climates more sensitive to first cost (relative to operating cost) than purchasers in more severe climates. This information was reported on pages B–10 and B–11 of the proposed rule's Technical Support Document. These modifications were maintained in the analysis for this final rule.

Oversizing Factor

In the analysis of small gas furnaces, the Department assumed that furnaces would be oversized for the expected heating loads by a factor of 2.3. This assumption was derived from AGA data for existing furnaces.

Several comments suggested that, with the trend toward less oversizing, the Department was using an unrealistic assumption about the future, wherein, it is argued, smaller equipment, more suited to actual heating loads, will be installed. These comments contend, therefore, that by using an unrealistically high oversizing factor, the Department has underestimated the size of the future market for small gas furnaces. (LGC, No. 121, at 4; EEI, No. 127, at 8; and NRDC, No. 81, at 92).

In response, the Department analyzed a small gas furnace sensitivity case with an oversizing factor of 1.3. This resulted in much higher shipments and a correspondingly higher net present value. In addition, the impacts of standards remained small. *See* Technical Support Document, Tables 5.28 and 5.31.

Rebound Effect

In the analysis for the proposed rule, the Department assumed that purchasers of more efficient furnaces, with a 78 percent AFUE standard, could utilize them more intensively than expected, and thereby reduce the energy savings below what the engineering estimates would otherwise project. This so-called "rebound effect" was assumed to be 30 percent, so that only 70 percent of the engineering estimates of expected savings would actually be expected to result.

This estimate of a 30 percent rebound effect was criticized in several comments, which argued that the rebound should be lower, and perhaps equal to zero. (AEPSSC, No. 136, at 13; EEI, No. 127, at 9; NRDC, No. 81, at 93; and NYSEO, No. 156, at 2 and 28–30).

In response, in a sensitivity analysis for the final rule, the Department removed the rebound effect with respect to operating expense for all small heating systems. Usage behavior, however, was still assumed to be a function of income.

Setting the usage elasticity with respect to operating cost at zero was expected to increase the energy savings attributed to standards. Since the rebound effect was eliminated for all small heating systems, the impacts were observed among other fuels, as well as natural gas.

Other Issues

EEI commented that in the proposed rule, the Department underestimated heat pump shipments. (EEI, No. 127, at 9).

In the final rule, the Department revised the heat pumps shipments to agree with reported shipments from 1980–1987. These results are presented in the Technical Support Document. *See* Technical Support Document, Table 5.18.

Lastly, LGC commented that since the choice of space heating fuel usually determines the choice of water heating, the relevant comparison is not between a small gas furnace and electric resistance heat, but, rather, it is between a small gas furnace with a gas water heater and electric resistance heat with an electric water heater. (LGC, No. 121, at 5).

While the Department agrees that water heating fuel choice is usually linked to space heating fuel in new construction, LBL-REM treats these end-uses separately. The model cannot handle these two appliance choices jointly, but, by modeling the results for small furnaces *vis a vis* electric heat, the Department believes that water heater sales are not an issue that affects the analysis.

C. Manufacturer Analysis

There were three areas of the manufacturer analysis for the proposed rule that drew comments. Comments were submitted dealing with the markup and prices that were used, the pricing and production of 71 percent AFUE furnaces after 1992, and the impacts of standards on gas furnace manufacturers.

Markup

The Energen Corporation (Energen) asserted that the manufacturer analysis "was based on manufacturing cost estimates instead of actual contractor pricing," and it did not take into account that higher efficiency furnaces receive higher markups. (Energen, No. 82, at 5–6).

In response, the Department notes that the manufacturer analysis takes into account, in a limited way, the fact that higher efficiency furnaces receive higher markups. Small gas furnaces of 90 percent AFUE, and higher, receive a manufacturer markup of 1.3, while lower efficiency furnaces receive a markup of 1.15. These markups are based on data gathered from contractors by DOE for the proposed rule. All large furnaces receive a markup of 1.3. After 1992, furnaces with lower than 80 percent AFUE rating will be the least efficient furnaces on the market, and thus will receive the lowest manufacturer markup. Most comments that provided data used current price and markup lists, but manufacturers testified that their costs, markups, and pricing will change when the Act's standards go into effect. (Rheem, No. 67, at 2; and GAMA, No. 129, at 3–4).

With regard to the analysis considering only "manufacturing cost estimates instead of actual contractor pricing," the Department has learned through discussions with contractors that "actual contractor pricing" is highly variable, and that the Department's estimates of price differences are fairly reasonable.

The Department had estimated that the current price difference between a 71 percent AFUE small gas furnace and a 78 percent AFUE one to be $137. Several gas utilities, e.g., Enserch (No. 51), Energen (#82), Laclede (No. 121), and PSCNC (No. 144), criticized that price difference as being too low. The submissions of those companies had price differences ranging from $200 (Laclede) to $467 (PSCNC).

On the other hand, one gas furnace manufacturer, Carrier Corporation (Carrier), supported the Department's estimate of the current price difference between a 71 percent AFUE and 78 percent AFUE furnace:

> We believe that the DOE estimate of $87 (sic) installed cost differential between atmospheric and induced draft furnaces of less than 45,000 BTU/H is reasonable. Carrier's estimate of installed cost differential is approximately $100. In no event would we expect the differential to exceed $150. (Carrier, No. 143, at 1).

While the Department does not doubt that the price differences submitted by the gas utilities have occurred, Carrier's support of DOE's estimate of the price difference between a 71 percent AFUE and 78 percent AFUE small furnace gives the Department confidence that its estimate is reasonable. In all likelihood there is a range of price differentials. In addition, because Carrier is a manufacturer of these appliances, the Department believes that its numbers are representative. Furthermore, gas furnace manufacturers stated in their comments that the price difference between 78 percent and 71 percent furnaces would certainly decrease in 1992 when NAECA standards go into effect. (Rheem, No. 67, at 2; Snyder General Corporation (Snyder), No. 73, at 3; and GAMA, No. 129, at 2–4).

The proposed rule had indicated that using current prices of those furnaces would overstate the retail price difference that would prevail after standards on larger gas furnaces went into effect 1992 because:

(1) Seventy-one percent AFUE furnaces would become more expensive in 1992 because they no longer would be the standard type of furnace, but instead would be a specialty product which would be produced in short production runs about twice a year, or be purchased from another manufacturer (thus incurring an extra level of markup).

(2) Seventy-eight percent AFUE furnaces will become less expensive in 1992 because they will be produced in even larger quantities then.

(3) Seventy-eight percent AFUE furnaces will become less expensive under a 78 percent standard because they will then be the "bottom of the line" furnace and receive the lowest markup, whereas they now receive a higher markup.

Impact on Manufacturers

Last, SCGC questions the Department's conclusion that a 78 percent AFUE minimum energy conservation standard on small gas furnaces would have a minimum impact on manufacturers. (SCGC, No. 134, at 4).

In response, the Department notes that SCGC has reservations about the assertion that manufacturers will be better off manufacturing like products, i.e., after 1992 all furnaces would be 78 percent AFUE or more, and that the overall impact is a high return on investment.

However, SCGC's assertion is in error. First, the proposed rule does not conclude that the overall impact of gas furnace standards is a high return on investment for manufacturers. In fact, LBL–MIM estimates that standards will cause a decrease in ROE of less than 0.01 percent. Second, the SCGC doubts that manufacturers can manufacture high efficiency furnaces and be better off, and then rebuts its own statement by citing Lennox as a company that produces high-efficiency furnaces and does well. In addition, manufacturers have stated that they are better off not having to maintain a separate production line for lower-efficiency small gas furnaces. (Rheem, No. 67, at 2; and GAMA, No. 129, at 2–4). Last, no gas furnace manufacturer has commented on the estimate that standards will have a minimum impact on such manufacturers.

As a result, the Department continues to believe that a 78 percent AFUE standard on small gas furnaces will have a minimum impact on manufacturers.

3. Utility Analysis

SCGC commented that the utility analysis should have included estimates of the lost revenues to gas utilities that would result from a 78 percent AFUE small gas furnace standard. (SCGC, No. 134, at 5).

In response the Department notes that a separate analysis of impacts on the gas utilities was not performed. The Department notes that an electric utility impacts analysis was performed to address significant economic impacts from appliance efficiency standards, based on calculations specific to the electric utility industry. The utility analysis also provides inputs to the environmental analysis.

Furthermore, the Act requires that the Department examine any possible shift to electric resistance heating. This is accomplished through the LBL–REM.

The electric utility analysis was originally undertaken because: (1) The expected economic impacts of standards on electric utilities were expected to be large; (2) it was important to estimate the peak demand and capacity savings from any standards, since electricity cannot be stored. In addition, power plant capacity has been increasing in cost, and has been more difficult to site and build in recent years; and (3) the environmental impact analysis required information about which generating plants would be curtailed in response to the changes in load brought about by any standards.

The Department's utility analysis did not include gas utilities because: (1) The expected economic impacts of small gas furnace standards on gas utilities are

small on a national scale; (2) natural gas can be stored, so capacity savings, fixed costs, and the consequent potential revenue losses are not as large a problem for gas utilities as for electric ones. Gas utilities typically have 20–40 percent of their costs attributable to fixed costs, while electric utilities typically have upwards of 50 percent of their costs attributable to fixed costs. In addition, the costs of laying natural gas transmission and distribution pipelines, which represent the major share of the fixed costs in the natural gas industry, have not been increasing substantially over time (unlike power plant capital costs); and, (3) the environmental analysis calculates these impacts directly from the amount of natural gas consumed, without the need for an intervening utility analysis.

IV. Product Specific Discussion

a. Refrigerators

1. Efficiency Levels Analyzed

DOE examined a range of standard levels, including the 1990 NAECA standards. As discussed above, the impacts of any revised standards were compared to the 1990 NAECA standards; therefore, the impacts of the base case are generally not presented because they are calculated to be zero.

Table 4–1 presents the efficiency levels, other than the base case, selected for analysis for 1993. Alternate levels were selected to generate a range of impacts for analysis. Initially, the levels were selected for the class of top-mount, automatic defrost refrigerator-freezer without through-the-door ice service. Level 5 corresponds to the highest efficiency level considered in the engineering analysis. This is the maximum technologically feasible level. It was felt that manufacturers can assemble appliances at this efficiency. Level 4 generally corresponds to the minimum life-cycle cost point. Levels 1 through 3 correspond to efficiencies lower than that of level 4. Each level was analyzed discretely in the engineering analysis. Standard levels for each of the other classes of refrigerators were based on the combination of design options for the top-mount, automatic defrost refrigerator-freezer without through-the-door ice service. The top-mount automatic defrost refrigerator-freezer was used as the analytical model for the analysis because that class represents nearly 73 percent of new refrigerator and refrigerator-freezer sales.

TABLE 4.1.—ALTERNATIVE EFFICIENCY LEVELS FOR 1993 REFRIGERATORS, REFRIGERATOR-FREEZERS AND FREEZERS

[Energy Consumption KWh/Yr.]

Product class	Level analyzed				
	1	2	3	4	5
Refrigerators and refrigerator-freezers with manual defrost	105+25.2×AV	104+23.9×AV	98+19.9×AV	70+14.7×AV	70+14.7×AV
Refrigerator-freezer—partial automatic defrost	423+11.9×AV	420+11.2×AV	398+10.4×AV	383+7.1×AV	383+7.1×AV
Refrigerator-freezers—automatic defrost with:					
Top-mounted freezer without through-the-door ice service.[1]	391+18.9×AV	376+17.1×AV	355+16.0×AV	329+11.8×AV	290+10.4×AV
Side-mounted freezer without through-the-door ice service.	574+15.0×AV	539+13.7×AV	501+11.8×AV	444+8.8×AV	377+7.5×AV
Bottom-mounted freezer without through-the-door ice service.	397+18.0×AV	371+16.3×AV	364+14.2×AV	290+12.7×AV	248+10.9×AV
Top-mounted freezer with through-the-door ice service	431+20.8×AV	414+18.8×AV	391+17.6×AV	363+13.0×AV	310+11.0×AV
Side-mounted freezer with through-the-door ice service	594+20.6×AV	571+18.0×AV	527+16.3×AV	408+14.7×AV	347+12.5×AV
Upright freezers with:					
Manual defrost	286+13.1×AV	276+12.5×AV	264+10.3×AV	211+7.8×AV	211+7.8×AV
Automatic defrost	449+19.0×AV	425+17.6×AV	391+14.9×AV	322+10.7×AV	311+10.3×AV
Chest freezers and all other freezers	140+14.2×AV	139+13.8×AV	124+12.0×AV	85+7.3×AV	85+7.3×AV

[1] Including all refrigerators with automatic defrost.
AV = Total adjusted volume, expressed in Ft. 3.

2. Payback Period

Table 4–2 presents the payback period for the efficiency levels analyzed for the most prevalent size (20.8 cubic foot adjusted volume) automatic defrost refrigerator-freezer. As noted earlier, under "Selection of Candidate Standard Levels," paybacks are calculated for the 1993 time period which includes the assumption that CFC–11 and –12 are available.

For most classes, standard level 3 corresponds to the most stringent energy conservation standard level at which the additional expense of purchasing a product at this efficiency level will be less than three times the value of the energy savings that the consumer will receive during the first year. The payback period for refrigerators that meet standard level 1 efficiency ranges from a low of 0.10 year for a manual defrost refrigerator to a high of 1.62 years for a partial automatic defrost refrigerator-freezer; the payback period for refrigerators that meet standard level 2 efficiency ranges from a low of 0.90 year for a side by side automatic defrost refrigerator-freezer with through-the-door service to a high of 1.73 years for a partial automatic defrost refrigerator-freezer; at standard level 3, the paybacks range from a low of 1.27 years for an upright, manual defrost freezer to a high of 3.65 years for a manual defrost refrigerator; the payback period for units that meet level 4 efficiency ranges from 3.24 years for a partial automatic defrost refrigerator-freezer to 7.91 years for a manual defrost chest freezer; and, the standard level 5 paybacks range from allow of 3.24 years for a partial automatic defrost refrigerator-freezer to a high of 7.91 years for a manual defrost chest freezer. *See* Technical Support Document Tables 6.3 and 6.4.

TABLE 4.2.—PAYBACK PERIOD (YEARS) TOP MOUNT AUTO DEFROST REFRIGERATOR-FREEZER, WITHOUT THROUGH-THE-DOOR FEATURES

[Adjusted Volume=20.8 Cu. Ft.]

Standard level	Payback period
1	0.76
2	1.40
3	2.46
4	5.99
5	6.93

The Department has also calculated paybacks for the later time period when, it is assumed, CFC–11 and –12 will not be available for refrigerator production. These paybacks are reported in Tables

6.24 and 6.25 of the Technical Support Document.

3. Significance of Energy Savings

To estimate the base case energy savings by the year 2015, the weighted average energy consumption of new refrigerators sold in the absence of revised standards is compared to 1990 when the legislated standards become effective. When revised energy conservation standards are imposed, the LBL–REM projects that over the period 1993–2015, the following savings would be attributable to the increased standards:

Level 1—2.4 Quads
Level 2—3.7 Quads
Level 3—5.2 Quads
Level 4—8.6 Quads
Level 5—10.8 Quads

(*See* Technical Support Document, Table 5.8)

On the basis of the above, DOE believes that each of the increased standard levels considered for refrigerators would result in a significant conservation of energy.

4. Economic Justification

A. *Economic Impact on Manufacturers and Consumers.* The per unit increased cost to manufacturers to meet the level 5 efficiency ranges from $65.30 for a 25.3 cubic foot AV upright automatic defrost freezer to $141.25 for a 31.9 cubic foot AV automatic defrost refrigerator-freezer with side freezer and through-the-door services. The cost for the most prevalent class of product (automatic-defrost refrigerator-freezer with top-mounted freezer) would increase $129.65. For level 4 efficiency, the per unit increased cost to manufacturers to meet that efficiency ranges from $47.30 for a 22.5 cubic foot chest freezer to $75.25 for a 31.9 cubic foot automatic defrost refrigerator-freezer with side freezer and through-the-door services. The cost for the most prevalent class of product (automatic-defrost refrigerator-freezer with top-mounted freezer) would increase $63.65. The per unit increased cost to manufacturers to meet the level 3 efficiency ranges from $25.20 to $50.85, while level 2 cost increases range from $8.10 to $20.25. For level 1, the cost increases are from $3.60 to $7.30. *See* Technical Support Document, Tables 3.14–3.23.

In the base case, the LBL–MIM, projects manufacturers' long-run ROE to be 9.73 percent for refrigerators and refrigerator-freezers and 8.60 percent for freezers. At level 5, the LBL–MIM predicts that a prototypical refrigerator and refrigerator-freezer manufacturer would have a gain in its ROE to 13.20 percent, a gain of 35.7 percent. The projected ROE's at levels 3 and 4, respectively, would be to 10.27 percent, a gain of 5.5 percent, and to 11.85 percent, a gain of 21.8 percent. At levels 1 and 2, the refrigerator and refrigerator-freezer manufacturers' ROE are expected to improve respectively, to 9.95 percent (an improvement of 2.3 percent) and to 10.24 percent (an improvement of 5.2 percent). For freezer manufacturers, the ROE is expected to improve to 8.97 percent (an improvement of 4.3 percent) and to 8.96 percent (an increase of 4.2 percent) for levels 1 and 2, respectively. *See* Technical Support Document, Tables 7.9 and 7.10.

The Department's characterization of the prototypical manufacturer in the base case assumes that manufacturers' typical refrigerator, refrigerator-freezer and freezer designs are based on the combination of options presented in the Engineering Analysis. As discussed above, DOE revised the base case based on the comments received. However, manufacturers that use a different combination of design options to comply with the 1990 NAECA standard, may have a different financial position than the prototypical manufacturer in the LBL–MIM.

The sensitivity analysis indicates the refrigerator, refrigerator-freezer and freezer industry is sensitive to price and operating expense elasticities. For example, the high price and low operating cost scenario indicates that the effects of standards would be to decrease ROE for refrigerator, refrigerator-freezer manufacturers by nearly 3.3 percent, and 10.7 percent for freezer manufacturers, in the base case. *See* Technical Document, Tables 7.17 and 7.18.

For consumers, standard level 5 would cause price increases that would range from a low of $151.20 for an automatic defrost, upright freezer, to a high of $353.14 for an automatic defrost, side-by-side refrigerator-freezer with through-the-door services. The price would increase for the most prevalent class of product (automatic-defrost refrigerator-freezer with top-mounted freezer) by $172.34. The corresponding range of price increases at standard level 4 would be a low of $98.00 for a chest freezer and a high of $189.12 for an automatic defrost, side-by-side refrigerator-freezer. The price for the most prevalent class of product would increase $134.48. The price increase to consumers at standard level 3 ranges from $59.23 to $16.99, while level 2 price increases range from $19.00 to $46.36. For level 1, the price increases range from $8.40 to $112.10. *See* Technical Support Document, Tables 3.31–3.40.

B. *Life Cycle Cost and Net Present Value.* The LCC analysis indicates that, for each possible standard level, the increase in purchase price would be offset by savings in operating expenses. Standard level 4 generally corresponds to the minimum for each of the life-cycle cost curves. *See* Technical Support Document, Figures 3.13–3.22. This indicates that the standard level would not cause any economic burden on the average consumer. DOE examined the effect of different discount rates, 5, 7 and 10 percent, on the LCC curves and generally found little impact.

The LBL–REM employs national average energy prices and usage rates. The appropriateness of this approach depends on the relationship between energy prices and consumer choice of efficiency levels and the relationship between consumers' expected usage and choice of energy efficiency level.

The NPV analysis indicates that if a standard were adopted at level 5, there would be an NPV of $9.3 billion from energy savings over the period 1993–2015. At level 4, the corresponding NPV would be $11.8 billion; at level 3, $9.1 billion; at level 2, $7.7 billion; and, at level 1, the corresponding NPV would be $6.0 billion. *See* Technical Support Document, Table 5.14.

C. *Energy Savings.* As discussed above, DOE concludes that standards, at each candidate standard level, would result in a significant saving of energy.

D. *Lessening of Utility or Performance of Products.* As indicated above, DOE established classes of products in order to assure that the standards analyzed would not lessen the existing utility or performance or refrigerators.

One of the design options, increased foam thickness on the refrigerator walls, could serve to reduce interior volume slightly. It has been argued that if manufacturers used this design option to achieve a level of refrigerator energy-efficiency, the impact on consumers could be some small loss of utility. DOE, however, does not believe that the small reduction in interior volume that may be caused by this standard will cause any utility losses among consumers. Furthermore, the Department notes that manufacturers need not use this design option, as they would be free to use other energy-conserving design options, e.g., dual compressors, to achieve a standard level, even if that level had been based on thicker sidewalls in the analysis.

E. *Impact of Lessening of Competition.* In accordance with the requirements of the Act, the Department of Justice (DOJ) evaluated the impacts on competition of the proposed rule. Based on its analysis

and review of the proposed rule, DOJ concluded that the proposed standards (levels 1–3) would not lessen competition in the refrigerator, refrigerator-freezers and freezer markets. *See* DOJ, No. 162.

DOJ states that for standards to affect competition adversely, standards-induced cost increases would have to be sufficiently severe and asymmetrical that they would force from the market one or more significant competitors. In addition, levels of concentration would have to rise substantially because of such exits. Also other market conditions would have to be conducive to oligopolistic pricing or price fixing. DOJ concludes, based on available evidence, that such a lessening of competition would not likely occur if DOE adopts any of the proposed standards for refrigerators, refrigerator-freezers and freezers. DOJ did not examine the more efficient standard levels 4 and 5. Also, DOJ rejects the Department's assertion, in the proposed rule, that the proposed standards will increase profits. As discussed above, one reason LBL–MIM predicted an increase in ROE and profitability, was the LBL–REM's forecast of increased refrigerator, refrigerator-freezer, and freezer sales. This had been changed in the LBL-REM in the analysis for the final rule.

The Department notes, further, that the changes to the analysis that were done for the final rule should not affect the conclusions derived from the DOJ review on the proposed rule.

Therefore, based upon its review of the DOJ analysis, DOE concludes that standard levels 1, 2 and 3 would not adversely affect competition. However, the Department believes that standard levels 4 and 5, which would require the use of evacuated panels, could affect competition. No U.S. manufacturer has manufactured refrigerators with evacuated panels on a high volume basis. GE manufactured a limited number, 1,000 units, by hand, and subsequently discontinued the unit. The Department believes that the technological problems that exist in mass producing evacuated panel refrigerators are such that it is likely that major manufacturers would consider leaving the market. This industry has experienced numerous mergers.

DOE believes that one likely result of standards at level 5 could be to increase the rate of industry consolidation by merger of two significant competitors, which could result in a substantially larger firm. DOE believes that standards at level 5 could lessen competition by increasing levels of concentration. The Department further believes that standards at level 4, which involves efficiencies attained with evacuated panels, could lead to some firms leaving the industry, because of an inability to produce or purchase sufficient numbers of panels.

F. *Need of the Nation to Save Energy.* Refrigerators use electricity as their energy source. Nearly seven percent of the nation's total electricity (which required source energy of 29.5 Quads in 1988) powers refrigerators, and nearly 13 percent of that seven percent would be saved by standards for this product at level 3, while 21 percent of that seven percent would be saved at level 4, and over 26 percent of that amount would be saved at level 5. Levels 1 and 2 would save 6 and 9 percent, respectively. In addition, decreasing future electricity demand as a result of standards will decrease air pollution. The greatest decreases in air pollution will occur for sulfur oxides (listed in equivalent weight of sulfur dioxide, or SO_2). For standard level 5, in the year 2010, the estimated SO_2 reduction would be 256,933 tons. This reduction represents 1.5 percent of the United States SO_2 emissions that are expected to be emitted by power plants in that year.

Standard level 5 would also result in a decrease in nitrogen dioxide (NO_2) emissions for the year 2010, of 173,715 tons. This decrease represents 1.7 percent of the total NO_2 emissions expected to be emitted by power plants in that year.

Another consequence of the standards will be the reduction of carbon dioxide (CO_2) emissions. Fossil fuel burning is believed to elevate CO_2 concentrations in the atmosphere, which is believed to trap heat from the sun that has been absorbed by the Earth and would normally be re-radiated. Although there is substantial scientific uncertainty concerning the magnitude and timing of this effect, this "greenhouse effect" is thought to raise the mean global temperature. Standard level 5 is estimated to reduce United States CO_2 emissions by about 0.88 percent for the year 2010.

In 2010, standard level 4 is expected to reduce SO_2, NO_2 and CO_2 emissions by 1.2, 1.35, and 0.7 percent, respectively. Standard level 3 reductions are expected to be 0.72, 0.81, and 0.42 percent for SO_2, NO_2 and CO_2, respectively in 2010.

Standard levels 2 and 1 would reduce SO_2 power plant emissions by 0.51 and 0.33 percent, respectively. NO_2 power plant emissions would be reduced by 0.58 and 0.38 percent for standard levels 2 and 1, respectively in 2010; CO_2 emissions at standard levels 2 and 1 would be 0.3 and 0.19 percent, respectively of the total U.S. amount.

G. Other Factors.

Refrigerators typically use CFCs–11 and –12. Both of these refrigerants are subject to an EPA rulemaking that places restrictions on the manufacture of certain CFCs. Furthermore, based on comments in this rulemaking, DOE believes that these CFCs would not be available after the year 2000, either as a result of amendments to the Montreal Protocol, further EPA restrictions or marketplace forces. DuPont, for example, announced that it intends to phase out production of these CFCs by 2000.

The use of CFCs in the manufacture of refrigerators currently accounts for approximately two percent of the restricted CFCs. The 50 percent reduction in CFC manufacture prescribed by EPA, will likely result in the use of CFCs in refrigerators to exceed five percent of U.S. consumption. This increase in the percentage of CFC consumption accounted for by refrigerators would be a result of the CFC production restriction along with increased CFC use to meet the legislated 1990 standards, and increased sale of these products. Presently, DOE is unaware of any currently available alternatives to CFC–11 or CFC–12 that have been demonstrated as acceptable replacements to the affected CFCs. However, as discussed above, likely alternatives have been identified. Based upon the comments on the proposed rule, DOE assumed that suitable alternatives will be developed; however, the schedule by which these alternatives will become available in sufficient quantities is unknown at this time. As discussed above, DOE's engineering analysis is based on alternatives, and DOE has assumed that these alternatives will be adopted by refrigerator manufacturers by 1996.

5. Conclusion

Section 325(1)(2)(A) of the Act specifies that the Department must consider, for amended standards, those standards that "achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified." Accordingly, the Department first considered the "max tech" level of efficiency, i.e., standard level 5, for amended refrigerator standards.

Of the standard levels analyzed, level 5 saved the most energy (10.8 quads more than the base case). In addition, it

had the largest positive impact on the environment.

Two of the three technologies needed to meet this standard level, adaptive defrost and dual compressors, are available now in some refrigerators; however, the third item, evacuated panels, is not currently available on a mass produced basis. While some refrigerators with hand-built evacuated panels have been produced for sale, the Department does not believe that evacuated panels can be mass produced by the effective date of this standard, especially considering the need for additional capacity to manufacture fumed and precipitated silica, as previously discussed in the Engineering Analysis.

Furthermore, the cost of these three technologies is high, producing a relatively large increase in purchase price. While the life-cycle cost of Level 5 is lower than that of the base case, the purchase price pushes the payback to 6.9 years, and, by being beyond the minimum life-cycle cost point, would preclude consumers from buying models with the lowest life-cycle cost. The impact on manufacturers is expected to be positive, producing the highest long-run increase in net income and return-on-equity of all the standard levels analyzed. However, these results are based on the assumption that sufficient quantities of the necessary technologies will be available in 1993, and as noted above, the Department is doubtful that one of those technologies, evacuated panels, will be available in sufficient quantities by then. In addition, the Department also believes that the required use of evacuated panels could cause a lessening of competition. Overall, the Department finds the burdens, especially the technological uncertainties of level 5, to exceed the benefits, and, therefore, rejects level 5.

Standard level 4, also based on evacuated panels. saves the second greatest amount of energy, an estimated 8.7 Quads, and has the second most positive impact on the environment. However, the above discussion on evacuated panels also applies to level 4. While the purchase price is less than that of level 5, and while life-cycle cost is the lowest of any level analyzed, level 4 still produces a payback of 6.0 years. The impact on manufacturers is estimated to produce the second highest long-run increase in net income and return-on-equity of the standard levels analyzed. Overall the Department finds the burdens of level 4, especially the technological uncertainties, to exceed the benefits, and, therefore, rejects level 4, too.

Energy efficiencies approaching those of level 4 could be achieved by a reordering of the design options, e.g., by substituting dual compressors and adaptive defrost for evacuated panels. As noted above, however, design options were added on the basis of increasing time for payback, and dual compressors and adaptive defrost were added last because of their relatively long paybacks. Therefore, while a combination of the design options in standard level 3 with dual compressors and adaptive defrost designs could produce energy savings and environmental benefits approaching those of level 4, such a combination of designs would also probably have much higher consumer burdens than level 4, in the form of higher prices and longer paybacks. This would result because dual compressors and adaptive defrost have a higher initial price than evacuated panels, and produce similar energy savings. On balance, then, the Department finds that the burdens of this version of level 4 also exceed the benefits, and, therefore, rejects all combinations of level 4.

The next most energy-conserving standard level is standard level 3. After carefully considering all parts of the analysis, the Department is amending the NAECA-imposed 1990 standard for refrigerators with standard level 3 for refrigerators. The Department concludes that level 3 standards for refrigerators save a significant amount of energy, are technically feasible, and are economically justified.

As discussed above, there would be significant energy savings at this level of efficiency. During the period 1993–2015, these savings are calculated to be 5.2 Quads of primary electricity compared to the base case. Such savings would total nearly 13 percent of base case electricity use. In addition, the standards will have a positive impact on the environment by reducing the emissions of CO_2, SO_2, and NO_2 by an estimated .42, .72, and .81 percent, respectively, by the year 2010.

The technologies that are necessary to meet this standard are presently available. This standard level may initially involve the use of additional amounts of ozone-depleting CFCs; however, these additional amounts will come at the expense of other products that presently use the restricted CFCs. The amounts needed for refrigeration manufacturing are relatively small and the Department believes they will be available, albeit at a higher price.

The Department finds the level to be economically justified. The standard level meets the rebuttable presumption test for economic justification by having a payback of 2.5 years. Furthermore, the standard level substantially reduces consumer life-cycle costs and only moderately increases initial price. Additionally, the standard is also expected to have a positive impact on manufacturers by producing long-run increases in their net income and return-on-equity of 21.8 and 5.4 percent, respectively.

b. Small Gas Furnaces

1. Efficiency Levels Analyzed.

Table 4–3 presents the efficiency levels selected for analysis for 1992. These levels are the same as those analyzed in the proposed rule. Level 3 corresponds to the highest efficiency level provided for in the Act, while levels 1 and 2 correspond to efficiencies lower than level 3, with level 1 being the lowest level provided for in the Act. The engineering analysis considered design options that would result in furnace efficiencies as great as 92 percent AFUE. As discussed in the proposed rule, more efficient

TABLE 4–3—STANDARD LEVELS ANALYZED FOR SMALL GAS FURNACES

Standard level	AFUE (Percent)
1	71
2	74
3	78

designs were not considered for potential standards, but rather were used as input to the LBL–REM in order that the energy forecasting analysis would have a complete set of data upon which to make projections.

2. Payback Period

Table 4.4 presents the payback period for the efficiency levels analyzed. The payback period for units that meet level 1 efficiency ranges from 3.01 years for a warm air indoor gas furnace to 3.21 years for a warm air outdoor gas furnace. The payback period for units that meet level 3 efficiency ranges from 5.78 to 6.58 years. *See* Technical Support Document, Table 6.6.

TABLE 4.4.—PAYBACK PERIODS (YEARS) OF DESIGN OPTIONS FOR GAS FURNACES (LESS THAN 45,000 BTU/HR.)

Standard level	Payback periods	
	Warm air indoor	Warm air outdoor
1	3.01	3.21
2	4.15	4.66

TABLE 4.4.—PAYBACK PERIODS (YEARS) OF DESIGN OPTIONS FOR GAS FURNACES (LESS THAN 45,000 BTU/HR.)—Continued

Standard level	Payback periods	
	Warm air indoor	Warm air outdoor
3	5.78	6.58

3. Significance of Energy Savings

By the year 2015, the weighted average energy efficiency of new small gas furnaces sold in the absence of standards is projected to be 79.9 percent AFUE. Standards, at standard levels 1 and 3, are expected to increase the average shipment weighted efficiency of small gas furnaces to between 81.0 and 83.4 percent AFUE, respectively. *See* Technical Support Document, Table 5.16. However, the aggregate annual energy consumption of small gas furnaces is projected to increase slightly. This is due to the increase in the market for small gas furnaces which comes at the expense of larger gas furnaces, heat pumps, and central electric furnaces. *See* Technical Support Document, Table 5.18. When energy conservation standards are imposed on small gas furnaces, the LBL–REM projects that, over the period 1992–2015, the following changes in energy consumption would occur:

TABLE 4.5.—CUMULATIVE RESIDENTIAL ENERGY CONSUMPTION OF GAS AND ELECTRICITY FOR SPACE HEATING, 1992–2015 (QUADRILLION BTU, PRIMARY)

	Base	Standard level		
		1	2	3
Gas heating systems:				
Small gas furnaces	1.05	1.06	1.08	1.09
All gas heating	91.7	91.7	91.6	91.6
Electric heating systems:				
Central electric furnaces	30.4	30.3	30.3	30.3
Electric heat pumps	14.9	14.8	14.8	14.8
Electric baseboard heat	14.2	14.2	14.2	14.2
All electric heating	59.5	59.3	59.3	59.3
Total gas and electric	151.2	151.0	150.9	150.9

Source: Technical Support Document, Table 5.18.

As Table 4.5 shows, standard level 1 would lead to an increase in small gas furnace energy consumption of .01 Quadrillion Btu (Quads), but would result in a net energy savings of .02 Quads. At standard levels 2 and 3, the net energy savings would total .03 Quads.

The Department finds these net energy savings to be significant.

4. Economic Justification

A. *Economic Impact on Manufacturers and Consumers.* The per unit increased cost to manufacturers to meet the level 3 efficiency ranges from $64 for an indoor gas furnace to $88 for an outdoor gas furnace. The per unit increased manufacturer cost to meet levels 1 and 2 are $21 and $96, respectively, for an indoor unit; for an outdoor unit, the per unit cost increases are $25 and $97 for levels 1 and 2, respectively. *See* Technical Support Document, Tables 3.24 and 3.25.

At standard level 3 of efficiency, the price to the consumer increases $217 for indoor gas furnaces and $247.90 for outdoor gas furnaces. The per unit increased consumer price at levels 1 and 2 are $77.91 and $208.39, respectively, for an indoor unit; for an outdoor unit, the per unit price increases are $84.83 and $226.94 for levels 1 and 2, respectively. *See* Technical Support Document, Tables 3.41 and 3.42.

The LBL–REM results indicate that standards at level 3 will result in nearly a four percent improvement in average shipment weighted efficiency when compared to standard level 1. This would result in a $178 drop in life-cycle costs for an indoor, warm air, small gas furnace; for an outdoor one, the LCC savings would be $154.

In the LBL–MIM results for small gas furnaces, it was found that standards would cause manufacturers to lose even more money on these furnaces than they are projected to lose in the base or no-standards case. In the base case, manufacturers' ROE are expected to be −2.02 percent for small furnaces, compared to an ROE of a −2.13 percent under standard level 3 and −2.03 percent under standard level 1. *See* Technical Support Document, Table 7.16.

Small gas furnaces tend to have very low profit margins and thus they contribute little or nothing to a gas furnace manufacturer's profitability. DOE believes this is because of marketing considerations, in that manufacturers find it important for marketing purposes to carry a complete line of furnace capacities. Thus, manufacturers tend to carry small gas furnaces in their product lines, although many of these firms carry only one or two models.

LBL–MIM projects that a standard of either 71, 74, or 78 percent AFUE for small gas furnaces would result in lower net income and ROE than would occur in the absence of standards.

The LBL–MIM predicts at level 3 that a prototypical furnace manufacturer would experience a .001 percent decrease in ROE. *See* Technical Support Document, Table 7.23. The sensitivity analysis, however, indicates the gas furnace industry results are sensitive to consumer price elasticities and unit variable cost increases. For example, the sensitivity analysis indicates that the effects of standards could be to decrease return-on-equity for small gas furnace manufacturers by nearly 1.2 percent or to raise it by nearly the same amount. However, there is only a one percent chance of either of these sensitivity results occurring.

B. *Life Cycle Cost and Net Present Value.* The LCC analysis indicates that at each possible standard level, the increase in purchase price would be offset by savings in operating expenses. *See* Technical Support Document, Table 6.7. Also, of the three candidate standard levels, level 3 had the lowest consumer life-cycle cost. The decreasing life-cycle-costs indicate that the standard level would have the greatest benefit to consumers.

The NPV analysis indicates that if a standard were adopted at level 3, there would be a net present value of $21 million to consumers. At levels 1 and 2, the respective NPV's would be $13

million and $16 million. *See* Technical Support Document, Table 5.23.

C. *Energy Savings.* As indicated above, standards will result in an increase of gas consumption for small gas furnaces, but, also, in an overall savings of natural gas. If, however, the marketplace continues to demand changes in efficiency at the same rate as historically, the LBL–REM projects that there would be no savings from standards over the 1992–2015 period. This result occurs because in the base case, the efficiency, or SWEF, of all new small gas furnaces is projected to exceed the 78 percent AFUE standard by the time it would come into effect. *See* Technical Support Document, Table 5.30, Reference 10.

D. *Lessening of Utility or Performance of Products.* As indicated above, DOE established classes of products in order to assure that the standards analyzed would not lessen the existing utility or performance of small gas furnaces. In addition, DOE believes that none of the design options considered will affect utility.

E. *Impact of Lessening of Competition.* The Department of Justice concluded that for small gas furnaces, the available evidence affirmatively suggests that no significant adverse competitive impact is likely. DOE, therefore, concludes that none of the candidate standard levels would lessen competition.

F. *Need of the Nation to Save Energy.* Small gas furnaces use natural gas as their energy source. Nearly 0.16 percent of the nation's natural gas consumption is used to operate small gas furnaces, and nearly four percent of that 0.16 percent would be saved by standards for this product at level 3. However, the sensitivity analysis on the LBL–REM indicates that if consumer awareness of and concern with appliance efficiency continues the projected savings would be the same as with level 3 standards.

Furthermore, the natural gas saved would result in a cumulative CO_2 emission savings in 2010 for standard level 3 of 312,000 tons, and 98,000 tons for level 1. Other environmental effects from furnace standards would be savings in 2010 of 3,822 tons of SO_2 and 2,976 tons of NO_2 at standard level 3; at standard level 1, the savings would be 1,200 tons of SO_2 and 927 tons of NO_2.

5. Conclusion

As noted above, the Act requires that, in establishing standards, the Department look first at that standard that maximizes energy savings, i.e., is the "max tech" level of efficiency for small gas furnaces, the "max tech" level is at 97 percent AFUE.

It was also noted above, however, that for this rulemaking, the Department is restricted in its consideration to an efficiency level between 71 percent AFUE and 78 percent AFUE. Therefore, the Department must begin its consideration for a standard at that level that is the most stringent level allowed, i.e., 78 percent AFUE.

After careful consideration of all the factors, the Department is establishing a 78 percent AFUE standard on small gas furnaces. This standard for small gas furnaces will result in a significant conservation of energy, and it is technologically feasible and economically justified.

In addition to producing the maximum unit energy savings of the candidate standards, this standard is beneficial to consumers and manufacturers alike.

The technology that would generally be used to meet this level of efficiency, i.e., induced draft combustion, is not only presently available, but it also will be installed on all other gas furnaces when this standard is to be effective.

For consumers, the 78 percent AFUE standard produces the lowest consumer life-cycle cost of the candidate levels. Furthermore, the standard's NPV of $21 million over the 1993–2015 period is the highest of the standard levels analyzed. Also, the designs necessary to achieve that level of efficiency, i.e., induced draft combustion, should have no effect on utility to the consumer.

Also, the initial purchase price increase may be lower than that which has been estimated. This result is possible, because the 78 percent AFUE standard on small gas furnaces is the same level of efficiency that the Act imposes on larger gas furnaces, which presently comprise more than 95 percent of furnace sales. Therefore, to the extent that manufacturers can produce these small units on the same production lines, with the same design options that will be used for the larger furnaces, there may be economies of scale in the production of these units.

Small gas furnace manufacturers have strongly supported the 78 percent AFUE standard on their products. The analysis indicates that such a standard should have relatively little economic impact on them. It is estimated that a 78 percent AFUE standard on small gas furnaces would cause the prototypical gas furnace manufacturer to suffer a loss of .1 percent in its ROE. The uniformity of a 78 percent AFUE standard on small furnaces and on larger units, however, may make the production process simpler for the manufacturers. This occurs because, as mentioned above, a uniform standard for all gas furnaces could result in fewer production lines.

In addition, as noted above, the Attorney General has determined that this standard should not have a significant adverse effect on competition among furnace manufacturers.

While the effects of a 78 percent AFUE standard are only slightly better than a 71 percent AFUE standard, the Department believes that the Act requires that the Department establish the most stringent standard that saves a significant amount of energy, is technologically feasible, and is economically justified. The 78 percent AFUE standard meets these requirements.

In comments on the proposed rule, several gas utilities contended that a 78 percent AFUE standard on small gas furnaces would cause them to lose market share to electric resistance heat. The analysis for this final rule, however, indicates that such a loss of market share is not a likely result from a 78 percent AFUE standard. The LBL–REM projects that market share for small gas furnaces is likely to increase as a result of the level 3 standard. *See* Technical Support Document, Table 5.20.

One drawback to the 78 percent AFUE standard on small gas furnaces is that it would eliminate units that may, in some circumstances, be the most cost-effective for some consumers. This is a result that could possible occur in some Southern-tier States, where the most cost-effective small gas furnace could be one that is less efficient and whose first cost is less than that of the minimum LCC unit. Nevertheless, while this is a possible outcome for some purchasers in some areas, the Department believes that such effects, should they occur at all, would be limited.

Another possible drawback is that some installations, particularly of replacement furnaces in some multi-family units could be somewhat complicated because of space limitations. The Department believes that these effects, too, would be limited, if they occur at all.

Lastly, 78 percent AFUE standards, over the forecast period (1993–2015), are expected to save 4,818,000 tons of CO_2, 65,112 tons of SO_2, and 48,393 tons of NO_2 emissions.

c. Television Sets

The Department received a number of comments concerning the engineering analysis for television sets. However, none of the comments included data or sufficient information for the Department to consider. In order to respond to the comments, DOE believes an in-depth analysis of televisions would likely need to be performed. And,

since the data in a new analysis would be new data that was not previously subject to comment, the Department believes a new analysis and proposed rule for television sets would have to be published.

V. Environmental, Regulatory Impact, Takings Assessment, Federalism and Regulatory Flexibility Reviews

The Department has reviewed today's final rule in accordance with the Department's obligations under:

- The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality regulations implementing the procedural provisions of NEPA (40 CFR part 1500 *et seq.*), and the Department's own NEPA guidelines (54 FR 49667, December 13, 1987);
- Executive Order 12291 (46 FR 13193, February 19, 1981) which pertains to agency review of the impact of Federal regulations;
- Executive Order 12630 (53 FR 8859, March 18, 1988) which pertains to agency consideration of Federal actions that interfere with constitutionally protected property rights;
- Executive Order 12612 (54 FR 41685, October 30, 1987) which pertains to agency consideration of Federal actions that would have a substantial direct effect on States, on the relationship between the National Government and the States, and on the distribution of power and responsibility among the various levels of government; and
- The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) which requires, in part, that an agency prepare a regulatory flexibility analysis for any final rule unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and explanation of that determination in the **Federal Register**.

a. Environmental Review

In issuing the proposed rule, the Department prepared an Environmental Assessment (EA) (DOE/EA–0372) that was published within the Technical Support Document (DOE/CE–0239, November 1988). The environmental effects from different possible standard levels were found not to be significant, and a Finding of No Significant Impact (FONSI) was published along with the proposed rule. (53 FR 48826, December 2, 1988).

In conducting the analysis for the final rule, the Department re-ordered the refrigerator design options in order of increasing consumer payback periods, as noted above. As a result of this re-ordering, the environmental effects for the different refrigerator standard levels differ from those reported in the EA. *See* Technical Support Document, Environmental Effects.

Due to this re-ordering, and to greater efficiencies projected in the base case, standard level 3 for refrigerators will result in slightly lesser reductions in carbon dioxide (CO_2), sulfur dioxide (SO_2), and nitrogen dioxide (NO_2) than those projected in the EA for this level.

In the proposed rule, the forecast period ended in the year 2010. The emissions savings of CO_2 in that year for standard level 3 for refrigerators were estimated to be 9.18 million tons, a reduction in emissions that was determined not to be significant.

For the standard level being finalized in this rulemaking, the expected CO_2 emissions savings in 2010 are 7.691 million tons, and, in the year of the greatest savings, 2015, the emissions reductions are expected to be 8.834 million tons. Both of these reductions in emissions are lower than the amount that was estimated for the proposed rule.

For standard level 3 for refrigerators, the proposed rule's SO_2 and NO_2 emissions savings in 2010 were estimated to be 151,000 tons and 100,000 tons, respectively. These reductions in SO_2 and NO_2 emissions were determined not to be significant.

For the standard level being finalized in this rulemaking, the expected reductions in SO_2 and NO_2 emissions in 2010 are 123,282 tons and 83,352 tons, respectively. In 2015, the year of the greatest expected reductions in SO_2 and NO_2 emissions, the savings are expected to total 126,365 tons and 94,624 tons, respectively. The SO_2 and NO_2 emissions reductions expected in 2010 and in 2015 from this final rule are lower than the amounts that were estimated for the proposed rule.

The Department believes that these environmental impacts are not sufficiently large to be considered "significant." These impacts fall within the range of impacts that were analyzed in the EA that was prepared for the proposed rule, and which were determined not to be significant in the FONSI that was issued for the proposed rule. Accordingly, DOE has determined that the impacts of re-ordering the refrigerator engineering design options are bounded by the analysis in the results of the EA, and that the original FONSI is still valid.

Furthermore, if the Clean Air Act Amendments that have been introduced in Congress were to become law, the amount of allowable powerplant emissions of SO_2 and NO_2 in the year 2010 would be reduced from the amount otherwise anticipated. The Department expects that there would be a corresponding drop in emissions reductions caused by these appliance standards. Under those conditions, the Department would expect that standard level 3 for refrigerators would lead to reductions in emissions of 64,881 tons of SO_2, and 62,013 tons of NO_2. Each of these reductions is less than what would be expected without the Clean Air Act Amendments, i.e., in the Department's forecast results, presented above.

The NRDC was critical of the Department's finding in the FONSI that the environmental effects that could result from appliance standards are not signficant. The NRDC contended, in fact, that the expected environmental benefits are significant, and that the Department should have prepared an Environmental Impact Statement. (NRDC, No. 81, at 120–124). NRDC has not taken exception to DOE's forecasts of emissions reductions.

The Department has determined that the environmental effects described, totaling less than 1 percent of U.S. powerplant emissions (for SO_2 and NO_2) and less than one-half of 1 percent of U.S. emissions of CO_2 in the year 2015, are not significant, and do not require preparation of an Environmental Impact Statement. Nevertheless, as noted above, the environmental effects were considered in selecting the final standard for refrigerators.

b. Regulatory Impact Review

Executive Order 12291 (46 FR 13193, February 19, 1981) directs that, in issuing a major rule,[18] an agency perform a regulatory analysis. Such an analysis presents major alternatives to the regulation that could substantially achieve the same regulatory goal at lower cost, as well as a description of the costs and benefits (including potential net benefits) of the proposed approach.

DOE has determined that this rule is a "major rule." Accordingly, a Final Regulatory Impact Review has been prepared and submitted to the Office of Management and Budget (OMB). OMB

[18] "Major rule" means any regulation that is likely to result in: (1) An annual effect on the economy of $100 million or more; (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

has reviewed the Regulatory Analysis under Executive Order 12291.

The Regulatory Analysis is summarized below. This summary focuses on the major alternatives considered in arriving at the proposed approach to improving the energy efficiency of consumer products. The reader is referred to the complete final "Regulatory Impact Analysis," which is contained in the Technical Support Document, available as indicated at the beginning of this notice. It consists of: (1) A statement of the problem addressed by this regulation, and the mandate for government action; (2) a description and analysis of the feasible policy alternatives to this regulation; (3) a quantitative comparison of the impacts of the alternatives; and (4) the economic impact of the proposed approach.

It should be noted at the outset that none of the alternatives that were examined for these products saved as much energy as the rule. Also, most of the alternatives would require that enabling legislation be enacted, since authority to carry out those alternatives does not presently exist.

Alternatives for Achieving Consumer Product Energy Conservation

Six major alternatives were identified by DOE as representing feasible policy alternatives for achieving consumer product energy efficiency. These alternatives include:

- No New Regulatory Action
- Informational Action
  - —Product labeling
  - —Consumer education
- Prescriptive Standards
- Financial Incentives
  - —Tax credits
  - —Rebates
- Voluntary Energy Efficiency Targets
- The Proposed Approach (Performance Standards)

Each alternative has been evaluated in terms of its ability to achieve significant energy savings at reasonable costs and has been compared to the effectiveness of the proposed approach.

If no new regulatory action were taken, then no new standards would be implemented for refrigerators or small gas furnaces. This is essentially the "base case" for each appliance. In this case, between the years 1992 and 2015, there would be expected energy use of 44.09 Quads of primary energy, with no energy savings and a zero net present value.

Several alternatives to the base case can be grouped under the heading of informational action. They include consumer product labeling and DOE's public education and information program. Both of these alternatives are mandated by the Act. One base case alternative would be to estimate the energy conservation potential of enhancing these programs. To model this possibility, the Department assumed that market discount rates would be lowered by five percent for purchasers of these products. This resulted in no energy savings, with expected consumption equal to 44.09 Quads. The net present value is estimated to be $0.00.

Another method of setting standards would entail requiring that certain design options be used on each product, i.e., prescriptive standards. For refrigerators, this involved assuming a 1.5 inch foam door and 5.0 EER compressor (4.0 EER compressor for manual defrost units) and, for small gas furnaces, a power burner. This resulted in energy consumption, between 1992 and 2015, of 40.37 Quads, and savings of 3.71 Quads. The net present value, in 1987 dollars, was $7.79 billion.

Various financial incentive alternatives were tested. These included tax credits and rebates to consumers, as well as tax credits to manufacturers. The tax credits to consumers were assumed to be 15 percent of the increased cost of higher energy efficiency features of these appliances, while the rebates were assumed to be 15 percent of the increase in equipment prices. The tax credits to consumers showed almost no change from the base case, i.e., this alternative would save less than 0.01 Quad with a net present value of $80 million. Consumer rebates however, would save 0.05 Quad with a net present value of $260 million.

The consumer rebate program and the tax credit program would return to the participating consumer exactly the same amount of money. However, it is expected that there will be more participants in the rebate program. Therefore, the rebate program would result in substantially more energy savings than the tax credit program would.

The most important differences to the consumer between rebate and tax credit programs is that a rebate can be obtained quickly, whereas a tax credit is delayed until income taxes are filed or a tax refund is provided by the Internal Revenue Service. This means that middle- and low-income purchasers, who generally have little ready cash to purchase more expensive products, are not as likely to take advantage of the program as are upper income purchasers. To simulate this impact, DOE has assumed that only 60 percent of consumers would purchase more energy efficient products as a result of the tax credit program.

Another financial incentive that was considered was tax credits to manufacturers for the production of energy-efficient refrigerators and small gas furnaces. In this scenario, an investment tax credit (ITC) of 20 percent was assumed. The tax credits to manufacturers had almost no effect, since the energy consumption estimates are 44.09 Quads with no energy savings, and a net present value equal to $30 million.

The impact of this scenario is so small because the ITC was applicable only to the tooling and machinery costs of the firms, i.e., the firms' fixed cost, and most of the design improvements that would likely be adopted to manufacture more efficient versions of these products would involve purchased parts. Expenses for purchased parts would not be eligible for an ITC.

Two scenarios of voluntary energy efficiency targets were examined; in the first one, energy conservation standards were assumed to be adopted voluntarily by all the relevant manufacturers in five years, and, in the second scenario, the standards were assumed to be adopted in 10 years. In these scenarios, the five year delay would result in energy consumption by these appliances of 40.71 Quads, energy savings of 3.38 Quads, and a new present value of $5.69 billion; the 10 year delay would result in 42.27 Quads of energy being consumed, 1.82 Quads being saved, and a net present value of $3.43 million.

These scenarios assume that there would be universal voluntary adoption of the energy conservation standards by the refrigerator and small gas furnace manufacturers, an assumption for which there is no reasonable assurance.

Lastly, all of these alternatives must be gauged against the performance standards that are being prescribed by this rule. Such performance standards would result in energy consumption of refrigerators and small gas furnaces to total an estimated 38.89 Quads of primary energy over the 1992–2015 time period. Savings would be 5.20 Quads, and the net present value would be an expected $9.18 billion.

As noted at the beginning of this section, none of the alternatives that were considered for refrigerators and small gas furnace would save as much energy as today's rule.

c. Federalism Review

Executive Order 12612 (52 FR 41685, October 30, 1987) requires that regulations or rules be reviewed for any substantial direct effects on States, on

the relationship between the National Government and the States, or on the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then Executive Order 12612 requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a regulation or a rule.

DOE has identified a substantial direct effect that today's rule would have on State governments. It would initially preempt inconsistent State regulations. However, DOE has concluded that the initially preemptive effect is not sufficient to warrant preparation of a federalism assessment for the following reason: the Act provides for subsequent State petitions for exemption, which necessarily means that the determination as to whether a State law prevails must be made on a case-by-case basis using criteria set forth in the Act. When DOE receives such a petition, it will be appropriate to consider preparing a federalism assessment consistent with the criteria in the Act.

d. Regulatory Flexibility Review

The Regulatory Flexibility Act of 1980 (Public Law 96–354) requires an assessment of the impact of regulations on small businesses. Small businesses are defined as those firms within an industry that are privately owned and less dominant in the market.

In this rulemaking, two different products and, hence, industries, are being addressed. Regulatory flexibility issues are addressed for the two industries for which standards are being finalized.

First, the energy conservation standard of 78 percent AFUE on those small gas furnace manufacturers, who could be considered small businesses, is discussed. There is no indication that the impact of standards will be directly related to firm size. Although different size firms have different cost structures, industry sources indicate that, overall, neither large nor small firms have a cost advantage and that neither large nor small firms tend to have a higher proportion of fixed cost. A corollary to this observation is that profits are also not correlated to firm size. Some large firms are quite profitable, while others earn more modest profits, and the same is true for smaller firms.

The Engineering Analysis indicates that the measures necessary to meet the standards levels under consideration involve using additional purchased parts which do not require development costs of the appliance manufacturer. While larger firms may have some slight cost advantage from buying in larger quantites, the fact that the design options predominantly involve purchased parts tends to be an equalizing factor among different-sized firms.

Therefore, the fact that this energy conservation standard on small gas furnaces is not likely to "have a significant economic impact on a substantial number of small entities" suggests that the provisions of section 605.(b) of the Regulatory Flexibility Act pertain. These provisions state that neither an initial nor a final regulatory flexibility analysis need be performed for a proposed or final rule "if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."

Of the eight small refrigerator firms reviewed for this analysis, three make custom refrigerators, three make compact units (largely for mobile homes and recreational vehicles), and two make 3-in-1 units with range tops and sinks.

The analysis of combined-unit manufacturers is straightforward. Three-in-one units are not covered by the present standards, so these manufacturers will not be affected.

The custom refrigerator manufacturers seem to be fairly well protected for two reasons; they are not exposed to either direct foreign competition or direct competition from major domestic firms, and because they produce custom units they have a greater ability to make design changes compared to a large manufacturer. These two facts indicate that standards will probably not hurt the custom manufacturer's control of its market; however, its market may shrink due to price increases. This cannot be estimated without engineering data and an estimate of the elasticity of demand in this market. One thing must be remembered when analyzing this problem: standards will increase the price of standard refrigerators and this will offset (partly or more than completely) the impact of the price increase of custom refrigerators.

The three small manufacturers of compact refrigerators are probably at the greatest risk, both without standards and from standards. They face stiff foreign competition from large foreign manufacturers.

In conclusion, since neither of the standards is expected to have a "significant economic impact on a substantial number of small entities," the Department has found that it was not necessary to prepare a regulatory flexibility analysis.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy consideration, Household appliances.

In consideration of the foregoing, part 430 of chapter II of title 10, Code of Federal Regulations, is amended as set forth below.

Issued in Washington, DC, November 13, 1989.

J. Michael Davis, P.E.,

Assistant Secretary, Conservation and Renewable Energy.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for part 430 continues to read as follows:

Authority: Energy Policy and Conservation Act, title III, part B, as amended by National Energy Conservation Policy Act, title IV, part 2, National Appliance Energy Conservation Act of 1987, and National Appliance Energy Conservation Amendments of 1988 (42 U.S.C. 6291–6309).

2. Section 430.32 is amended by revising paragraph (a) as follows:

§ 430.32 [Amended]

(a) *Refrigerators/refrigerator-freezers/freezers.* These standards do not apply to refrigerator and refrigerator-freezers with total refrigerated volume exceeding 39 cubic feet or freezers with total refrigerated volume exceeding 30 cubic feet.

Product class	Energy standards equations (Kwh/yr) Effective dates	
	January 1, 1990	January 1, 1993
1. Refrigerators and Refrigerator-Freezers with manual defrost	(16.3AV+316)	(19.9AV+98)
2. Refrigerator-Freezer—partial automatic defrost	(21.8AV+429)	(10.4AV+398)
3. Refrigerator-Freezers—automatic defrost with: Top-mounted freezer without through-the-door ice service [1]	(23.5AV+471)	(16.0AV+355)
4. Refrigerator-Freezers—automatic defrost with: Side-mounted freezer without through-the-door ice service	(27.7AV+488)	(11.8AV+501)
5. Refrigerator-Freezers—automatic defrost with: Bottom-mounted freezer without through-the-door ice service	(27.7AV+488)	(14.2AV+364)

Product class	Energy standards equations (Kwh/yr) Effective dates	
	January 1, 1990	January 1, 1993
6. Refrigerator-Freezers—automatic defrost with: Top-mounted freezer with through-the-door ice service	(26.4AV+535)	(17.6AV+391)
7 Refrigerator-Freezers—automatic defrost with: Side-mounted freezer with through-the-door ice service	(30.9AV+547)	(16.3AV+527)
8. Upright Freezers with: Manual defrost	(10.9AV+422)	(10.3AV+264)
9. Upright Freezers with: Automatic defrost	(16.0AV+623)	(14.9AV+391)
10. Chest Freezers and all other Freezers	(14.8AV+223)	(12.0AV+124)

[1] Including all refrigerators with automatic defrost
AV = Total adjusted volume, expressed in Ft.[3], as determined in Appendices A1 and B1 of Subpart B of this Part.

3. Section 430.32(e) is amended by revising the Table headings and Item 3. in the table, and by adding footnote 1 to the table to read as follows.

* * * * *

(e) *Furnaces.*

Product class	AFUE [1] (percent)	Effective date
* * * * *		
3. Small furnaces (other than furnaces designed solely for installation in mobile homes) having an input rate of less than 45,000 Btu/hr		
(A) Weatherized (outdoor).	78	January 1, 1992.
(B) Non-weatherized (indoor).	78	January 1, 1992.

[1] Annual Fuel Utilization Efficiency, as determined in § 430.22(n)(2) of this part.

* * * * *

[FR Doc. 89-26965 Filed 11-13-89; 3:29 pm]
BILLING CODE 6450-01-M

10 CFR Part 430

[Docket No. CE-RM-87-102]

Energy Conservation Program for Consumer Products; Energy Conservation Standards for Two Types of Consumer Products

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Publication of Department of Justice Determinations and Analyses of Competitive Impacts.

SUMMARY: In today's **Federal Register**, the preamble to the final rule on energy conservation standards for small gas furnaces, and refrigerators, refrigerator-freezers and freezers presented the Attorney General's findings on the competitive impacts of the standards in the final rule. Section 325(1)(2)(B)(ii) of the Energy Policy and Conservation Act, as amended, requires the Attorney General's determinations and analyses to be published in the **Federal Register**. This notice presents the determinations and analyses.

Issued in Washington, DC, November 15, 1989.

B. Reid Detchon,

Principal Deputy Assistant Secretary, Conservation and Renewable Energy.

Honorable Donna R. Fitzpatrick, Acting Secretary of Energy, United States Department of Energy, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585.

Dear Ms. Fitzpatrick: By letter dated December 9, 1988, the Department of Energy ("DOE") transmitted to the Attorney General a Notice of Proposed Rulemaking (53 FR 48798) addressing energy standards for three classes of household appliances. Section 325 of the Energy Policy and Conservation Act, as amended in 1987 (42 U.S.C. 6295), requires the Attorney General to determine the impact, if any, of any lessening of competition likely to result from the proposed standards. Competitive impact is one of seven criteria to be considered by DOE in evaluating proposed standards. This letter contains the competitive impact determination of the Department of Justice ("Department").

Summary

The evidence available to the Department does not indicate that any significant lessening of competition is likely to result from the imposition of any of the proposed standards contained in DOE's Notice of Proposed Rulemaking. For small gas furnaces and television sets, the available evidence affirmatively suggests that no significant adverse competitive impact is likely. In the case of refrigerators, refrigerator-freezers, and freezers, it is the Department's best judgment based on the available evidence that no significant adverse competitive impact is likely; but, under certain limited conditions described below, an unquantifiable adverse competitive impact would be possible.

Discussion

In appraising the competitive effect of the proposed standards in the context of this statute, the Department has examined the relevant markets within which the standards will operate. The Department has then considered whether adoption of the standards would be likely to contribute to increased levels of concentration and, if so, whether the resulting concentration levels and other relevant market conditions would facilitate either oligopolistic pricing or actual price fixing. The Department also has considered whether, independent of or in conjunction with any increase in concentration, the standards would be likely to facilitate oligopolistic pricing or price fixing by increasing product homogeneity.

In this instance, the Department has utilized the HHI computations, commonly employed in market analysis and described in the Department's merger guidelines, as an initial "screen." This screen has permitted the Department to conclude that the proposed standards are unlikely to have a significant adverse impact on competition in two classes of appliances: small gas furnaces and television sets. In both instances, the DOE technical support document provides information that permits the Department to calculate HHI figures for the tentatively defined markets in question. For each market—small gas furances, color television sets, and black and white television sets—the HHI figure is below 1,800. In other words, none of these markets is highly concentrated.

At levels of concentration below 1,800, the number of competitors is ordinarily sufficient to make competitive pricing likely and to defeat oligopolistic pricing. Even if the standards resulted in increased costs and reduced the number of competitors, or increased product homogeneity in some measure, the Department would expect that the markets in question would continue to enjoy a substantial measure of competition. Although price fixing can occur in less concentrated markets, the conditions that accompany this threat do not appear to be present in the markets in question.

The analysis of refrigerators, refrigerator-freezers, and freezers is more complex because the risk of an adverse competitive impact is not diminished by the existing market structure as reflected in the HHI figures. Based on data contained in the technical support document, refrigerators and freezers have HHI figures, respectively, of over 2,200 and over 3,000. These figures reflect high levels of concentration, albeit at the lower end of the highly concentrated range (whose maximum is 10,000). It is thus prudent to examine more closely the possibility that the standards could increase concentration within a market, increase product homogeneity, or both.

The possibility that concentration might increase depends primarily on whether compliance with the standards both (1) increases costs significantly and (2) results in

such increased costs being felt more severely by some firms than others. Although increased costs may reduce demand, that alone would not necessarily affect market structure. However, concentration could increase if the cost increases are both significant and affect smaller firms more severely than large ones; costs that vary with output (e.g., added insulation) should not disadvantage smaller firms while costs independent of output (e.g., redesign of a freezer) might disadvantage a smaller firm with a lesser number of units across which to spread the same fixed costs.

Nevertheless, before such asymmetrical cost increases could affect competition adversely, the increases would have to be sufficiently severe and asymmetrical that they would force from the market one or more significant competitors. In addition, levels of concentration would have to rise substantially because of such exits; yet the more common result of exits is that each of the remaining significant competitors would be likely to improve its market share to a limited extent (unlike a merger where the acquiring firm is likely to become substantially larger). Finally, other market conditions (e.g., entry barriers) would have to be conducive to oligopolistic pricing or price fixing.

The available evidence in this instance does not demonstrate to the Department that such a lessening of competition would be likely to occur if DOE adopts the proposed standards for refrigerators, refrigerator-freezers, or freezers. This evaluation is based on information concerning the identity and size of the principal competitors and other market conditions. However, for these three products, the evidence does not wholly foreclose the possibility of an anticompetitive impact. There is, for example, some evidence that increases in fixed costs may occur and affect smaller competitors more severely than larger ones. If DOE concluded that its standards for refrigerators, refrigerator-freezers, or freezers would cause a reduction in the number of significant competitors, then a further review of the competitive impact would be warranted.

There does not appear to be a substantial threat that the standards for refrigerators, refrigerator-freezers, and freezers would threaten competition by increasing product homogeneity. The standards are performance rather than design standards, so that they can be met by different combinations of features. In addition, the energy-using characteristics of the appliances represent only one aspect of the products, and variation in other features would be expected to continue.

In making its determination, the Department has relied on the facts set forth in DOE's technical support document, as well as other information that could be collected by the Department in the time allowed and without the benefit of compulsory process. The Department does not, however, accept the assertion in the Notice of Proposed Rulemaking that competitive concerns are mitigated by the likelihood that the standards will result in increased profits for manufacturers. Apart from other difficulties with this inference, the evidence does not persuade the Department that the proposed standards will increase profits.

Sincerely,

Michael Boudin,

Acting Assistant Attorney General.

[FR Doc. 89-27254 Filed 11-16-89; 8:45 am]

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federal register

Friday
November 17, 1989

Part IV

The President

Federal Register
Vol. 54, No. 221
Friday, November 17, 1989

Presidential Documents

Title 3—

The President

Proclamation 6068 of November 15, 1989

National Diabetes Month, 1989

By the President of the United States of America

A Proclamation

Diabetes mellitus is one of the most serious public health problems challenging this country today. An estimated 11 million Americans have the disease, and about half of the them are not aware of their illness.

Each year, more than 500,000 new cases of diabetes are identified. All diabetics are at increased risk of developing eye, nerve, or kidney damage, as well as heart disease. These complications make diabetes a leading cause of death in the United States. Affecting individuals of all ages, regardless of gender or race, diabetes costs our Nation billions of dollars annually in health care and lost economic productivity. More important, however, and more tragic is the untold personal suffering endured by diabetics and their families.

Fortunately, however, the mystery of diabetes is beginning to unfold. Medical research has produced remarkable progress in understanding the causes and complications of diabetes and in devising treatments for it. In insulin-dependent diabetes, the immune system destroys insulin-producing cells. Recent research advances include the identification of markers that signal the onset of insulin-dependent diabetes years before it occurs—a discovery that may one day make early intervention possible.

Progress also has been made in unraveling the puzzle of non-insulin-dependent diabetes, with indications that this form of diabetes is actually many diseases with different causes related to cellular abnormalities. In this area of research, scientists are developing and applying the tools needed to examine what happens in diabetes at the cellular level.

Basic and clinical research advances have significantly reduced diabetes-related deaths and have improved the quality of life for people with diabetes. Nevertheless, much needs to be done before the cure and prevention of diabetes and its complications become a reality. The Federal Government, in cooperation with voluntary and professional health organizations, is continuing to conduct research aimed at eliminating diabetes as a threat to the health of present and future generations.

To enhance public understanding of diabetes and to recognize the efforts of those working to eliminate this public health problem, the Congress, by Senate Joint Resolution 131, has designated the month of November 1989 as "National Diabetes Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the month of November 1989 as National Diabetes Month. I call upon concerned Government agencies, public and private organizations, and the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set by hand this fifteenth 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. 89-27313
Filed 11-16-89; 11:58 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 6069 of November 15, 1989

Community Foundation Week, 1989

By the President of the United States of America

A Proclamation

Throughout our Nation's history, individual Americans have voluntarily joined together to meet important needs in their communities. This generosity, this willingness to work together toward a common goal, is a hallmark of the American character.

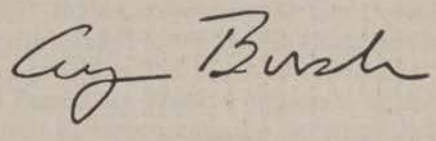
Today, private voluntary associations across the country make substantial contributions to our Nation's well-being in areas such as health care and social services, education and the arts, economic development, and environmental protection. Many of these associations are community foundations—charitable organizations formed to attract and distribute endowment funds.

Directed by volunteers, community foundations provide effective leadership in communities throughout the United States, often supplementing or assisting in the coordination of public programs and other private services. They are one of the fastest growing forms of philanthropy in the United States.

In grateful recognition of our Nation's charitable organizations and the concerned individuals who donate their time, talent, and material resources to them, the Congress, by House Joint Resolution 425, has designated the week of November 12 through 18, 1989, as "Community Foundation Week" and has requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of November 12 through November 18, 1989, as Community Foundation Week. I call upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth 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. 89-27314
Filed 11-16-89; 11:59 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 6070 of November 15, 1989

National Farm-City Week, 1989

By the President of the United States of America

A Proclamation

Each year, during the week of Thanksgiving, we Americans pause to express our gratitude for the safe and abundant supply of food with which we have been blessed. This plenty has been brought to our tables not only by farmers, but also by many others who play vital roles in our agricultural production and distribution system. As we observe this 35th annual National Farm-City Week, we recognize these hard-working Americans for their important contributions to our Nation's well-being.

Our Nation's farmers are assisted in their work by the manufacturers and suppliers of equipment, seeds, and fertilizers; by those who transport and process the fruits of their labor; and by those who distribute and sell their final products in our rural towns and in our cities. The cooperative efforts of farmers and those who serve in farming-related industries enable American consumers to enjoy a rich variety of affordable, high-quality foodstuffs.

This rural-urban bond is being steadily strengthened as more and more American farmers become suppliers of not only food and fiber, but also a growing list of raw materials for new industrial uses. These materials include grains for ethanol fuels designed to improve our Nation's air quality, as well as starches for biodegradable plastics designed to reduce harmful wastes in the environment.

Americans are not the only beneficiaries of our farmers' efforts, however. Constituting less than 2 percent of the population, American farmers produce food and fiber for the rest of the country and much of the world as well. One-fifth of their production is marketed abroad. These exports provide needed agricultural goods to people in other nations while improving the United States' balance of trade. These exports also stimulate industrial growth and commerce.

Because all Americans, and millions of people around the world, benefit from the work of farmers and persons in farming-related industries, it is fitting that we honor them in a special way during this week of Thanksgiving.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of November 17 through November 23, 1989, as National Farm-City Week. I call upon all Americans, in rural areas and cities alike, to join in recognizing the accomplishments of our Nation's farmers and all those who cooperate in producing the abundance of agricultural goods that enrich and strengthen the United States.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth 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. 89-27315
Filed 11-16-89; 12:00 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 6071 of November 15, 1989

National Philanthropy Day, 1989

By the President of the United States of America

A Proclamation

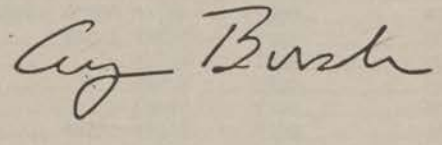
Noting the American people's willingness to work together in order to assist a neighbor or improve their communities, the great French social philosopher, Alexis de Tocqueville, once asked, "What political power could ever carry on the vast multitude of lesser undertakings which the American citizens perform every day, with the assistance of the principle of association?" This spirit of voluntary association and service to others continues to be a proud portion of the American character. Today, nonprofit philanthropic organizations in the United States number in the hundreds of thousands. These organizations employ millions of people, many of them volunteers. The American people give generously to all of them—not only through financial contributions but also through regular donations of their time, talents, and material resources.

Today, we recognize and salute the outstanding work done by members of our Nation's philanthropic organizations. Through their schools, churches, local museums, cultural centers, youth groups, hospitals, research institutions, and many other organizations, millions of concerned Americans are generously serving others. Whether bringing aid and comfort to the sick, the elderly, and the disadvantaged, or providing rewarding educational and recreational opportunities for everyone, these individuals are illustrating that there is no better exercise for the human heart than reaching out and lifting someone else up.

In recognition of all those who lead, staff, and support our Nation's charitable organizations, the Congress, by Senate Joint Resolution 86, has designated November 17, 1989, as "National Philanthropy Day" and has requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim November 17, 1989, as National Philanthropy Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth 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. 89-27316
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