

12-26-89

Vol. 54

No. 246

# federal register

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Tuesday  
December 26, 1989

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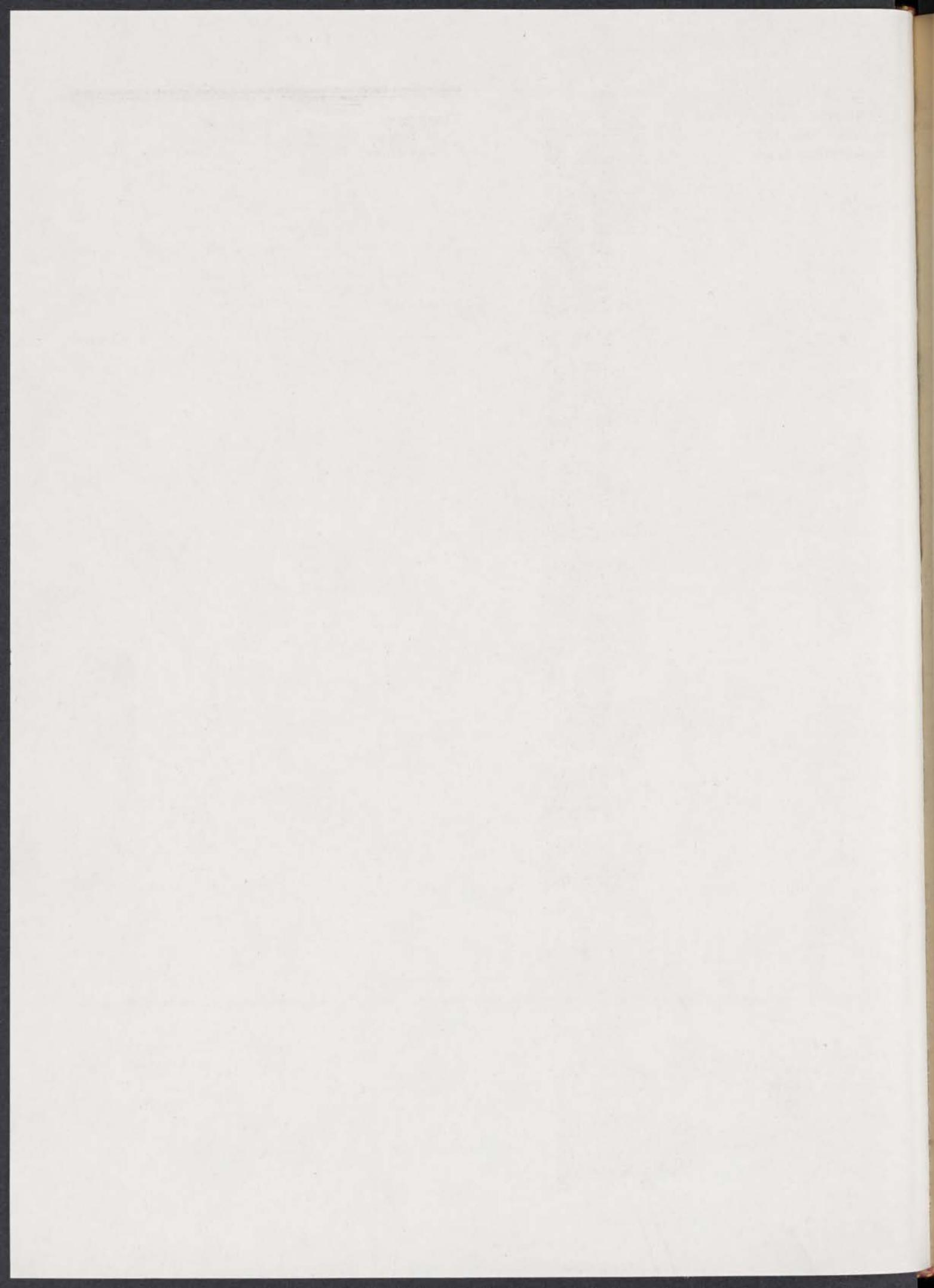
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U.S. Government Printing Office  
(ISSN 0097-6326)



12-26-89  
Vol. 54 No. 246  
Pages 52923-53036

# Federal Register

Tuesday  
December 26, 1989

Briefing on How To Use the Federal Register  
For information on a briefing in Washington, DC, see  
announcement on the inside cover of this issue.



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## THE FEDERAL REGISTER WHAT IT IS AND HOW TO USE IT

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
  2. The relationship between the Federal Register and Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
  4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### WASHINGTON, DC

- WHEN:** January 30, 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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# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Part 312

RIN 3064-AA99

#### Assessment of Fees Upon Entrance to or Exit From the Bank Insurance Fund or the Savings Association Insurance Fund

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Interim rule and request for comments.

**SUMMARY:** The Federal Deposit Insurance Corporation (FDIC) is adopting an interim rule that prescribes entrance and exit fees to be paid by insured depository institutions that participate in certain "conversion transactions" authorized by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Public Law No. 101-73, 103 Stat. 183. Specifically, this rule establishes the fee structure for those conversions that result in the transfer from the Bank Insurance Fund ("BIF") to the Savings Association Insurance Fund ("SAIF"). The entrance and exit fees are being prescribed under an interim rule, with an immediate effective date, in order to permit institutions interested in participating in certain branch sales, bank resolutions, and other permitted "conversion transaction" to evaluate the potential costs of those transactions and to allow those transactions to go forward without further delay; however, the FDIC invites public comment on all aspects of the interim rule.

In addition to soliciting comment on all aspects of the interim rule, the FDIC is inviting interested parties to comment as to whether or not it would be appropriate to allow insured depository institutions participating in conversion transactions wherein branches of a BIF

member are simultaneously exchanged for branches of a SAIF member, or vice versa, to calculate the entrance and exit fees against the net loss to one insurance fund and the net gain to the other fund (in other words, whether the deposit base to be used in calculating the entrance and exit fees should be the net amount transferred from one fund to the other). The FDIC also asks interested parties to comment on whether or not it would be appropriate to allow insured depository institutions participating in such conversion transactions to use the net amount transferred from one fund to the other when testing for eligibility under the "insubstantial portion" exception authorized by FIRREA. Under FIRREA, there is a five-year moratorium on conversion transactions, with certain limited exceptions for (1) conversion transactions that affect an insubstantial portion of the total deposits of each participating institution, and (2) certain conversions involving institutions in default or in danger of default. FIRREA provides that a conversion transaction is deemed insubstantial if the aggregate amount of total deposits transferred does not exceed 35 percent. The FDIC is considering whether the "insubstantial portion" test should be applied against the net deposit base transferred.

Changes to the fee structure set forth in the interim rule may be made as a result of the comments received. The FDIC will also decide whether or not the "netting" method of determining the deposit base should be permitted for purposes of calculating the entrance and exit fees and for purposes of applying the "insubstantial portion" exception. A final regulation will be issued following the expiration of the public comment period.

**DATES:** The interim rule is effective December 26, 1989. Comments must be submitted by February 26, 1990.

**ADDRESS:** Send comments to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. Comments may be hand-delivered to Room 6097 on business days between 8:30 a.m. and 5:00 p.m. Comments may also be inspected in Room 6097 between 8:30 a.m. and 5:00 p.m. on business days. (FAX number: (202) 347-2773 or 2775.)

**FOR FURTHER INFORMATION CONTACT:** (For information on legal issues) Alan J. Kaplan, Senior Counsel, Legal Division,

(202) 898-3734, or Valerie J. Best, Senior Attorney, Legal Division, (202) 898-3812; (for information on supervisory issues) Garfield Gimber, Examination Specialist, Division of Bank Supervision, (202) 898-6913; (for information on economic issues) John O'Keefe, Financial Economist, Division of Research and Statistics, (202) 898-3945; Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

#### SUPPLEMENTARY INFORMATION:

##### Paperwork Reduction Act

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

##### Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 5 U.S.C. 601 *et seq.*), it is certified that the interim rule would not have a significant impact on a substantial number of small entities.

##### Introduction

Section 206(a)(7) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") amends section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) by adding a new subsection (d) that provides, *inter alia*, that insured depository institutions participating in a conversion transaction must pay entrance and exit fees to the insurance funds being entered or exited. 12 U.S.C. 1815(d)(2)(E). FIRREA requires the FDIC, by regulation, to prescribe procedures for assessing such entrance and exit fees. 12 U.S.C. 1815(d)(2)(F).

A conversion transaction is broadly defined in FIRREA to include a variety of transactions that could result in a transfer of insured deposits from one insurance fund to the other, *i.e.*, from the Bank Insurance Fund ("BIF") to the Savings Association Insurance Fund ("SAIF"), or vice versa, including a charter conversion, a merger, a deposit assumption, and an asset transfer in consideration of assumption of deposit liabilities.<sup>1</sup> 12 U.S.C. 1815(d)(2)(B).

<sup>1</sup> The statute expressly provides that the conversion of a SAIF member savings association to

Continued

FIRREA has established a five-year moratorium on conversion transactions, with certain limited exceptions. The exceptions are (1) conversion transactions that affect an insubstantial portion of the total deposits of each participating institution, and (2) certain conversions involving institutions in default or in danger of default. The FDIC must approve any such excepted conversion.

The first exception is intended to exempt from the moratorium, subject to FDIC approval, branch sales and other transfers of deposits between depository institutions that are members of different insurance funds (SAIF or BIF). The second exception covers conversions that occur as part of an acquisition of an insured depository institution in default or in danger of default. Such conversions may be excepted from the moratorium if the FDIC determines that the estimated financial benefits to the fund the institution is leaving (or the Resolution Trust Corporation ("RTC") if the institution is a savings association) equal or exceed the FDIC's estimate of loss of assessment income to that fund during the years remaining in the moratorium period, and (in the case of a savings association) if the RTC concurs in the FDIC's determination. This exception is intended to permit conversion transactions to occur as a means of resolving savings association (thrift institution) and bank failures, notwithstanding the moratorium, if the requisite findings can be made.

Pursuant to section 206(a)(7) of FIRREA, each insured depository institution participating in a conversion transaction must pay an entrance fee in an amount to be determined by the FDIC. 12 U.S.C. 1815(d)(2)(E)(iii). The entrance fee is to be in the "approximate amount which the [FDIC] calculates as necessary to prevent dilution" of the fund being entered (BIF or SAIF), and is to be paid to the appropriate fund.

The FDIC is also authorized to prescribe exit fees. When a conversion or merger transaction results in the exit of a SAIF member, either the exiting or

resulting institution must pay an exit fee to SAIF (or to the Financing Corporation ("FICO") if the Secretary of the Treasury determines that FICO has exhausted all other sources for payment of interest on FICO obligations and orders that such fees be paid to FICO). Similarly, in a transaction involving a BIF member, if the resulting institution is not a BIF member, it must pay an exit fee determined by the FDIC to the BIF. Moreover, for conversion transactions from SAIF to BIF consummated before January 1, 1997, the statute requires that the amount of the exit fee is to be determined jointly by the FDIC and the Secretary of the Treasury. 12 U.S.C. 1815(d)(2)(F)(i)(I). The FDIC has the sole authority to determine the exit fee for conversions consummated subsequent to that time. 12 U.S.C. 1815(d)(2)(F)(i)(II).

On September 22, 1989, the FDIC Board of Directors approved the issuance of an interim rule prescribing the entrance fees to be paid by insured depository institutions that participate in conversion transactions that involve the transfer of deposits from SAIF to BIF. 54 FR 40377 (Oct. 3, 1989). The FDIC issued the interim rule with an immediate effective date, subject to a 60-day comment period, because of the urgent need to expeditiously deal with many failed or failing savings associations, some of which necessarily involve conversion transactions. Moreover, the rule also permitted the completion of numerous pending transactions involving the sale of savings association branches to banks.

Specifically, the interim rule set the entrance fee as the product of the "reserve ratio" of the fund being entered (e.g., BIF) multiplied by the deposit base being transferred from SAIF to BIF insurance. The reserve ratio used would be the most recent publicly available reserve ratio (as of the date of transfer) computed by the FDIC on the basis of its most recent audited year-end financial statements. The deposit base against which the entrance fee is to be charged would be either (1) the total dollar amount of the deposits being transferred from SAIF to BIF (measured as of the date of transfer), in the case of "non-resolution" branch sales involving the assumption of deposit liabilities of a "healthy" operating thrift by an insured bank, or (2) for "resolution" cases (i.e., where the conversion transaction is one which is being arranged by the Resolution Trust Corporation to dispose of or otherwise deal with an insured savings association in default or in danger of default), the dollar amount of those deposits which the FDIC estimates (on a case-by-case basis at the time the

"bid" package for the particular thrift institution is prepared) to have a high probability of remaining with the acquiring institution following the acquisition (the so-called "retained deposit base"). Moreover, the interim rule prescribes procedures for payment of the entrance fee.

On September 26, 1989, the FDIC Board of Directors adopted a proposal from the Department of the Treasury prescribing the exit fees required to be paid for conversion transactions resulting in a transfer of deposits from a SAIF member to a BIF member. This action set the exit fee on such conversions at .90 percent (90 "basis points") of the deposit base transferred; the fee is intended to provide sufficient income to offset the interest payments on the obligations of FICO mandated by the Competitive Equality Banking Act of 1987. In most other respects, the proposal, adopted by the FDIC as an interim rule, parallels the interim rule for entrance fees for conversions from SAIF to BIF issued on September 22, 1989, e.g., using the "retained deposit base" concept in RTC-arranged conversion transactions and procedures for payment of the fee. Although the fee schedule for exit fees has been set as discussed above, the language of the interim rule has not yet been finalized. The FDIC expects to publish the interim rule on exit fees from SAIF to BIF as soon as the FDIC and the Secretary of the Treasury have agreed upon the final language.

#### Entrance and Exit Fees for BIF-to-SAIF Conversion Transactions

Consistent with the approach taken for the assessment of entrance fees for SAIF to BIF conversions, and for the same reasons, see 54 FR 43079-80, the FDIC has determined to set similar entrance fee requirements for BIF to SAIF conversions with one exception. The interim rule sets the entrance fee as the product of the "reserve ratio" of the fund being entered (i.e., SAIF), or one basis point (0.0001), whichever is greater, multiplied by the "deposit base" being transferred from BIF to SAIF insurance. The reserve ratio is defined as the ratio of the net worth of the fund to the value of the aggregate estimated insured deposits held in all members of that fund. Unlike the interim rule on SAIF to BIF conversions, this rule also provides that where the reserve ratio is less than one basis point (0.0001), then the fee will be one basis point. It is the FDIC's opinion that to authorize a lower fee would have a dilutive effect on the SAIF.

a bank charter is not considered to be a "conversion transaction" if the bank elects to remain a SAIF member and thereby continues to pay assessments to SAIF. In such situations, no entrance or exit fees would be required unless and until, following expiration of the moratorium, the bank switches from SAIF to BIF insurance. 12 U.S.C. 1815(d)(2)(G). Similarly, notwithstanding the moratorium, the merger of a SAIF member savings association into a BIF member bank is permitted if the bank is a subsidiary of a bank holding company that controls the savings association, provided the Board of Governors of the Federal Reserve System as well as the appropriate Federal banking agency approves the transaction. 12 U.S.C. 1815(d)(3).

However, inasmuch as the SAIF was newly created by the enactment of FIRREA in August 1989, the year-end data is not yet available to calculate the SAIF reserve ratio for 1989; such data should be available by the summer of 1990. Until such time as the reserve ratio becomes publicly available, the FDIC has determined to implement an interim entrance fee of one basis point (0.0001) multiplied by the deposit base being transferred from BIF to SAIF insurance. The FDIC believes that this temporary fee is necessary to enable potential participants in bank resolutions, branch sales, and other permitted conversion transactions to begin evaluating the costs of those transactions. Moreover, because of the increased risk to the SAIF due to the assumption of all or a portion of a BIF member's deposit liabilities, the FDIC believes that until the SAIF reserve ratio is computed and publicly available, this nominal amount (one "basis point") should be adequate to prevent dilution of the SAIF, while not so prohibitive as to discourage permitted conversions.

In almost all other respects, including the procedures necessary for payment of the fee, and determination of the deposit base against which the fee is to be applied, the entrance fee would parallel the interim rule on entrance fees for SAIF to BIF conversions. See 54 FR 43079-80. Thus, for "non-resolution" conversion transactions, such as branch sales involving the assumption of deposit liabilities of an operating bank by an insured thrift, the deposit base would be the total dollar amount of the deposits being transferred from BIF to SAIF insurance, measured as of the date of transfer. In "resolution" cases (*i.e.*, where the conversion transaction involves efforts by the FDIC to dispose of or otherwise deal with an insured bank in default or in danger of default), where there is an expectation of deposit "run-off" thereby lessening the dilutive effect of the transaction on SAIF (if total deposits were used as the base), the interim rule permits the use of an estimated "retained deposit base" in determining the entrance fee for such transactions. The dollar amount of the retained deposit base would be estimated by the FDIC on a case-by-case basis at the time the FDIC prepares the "bid package" for the particular transaction, and the initial estimate would be announced to prospective bidders at the time proposals for acquisition are solicited; however, the FDIC may adjust its estimate of the bidding process. The estimated deposit base would be the same for purposes of

computing both the entrance and exit fees.

The rationale articulated in the September 22, 1989, interim rule pertaining to the use of the estimated deposit base for entrance fees for SAIF to BIF conversions in "resolution" cases is equally applicable to BIF to SAIF transactions. 54 FR 43079.

That is, because of the particular nature of the transaction and the likelihood of deposit run-off, the potential liability to the SAIF should be dependent upon the proportion of transferred deposits that are expected by the parties who negotiated the transaction to remain in the SAIF institution following the transaction. Similarly, for non-resolution transactions, it is reasonable to use total deposits assumed for purposes of computing fees inasmuch as there is an expectation by the parties that negotiated the transaction that such deposits will remain with the acquiring institution.

Regardless of the type of transaction involved, the transfer of deposits from BIF to SAIF necessarily increases potential SAIF liabilities without a commensurate increase in insurance reserves (*i.e.*, dilutes the entered insurance fund). As required by FIRREA, the FDIC is to determine the approximate amount by which SAIF reserves need to increase to prevent dilution of the insurance fund in conversion transactions. For the reasons explained above, the FDIC believes that the use of the SAIF reserve ratio (once such ratio is calculated and made publicly available) multiplied by the deposit base in determining the entrance fee is a reasonable method to ascertain the attendant risk to the entered fund by the increased liabilities. If, for example, the ratio of insurance reserves to insured deposits were .80 percent, dilution would be prevented by charging a fee equal to .80 percent of transferred deposits.

With regard to exit fees, the FDIC has determined to set the exit fee for BIF to SAIF conversions at one basis point (0.0001) multiplied by the deposit base being transferred. FIRREA authorizes the FDIC to prescribe an exit fee by regulation. It is the opinion of the FDIC that setting a low fee at this time should encourage potential bidders to acquire failing banks, which surely furthers the Congress' intent to expeditiously resolve failed depository institutions. Consequently, the FDIC has determined that the nominal fee should be adequate to buffer against any loss of income. The FDIC anticipates that exit fees will be periodically revisited and may be re-adjusted if circumstances should

warrant. Any such adjustments will be prospective only.

In addition, in all other respects, the interim exit fee rule for BIF to SAIF conversion transactions adopted today would track the interim rule on entrance fees also adopted today. For example, FIRREA requires that the entrance fee for any BIF to SAIF conversion transaction be paid into SAIF, and likewise, that the exit fee be paid into BIF. Under the interim rule, the resulting or acquiring institution would be liable for payment of such fees; however, in a two-party transaction, the two institutions may agree to divide the payment and may arrange among themselves who is to pay what share. So long as the entire fee is paid, the FDIC will accept payment from either party; if, however, some or all of the fee is not paid, the FDIC will look to the resulting or acquiring institution for payment. In other words, the FDIC will seek to enforce the obligation of the resulting or acquiring institution to pay the entire amount of the entrance and/or exit fee, leaving that institution to enforce any contractual or other arrangements it may have made with any other participating institution.

All fees, including entrance and exit fees, are due and payable on the resulting or acquiring institution's first regular semiannual assessment date (*i.e.*, the date on which it is required under section 7(c) of the Federal Deposit Insurance Act, 12 U.S.C. 1817(c), to pay its regular semiannual assessment to the FDIC) following the expiration of 30 days from the date the deposits are transferred from BIF to SAIF insurance. (Ordinarily, an institution's semiannual assessments are payable on or before January 31 and July 31 of each year.) However, where the sum of the appropriate entrance and exit fees exceeds \$5,000, the interim rule authorizes the resulting or acquiring institution, at its option, and with the consent of the FDIC, to pay the entrance fee and exit fee in equal annual installments over a period of not more than five years, interest-free, with the first installment due on the date described in the preceding sentence. Fees that total \$5,000 or less may not be paid over time due to the associated processing costs to the FDIC.

#### **Simultaneous Exchange of Deposits between a BIF Member and a SAIF Member—Calculation of Entrance and Exit Fees**

The FDIC invites comment on the following issue: should the FDIC permit insured depository institutions participating in conversion transactions

wherein branches of a BIF member are simultaneously exchanged for branches of a SAIF member, or vice versa, to calculate the entrance and exit fees against the net loss to one insurance fund and the net gain to the other fund. In other words, should the FDIC allow such insured depository institutions to use the net amount transferred from one fund to the other as the deposit base when calculating the entrance and exit fees. Certain conversion transactions may involve the simultaneous exchange of branches between a BIF member and a SAIF member, or in other words, an interfund "branch swap." Interfund branch swaps would be permissible under the five-year moratorium on conversions only if the transferred deposits affect an insubstantial portion of total deposits of each participating institution. 12 U.S.C. 1815(d)(2)(D). Section 206(d)(2)(D) of FIRREA provides that a deposit assumption of liabilities is deemed insubstantial "to the extent the aggregate amount of the total deposits transferred in such transaction and in all conversion transactions occurring after [August 9, 1989] does not exceed 35 percent" of the lesser of (a) the institution's total deposits on May 1, 1989, plus net interest credited from that date to the date of transfer or (b) total deposits on the date the transfer occurs. If that test is met, the FDIC is considering whether insured depository institutions participating in conversion transactions authorized under FIRREA should be permitted to calculate the applicable entrance and exit fees only on the net loss to one insurance fund and the net gain to the other, *i.e.*, the portion of deposits transferred which is not offset by a corresponding transfer from the other fund. In most cases, the total of transferred deposits going from one fund to the other will not be equal. The FDIC asks interested parties to comment on this issue.

For example, institution A (a BIF member), with a \$100 million deposit base wants to sell branches consisting of \$3 million in insured deposits to institution B (a SAIF member). In return, as part of the same transaction, institution B, with a \$100 million deposit base, wants to sell branches with \$5 million in insured deposits to institution A. The total transaction, using the "netting" method, results in a net change of \$2 million in transferred deposits: There is a net loss of \$2 million to SAIF and a net gain of \$2 million to BIF. If netting is permitted, the appropriate fees in this situation would be the SAIF to BIF entrance and exit fees, *i.e.*, the entrance fee to BIF would be 90 basis points multiplied by the transferred

deposit base (\$2 million), or \$16,000; and the exit fee from SAIF would be 80 basis points multiplied by the transferred deposit base (\$2 million), or \$18,000. On the other hand, if netting is not permitted, an entrance fee payable to SAIF and an exit fee payable to BIF would be charged for the transfer of the \$3 million in insured deposits by institution A. Thus, an entrance fee of \$300 payable to SAIF (\$3 million multiplied by one basis point) and an exit fee of \$300 payable to BIF (\$3 million multiplied by one basis point) would be charged. In addition, an entrance fee payable to BIF and an exit fee payable to SAIF would be charged for the transfer of the \$5 million in insured deposits by institution B. An entrance fee of \$40,000 payable to BIF (\$5 million multiplied by 80 basis points) and an exit fee of \$45,000 payable to SAIF (\$5 million multiplied by 90 basis points) would be charged. The total fees due in this example if the netting method is not permitted equals \$85,600.

To further illustrate application of the netting method, assume that institution A is a SAIF member and institution B is a BIF member. Using the figures set forth in the example above, there would be a net loss of \$2 million to BIF and a resulting net gain of \$2 million to SAIF. If netting is permitted, the entrance fee to SAIF would be 1 basis point multiplied by the transferred deposit base (\$2 million), or \$200; and the exit fee from BIF also would be 1 basis point multiplied by the transferred deposit base (\$2 million), or \$200.

If the FDIC elects to permit the "netting" method, certain limitations might apply. Insured depository institutions that wish to use "netting" to calculate the appropriate entrance and exit fees on transferred deposits in a branch swap might be prohibited from including any brokered deposits and deposits generated through "money desk operations" in calculating the net change to the insurance funds. This would prevent a participating institution from moving such volatile types of deposits into a branch being swapped, which are likely to leave the institution after the swap, in order to reduce the total cost of the deal. The FDIC might not prohibit transactions that involve the transfer of brokered deposits and funds generated through "money desk operations"; it could merely preclude those funds from being "netted" for purposes of calculating fees. If so, the applicable fees for those transferred deposits that consist of brokered funds would, therefore, be calculated by charging the full fees for each individual

movement of deposits between the funds.

Unless and until the FDIC issues a final regulation or otherwise so rules, however, "netting" for purposes of calculating fees will not be permitted.

#### **Simultaneous Exchange of Deposits Between a BIF Member and a SAIF Member—Application of the Insubstantial Portion Exception**

The FDIC is also asking for comment on the following issue: should depository institutions be permitted to apply the "netting" method when determining eligibility under the "insubstantial portion" exception to the five-year conversion moratorium.

As stated above, the FDIC may approve conversion transactions during the five-year moratorium if the transaction affects an insubstantial portion of the total deposits of each participating institution. Generally, a transfer of deposits will be deemed to affect an insubstantial portion of total deposits of a participating institution if no more than 35 percent of its relevant deposit base is transferred in any one transaction and, in addition, an aggregate of no more than 35 percent of its deposit base has been transferred in all conversion transactions in which the institution has participated since the date of the enactment of FIRREA. Moreover, section 206(d)(2)(C)(i) of FIRREA provides the FDIC with the authority to determine what constitutes an "insubstantial portion \* \* \*" of the total deposits of each depository institution \* \* \*." Consistent with this statutory authority, the FDIC is considering whether to permit "netting" for purposes of applying the "insubstantial portion" exception. Comment on this issue is solicited.

By way of example, suppose institution C, with a \$100 million deposit base, gives up more than 35 percent of its deposit base, for example 45 percent (\$45 million), to institution D, also having a \$100 million deposit base. Institution C would then have \$55 million left. Suppose institution D, as part of the same transaction, simultaneously transfers \$35 million in deposits (35 percent of its deposit base) to institution C, in addition to sufficient cash or other consideration to make up the difference. If the dollar amount of deposits institution C sells to institution D is netted against the dollar amount of deposits institution C purchases from institution D, institution C would lose only 10 percent of its deposit base. If institution C is permitted to net the dollar amount of the deposits it sells against the dollar amount of deposits it

purchases for purposes of applying the insubstantial test, then it would be within the 35 percent maximum; otherwise, it would exceed it. This method would allow institutions to look to the net effect of the entire transaction.

Again, brokered funds and "money desk operations" would likely be excluded in calculating the total funds transferred under the "insubstantial portion" test if the "netting" method is permitted by the FDIC. Such funds could be transferred to another institution; however, the deposits transferred could not be "netted" for purposes of determining eligibility.

Unless and until the FDIC issues a final regulation or otherwise so rules, however, "netting" will not be permitted for purposes of determining whether a conversion transaction meets the "insubstantial portion" test.

#### Reason for Interim Rule

The exit and entrance fees for conversion transactions that result in the transfer of deposits from the Bank Insurance Fund to the Savings Association Insurance Fund, involving the same two parties in the transfer, is being prescribed by means of an interim rule in order to permit the completion of pending transactions. As a practical matter, these transactions, which are awaiting or have already received regulatory approval, cannot be completed until any applicable fees called for by the FIRREA have been set. Moreover, further delay in the rule's implementation could jeopardize these transactions. The interim rule will enable those parties involved in the negotiations to evaluate the costs of those transactions with some degree of certainty. Therefore, in order to permit the consummation of these transactions without undue delay, the FDIC has determined to issue this interim rule, subject to a 60-day notice and comment period.

Although this interim rule has an immediate effective date, the FDIC has decided that if, following the public comment period, the final regulation prescribes fees that would be greater than the fees prescribed in this rule, a depository institution that participated in a conversion transaction during the period the interim rule was in effect will not have to pay the higher amount; if the fees prescribed in the final regulation are less than the fees prescribed in the interim rule, the difference will be refunded to the institution or, if the fee is being paid in installments, the amount of each installment will be adjusted accordingly. Thus, depository institutions that participate in transactions in reliance on the interim

rule will not suffer any subsequent increase in the fees, nor will they miss out on any subsequent decrease, that results from consideration of public comment on this issue.

For the above-mentioned reasons, the FDIC Board of Directors has determined that the notice and public participation that are ordinarily required by the Administrative Procedure Act (5 U.S.C. 553) before a regulation may take effect would, in this case, be contrary to the public interest and that good cause exists for waiving the customary 30-day delayed effective date. Nevertheless, the Board desires to have the benefit of public comment before adoption of a final rule on this subject, and so invites interested persons to submit comments during a 60-day comment period. In adopting a final regulation, the Board will make such revisions in the interim rule as may be appropriate based on the comments received.

#### Request for Public Comment

The FDIC desires, and is hereby requesting, comment on all aspects of the interim rule, and on "netting" as described above. In addition, the FDIC invites comment on the following specific issues:

1. Entrance fees are intended to prevent dilution of the insurance fund being entered. The measure of insurance fund adequacy used in this interim rule is the ratio of fund reserves to insured deposits. In practice, however, failing bank resolutions have often had the effect of protecting all depositors, including those with deposits beyond the insured deposit limits (presently \$100,000). Some might argue, therefore, that because the FDIC can achieve 100 percent deposit insurance coverage, the appropriate fund adequacy measure should be the ratio of reserves to total deposits. Total deposits include all domestic and foreign deposits regardless of the amount held in the account. Therefore, should the appropriate entrance fee be based on the ratio of reserves to total deposits? Further, is the interim entrance fee (pending calculation and public availability of the SAIF reserve ratio) sufficient to protect against dilution of the SAIF fund? Does the exit fee adequately protect against loss of assessment income?

2. The interim rule uses the concept of an estimated "retained deposit base" against which entrance and exit fees will be charged in connection with FDIC-assisted transactions. The retained deposit base would include only those transferred deposits that are thought likely to remain in the acquiring institution for some period beyond the date of transfer. Is this an appropriate

concept to use in setting entrance and exit fees? What other methods could be used to accomplish the same goal?

3. In estimating the retained deposit base, the FDIC is ultimately concerned with the potential increase in FDIC liabilities associated with a conversion transaction. What factors should the FDIC consider in evaluating the likelihood of transferred deposits remaining with the acquiring SAIF member? How might this regulation affect the types of bids submitted by potential acquirers of failed institutions?

4. The entrance fee is to be based on the most recently publicly available reserve-to-insured deposit ratio computed by the FDIC on the basis of its most recent audited year-end financial statements. Thus, for purposes of the interim rule, the reserve ratio will be recomputed only once a year. Should the reserve ratio be computed more frequently for this purpose based on unaudited data or, given the potential fluctuations in the reserve ratio over time, would an annual average reserve ratio be more appropriate?

5. The interim rule places liability for payment of the entrance and exit fees on the resulting or acquiring institution. Is this appropriate, or should the institution being acquired (or whose branches are being acquired) be primarily liable for such fees?

#### List of Subjects in 12 CFR Part 312

Assessments, Bank deposit insurance, Banks, Banking, Savings and loan associations, Savings associations.

#### PART 312—ASSESSMENT OF FEES UPON ENTRANCE TO OR EXIT FROM THE BANK INSURANCE FUND OR THE SAVINGS ASSOCIATION INSURANCE FUND

1. The authority citation for part 312 is revised to read as follows:

Authority: Pub. L. No. 101-73, 206(a)(7), 103 Stat. 183, 196-201 (1989) (12 U.S.C. 1815(d)); 12 U.S.C. 1819.

2. Section 312.1 paragraph (c) is revised to read as follows:

#### § 312.1 Definitions.

(c) The term "Bank Insurance Fund reserve ratio" and "Savings Association Insurance Fund reserve ratio" shall have the meanings given them in section 7(l)(6), (7), of the Federal Deposit Insurance Act, 12 U.S.C. 1817(l)(6), (7), respectively.

3. A new § 312.3 is added to read as follows:

**§ 312.3 Savings Association Insurance Fund reserve ratio.**

The Savings Association Insurance Fund reserve ratio to be used in computing the entrance fee under this part with respect to any particular conversion transaction shall be the most recent Savings Association Insurance Fund reserve ratio calculated on the basis of the audited financial statements of the Federal Deposit Insurance Corporation and made publicly available prior to the date on which deposit liabilities are transferred from a Bank Insurance Fund member to a Savings Association Insurance Fund member in connection with that conversion transaction.

**§ 312.5 [Added and Reserved]**

4. Section 312.5 is added and reserved.

5. New §§ 312.6 and 312.7 are added to read as follows:

**§ 312.6 Entrance fees assessed in connection with conversion transactions from the Bank Insurance Fund to the Savings Association Insurance Fund.**

(a) Each insured depository institution participating in a conversion transaction as a result of which insured deposits are transferred from a Bank Insurance Fund member to a Savings Association Insurance Fund member shall pay an entrance fee to the Savings Association Insurance Fund.

(b) The entrance fee shall be the product derived by multiplying the dollar amount of total deposits transferred from the Bank Insurance Fund member to the Savings Association Insurance Fund member by the Savings Association Insurance Fund reserve ratio, or by .01 percent (0.0001), whichever is greater.

(c)(1) Notwithstanding paragraph (b) of this section, the entrance fee to be assessed against an insured depository institution participating in a conversion transaction occurring in connection with the acquisition of a Bank Insurance Fund member in default or in danger of default shall be the product derived by multiplying the dollar amount of the retained deposit base transferred from the Bank Insurance Fund member to the Savings Association Insurance Fund member by the Savings Association Insurance Fund reserve ratio, or by .01 percent (0.0001), whichever is greater.

(2) As used in this paragraph (c), the term "retained deposit base" generally refers to those deposits which the Federal Deposit Insurance Corporation, in its discretion, estimates to have a high probability of remaining with the acquiring depository institution for a reasonable period of time following the acquisition. The kinds of deposits that

constitute the retained deposit base and the estimated dollar amount of the retained deposit base transferred shall be determined on a case-by-case basis by the Federal Deposit Insurance Corporation at the time offers to acquire an insured depository institution (or any part thereof) are solicited. In making this estimate, the Federal Deposit Insurance Corporation will take into account such factors as the number and volume of deposit accounts exceeding the \$100,000 insurance limit, whether interest rates paid on the deposits to be transferred significantly exceed the rates then prevailing in the relevant market area, the volume of brokered deposits and public deposits in the institution being acquired, and other relevant factors.

(d) The resulting or acquiring depository institution shall be liable for the payment of the entrance fees required by this section.

(e)(1) The entrance fee required by this section shall be paid on the same day that the resulting or acquiring depository institution is required (pursuant to section 7(c) of the Federal Deposit Insurance Act, 12 U.S.C. 1817(c)) to pay its first semiannual assessment following the date the deposit liabilities are transferred. If, however, the resulting or acquiring depository institution's first semiannual assessment is due within 30 days from the date such deposit liabilities are transferred, then the entrance fee required by this section shall be paid on the same day that the second semiannual assessment following the date the deposit liabilities are transferred is required to be paid.

(2) Notwithstanding paragraph (e)(1) of this section, where the sum of the entrance fee, as calculated under the provisions of this section, and the exit fee, as calculated under § 312.7, exceeds \$5,000, a resulting or acquiring depository institution may, at its option, and with the consent of the Federal Deposit Insurance Corporation, pay the entrance and exit fees in equal annual installments, interest-free, over a period of not more than five years. The first such installment shall be paid on the semiannual assessment date described in paragraph (e)(1) of this section.

(f) *Interim entrance fee until initial calculation of Savings Association Insurance Fund reserve ratio.* Notwithstanding paragraphs (b) and (c)(1) of this section, until such time as the Savings Association Insurance Fund reserve ratio is initially calculated and made publicly available, the entrance fee for all conversions from the Bank Insurance Fund to the Savings Association Insurance Fund shall be the product derived by multiplying the dollar amount of total deposits

transferred from the Bank Insurance Fund member to the Savings Association Insurance Fund member by .01 percent (0.0001), unless the conversion transaction is occurring in connection with the acquisition of a Bank Insurance Fund member in default or in danger of default, where it shall be the product derived by multiplying the dollar amount of the retained deposit base transferred from the Bank Insurance Fund member to the Savings Association Insurance Fund member (as determined in accordance with paragraph (c)(2) of this section) by 0.01 percent (0.0001).

**§ 312.7 Exit fees assessed in connection with conversion transactions from the Bank Insurance Fund to the Savings Association Insurance Fund.**

(a) Each insured depository institution participating in a conversion transaction as a result of which insured deposits are transferred from a Bank Insurance Fund member to a Savings Association Insurance Fund member shall pay an exit fee to the Bank Insurance Fund.

(b) The exit fee shall be the product derived by multiplying the dollar amount of total deposits transferred from the Bank Insurance Fund member to the Savings Association Insurance Fund member by .01 percent (0.0001).

(c) Notwithstanding paragraph (b) of this section, the exit fee to be assessed against an insured depository institution participating in a conversion transaction occurring in connection with the acquisition of a Bank Insurance Fund member in default or in danger of default shall be the product derived by multiplying the dollar amount of the retained deposit base transferred from the Bank Insurance Fund member to the Savings Association Insurance Fund member by 0.01 percent (0.0001). As used in this paragraph, the term "retained deposit base" generally refers to those deposits which the Federal Deposit Insurance Corporation, in its discretion, estimates to have a high probability of remaining with the acquiring depository institution for a reasonable period of time following the acquisition. The kinds of deposits that constitute the retained deposit base and the estimated dollar amount of the retained deposit base transferred shall be determined on a case-by-case basis by the Federal Deposit Insurance Corporation at the time offers to acquire an insured depository institution (or any part thereof) are solicited. In making this estimate, the Federal Deposit Insurance Corporation will take into account such factors as the number and volume of deposit accounts exceeding the \$100,000

insurance limit, whether interest rates paid on the deposits to be transferred significantly exceed the rates then prevailing in the relevant market area, the volume of brokered deposits and public deposits in the institution being acquired, and other relevant factors.

(d) The resulting or acquiring depository institution shall be liable for the payment of the exit fee required by this section.

(e)(1) The exit fee required by this section shall be paid on the same day that the resulting or acquiring depository institution is required (pursuant to section 7(c) of the Federal Deposit Insurance Act, 12 U.S.C. 1817(c)) to pay its first semiannual assessment following the date the deposit liabilities are transferred. If, however, the resulting or acquiring depository institution's first semiannual assessment is due within 30 days from the date such deposit liabilities are transferred, then the exit fee required by this section shall be paid on the same day that the second semiannual assessment following the date the deposit liabilities are transferred is required to be paid.

(2) Notwithstanding paragraph (e)(1) of this section, where the sum of the exit fee, as calculated under the provisions of this section, and the entrance fee, as calculated under § 312.6, exceeds \$5,000, a resulting or acquiring depository institution may, at its option, and with the consent of the Federal Deposit Insurance Corporation, pay the entrance and exit fees in equal annual installments, interest-free, over a period of not more than five years to the Bank Insurance Fund. The first such installment shall be paid on the semiannual assessment date described in paragraph (e)(1) of this section.

By order of the Board of Directors, dated at Washington, DC, this 12th day of December, 1989.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 89-29905 Filed 12-22-89; 8:45 am]

BILLING CODE 6714-01-M

## 12 CFR Part 338

RIN 3064-AA81

### Fair Housing

**AGENCY:** Federal Deposit Insurance Corporation ("FDIC").

**ACTION:** Final rule.

**SUMMARY:** The FDIC is amending its fair housing advertising and fair housing poster requirements for insured State nonmember banks to incorporate the

changes made by the Fair Housing Amendments Act of 1988 to the Civil Rights Act of 1968—Title VIII (Fair Housing Act). Those changes involve expanding the coverage of Title VIII to prohibit discriminatory housing practices based on handicap and familial status and prohibiting discrimination in "residential real estate-related transactions," as defined in the law.

**EFFECTIVE DATE:** December 26, 1989.

**FOR FURTHER INFORMATION CONTACT:** Patricia A. McCormick, Fair Lending Analyst, Office of Consumer Affairs, (202) 898-3538, or Valerie Jean Best, Senior Attorney, Legal Division, (202) 898-3812, FDIC, 550 17th Street NW., Washington, DC 20429.

#### SUPPLEMENTARY INFORMATION:

##### Paperwork Reduction Act

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

##### Reason for Adoption Without Prior Notice and Comment

Part 338 of the FDIC rules and regulations is the FDIC's fair housing regulation. It implements section 805 of title VIII of the Civil Rights Act of 1968. The Fair Housing Amendments Act of 1988, effective March 12, 1989, amends title VIII by adding two newly protected classes (handicapped persons and families with children under the age of 18). In addition, the Fair Housing Amendments Act revised title VIII to prohibit discrimination in "residential real estate-related transactions." Title VIII formerly prohibited discrimination in the financing of housing. The FDIC has made technical revisions to its fair housing regulation to incorporate the amendments made by the Fair Housing Amendments Act to title VIII. Because this final rule revises the FDIC fair housing regulation to incorporate only the changes made by the Fair Housing Amendments Act, the FDIC finds that application of the notice and public participation provisions of the Administrative Procedure Act (5 U.S.C. 553) to this action would be unnecessary. The FDIC further finds that good cause exists for dispensing with the 30-day delayed effective date requirement.

##### Background

###### *Fair Housing Amendments Act of 1988*

Prior to the enactment of the Fair Housing Amendments Act of 1988, title

VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601-3619, ("Fair Housing Act"), prohibited discrimination based on color, religion, sex, or national origin in the sale, rental, and financing of dwellings. The Fair Housing Amendments Act expanded the coverage of title VIII to prohibit discriminatory housing practices based on handicap and familial status. In addition, the Fair Housing Amendments Act revised title VIII to prohibit discrimination in "residential real estate-related transactions". The term "residential real estate-related transactions" refers to the making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling. It also includes the making or purchasing of loans or providing other financial assistance secured by residential real estate. By specifically including loans secured by residential real estate, the Fair Housing Amendments Act expands the types of financing transactions which were previously covered by title VIII. Finally, "residential real estate-related transactions" is defined to include the selling, brokering, or appraising of residential real property thereby expanding title VIII to prohibit any person or entity whose business includes engaging in the selling, brokering, or appraising of residential real property from discriminating against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status or national origin.

##### *FDIC Fair Housing Regulation*

The FDIC Fair Housing Regulation, 12 CFR part 338, applies to all FDIC-insured State nonmember banks. Title VIII provides that all agencies (including any Federal agency having regulatory or supervisory authority over financial institutions) shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of title VIII, and shall cooperate with the Secretary of Housing and Urban Development to further the purposes of title VIII. Consistent with this requirement, and in order to fully implement the prohibitions contained in title VIII applicable to insured State nonmember banks, the FDIC established part 338. In addition to providing guidance on nondiscriminatory advertising, the FDIC's fair housing regulation includes the text of an equal housing lender poster that must be

publicly displayed by insured State nonmember banks. Display of a fair housing poster is required by Department of Housing and Urban Development regulations, 24 CFR part 110. Section 110.25(b) of title 24 provides that the Assistant Secretary for Equal Opportunity of the Department of Housing and Urban Development may grant a waiver permitting the substitution of a poster prescribed by a Federal financial regulatory agency. Such a waiver has been granted to the FDIC.

Part 338 of the FDIC rules and regulations also carries out the monitoring duties delegated to the FDIC by Regulation B of the Board of Governors of the Federal Reserve System, 12 CFR 202. Regulation B implements the Equal Credit Opportunity Act of 1974. Section 202.13 of Regulation B (12 CFR 202.13) implements a monitoring program, but authorizes an agency charged with administrative enforcement under section 704 of the Equal Credit Opportunity Act to substitute a monitoring program. The FDIC qualifies as such an agency because it is charged with administrative enforcement as to insured State nonmember banks. Part 338 establishes the FDIC's substitute monitoring program. The Fair Housing Poster reflects the prohibitions contained in the Equal Credit Opportunity Act as well as the prohibitions contained in title VIII.

*Regulatory Flexibility Analysis*

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

**List of Subjects in 12 CFR Part 338**

Advertising, Banks, Banking, Fair Housing, Federal deposit insurance corporation, Mortgages, Reporting and recordkeeping requirements, Signs and symbols, State nonmember banks.

**PART 338—FAIR HOUSING**

1. The authority citation for Part 338 is revised to read as follows:

Authority: 12 U.S.C. 1817; 12 U.S.C. 1818; 12 U.S.C. 1819; 12 U.S.C. 1820(b); 42 U.S.C. 3605, 3608, as amended by Pub. L. 100-430, 102 Stat. 1619; 15 U.S.C. 1691 et seq.; 12 CFR Part 202; 24 CFR Part 110.

2. In § 338.1, paragraph (f) is redesignated as paragraph (g) and a new paragraph (f) is added to read as follows:

**§ 338.1 Definitions.**

(f) The terms "handicap" and "familial status" shall have the meanings given them in the Civil Rights Act of 1968—Title VIII (Fair Housing Act), 42 U.S.C. 3601 et seq.

3. In § 338.2, the introductory text to paragraph (a) is revised to read as follows:

**§ 338.2 Nondiscriminatory advertising.**

(a) Any bank which directly or through third parties engages in any form of advertising of any loan for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling or any loan secured by a dwelling shall prominently indicate in such advertisement, in a manner appropriate to the advertising medium and format utilized, that the bank makes such loans without regard to race, color, religion, national origin, sex, handicap, or familial status.

4. Section 338.3 is revised to read as follows:

**§ 338.3 Equal housing lender poster.**

(a) Each bank engaged in extending loans for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling or any loan secured by a dwelling shall conspicuously display an Equal Housing Lender Poster in any public lobby and area within the bank where deposits are received or where such loans are made in a manner clearly visible to the general public entering such areas.

(b) The Equal Housing Lender Poster shall be at least 11 by 14 inches in size and have the following text:

BILLING CODE 6714-01-M



**We Do Business in Accordance With  
Federal Fair Lending Laws**

**UNDER THE FEDERAL FAIR HOUSING ACT, IT IS ILLEGAL,  
ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN,  
RELIGION, SEX, HANDICAP, OR FAMILIAL  
STATUS (HAVING CHILDREN UNDER THE AGE OF 18), TO:**

- Deny a loan for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or deny any loan secured by a dwelling; or
- Discriminate in fixing the amount, interest rate, duration, application procedures or other terms or conditions of such a loan, or in appraising property.

**IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST,  
YOU SHOULD SEND A COMPLAINT TO:**

*Assistant Secretary for Fair Housing and Equal Opportunity  
Department of Housing & Urban Development  
Washington, DC 20410*

For processing under the Federal Fair Housing Act  
and to:

*Office of Consumer Affairs  
Federal Deposit Insurance Corporation  
Washington, DC 20429-9990*

For processing under FDIC regulations

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**UNDER THE EQUAL CREDIT OPPORTUNITY ACT, IT IS  
ILLEGAL TO DISCRIMINATE IN ANY CREDIT TRANSACTION:**

- On the basis of race, color, national origin, religion, sex, marital status, or age,
- Because income is from public assistance, or
- Because a right was exercised under the Consumer Credit Protection Act.

**IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST,  
YOU SHOULD SEND A COMPLAINT TO:**

*Office of Consumer Affairs  
Federal Deposit Insurance Corporation  
Washington, DC 20429-9990*

(c) The Equal Housing Lender Poster specified in this section was adopted under § 110.25(b) of the United States Department of Housing and Urban Development's rules and regulations as an authorized substitution for the poster required in § 110.25(a) of those rules and regulations.

By order of the Board of Directors.

Dated at Washington, DC, this 12th day of December, 1989.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 89-29904 Filed 12-22-89; 8:45 am]

BILLING CODE 6714-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. 25304, Amdt. No. 71-11]

#### Terminal Control Area (TCA) Classification and TCA Pilot and Navigational Equipment Requirements

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

**ACTION:** Amendment to final rule.

**SUMMARY:** This editorial amendment amends § 71.401 and removes the section heading of § 71.403 of the Federal Aviation Regulations. This action is necessary for administrative purposes and clarification of these sections.

**EFFECTIVE DATE:** December 26, 1989.

**FOR FURTHER INFORMATION CONTACT:** Alton D. Scott, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration Division, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9252.

#### SUPPLEMENTARY INFORMATION:

##### History

On October 14, 1988, the FAA published a final rule revising the classification and pilot and equipment requirements for conducting operations in terminal control areas (Terminal Control Area (TCA) Classification and TCA Pilot and Navigational Equipment Requirements; Docket No. 25304, Admt. 61-80, 71-11, 91-205; 53 FR 40318). Specifically, the rule: (1) Established a single-class TCA; (2) required the pilot-in-command of a civil aircraft to hold at least a private pilot certificate, except for a student pilot who has received certain documented training; and (3)

eliminated the helicopter exception from the minimum navigational equipment requirement.

The following regulatory change resulted from the aforementioned rule: § 71.401(a) Group I, Terminal Control Areas and § 71.401(b) Group II, Terminal Control Areas were consolidated and redesignated as a single section, § 71.403 Terminal Control Areas. This section heading, § 71.403 Terminal Control Areas, is now being removed for administrative purposes. Also, § 71.401 is being amended.

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

Aviation safety, Terminal control areas.

#### Adoption of the Amendment

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

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

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

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

##### § 71.401 [Amended]

2. Section 71.401 is amended by designating the introductory text as paragraph (a).

##### § 71.403 [Amended]

3. Section 71.403 is amended by redesignating the text as paragraph (b) of § 71.401.

##### § 71.403 [Removed]

4. The section heading for § 71.403 is removed.

Issued in Washington, DC, on December 18, 1989.

Jerry W. Ball,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-29863 Filed 12-22-89; 8:45 am]

BILLING CODE 9910-13-M

#### 14 CFR Part 91

[Docket No. 18334]

RIN 2120-AA13

#### Revision of General Operating and Flight Rules; Correction and Technical Amendment

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

**ACTION:** Final rule; correction and technical amendment.

**SUMMARY:** This correction and technical amendment clarifies the effective date of the amendment made to Part 91, General Operating and Flight Rules, on August 18, 1989 (54 FR 34284). FAA intended that the text of § 91.203(a)(2) would become effective August 18, 1990, and that the text of that paragraph would be duplicated in the current version of § 91.27(a)(2) effective September 18, 1989. This document corrects the effective date of the August 18, 1989 amendment to § 91.203 and establishes the correct text of current § 91.27(a)(2).

**EFFECTIVE DATES:** 14 CFR 91.203(a)(2) published at 54 FR 34284, August 18, 1989 is effective August 18, 1990. The amendment to 14 CFR 91.27(a)(2) contained in this document is effective September 18, 1989.

**FOR FURTHER INFORMATION CONTACT:** William T. Cook (202) 267-3840 or Edna French (202) 267-8150, Project Development Branch (AFS-850), Regulations Branch, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington DC 20591.

#### List of Subjects in 14 CFR Part 91

Air carriers, Aviation safety, Safety, Aircraft, Aircraft pilots, Air traffic control, Liquor, Narcotics, Pilots, Airspace, Air transportation, Cargo, Smoking, Airports, Airworthiness directives and standards.

Accordingly, 14 CFR part 91 is amended as follows:

#### PART 91—[AMENDED]

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514, 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

2. Section 91.27(a)(2) is revised to read as follows:

§ 91.27 Civil aircraft: Certifications required.

(a) \* \* \*

(2) An effective U.S. registration certificate issued to its owner or, for operation within the United States, the second duplicate copy (pink) of the Aircraft Registration Application as provided for in § 47.31(b), or a

registration certificate issued under the laws of a foreign country.

Issued in Washington, DC on December 19, 1989.

Debbie Swank,  
Acting Manager, Program Management Staff.  
[FR Doc. 89-29857 Filed 12-22-89; 8:45 am]  
BILLING CODE 4910-13-M

## DEPARTMENT OF THE TREASURY

### Customs Service

#### 19 CFR Part 159

[T.D. 90-1]

#### Bulletin Notice of Liquidation

**AGENCY:** U.S. Customs Service, Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations to eliminate references to Customs Form 4335 which was designed to serve as a bulletin notice of liquidation for entries liquidated as free of duty. That form is now obsolete and is being eliminated. Customs Form 4333 will serve as a bulletin notice of liquidation for all entries regardless of the dutiable status of the merchandise.

**EFFECTIVE DATE:** December 26, 1989.

**FOR FURTHER INFORMATION CONTACT:** Ilene Gilbert, Entry Programs Branch, Office of Trade Operations, (202)-535-4408.

#### SUPPLEMENTARY INFORMATION:

##### Background

Part 159, Customs Regulations (19 CFR Part 159), provides that Customs Form 4335 shall be used as a bulletin notice of liquidation for free consumption entries liquidated "as entered" and permanent exhibits entries liquidated "Free". In recent years such form has fallen into disuse and Customs Form 4333, generally computer generated, has been utilized as a bulletin notice for all entries. This has been confirmed through a survey of Customs field offices. Therefore, Customs Form 4335 is obsolete and it is being eliminated as are references to it in the Customs Regulations. Customs Form 4333 will continue to be used as the bulletin notice of liquidation for all entries regardless of the dutiable status of the merchandise covered thereby.

##### Executive Order 12291

These amendments do not constitute a "major rule" as defined in E.O. 12291. Accordingly, a regulatory impact analysis is not required.

### Regulatory Flexibility Act

It is certified that the provisions of the Regulatory Flexibility Act (5 U.S.C. *et seq.*), are not applicable to these amendments because the rule will not have a significant economic impact on a substantial number of small entities.

### Inapplicability of Public Notice and Delayed Effective Date Requirements

These amendments merely eliminate one of the Customs forms used as a bulletin notice of liquidation and provide that the remaining form shall be utilized for all such notices. They neither impose any additional burdens on, or take away any existing rights or privileges from the public. Therefore, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are unnecessary, and for the same reasons, pursuant to 5 U.S.C. 553(d)(2), a delayed effective date is not required.

### Drafting Information

The principal author of this document was Arnold L. Sarasky, 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 159

Customs duties and inspection, Imports, Liquidation of duties.

### Amendments to the Regulations

Part 159, Customs Regulations (19 CFR part 159), is amended as set forth below:

#### PART 159—LIQUIDATION OF DUTIES

1. The authority citation of part 159 continues to read as follows:

**Authority:** 19 U.S.C. 66, 1500, 1624. Subpart C also issued under 21 U.S.C. 372. Additional authority and statutes interpreted or applied are cited in the text or following the section affected.

2. Section 159.9 as amended by revising paragraphs (a) and (d) to read as follows:

##### § 159.9 Notice of liquidation and date of liquidation for formal entries.

(a) *Bulletin notice of liquidation.*  
Notice of liquidation of formal entries shall be made on a bulletin notice of liquidation, Customs Form 4333.

(d) *Courtesy notice of liquidation.*  
Customs will endeavor to provide importers or their agents with Customs Form 4333-A, "Courtesy Notice," for all entries scheduled to be liquidated or deemed liquidated by operation of law. This notice shall serve as an informal, courtesy notice and not as a direct,

formal and decisive notice of liquidation.

#### §§ 159.10, 159.11 and 159.12 [Amended]

3. In §§ 159.10(c)(3), 159.11(a) and 159.12(g) remove the word and number "or 4335".

Michael H. Lane,

Acting Commissioner of Customs.

Approved: December 4, 1989.

Salvatore R. Martoche,

Assistant Secretary of the Treasury.

[FR Doc. 89-29806 Filed 12-22-89; 8:45 am]

BILLING CODE 4820-02-M

### Internal Revenue Service

#### 26 CFR Part 1

[T.D. 8278]

RIN 1545-AK04

#### Mortality and Morbidity Tables for Insurance Products for Which There Are No Applicable Commissioners' Standard Tables

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to mortality and morbidity tables for insurance products for which there are no applicable commissioners' standard tables. Changes to the applicable tax law were made by the Tax Reform Act of 1984. The regulations affect insurance companies engaged in the business of issuing life insurance, annuity, or noncancellable accident and health insurance contracts, and provide them with guidance needed to determine the amount of the life insurance reserves with respect to such contracts.

**EFFECTIVE DATE:** The regulations are effective for taxable years beginning after December 31, 1983, except § 1.807-1(a), items 10b and 13b, which are effective on December 26, 1989.

**FOR FURTHER INFORMATION CONTACT:** Donald J. Drees, Jr., 202-566-3740 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The document amends the Income Tax Regulations (26 CFR part 1) to provide rules under section 807(d) of the Internal Revenue Code of 1986. Section 807(d), relating to the method of computing life insurance reserves, was added to the Code by section 211(a) of the Tax Reform Act of 1984 (Pub. L. 98-369). On January 2, 1987, the Federal

Register published temporary regulations (T.D. 8120, 52 FR 39) relating to mortality and morbidity tables for insurance contracts for which there are no applicable commissioners' standard tables when the contracts are issued. The text of those temporary regulations also served as the comment document for a notice of proposed rulemaking ("the proposed regulations"). Written comments were received from the public on the proposed regulations, but no public hearing was requested or held. After consideration of all comments received, the proposed amendments are adopted as revised by this regulation.

#### Effective Date of Changes

It is desirable to make the more up-to-date tables prescribed in the document immediately available to affected insurance companies. It is therefore found impracticable and contrary to the public interest to issue this Treasury decision subject to the effective date limitations of section 553(d) of title 5, United States Code.

#### Explanation of Provisions

Section 807(d)(2) provides in part that the amount of the life insurance reserve for any contract must be determined using the prevailing commissioners' standard tables for mortality and morbidity. If there are no commissioners' standard tables applicable to a contract when it is issued, section 807(d)(5)(C) provides that the mortality and morbidity tables to be used to compute the reserves will be determined under regulations. These regulations, therefore, specify mortality and morbidity tables for insurance contracts for which there are no commissioners' standard tables applicable when the contract is issued.

In addition, this document deletes existing regulations §§ 1.807-1 and 1.807-2 because they are applicable only to taxable years beginning after December 31, 1953, and before January 1, 1955.

#### Public Comments

One comment on the proposed regulations suggested replacing the 1964 Commissioners' Disability Table (1964 CDT) for noncancellable accident and health disability benefit reserves with the 1985 Commissioners' Individual Disability Tables A and the 1985 Commissioners' Individual Disability Tables B (1985 CIDA/CIDB). The 1964 CDT is based on experience of 1930 through 1961 and does not differentiate by some factors which are generally recognized as affecting claim costs (e.g., occupation class, sex and elimination period). The 1985 CIDA/CIDB tables are

based on experience of 1970 through 1979. The factors affecting claim costs are contained in the 1985 CIDA/CIDB tables. In addition, the 1985 CIDA/CIDB tables were adopted by the National Association of Insurance Commissioners (NAIC) in December of 1985 as the reserve standards for individual disability policies. The comment did not recommend any change in the tables applicable to group disability policies. The final regulations adopt the use of the 1985 CIDA/CIDB tables for individual disability policies.

The NAIC Proceedings, 1986, Vol. I, page 592, indicates that the 1985 CIDA tables (previously known as the "DST Valuation Tables") may have a wider application because reserves can be distinguished by many more parameters than those using the 1985 CIDB tables (previously known as the "1983c Tables"). However, the CIDB tables may be easier to use by smaller and medium sized insurers where detailed breakdowns of disability business may not be practical.

As a consequence of adopting the use of the 1985 CIDA/CIDB tables, the regulations are further amended by adding a provision to reflect section 807(d)(5)(E) of the Code, which requires that if a taxpayer may use 2 or more tables (or options), then the table (or option) which generally yields the lowest reserves shall be used to compute reserves under section 807(d)(2) for the contract.

Another comment requested clarification of the table to be used for group life insurance disability income benefit contracts. The title of the contract described in item 4 of the list of tables in the proposed regulations would be changed from "Group life insurance (active life reserves); disability income benefits" to "Group life insurance disability income benefits." In addition, separate tables would be prescribed for active life reserves and for disabled life reserves. It was requested that (1) the tables of period 2 disablement rates and the 1930-1950 termination rates of the 1952 Disability Study of the Society of Actuaries be used for the active life reserves and (2) the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries be used for the disabled life reserves. The separate identification of tables would merely clarify the portions of the tables which are applicable to active and disabled lives, respectively. The final regulations adopt this change.

#### Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a

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

#### Drafting Information

The principal author of these regulations is Donald J. Drees, Jr., of the Office of Assistant Chief Counsel (Financial Institutions and Products), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

#### List of Subjects in 26 CFR 1.801-1 Through 1.832-6

Income taxes, Insurance companies.

#### Adoption of Amendments to the Regulations

For the reasons set out in the preamble, chapter I, subchapter A, part I of title 26 of the Code of Federal Regulations is amended as follows:

#### Income Tax Regulations

#### PART 1—[AMENDED]

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

Authority: 26 U.S.C. 7805. \* \* \* Section 1.807-1 is also issued under 26 U.S.C. 807(d)(5)(C).

#### §§ 1.807-1T and 1.807-2 [Removed]

**Par. 2.** Sections 1.807-1T and 1.807-2 are removed.

**Par. 3.** Section 1.807-1 is revised to read as follows:

#### § 1.807-1 Mortality and Morbidity Tables.

(a) *Tables to be used.* If there are no commissioners' standard tables applicable to an insurance contract when the contract is issued, then the mortality and morbidity tables set forth in this subsection are used to compute reserves under section 807(d)(2) for the contract.

Type of Contract	Table
1. Group term life insurance (active life reserves).	1960 Commissioners' Standard Group Mortality Table.
2. Group life insurance (active life reserves); accidental death benefits.	1959 Accidental Death Benefits Table.
3. Permanent and paid-up group life insurance (active life reserves).	Same table as are applicable to males for ordinary life insurance.

Type of Contract	Table
4a. Group life insurance disability income benefits (active life reserves).	The tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries.
4b. Group life insurance disability income benefits (disabled life reserves).	The 1930 to 1950 termination rates of the 1952 Disability study of the Society of Actuaries.
5. Group life insurance; survivor income benefits insurance.	Same tables as are applicable to group annuities.
6. Group life insurance; extended death benefits for disabled lives.	1970 Intercompany Group Life Disability Valuation Table.
7. Group life insurance.....	1958 Commissioners' Extended Term Tables.
8. Supplementary contracts involving life contingencies.	Same tables as are applicable to individual immediate annuities.
9. Noncancellable accident and health insurance (active life reserves); benefits issued before 1984.	Tables used for NAIC annual statement reserves as of December 31, 1983.
10a. Noncancellable accident and health insurance (active life reserves); group disability benefits issued after 1983 and individual disability benefits issued after 1983 and before 1989.	1964 Commissioners' Disability Tables.
10b. Noncancellable accident and health insurance (active life reserves); individual disability benefits issued after 1988.	1985 Commissioners' Individual Disability Table A or Commissioners' Individual Disability Table B.
11. Noncancellable accident and health insurance (active life reserves); accidental death benefits issued after 1983.	1959 Accidental Death Benefits Tables.
12. Noncancellable accident and health insurance (active life reserves); all benefits issued after 1983 other than disability and accidental death.	Tables used for NAIC annual statement reserves.
13a. Noncancellable accident and health insurance (claim reserves); group disability benefits for all years of issue and individual disability benefits for years before 1989.	1964 Commissioners' Disability Tables.
13b. Noncancellable accident and health insurance (claim reserves); individual disability benefits for years after 1988.	1985 Commissioners' Individual Disability Table A or Commissioners' Individual Disability Table B.
14. Noncancellable accident and health insurance (claim reserves); all benefits other than disability for all years of issue.	Tables used for annual statement reserves.

(b) *Adjustments.* An appropriate adjustment may be made to the tables in paragraph (a) of this section to reflect risks (such as substandard risks) incurred under the contract which are not otherwise taken into account.

(c) *Special rule where more than 1 table or option applicable.* If, with respect to any category of risks, there are 2 or more tables (or options under 1 or more tables) in paragraph (a) of this section, the table (and option thereunder) which generally yields the lowest reserves shall be used to compute reserves under section 807(d)(2) for the contract.

(d) *Effective date.* This section is effective for taxable years beginning after December 31 1983 except that the

1985 Commissioners' Individual Disability Tables A and B shall be treated (for purposes of section 807(d)(5)(B) and for purposes of determining the issue dates of contracts for which they shall be used) as if the tables were new prevailing commissioners' standard tables adopted by the twenty-sixth State on December 26, 1989.

Dated: December 15, 1989.

Fred T. Goldberg, Jr.,  
Commissioner of Internal Revenue.

Approved:

Kenneth W. Gideon,  
Assistant Secretary of the Treasury.  
[FR Doc. 89-29842 Filed 12-22-89; 8:45 am]  
BILLING CODE 4830-01-M

## 26 CFR Part 1

[T.D. 8277]

RIN 1545-AN22

### Temporary Regulations Under Section 382 of the Internal Revenue Code of 1986; Limitations on Corporate Net Operating Loss Carryforwards

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Temporary regulations.

**SUMMARY:** Temporary regulations at §§ 1.382-1T and 1.382-2T were published in the *Federal Register* on August 11, 1987, 52 FR 29663, to provide guidance regarding what constitutes an "ownership change" under section 382, after which certain corporate attributes, such as net operating loss carryforwards, are limited. This document amends the temporary regulations under section 382 of the Internal Revenue Code (Code) to grant the Service authority to issue revenue rulings (or other guidance in the *Internal Revenue Bulletin*) to provide additional exceptions under § 1.382-2T(h)(4)(x) to the operation of the option attribution rules at § 1.382-2T(h)(4)(i) to loss corporations. This amendment of the regulations will give the Treasury Department greater flexibility in providing additional exceptions to the attribution rules of § 1.382-2T(h)(4)(i), as circumstances justifying those exceptions are identified.

**EFFECTIVE DATE:** The temporary regulations are effective as of December 26, 1989.

**FOR FURTHER INFORMATION CONTACT:** Keith E. Stanley of the Office of Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution

Avenue NW., Washington, DC 20224 (Attention: CC:CORP:1) or telephone 202-566-3367 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 382 was amended by section 621 of the Tax Reform Act of 1986 (Pub. L. 99-514; 100 Stat. 2085). Temporary regulations at §§ 1.382-1T and -2T were published in the *Federal Register* on August 11, 1987, 52 FR 29663, to provide guidance regarding what constitutes an "ownership change" under section 382, after which certain corporate attributes, such as net operating loss carryforwards, are limited. This document provides temporary regulations amending the temporary regulations at paragraph (h)(4)(x) of § 1.382-2T to grant the Service the authority to issue revenue rulings (or other guidance in the *Internal Revenue Bulletin*) to provide additional exceptions to the operation of the option attribution rules of § 1.382-2T(h)(4)(i).

##### Explanation of Provisions

Section 382(g)(1) provides that there is an ownership change if, immediately after any owner shift involving a 5-percent shareholder or any equity structure shift, the percentage of stock of the new loss corporation owned by one or more 5-percent shareholders has increased by more than 50 percentage points over the lowest percentage of stock of the old loss corporation (or any predecessor corporation) owned by such shareholders at any time during the testing period.

Section 318(a)(4) of the Code provides that if any person has an option to acquire stock, such stock shall be considered as owned by such person. Section 382(l)(3)(A)(iv) of the Code generally is to the effect that the attribution rules of section 318(a)(4) will apply (both with respect to options and certain other similar interests) if application of those attribution rules will result in an ownership change. Section 382(l)(3)(A)(iv) provides, however, that regulations may exempt certain interests from those attribution rules.

In keeping with the Code provision, § 1.382-2T(h)(4)(i) of the temporary regulations provides that, solely for the purpose of determining whether there is an ownership change on any testing date, stock of the loss corporation that is subject to an option shall be treated as acquired on any such date, pursuant to an exercise of the option by its owner on that date, if such deemed exercise would result in an ownership change. Section 1.382-2T(h)(4)(v) of the

temporary regulations provides that an interest that is similar to an option shall be treated as an option and that such an interest includes, but is not limited to, a warrant, a convertible debt instrument, an instrument other than debt that is convertible into stock, a put, a stock interest subject to risk of forfeiture, and a contract to acquire or sell stock. Section 1.382-2T(h)(4)(iii) of the temporary regulations generally provides that the extent to which an option is contingent or otherwise not currently exercisable shall be disregarded.

The option attribution rules are necessary to prevent the avoidance of the section 382 limitation, under which the use of pre-change losses is limited in the event of an ownership change. In the absence of option attribution rules, a section 382 ownership change could be avoided in an acquisition that would otherwise result in an ownership change by a person who, instead of acquiring stock of the loss corporation, acquires an option to acquire such stock. Certain options, however, are unlikely to be used for the purpose of circumventing the section 382 limitation. Section 1.382-2T(h)(4)(x) of the temporary regulations provides for certain exceptions to the attribution rules of § 1.382-2T(h)(4)(i) for such options that were identified as of the time those regulations were issued.

Notice 88-67, 1988-25 I.R.B. 44, states that the Internal Revenue Service intends to amend the temporary regulations under section 382 of the Code to grant the Service the authority to issue revenue rulings providing additional exceptions under § 1.382-2T(h)(4)(x). Accordingly, this document adds § 1.382-2T(h)(4)(x)(Z) to the temporary regulations, in order to grant the Service the authority to designate in the Internal Revenue Bulletin additional options to be excepted from the option attribution rules of § 1.382-2T(h)(4)(i). This amendment of the regulations will give the Treasury Department greater flexibility in providing additional exceptions to the attribution rules of § 1.382-2T(h)(4)(i), as circumstances justifying those exceptions are identified. Only options or similar interests that are specifically identified in regulations or in the Internal Revenue Bulletin are excepted from option attribution.

#### Special Analyses

It has been determined that these regulations are not major regulations as defined in Executive Order 12291. Therefore, a Regulatory Impact analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C.

chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required.

#### Drafting Information

The principal author of these regulations is Keith E. Stanley, Office of the Assistant Chief Counsel (Corporate), Internal Revenue Service. However, other personnel from the Service and Treasury Department participated in their development.

#### List of Subjects in 26 CFR 1.301-1—1.385-6

Income taxes, Corporations, Corporate distributions, Corporate adjustments, Reorganizations.

#### Adoption of Amendments to the Regulations

Accordingly, title 26, chapter 1, part 1 of the Code of Federal Regulations is amended as follows:

#### PART 1—[AMENDED]

**Paragraph 1.** The authority for part 1 continues to read, in part:

Authority: 26 U.S.C. 7805; \* \* \* § 1.382-2T also issued under 26 U.S.C. 382(g)(4)(C) \* \* \*, 26 U.S.C. 382(i) \* \* \*, 26 U.S.C. 382(k)(1) \* \* \*, 26 U.S.C. 382(k)(6) \* \* \*, 26 U.S.C. 382(l)(3) \* \* \*, 26 U.S.C. 382(m).

**Par. 2.** Section 1.382-2T is amended by adding and reserving paragraphs (h)(4)(x)(I)-(Y) and by adding a new paragraph (h)(4)(x)(Z) to read as set forth below:

§ 1.382-2T Definition of ownership change under section 382, as amended by the Tax Reform Act of 1986 (temporary).

\* \* \* \* \*

(h) \* \* \*

(4) \* \* \*

(x) \* \* \*

(I)-(Y) [Reserved]

(Z) Options designated in the Internal Revenue Bulletin. Any option designated by the Internal Revenue Service in the Internal Revenue Bulletin as being excepted from the operation of § 1.382-2T(h)(4)(i).

\* \* \* \* \*

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Fred T. Goldberg, Jr.,  
Commissioner of Internal Revenue.

Approved: December 4, 1989.

Kenneth W. Gideon,  
Assistant Secretary of the Treasury.  
[FR Doc. 89-29793 Filed 12-22-89; 8:45 am]  
BILLING CODE 4830-01-M

#### DEPARTMENT OF THE INTERIOR

#### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 931

#### New Mexico Permanent Regulatory Program

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** OSM is announcing approval of a proposed amendment to the New Mexico permanent regulatory program (hereinafter referred to as the New Mexico program) approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment is intended to revise the State program to provide additional safeguards for protection of the hydrologic balance.

**EFFECTIVE DATE:** December 26, 1989.

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

#### SUPPLEMENTARY INFORMATION:

- I. Background on the New Mexico Program.
- II. Submission of Amendment.
- III. Director's Findings.
- IV. Summary and Disposition of Comments.
- V. Director's Decision.
- VI. Procedural Determinations.

#### I. Background on the New Mexico Program

On December 31, 1980, the Secretary of the Interior conditionally approved the New Mexico program. Information regarding the general background on the New Mexico program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the New Mexico program can be found in the December 31, 1989, Federal Register (45 FR 86459). Actions taken subsequent to the approval of the New Mexico program are found at 30 CFR 931.12, 931.13, 931.15, 931.16, and 931.30.

## II. Submission of Amendment

By letter dated February 21, 1989 (Administrative Record No. NM-474), New Mexico submitted a proposed amendment to its permanent regulatory program pursuant to SMCRA. New Mexico submitted the proposed amendment at its own initiative. The rule that New Mexico proposed to amend is Coal Surface Mining Commission (CSMC) Rule 80-1-20-41(d)(1) relating to general requirements for protection of the hydrologic balance.

OSM published a notice in the March 14, 1989, *Federal Register* (54 FR 10562) announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (Administrative Record No. NM-482). The public comment period ended April 13, 1989. The public hearing, scheduled for April 10, 1989, was not held because no one requested an opportunity to testify.

During its review of the amendment, OSM identified concerns relating to a related provision of New Mexico's rules. OSM notified New Mexico of the concerns by telephone conversation on August 14, 1989 (Administrative Record No. NM-535). New Mexico responded in a letter dated August 17, 1989, by submitting a proposed revision to CSMC Rule 80-1-20-42(a)(1) relating to hydrologic balance (Administrative Record No. NM-534). This proposed revision was in addition to that revision previously proposed for CSMC Rule 80-1-20-41(d)(1). OSM published a notice in the September 7, 1989, *Federal Register* (54 FR 37127) announcing receipt of the proposed amendment to CSMC Rule 80-1-20-42(a)(1) and inviting public comment on the adequacy of the proposed amendment (Administrative Record No. NM-534). The public comment period ended September 22, 1989.

## III. Director's Findings

The Director finds in accordance with SMCRA and 30 CFR 732.15 and 732.17, that the amendment submitted by New Mexico on February 21 and August 17, 1989, meets the requirements of SMCRA and 30 CFR Chapter VII as discussed below. The Director is approving the rules, providing that they are fully promulgated in identical form to the ones submitted to and reviewed by OSM and the public.

Although the Director is approving the amendment as submitted, he may also in the future require that New Mexico make further changes to its amended regulations as a result of Federal Regulatory revisions, court decisions,

and OSM's continuing oversight of the New Mexico program.

### *Coal Surface Mining Commission (CSMC) Rule 80-1-20-41(d)(1), Hydrologic Balance: General Requirements*

CSMC Rule 80-1-20-41(d)(1) deals with mining and reclamation practices that could constitute the best technology currently available (BTCA) for sedimentation control to be used in preference to the use of sediment ponds or water treatment facilities to control sediment and to prevent or minimize water pollution. The existing CSMC Rule 80-1-20-41(d)(1) requires containment and elimination of surface flow by use of specified alternative sediment control practices and structures. The proposed amendment would require containment or treatment, rather than containment and elimination, of surface flow by use of the alternative sediment control practices and structures; it would also delete reference to the 10-year, 24-hour precipitation event. The corresponding Federal regulations at 30 CFR 701.5, which includes the definition of BTCA, and 30 CFR 816.45, which addresses the requirements of BTCA relating to use of sediment control practices and structures, do not require elimination of surface flows and do not limit sediment control structure design to any particular precipitation event. 30 CFR 816.45(a) requires that sediment control measures be designed, constructed and maintained, using BTCA to prevent, to the extent possible, additional contributions of sediment to streamflow or to runoff outside the permit area, meet applicable effluent limitations, and minimize erosion.

The New Mexico program has, at CSMC Rule 80-1-20-45(a), performance standards identical to the Federal requirements at 30 CFR 816.45(a). Accordingly, any sediment control practices and structures authorized under revised CSMC Rule 80-1-20-41(d)(1) would be subject to the performance standards at CSMC Rule 80-1-20-45(a) and would be consistent with the Federal requirement at 30 CFR 816.45(a). As discussed in more detail below, this is also consistent with policies announced in the November 20, 1986, *Federal Register* notice (51 FR 41952), which suspended the Federal requirement to pass all surface drainage from the disturbed area through a siltation structure.

Therefore, the Director finds that proposed CSMC Rule 80-1-20-41(d)(1) is no less effective than the Federal regulations at 30 CFR 701.5 and 816.45 and no less stringent than Section 515

(b)(10)(B) of SMCRA which requires that surface coal mining operations be conducted so as to prevent, to the extent possible using BTCA, additional contributions of suspended solids to streamflow, or runoff outside the permit area.

### *CSMC Rule 80-1-20-42(a)(1), Hydrologic Balance: Water Quality Standards and Effluent Limitations*

Existing CSMC Rule 80-1-20-42(a)(1) requires that "[w]ith the exception of surface flow leaving the disturbed area resulting from a precipitation event equal to or larger than a 10-year 24-hour event with respect to which area the operator has complied with the requirements of Section 41, all surface flow that leaves the disturbed area shall be passed through a sedimentation pond or series of sedimentation ponds or other treatment facilities before leaving the permit area." The proposed amendment would delete the phrase "resulting from a precipitation event equal to or larger than a 10-year 24-hour event" from the rule. The effect of the proposed change would be that all surface flow that leaves the disturbed area, except surface flow treated under the BTCA requirements of SMCRA Rules 80-1-20-41 (as amended in this rulemaking) and 80-1-20-45, would be passed through a sedimentation pond or series of sedimentation ponds or other treatment facilities before leaving the permit area.

The corresponding Federal regulation at 30 CFR 816.46(b)(2) required that all surface drainage from a disturbed area be passed through a siltation structure before leaving the permit area. On November 20, 1986, in response to the Federal District Court decision *In Re: Permanent Surface Mining Regulation Litigation (II), Round III*, 620 F. Supp. 1519 (D.D.C. 1985), OSM suspended this regulation (51 FR 41952). The District Court ruled that in promulgating this regulation, the Secretary of the Interior had failed to articulate, in the preamble to the regulation, adequate rationale for requiring siltation structures in every case. In response to this court decision and the suspension of 30 CFR 816.46(b)(2), OSM determined that the regulatory authority must determine on a case-by-case basis what constitutes PTCA as required by SMCRA and 30 CFR 701.5 (51 FR at 41957). OSM further stated that in cases where siltation structures are determined to be BTCA, the performance standards of 30 CFR 816.46 (b), (c), and (d) will continue to apply. (Id). Lastly, OSM stated that in situations where sediment control measures other than siltation structures

are determined to be BTCA, the performance standards of 30 CFR 816.45 will control (51 FR at 41957-58).

New Mexico's definition of BTCA at CSMC Rule 80-1-1-5 states that the Director of the New Mexico Mining and Minerals Division (MMD) shall have the discretion to determine BTCA on a case-by-case as authorized by the New Mexico Surface Mining Act and rules. In addition, CSMC Rule 80-1-20-41(d)(4) states that, if the alternative sediment control practices listed in paragraph (d) (2) of CSMC Rule 80-1-20-41 are not adequate to meet the required performance standards of CSMC Rule 80-1-20-41(d)(1), the operator must, unless issued a waiver by the regulatory authority, comply with the requirements of CSMC Rule 80-1-20-42. The combined action of these two rules would provide the Director of MMD authority to determine on a case-by-case basis what constitutes BTCA as authorized by the New Mexico Surface Mining Act and rules.

Therefore, the Director finds that proposed CSMC Rule 80-1-20-42(a)(1) is no less effective than the Federal regulation at 30 CFR 816-46 and no less stringent than SMCRA.

#### IV. Summary and Disposition of Comments

OSM did not receive any public comments in response to its March 14, 1989, and September 7, 1989, Federal Register notices, and it did not hold a public hearing because no one requested an opportunity to provide testimony.

Pursuant to section 503 (b) of SMCRA and the implementing regulations at 30 CFR 732.17(h)(11), OSM solicited comments from various Federal agencies with an actual or potential interest in the New Mexico program.

In accordance with 30 CFR 732.17(h)(11)(ii), the Environmental Protection Agency (EPA) concurred with the proposed amendment on April 5, 1989, and October 6, 1989. On March 22, 1989, it also commented that any mining operation applying for a mining permit should be aware that it might have to comply with the National Pollutant Discharge Elimination System (NPDES) "new source" effluent limitation requirements that EPA promulgated in accordance with Section 306 of the Clean Water Act. It also commented that an environmental review of the "new source" NPDES permit applications would have to be conducted in accordance with the National Environmental Policy Act. Consistent with this requirement, in the Federal Register notice suspending 30 CFR 816.46(b)(2) (51 FR 41952, November 20, 1986), OSM stated that where BTCA

includes a discharge from a point source, effluent limits will continue to apply and a NPDES permit will be needed (51 FR 41957). New Mexico's general hydrologic balance rule, CSMC Rule 80-1-20-41(c), is consistent with the preceding notice and the wording of the counterpart Federal regulations at 30 CFR 816.45(a), in that it requires operators to comply with Federal and State water quality statutes, regulations, standards, and effluent limitations. Therefore, New Mexico permit applicants and mine operators are aware of their responsibilities under the NPDES and OSM is not requiring any further action on the part of New Mexico at this time.

#### V. Director's Decision

Based on the above findings, the Director is approving the proposed amendment submitted by New Mexico on February 21, 1989, and August 17, 1989. The Federal regulations at 30 CFR Part 931 that codify decisions concerning the New Mexico program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

#### VI. Procedural Determinations

##### National Environmental Policy Act

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

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

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

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule will not impose any new requirements; rather, it will ensure that existing requirements established by

SMCRA and the Federal rules will be met by the State.

##### Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the OMB under 44 U.S.C. 3507.

##### List of Subjects in 30 CFR Part 931

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

Dated: December 15, 1989.

Raymond L. Lowrie,  
Assistant Director, Western Field Operations.

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

#### PART 931—NEW MEXICO

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

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

2. Section 931.15 is amended by adding a new paragraph (j) to read as follows:

##### § 931.15 Approval of amendments to State regulatory program.

(j) The following amendment is approved effective December 26, 1989: Revision to the New Mexico Surface Coal Mining Commission (CSMC) Rules 80-1-20-41(d)(1) and 80-1-20-42(a)(1), pertaining to protection of the hydrologic balance, submitted on February 21, 1989, and August 17, 1989.

[FR Doc. 89-29846 Filed 12-22-89; 8:45 am]

BILLING CODE 4310-05-M

#### DEPARTMENT OF TRANSPORTATION

##### Coast Guard

##### 33 CFR Part 165 Ice Navigation Season

AGENCY: Coast Guard, DOT.

ACTION: Notice of effective date.

**SUMMARY:** The Ice Navigation Season Regulated Navigation Area on the northern portion of the Chesapeake Bay and its tributaries, including the Chesapeake and Delaware Canal, will be placed in effect on December 17, 1989.

The regulations for this Regulated Navigation Area, found in 33 CFR 165.503, state that they are placed in effect and terminated at the direction of the Captain of the Port Baltimore by

notice in the **Federal Register**. This notice places those regulations in effect.

The purpose of the Regulated Navigation Area is to enhance the safety of navigation in the affected waters. It requires operators of certain vessels, during their vessel's transit of the Regulated Navigation Area, to be aware of currently effective Ice Navigation Season Captain of the Port Orders issued by the Captain of the Port Baltimore.

**EFFECTIVE DATE:** 4:30 p.m., 17 December 1989 until further notice.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant F. L. Propst, Port Safety Officer, U.S.C.G. Marine Safety Office, Custom House, 40 South Gay Street, Baltimore, Maryland 21202-4022, (301) 962-5105.

J.H. Parent,

*Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.*

[FR Doc. 89-29820 Filed 12-22-89; 8:45 am]

BILLING CODE 4910-14-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Health Service

#### 42 CFR Part 124

RIN 0905-AB35

#### Medical Facility Construction and Modernization: Requirements for Provision of Services to Persons Unable To Pay; Office of Management and Budget Approval of Information Collection Requirements

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Final rule; effective date.

**SUMMARY:** The Health Resources and Services Administration (HRSA) announces that the Office of Management and Budget (OMB) has approved the information collection requirements in §§ 124.509(c), 124.514(c), 124.515(b)(2)(ii) and 124.515(b)(3)(ii)(B) of the "Medical Facility Construction and Modernization: Requirements for Provision of Services to Persons Unable To Pay" final rule as published on December 3, 1987 at 52 FR 46022. The Department is amending the regulation to reflect OMB's approval under OMB Control Number 0915-0077. Upon publication §§ 124.509(c), 124.514(c), 124.515(b)(2)(ii) and 124.515(b)(3)(ii)(B) as amended below will become effective.

**EFFECTIVE DATE:** 42 CFR 124.509(c), 124.514(c), 124.515(b)(2)(ii) and

124.515(b)(3)(ii)(B) will become effective on December 26, 1989.

**FOR FURTHER INFORMATION CONTACT:** Richard R. Ashbaugh, Director for Health Facilities, Bureau of Maternal and Child Health and Resources Development, 5600 Fishers Lane, Rm. 11-03, Rockville, MD 20857, (301)-443-6560.

**SUPPLEMENTARY INFORMATION:** Because this amendment is a technical change merely reflecting OMB's approval of information collection requirements, notice and public comment are unnecessary.

#### List of Subjects in 42 CFR Part 124

Grant programs—Health, Health facilities, Loan programs—Health, Low income persons, Reporting and recordkeeping requirements.

Accordingly, part 124 of title 42, Code of Federal Regulations is amended as set forth below.

Dated: December 6, 1989.

James E. Larson,

*Acting Deputy Assistant Secretary for Information Resources Management.*

#### Subpart F—Reasonable Volume of Uncompensated Services to Persons Unable To Pay

42 CFR part 124 is amended by adding the following parenthetical statement at the end of §§ 124.509, 124.514 and 124.515:

(Approved by the Office of Management and Budget under Control Number 0915-0077)

[FR Doc. 89-29808 Filed 12-22-89; 8:45 am]

BILLING CODE 4160-15-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

#### 44 CFR Part 65

[Docket No. FEMA-6976]

#### Changes in Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Interim rule.

**SUMMARY:** This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

**DATES:** These modified elevations are currently in effect and amend the Flood

Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Administrator, reconsider the changes. These modified elevations may be changed during the 90-day period.

**ADDRESSES:** The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

**SUPPLEMENTARY INFORMATION:** The numerous changes made in the base (100-year) flood elevations on the FIRM(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

These elevations, together with the floodplain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

stringent in their floodplain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the

Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and impose no new requirements or regulations on participating communities.

#### List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains.

1. The authority citation for part 65 continues to read as follows:

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

#### § 65.4 [Amended]

2. Section 65.4 is amended by adding in alphabetical sequence new entries to the table.

State and County	Location	Dates and Name of Newspaper Where Notice Was Published	Chief Executive Officer of Community	Effective Date of Modification	Community Number
California: San Diego	City of Poway	Dec. 14, 1989 and Dec. 21, 1989, <i>Poway News-Chieftan</i> .	Hon. Carl R. Kruse, Mayor, City of Poway, P.O. Box 789, Poway, CA 92064.	Dec. 7, 1989	060702B
Connecticut: Hartford	Town of Bloomfield	Nov. 17, 1989 and Nov. 24, 1989, <i>The Bloomfield Journal</i> .	Hon. David Baram, Mayor of the Town of Bloomfield, Hartford County, P.O. Box 343, Bloomfield, CT 06002.	Nov. 10, 1989	090122C
Florida: Dade	Unincorporated areas	Dec. 1, 1989 and Dec. 8, 1989, <i>Miami Review</i> .	Hon. Joaquin Avino, County Manager, Dade County, Metro Dade Center, 111 NW 1st Street, Suite 2910, Miami, FL 33128-1971.	Nov. 17, 1989	125098
Georgia: Bryan	City of Richmond Hill	Nov. 15, 1989 and Nov. 22, 1989, <i>Richmond Hill Area News</i> .	Hon. Richard R. Davis, Mayor, City of Richmond Hill, P.O. Box 250, Richmond Hill, GA 31324.	Aug. 24, 1989	130018
Ohio: Fairfield	Village of Bremen	Dec. 15, 1989 and Dec. 22, 1989, <i>Lancaster Eagle Gazette</i> .	Hon. Ronald E. Nixon, Mayor, Village of Bremen, 132 Mulberry Street, P.O. Box 127, Bremen, OH 43107.	Dec. 5, 1989	390160
Rhode Island: Bristol	Town of Barrington	Dec. 6, 1989 and Dec. 13, 1989, <i>The Barrington Times</i> .	Hon. Peter A. DeAngelis, Jr., Acting Town Manager, Town Hall, 283 County Road, Barrington, RI 02806.	Nov. 21, 1989	445392

Issued: December 12, 1989.

**Harold T. Duryee,**

*Administrator, Federal Insurance Administration.*

[FR Doc. 89-29873 Filed 12-22-89; 8:45 am]

BILLING CODE 6718-03-M

#### 44 CFR Part 65

#### Changes in Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Final rule.

**SUMMARY:** Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations will be used in calculating flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

**DATES:** The effective dates for these modified base flood elevations are indicated on the following table and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

**ADDRESSES:** The modified base flood elevations for each community are

available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed on the following table.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency gives notice of the final determinations of modified flood elevations for each community listed. These modified elevations have been published in newspaper(s) of local circulation and ninety (90) days have elapsed since that publication. The Administrator has resolved any appeals resulting from this notification.

Numerous changes made in the base (100-year) flood elevations on the FIRMs for each community make it administratively infeasible to publish in this notice all of the changes contained on the maps. However, this rule includes the address of the Chief Executive Officer of the community, where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 65).

For rating purposes, the revised community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or to remain qualified for participating in the National Flood Insurance Program.

These modified elevations, together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities.

These modified base flood elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

The changes in the base flood elevations are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the

Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

**List of Subjects in 44 CFR Part 65.**

Flood insurance, Floodplains.  
 1. The authority citation for part 65 continues to read as follows:  
**Authority:** 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.  
**§ 65.4 [Amended]**  
 2. Section 65.4 is amended by adding in alphabetical sequence new entries to the table.

State and County	Location	Date and Name of Newspaper Where Notice Was Published	Chief Executive Officer of Community	Effective Date of Modification	Community Number
Georgia: DeKalb (Docket No. FEMA-6958).	Unincorporated areas.....	June 8, 1989 and June 15, 1989, <i>Decatur-DeKalb News-ERA</i> .	Honorable Manuel J. Maloof, Chief Executive Officer, DeKalb County, County Courthouse, 556 North McDonough, Decatur, GA 30030.	May 26, 1989.....	130065
Georgia: Fulton (Docket No. FEMA-6967).	Unincorporated areas.....	Aug. 24, 1989 and Aug. 31, 1989, <i>Daily Report</i> .	Hon. Sam Brownlee, Manager, Fulton County, 207 Administration Building, 165 Central Avenue, SW., Atlanta, GA 30335.	Aug. 10, 1989.....	135160
Missouri: St. Louis (Docket No. FEMA-6963).	City of Bellefontaine Neighbors.	Aug. 4, 1989 and Aug. 11, 1989, <i>Suburban Journal</i> .	Hon. Joseph Berger, Mayor, City of Bellefontaine Neighbors, City Hall, 9641 Bellefontaine Road, Bellefontaine Neighbors, MO 63137.	July 24, 1989.....	290330
North Carolina: Wake (Docket No. FEMA-6963).	Town of Knightdale.....	July 27, 1989 and Aug. 3, 1989, <i>Gold Leaf Farmer</i> .	Hon. W.A. Wilder, Jr., Mayor, Town of Knightdale, 207 Main Street, P.O. Box 640, Knightdale, NC 27545.	July 17, 1989.....	370241

Issued: December 12, 1989.  
**Harold T. Duryee,**  
*Administrator, Federal Insurance Administration.*  
 [FR Doc. 89-29872 Filed 12-22-89; 8:45 am]  
**BILLING CODE 6718-03-M**

**44 CFR Part 67**

**Final Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency.  
**ACTION:** Final rule.

**SUMMARY:** Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing modified base flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below:

**ADDRESSES:** See table below:

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency gives notice of the final determinations of flood elevation for each community listed. Proposed base flood elevations or proposed modified base fixed elevations have been published in the *Federal Register* for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR part 67. An opportunity for the community or individuals to appeal the proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for floodplain management in flood-prone areas in accordance with 44 CFR part 60. Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies

for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under the terms of Executive Order 12291, so no regulatory analyses have been proposed. It does not involve any collection of information for purposes of The Paperwork Reduction Act.

**List of Subjects in 44 CFR Part 67**

Flood insurance, Floodplains.

**PART 67—[AMENDED]**

1. The authority citation for part 67 continues to read as follows:  
**Authority:** 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The modified base flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
<b>ALASKA</b>	
<b>Anchorage (municipality), Anchorage Borough (FEMA Docket No. 6959)</b>	
<i>Campbell Creek:</i>	
Approximately 600 feet downstream of West Dimond Boulevard.....	* 20
Just downstream of West Dimond Boulevard.....	* 21
Approximately 80 feet upstream of West Dimond Boulevard.....	* 22
Approximately 1,900 feet upstream of West Dimond Boulevard.....	* 26
Approximately 500 feet downstream of C Street..	* 56
Just downstream of C Street.....	* 57
Approximately 600 feet upstream of C Street.....	* 62
Approximately 200 feet downstream of Old Seward Highway.....	* 105
Approximately 200 feet upstream of Old Seward Highway.....	* 106
Just upstream of International Airport Road.....	* 108
Approximately 300 feet upstream of New Seward Highway.....	* 120
<i>Chester Creek:</i>	
Just downstream of C Street.....	* 28
Approximately 100 feet upstream of A Street.....	* 35
Just downstream of Seward Highway at the intersection of Gambell and Ingr Streets.....	* 47
<b>Maps are available for review at The Public Works Department, 3500 East Tudor Road, Anchorage, Alaska.</b>	
<b>ARIZONA</b>	
<b>Pinal County (unincorporated areas), (FEMA Docket No. 6952)</b>	
<i>Santa Cruz Wash:</i>	
Approximately 12,600 feet downstream of Montgomery Road.....	* 1,299
Approximately 200 feet downstream of Montgomery Road.....	* 1,324
Approximately 400 feet downstream of Candlestick Drive.....	* 1,344
Approximately 450 feet upstream of Bianco Road.....	* 1,356
Approximately 600 feet downstream of Peters Road.....	* 1,366
Just northwest of the intersection of State Route 84 and Montgomery Road.....	* 1
Just south of the intersection of State Route 84 and Candlestick Drive.....	* 1
<i>North Branch Santa Cruz Wash:</i>	
On the upstream side of Trekill Road.....	* 1,390
Approximately 2,800 feet upstream of Trekill Road.....	* 1,390
<b>Maps are available for review at Pinal County Planning and Development Services, Floodplain Division, Administration Building No. 2, Pinal County Complex, Florence, Arizona.</b>	
<b>KENTUCKY</b>	
<b>Louise (city), Lawrence County (FEMA Docket No. 6964)</b>	
<i>Big Sandy River:</i>	
At confluence of Town Branch.....	* 575
At confluence of Tug and Levisa Forks.....	* 578
<i>Levisa Fork:</i> Within community.....	* 578
<b>Maps available for inspection at the City Hall Building, 215 North Main Cross Street, Louisa, Kentucky.</b>	
<b>MASSACHUSETTS</b>	
<b>Newton (city), Middlesex County (FEMA Docket No. 6955)</b>	
<i>South Meadow Brook:</i>	
Approximately 130 feet downstream of Needham Street.....	* 111
Approximately 300 feet downstream of Winchester Street.....	* 113
<b>Maps available for inspection at the City Hall, Planning Department, 1000 Commonwealth Avenue, Newton, Massachusetts.</b>	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
<b>MISSISSIPPI</b>	
<b>Starkville (city), Oktibbeha County (FEMA Docket No. 6964)</b>	
<i>Springer's Branch:</i>	
At mouth.....	* 299
About 330 feet upstream of East White Drive.....	* 328
<i>Sand Creek:</i>	
Just downstream of confluence of Sand Creek Tributary 1.....	* 279
About 400 feet upstream of West Point Road.....	* 288
<i>Sand Creek Tributary 1:</i>	
At confluence with Sand Creek.....	* 279
About 600 feet upstream of Patrick Road.....	* 284
<i>Sand Creek Tributary 2:</i>	
At confluence with Sand Creek Tributary 1.....	* 281
About 1100 feet downstream of West Point Road.....	* 284
<b>Maps available for inspection at the Building Department, City Hall, Lampkin Street, Starkville, Mississippi.</b>	
<b>NORTH CAROLINA</b>	
<b>Thomasville (city), Davidson County, (FEMA Docket No. 6964)</b>	
<i>Hanks Branch:</i>	
About 2,000 feet downstream of Young Street.....	* 718
Just downstream of State Road 109.....	* 745
Just upstream of State Road 109.....	* 748
<i>Hasty Creek:</i>	
About 300 feet downstream of Hasty Hill Road.....	* 747
About 550 feet downstream of Payne Road.....	* 764
Just downstream of Payne Road.....	* 768
<i>Hunts Fork:</i>	
Just downstream of Ball Park Road.....	* 735
Just downstream of Norfolk Southern Railway.....	* 829
Just upstream of Norfolk Southern Railway.....	* 843
Just upstream of Blair Street.....	* 846
<i>North Hamby Creek:</i>	
About 750 feet downstream of State Road 109.....	* 809
Just downstream of Julian Avenue.....	* 827
Just upstream of Julian Avenue.....	* 833
Just upstream of Mason Way.....	* 854
<i>South Hamby Creek:</i>	
Just downstream of Access Road.....	* 774
Just downstream of washed out dam.....	* 793
Just upstream of washed out dam.....	* 798
About 650 feet upstream of High Point, Thomasville and Denton railroad.....	* 817
<b>Maps available for inspection at the Engineering Office, City Hall, 7 West Guilford, Thomasville, North Carolina.</b>	
<b>PENNSYLVANIA</b>	
<b>Bristol (township), Bucks County (FEMA Docket No. 6952)</b>	
<i>Delaware River:</i>	
At upstream corporate limits.....	* 12
Approximately 0.7 mile downstream of the Delaware Memorial Bridge.....	* 12
<b>Maps available for inspection at the Township Building, 2501 Oxford Valley Road, Levittown, Pennsylvania.</b>	
<b>Eldred (Borough), McKean County (FEMA Docket No. 6939)</b>	
<i>Barden Brook:</i>	
Approximately 50 feet upstream of Bennett Street.....	* 1,448
Approximately 140 feet upstream of corporate limits.....	* 1,457
<b>Maps available for inspection at the Borough Building, Three Bennett Street, P.O. Box 94, Eldred, Pennsylvania.</b>	
<b>TENNESSEE</b>	
<b>Kingsport (city), Sullivan County (FEMA Docket No. 6964)</b>	
<i>Holston River:</i>	
About .31 mile downstream of inter-plant railroad.....	* 1,172

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified	
At confluence of North Fork Holston River & South Fork Holston River.....		* 1,178
<i>North Fork Holston River:</i>		
At mouth.....	* 1,178	
About .18 mile upstream of U.S. Route 11W.....	* 1,180	
<i>South Fork Holston River:</i>		
At mouth.....	* 1,178	
Just downstream of Fort Patrick Henry Dam.....	* 1,210	
<i>South Fork Holston River Sluice:</i>		
At confluence with South Fork Holston River.....	* 1,178	
About .37 mile upstream of Wilcox Drive.....	* 1,192	
<i>Reedy Creek:</i>		
Just downstream of Industry Drive.....	* 1,181	
Just upstream of Industry Drive.....	* 1,181	
<i>Horse Creek:</i>		
About .15 mile downstream of John B. Dennis Bypass.....	* 1,207	
About .66 mile upstream of Ridge Road.....	* 1,217	
<i>Kendrick Creek:</i>		
About 300 feet downstream of Interstate 181.....	* 1,448	
About 400 feet upstream of Interstate 81.....	* 1,461	
<b>Maps available for inspection at the City Hall, Planning Department, 225 West Center Street, Kingsport, Tennessee.</b>		
<b>KNOXVILLE (city), Knox County (FEMA Docket No. 6959)</b>		
<i>Love Creek:</i>		
Just downstream of Millertown Pike.....	* 948	
About 1,500 feet upstream of Millertown Pike.....	* 956	
Just upstream of Shalite Mine Road.....	* 964	
<b>Maps available for inspection at the Knoxville Department of Engineering, Knoxville, Tennessee.</b>		
<b>TEXAS</b>		
<b>Bedford (city), Tarrant County (FEMA Docket No. 6964)</b>		
<i>East Fork Bedford Creek:</i>		
At the confluence with Bedford Creek.....	* 554	
Approximately 550 feet upstream of Bedford Forum Drive.....	* 560	
<i>Bedford Creek:</i>		
Approximately 520 feet upstream of State Route 121.....	* 553	
Downstream side of Bedford Road.....	* 538	
<i>Bedford Creek Tributary 1:</i>		
At the confluence with Bedford Creek.....	* 553	
Approximately 640 feet upstream of the confluence with Bedford Creek.....	* 554	
<b>Maps available for inspection at the Engineering Department, City Hall, 200 Forest Ridge Drive, Bedford, Texas.</b>		
<b>HALTOM CITY (city), Tarrant County (FEMA Docket No. 6964)</b>		
<i>Big Fossil Creek:</i>		
Approximately 200 feet upstream Haltom Road.....	* 566	
Approximately 500 feet downstream of corporate limits.....	* 575	
<b>Maps available for inspection at the City Hall, 5024 Broadway Avenue, Haltom City, Texas.</b>		
<b>MESQUITE (city), Dallas County (FEMA Docket Nos. 6929, 6934, and 6957)</b>		
<i>South Mesquite Creek:</i>		
From approximately 2,525 feet upstream of Pioneer Road.....	* 423	
To approximately 400 feet downstream of New Market Road.....	* 436	
Approximately 1,650 feet downstream of Peachtree Road.....	* 458	
At Gross Road.....	* 460	
At U.S. Route 80.....	* 468	
Approximately 600 feet upstream of Gus Thomason Road (most downstream crossing).....	* 490	
<i>West Fork of South Mesquite Creek:</i>		
At confluence with South Mesquite Creek.....	* 460	
Approximately 1,000 feet upstream of confluence.....	* 460	
<i>Stream 2B8:</i>		
At confluence with South Mesquite Creek.....	* 462	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
Approximately 200 feet downstream of Interstate 20 & 635.....	*463
<b>Stream 2B6:</b>	
Approximately 500 feet upstream of Baker Drive.....	*505
Approximately 1,400 feet upstream of Baker Drive.....	*510
<b>Stream 2B7:</b>	
Approximately 450 feet upstream of confluence with South Mesquite Creek.....	*475
Approximately 100 feet downstream of Emerald Drive.....	*503
<b>North Mesquite Creek:</b>	
Approximately 950 feet upstream of North Frontage Road.....	*479
Approximately 400 feet downstream of Town East Boulevard.....	*504
Maps available for inspection at the City Hall, 711 North Galloway, Mesquite, Texas 75149.	
<b>Rosenberg (city), Fort Bend County (FEMA Docket No. 6957)</b>	
<b>Dry Creek:</b>	
At downstream corporate limits.....	*88
Approximately 1,590 feet downstream of Airport Road.....	*95
<b>Seabourne Creek:</b>	
At downstream corporate limits.....	*93
Approximately .7 mile upstream of downstream corporate limits.....	*95
<b>Brazos River:</b>	
At downstream corporate limits (extended).....	*90
Approximately 1.9 miles upstream of upstream corporate limits (extended).....	*92
<b>North Branch Dry Creek:</b>	
At upstream side of Laurel Avenue.....	*99
Approximately 1,100 feet upstream of Laurel Avenue.....	*99
Maps available for inspection at the Public Works Department, 2110 Fourth Street, Rosenberg, Texas.	
<b>Victoria County (unincorporated areas) (FEMA Docket No. 6959)</b>	
<b>Whispering Creek:</b>	
Approximately 450 feet downstream of the City of Victoria corporate limits.....	*112
Approximately 0.70 mile upstream of the City of Victoria corporate limits.....	*118
Maps available for inspection at the Old Courthouse, Room 102, 101 N. Bridge, Victoria, Texas.	
<b>Victoria (city), Victoria County (FEMA Docket No. 6959)</b>	
<b>Whispering Creek:</b>	
At upstream side of U.S. Route 77.....	*97
Approximately 1,500 feet upstream of corporate limits.....	*116
<b>Spring Creek:</b>	
At confluence of North Outfall.....	*79
Approximately 700 feet downstream of State Route 463.....	*84
<b>North Outfall</b> At confluence with Spring Creek.....	*79
Maps available for inspection at the City Hall, 105 West Juan Linn, Victoria, Texas.	
<b>WASHINGTON</b>	
<b>Kennewick (city), Benton County (FEMA Docket No. 6959)</b>	
<b>Zintel Canyon:</b>	
At the intersection of West 7th Avenue and South Vancouver Street.....	*442
At the intersection of West 7th Avenue and Tacoma Street.....	*435
At the intersection of South Ione Street and South Hartford Street.....	*394
At the intersection of South Everett Street and West 11th Avenue.....	*390
Approximately 100 feet north of the intersection of West 19th Avenue and Washington Street.....	*376

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
Approximately 400 feet northeast of the intersection of West 21st Avenue and Washington Street.....	*372
Maps are available for review at City Hall, 210 West 6th Avenue, Kennewick, Washington.	
Issued: December 12, 1989.	
Harold T. Duryee, Administrator, Federal Insurance Administration. [FR Doc. 89-29871 Filed 12-22-89; 8:45 am]	
BILLING CODE 6718-03-M	

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**46 CFR Part 16**

[CGD 86-067]

**Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel; Suspension of Implementation Date for Random Testing**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule; suspension of implementation date.

**SUMMARY:** This final rule suspends until further notice the implementation date for random drug testing by marine employers. The U.S. District Court for the District of Columbia has enjoined the implementation of the regulations providing for the random testing of all crewmembers until the Coast Guard amends the rules to redraw the categories of covered employees. This action is taken in response to an order of the court.

**EFFECTIVE DATE:** This rule is effective December 21, 1989.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Thomas Murphy, Project Manager, Marine Investigation Division (G-MMI), Office of Marine Safety, Security and Environmental Protection, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, (202) 267-2215.

**SUPPLEMENTARY INFORMATION:** On December 18, 1989, the U.S. District Court for the District of Columbia, in the consolidated cases of *Transportation Institute, et al., v. United States Coast Guard, et al.*, and *District 2, MEBA v.*

*Burnley, et al.*, enjoined the implementation of that portion of the Coast Guard's drug testing rules, which requires marine employers to implement random drug testing commencing December 21, 1989. In the opinion, the U.S. District Court for the District of Columbia has approved the concept of random testing, but stated that the safety nexus of certain categories of covered employees was too attenuated to sustain the random testing requirements under the Fourth Amendment. The Court declined to redraw the categories and enjoined the random testing requirements, noting that the Coast Guard remains free to promulgate new, narrower regulations. Section 16.205 of title 46, Code of Federal Regulations, promulgated on November 21, 1988, 53 FR 47064, requires each employer who employs more than 50 employees required to be tested under part 16 to implement random drug testing under 46 CFR 16.230 not later than December 21, 1989.

This final rule amends 46 CFR 16.205(a) to delay implementation of random drug testing by marine employers until further notice.

This amendment to the drug testing rules is needed immediately to delay the compliance date specified in 46 CFR 16.205(a). Under the implementation schedule published in the *Federal Register* on November 21, 1988, marine employers of 50 or more employees would have been required to begin testing on December 21, 1989. For this reason, the Coast Guard has determined that good cause exists for promulgating this final rule without notice and opportunity for comment and for making this rule effective in less than thirty days after publication.

**Regulatory Assessment**

This final rule merely suspends until further notice one of the compliance dates in the final rule published on November 21, 1988, and does not change the basic regulatory structure in that rule. The economic impact of this extension is so minimal that further evaluation is not necessary.

**Regulatory Flexibility Determination**

The amendment in this final rule suspends the compliance date only for employers who have 50 or more employees. The compliance dates for smaller entities are not affected. Therefore, the Coast Guard certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

**Paperwork Reduction Act**

This final rule does not amend the recordkeeping and reporting requirements of the final rule published on November 21, 1988.

**Environmental Assessment**

The Coast Guard has considered the environmental impact of this amendment to the rules promulgated on November 21, 1988, and concluded that, under section 2.B.2.1 of Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation.

**Federalism Implications**

In accordance with Executive Order 12812, the Coast Guard has determined that the final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

**List of Subjects in 46 CFR Part 16**

Alcohol and alcoholic beverages, Drugs, Marine Safety, Navigation (Water), Seamen.

For the reasons set forth in the preamble, title 46, chapter I, of the Code of Federal Regulations is amended as follows:

**PART 16—[AMENDED]**

1. The Authority citation for part 16 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 7101, 7301, and 7701; 49 CFR 1.46.

2. Section 16.205 is amended by revising paragraph (a) to read as follows:

**§ 16.205 Implementation of chemical testing programs.**

(a) Each employer who employs more than 50 employees required to be tested under this part shall implement the pre-employment testing program required in § 16.210 not later than July 21, 1989. All other employer testing programs required by this part, except the random testing program which has been suspended until further notice, shall be implemented not later than December 21, 1989.

Dated: December 20, 1989.

M. J. Schiro,

Captain, U.S. Coast Guard, Acting Chief,  
Office of Marine Safety, Security and  
Environmental Protection.

[FR Doc. 89-29947 Filed 12-21-89; 11:32 am]

BILLING CODE 4910-14-M

**Federal Railroad Administration****49 CFR Part 219**

[FRA Docket No. RSOR-5, Notice No. 29]

RIN 2130-AA43

**Alcohol/Drug Regulations;  
Postponement of International  
Application**

**AGENCY:** Federal Railroad Administration (FRA), DOT.

**ACTION:** Final rule.

**SUMMARY:** FRA issues a final rule delaying to January 2, 1992, the application of random drug testing requirements to railroad personnel based outside the United States. This delay in implementation is adopted in order to allow negotiation with foreign governments to continue in an orderly and effective fashion.

**EFFECTIVE DATE:** This final rule is effective December 26, 1989.

**ADDRESSES:** Any petition for reconsideration should be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel (RCC-30), FRA, Room 8201, 400 7th Street, SW., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Grady Cothen, Special Counsel (RCC-4), FRA, Washington, DC 20590 (Telephone: (202) 366-0767).

**SUPPLEMENTARY INFORMATION:** On November 21, 1988, the Federal Railroad Administration published random drug testing requirements. 53 FR 47102. The random testing rule amended § 219.3 of the existing rule to provide that subpart G of the regulation does not apply to any person for whom compliance with that subpart would violate the domestic laws or policies of that country and to provide that the random testing rule (subpart G) would not apply until January 1, 1990, with respect to certain foreign operations. On May 23, 1989, FRA amended the applicability provisions dealing with operations of foreign railroads (54 FR 22284; May 23, 1989) by extending to January 1, 1991, the date on which Subpart G would become effective with respect to any employee whose place of reporting or point of departure for rail transportation services is located outside the United States. (Operations of foreign carriers have been subject to FRA alcohol/drug regulations other than random testing since implementation in 1986. 49 CFR part 219; 50 FR 31508; Aug. 2, 1985. This applicability is not affected by the action discussed here.)

In providing for certain delays in implementation of modal administration

requirements with respect to foreign entities, DOT has indicated that discussions with foreign governments would be held in an attempt to resolve any conflict between transportation industry drug testing rules and foreign government laws or policies.

DOT has been conducting active discussions over the last year with representatives of the Government of Canada, and DOT has held a preliminary meeting with representatives of the European Economic Community. DOT chose to focus attention on discussions with Canada, because the rules of the five modal administrations could affect Canadian businesses. Unfortunately, the discussions with Canada have not yet been completed.

However, DOT has made progress in the discussions with Canada and has found that there are a number of important issues on which the parties can agree. The Department continues to believe that, with additional time, it should be possible to reach an approach to the problem of drugs in the transportation industry that will be mutually acceptable. In order to facilitate this process, FRA is postponing application of the random drug testing requirements to foreign-based personnel until January 2, 1992. This schedule will apply to all such foreign operations, whether or not there have been formal notifications of conflicts with local law or policy. The postponement does not affect testing of U.S.-based employees.

**Regulatory Procedures**

FRA finds that notice and opportunity for comment are not necessary because the effect of the amendment is to provide additional time for compliance. FRA also finds that providing such notice would be contrary to the public interest because of the need to conduct ongoing international negotiations in an atmosphere of comity and cooperation. FRA finds that there is good cause for making this amendment effective less than 30 days from publication, since its effect is to provide additional time for compliance.

This rule has been evaluated in accordance with existing regulatory policies. It is neither a "major" rule under Executive Order 12291 nor a "significant" rule as defined under DOT policies and procedures. The amendment contained in this final rule does not have any significant paperwork, Federalism or economic impact. To the extent any such impact exists, the amendments will lessen regulatory burdens by increasing the

time available to comply with regulations previously issued. Because the amendments do not have any significant economic impact, FRA has not prepared a regulatory evaluation. It is certified that this final rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 60 *et seq.*).

Therefore, in consideration of the foregoing, part 219, title 49, Code of Federal Regulations is amended as follows:

**List of Subjects in 49 CFR Part 219**

Railroad safety, Control of alcohol and drug use.

**PART 219—[AMENDED]**

1. The authority citation for part 219 continues to read as follows:

Authority: 45 U.S.C. 431, 437, and 438, as amended; Pub. L. No. 100-342; and 49 CFR 1.49(m).

2. Section 219.3 is amended by revising paragraph (c) to read as follows:

**§ 219.3 Application.**

\* \* \* \* \*

(c)(1) Subpart G of this part shall not apply to any person for whom compliance with that subpart would violate the domestic laws or policies of another country.

(2) Subpart G is not effective until January 2, 1992, with respect to any employee whose place of reporting or point of departure ("home terminal") for rail transportation services is located outside the territory of the United States.

Issued in Washington, DC, on December 19, 1989.

Gilbert E. Carmichael,

*Federal Railroad Administrator.*

[FR Doc. 89-29814 Filed 12-12-89; 8:45 am]

BILLING CODE 4910-06-M

# Proposed Rules

Federal Register

Vol. 54, No. 246

Tuesday, December 26, 1989

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

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 50

RIN 3150-AD01

### Fracture Toughness Requirements For Protection Against Pressurized Thermal Shock Events

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations for light-water nuclear power plants to change the procedure for calculating the amount of radiation embrittlement that a reactor vessel receives. The pressurized thermal shock rule (PTS rule) establishes a screening criterion. This criterion limits the amount of embrittlement of a reactor vessel beltline material beyond which the plant cannot continue to operate without justification based on a plant-specific analysis. The proposed amendment does not change the screening criterion. The PTS rule also prescribes the procedure that must be used for calculating the amount of embrittlement for comparison to the screening criterion. The proposed amendment would update the procedure and make it consistent with the one given in Regulatory Guide 1.99, Revision 2, published in May 1988.

**DATE:** Comment period expires March 12, 1990. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

**ADDRESSES:** Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Deliver comments to: 11555 Rockville Pike, Rockville, Maryland between 7:30 am and 4:15 pm Federal workdays. Copies of comments received may be examined at the NRC Public

Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Pryor N. Randall, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-3842.

### SUPPLEMENTARY INFORMATION:

#### Background

Pressurized thermal shock events are system transients in a pressurized water reactor (PWR) that can cause severe overcooling followed by immediate repressurization to a high level. The thermal stresses caused by rapid cooling of the reactor vessel inside surface combine with the pressure stresses to increase the potential for fracture if an initiating flaw is present in low toughness material. This material may exist in the reactor vessel beltline, adjacent to the core, where neutron radiation gradually embrittles the material during plant lifetime. The degree of embrittlement depends on the chemical composition of the steel, especially the copper and nickel contents.

The toughness of reactor vessel materials is characterized by a "reference temperature for nil ductility transition" ( $RT_{NDT}$ ), which can be defined as follows. For many reactors now in operation, toughness of the beltline materials at room temperature is too low to permit full pressurization of the vessel with adequate safety margins. As temperature is raised, toughness increases slowly at first; but at the temperature defined as  $RT_{NDT}$ , toughness begins to increase much more rapidly. The transition in toughness from low values to high that takes place above  $RT_{NDT}$  occurs over a temperature interval of about 150 °F. Thus at normal operating temperatures, vessel materials are quite tough.  $RT_{NDT}$  is determined by destructive tests of material specimens. Radiation embrittlement moves  $RT_{NDT}$  to higher temperatures. Correlations based on test results for unirradiated and irradiated specimens have been developed to calculate the shift in  $RT_{NDT}$  as a function of neutron fluence for various material compositions. The value of  $RT_{NDT}$  at a given time in a vessel's life is used in fracture mechanics calculations to determine whether assumed pre-existing flaws

would propagate as cracks when the vessel is stressed.

The Pressurized Thermal Shock (PTS) rule, 10 CFR 50.61, adopted on July 23, 1985 (50 CFR 29937), establishes a screening criterion. This screening criterion establishes a limiting level of embrittlement beyond which operation cannot continue without further plant-specific evaluation. The screening criterion is given in terms of  $RT_{NDT}$ , calculated as a function of the copper and nickel contents of the material and the neutron fluence according to the procedure given in the PTS rule, and called  $RT_{PTS}$  to distinguish it from other procedures for calculating  $RT_{NDT}$ .

The PTS rule requires each PWR licensee to report the results of the calculations of predicted  $RT_{PTS}$  values for each beltline material, (including the copper, nickel and fluence values that provided the basis for the calculations) from the time he submits his report to the expiration date of the operating license (EOL). The PTS rule further provides that if  $RT_{PTS}$  for the controlling material is predicted to exceed the screening criterion before EOL, the licensee should submit plans and a schedule for flux reduction programs that are reasonably practicable to avoid reaching the screening criterion. Finally, the PTS rule requires licensees of plants that would reach the screening criterion before EOL despite the flux reduction program to submit a plant-specific safety analysis justifying operation beyond the screening criterion. The licensee must submit the analysis at least 3 years before the plant is predicted to reach that limit. Regulatory Guide 1.154, "Format and Content of Plant-Specific Pressurized Thermal Shock Safety Analysis Reports for Pressurized Water Reactors" provides guidance for the preparation of the report and describes acceptance criteria that the NRC staff would use.

In response to the PTS rule, the licensees of operating reactors have submitted the fluence predictions and material composition data and (with 2 or 3 exceptions) these have now been accepted. Of greater importance are the flux reduction programs that have been undertaken by licensees for those plants having high values of  $RT_{PTS}$ .

#### Need for the Proposed Amendment

The primary purpose of the proposed amendment is to change the procedure

for calculating  $RT_{PTS}$  to reflect recent findings that embrittlement is occurring faster than predicted by the PTS rule for some reactor vessel materials. Although the PTS rule was adopted on July 23, 1985, the procedure for calculating  $RT_{PTS}$  was developed in 1981-1982 and not updated because a number of licensees were using the 1982 formulations as the basis for flux reduction programs. Meanwhile, plant surveillance data were being added to the data base and there were extensive new and more accurate correlations made. These culminated in Revision 2 to Regulatory Guide 1.99, "Radiation Embrittlement of Reactor Vessel Materials," published in May 1988. Revision 2 provides the basis for pressure-temperature limit calculations. Peer review of the new correlations was provided by the public comments on Revision 2.

In the regulatory analysis prepared for Revision 2, and repeated in the regulatory analysis for this proposed amendment, the NRC evaluated the impact of amending the PTS rule to be consistent with the Guide. Copper and nickel contents and fluence values for each PWR reactor vessel were taken from the PTS submittals from licensees. When the values of  $RT_{PTS}$  were recalculated using these quantities and the procedure developed for Revision 2, the results were higher for approximately half the vessels, including three vessels where the value may be over 60 °F higher than previously thought. This would increase the probability of PTS-induced vessel failure by a factor of at least 30 for those plants.

The NRC believes these changes in the nonconservative direction are greater than can be absorbed by the uncertainties believed to exist and taken into account by the NRC when the  $RT_{PTS}$ -based screening limit was set. (A margin of 48 °F is added in the calculation of  $RT_{PTS}$  to cover not only the uncertainty in the formula for embrittlement but also the uncertainties in the copper, nickel, and fluence values entered in the formula.) Based on this new information, the probability of reactor vessel failure by fracture during a PTS event is presently higher in some vessels than the probability based on the procedure for calculating  $RT_{PTS}$  which is given in the present PTS rule. Moreover, a few of those reactor vessels will reach the screening criterion in the 1990's. Thus, the current PTS rule needs to be amended.

#### Explanation of the Proposed New Requirements

The proposed amendment changes the procedure for calculating  $RT_{PTS}$  and

requires all licensees of operating PWR's to resubmit projected values of  $RT_{PTS}$  using the new procedure. If the copper and nickel contents and fluence projections are the same as in the previous submittal, they need only be listed. If there are changes in these projections, justification for the changes must be provided. If a licensee has already submitted the information required by paragraph (b)(1) of this proposed amendment, the licensee may simply reference the earlier submittal.

The proposed amendment modified the requirement for fluence projections in the calculation of  $RT_{PTS}$  to take into consideration the potential for a request for change in the expiration date for operation of the facility. This applies to requests to change the end of licensed life from 40 calendar years after the date of the construction permit to 40 years after the date of the operating license. It also applies to requests for license renewal and the need to consider projected values of  $RT_{PTS}$  at the end of a renewal term.

An additional change is proposed to be made in paragraph (b)(4) with regard to the schedule for submittal of a safety analysis justifying operation beyond the screening criterion. In the present PTS rule, this analysis must be submitted at least 3 years before reaching the screening criterion or by one year after issuance of Commission guidance and acceptance criteria, whichever is later. Regulatory Guide 1.154, which contains the necessary guidance and criteria was issued in January, 1987. Therefore, this alternative schedule was omitted in the proposed amendment. However, because one or two plants might reach the screening criterion in less than 3 years after publication, when  $RT_{PTS}$  is recalculated using the amended rule, the submittal will be required at least three years before reaching the screening criterion or by one year after the effective date of the amended rule, whichever is later. The safety implications of this change in the schedule requirement are considered to be acceptably small, because  $RT_{PTS}$  increases very slowly near the screening criterion.

#### Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(3) (ii) and (iii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

#### Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 [44 U.S.C. 3501 et seq.]. This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

Public reporting burden for this collection of information is estimated to average 254 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Records and Reports Management Branch (P-530), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Paperwork Reduction Project (3150-0011), Office of Management and Budget, Washington, DC 20503.

#### Regulatory Analysis

The NRC staff has prepared a regulatory analysis for this proposed amendment, which describes the factors and alternatives considered by the Commission in deciding to propose this rule.

The regulatory analysis for the proposed amendment also discusses why the screening criterion is not being changed when the procedures for calculating  $RT_{PTS}$  are changed. An anticipated public comment is that because the probabilistic fracture mechanics calculations used in establishing the screening criterion made use of the formula for  $RT_{PTS}$  given in the PTS rule, the proposed change in the formula must change the calculated probabilities and, in turn, change the screening criterion. As shown in the regulatory analysis, failure probabilities at the same  $RT_{PTS}$  screening criterion for the most critical accident scenarios in three plants, when recalculated using the new embrittlement estimates, were somewhat lower, but the differences were quite dependent on the plant configuration and the scenario chosen. Because of the apparent plant-to-plant differences, it is better to trigger plant-specific analyses with a "trip wire" that is believed to generically bound all plants. Furthermore, as described in the regulatory analysis, the screening criterion was based on a variety of considerations besides the probabilistic analysis.

A copy of the regulatory analysis is available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555. Single copies of the analysis may be obtained from Pryor N. Randall, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone, (301) 492-3842.

#### Regulatory Flexibility Act Certification

As required by the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities. This rule specifies minimum fracture toughness properties of irradiated pressure vessel materials to ameliorate the effects of PTS events on nuclear facilities licensed under the provision of 10 CFR 50.21(b) and 10 CFR 50.22. The companies that own these facilities do not fall within the scope of the definition of "small entities" as set forth in the Regulatory Flexibility Act or the Small Business Size Standards in regulations issued by the Small Business Administration at 10 CFR part 121.

#### Backfit Analysis

The NRC has concluded, on the basis of the documented evaluation required by 10 CFR 50.109(a)(4), that the backfit requirements contained in this proposed amendment are necessary to ensure that the facility provides adequate protection to the public health and safety, and, therefore, that a backfit analysis is not required and the cost-benefit standards of 10 CFR 50.109(a)(3) do not apply. The documented evaluation given in the regulatory analysis includes a statement of the objectives of and reasons for the backfits that would be required by the proposed rule and sets forth the basis for the NRC's conclusion that these backfits are not subject to the cost-benefit standards of 10 CFR 50.109(a)(3).

#### List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 50.

### PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation of part 50 is revised to read as follows:

**Authority:** Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended 1244, 1246, (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955 as amended (42 U.S.C. 2131, 2235), sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Section 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50-81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.46(a) and (b), and 50.54(c) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.7(a), 50.10(a)-(c), 50.34(a) and (e), 50.44(a)-(c), 50.46(a) and (b), 50.47(b), 50.48(a), (c), (d), and (e), 50.49(a), 50.54(a), (i), (j)(1), (l)-(n), (p), (q), (t), (v), and (y), 50.55(f), 50.55a(a), (c)-(e), (g), and (h), 50.59(c), 50.60(a), 50.62(c), 50.64(b), and 50.80(a) and (b) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.49(d), (h), and (j), 50.54(w),(z),(bb),(cc), and (dd), 50.55(e), 50.59(b), 50.61(b), 50.62(d), 50.70(a), 50.71(a)-(c) and (e), 50.72(a), 50.73(a) and (b), 50.74, 50.78, and 50.90 are issued under sec. 161(o), 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.61, paragraph (b) is revised to read as follows:

#### § 50.61 Fracture toughness requirements for protection against pressurized thermal shock events.

(b) *Requirements.* (1) For each pressurized water nuclear power reactor for which an operating license has been issued, the licensee shall submit projected values of  $RT_{PTS}$  for reactor vessel beltline materials by giving values for the time of submittal, the expiration date of the operating license, the projected expiration date if a change in the operating license has been requested, and the projected expiration date of a renewal term if a request for license renewal has been submitted. The

assessment must use the calculative procedures given in paragraph (b)(2) of this section. The assessment must specify the bases for the projection, including the assumptions regarding core loading patterns. The submittal must list the copper and nickel contents, and the fluence values used in the calculation for each beltline material. If these quantities differ from those submitted in response to the original PTS rule and accepted by the NRC, justification must be provided. This assessment must be submitted by (6 months after the effective date of this section), and must be updated whenever there is a significant change in projected values of  $RT_{PTS}$ , or upon a request for a change in the expiration date for operation of the facility.

(2) The pressurized thermal shock (PTS) screening criterion is 270 °F for plates, forgings, and axial weld materials, or 300 °F for circumferential weld materials. For the purpose of comparison with this criterion, the value of  $RT_{PTS}$  for the reactor vessel must be calculated as follows. The calculation must be made for each weld and plate, or forging, in the reactor vessel beltline.

$$\text{Equation 1: } RT_{PTS} = I + M + \Delta RT_{PTS}$$

(i) "I" means the initial reference temperature ( $RT_{NDT}$ ) of the unirradiated material measured as defined in the ASME Code, Paragraph NB-2331. Measured values must be used if available; if not, the following generic mean values must be used: 0 °F for welds made with Linde 80 flux, and -56 °F for welds made with Linde 0091, 1092 and 124 and ARCOS B-5 weld fluxes.

(ii) "M" means the margin to be added to cover uncertainties in the values of initial  $RT_{NDT}$ , copper and nickel contents, fluence and the calculational procedures. In Equation 1, M is 66 °F for welds and 48 °F for base metal if generic values of I are used, and M is 56 °F for welds and 34 °F for base metal if measured values of I are used.

(iii)  $\Delta RT_{PTS}$  is the mean value of the adjustment in reference temperature caused by irradiation and should be calculated as follows:

$$\text{Equation 2: } \Delta RT_{PTS} = (CF)^f \quad (0.29 \leq f \leq 0.7)$$

(iv) CF (°F) is the chemistry factor, a function of copper and nickel content. CF is given in Table 1 for welds and in Table 2 for base metal (plates and forgings). Linear interpolation is permitted. In Tables 1 and 2 "Wt-percent copper" and "Wt-percent nickel" are the best-estimate values for the material, which will normally be the mean of the measured values for a plate

or forging or for weld samples made with the weld wire heat number that matches the critical vessel weld. If these values are not available, the upper limiting values given in the material

specifications to which the vessel was built may be used. If not available, conservative estimates (mean plus one standard deviation) based on generic data may be used if justification is

provided. If there is no information available, 0.35 percent copper and 1.0 percent nickel must be assumed.

TABLE 1.—CHEMISTRY FACTOR FOR WELDS, sF

Copper, Wt-percent	Nickel, Wt-percent						
	0	0.20	0.40	0.60	0.80	1.00	1.20
0	20	20	20	20	20	20	20
0.01	20	20	20	20	20	20	20
0.02	21	26	27	27	27	27	27
0.03	22	35	41	41	41	41	41
0.04	24	43	54	54	54	54	54
0.05	26	49	67	68	68	68	68
0.06	29	52	77	82	82	82	82
0.07	32	55	85	95	95	95	95
0.08	36	58	90	106	108	108	108
0.09	40	61	94	115	122	122	122
0.10	44	65	97	122	133	135	135
0.11	49	68	101	130	144	148	148
0.12	52	72	103	135	153	161	161
0.13	58	76	108	139	162	172	176
0.14	61	79	109	142	168	182	188
0.15	66	84	112	146	175	191	200
0.16	70	88	115	149	178	199	211
0.17	75	92	119	151	184	207	221
0.18	79	95	122	154	187	214	230
0.19	83	100	126	157	191	220	238
0.20	88	104	129	160	194	223	245
0.21	92	108	133	164	197	229	252
0.22	97	112	137	167	200	232	257
0.23	101	117	140	169	203	236	263
0.24	105	121	144	173	206	239	268
0.25	110	126	148	176	209	243	272
0.26	113	130	151	180	212	246	276
0.27	119	134	155	184	216	249	280
0.28	122	138	160	187	218	251	284
0.29	128	142	164	191	222	254	287
0.30	131	146	167	194	225	257	290
0.31	136	151	172	198	228	260	293
0.32	140	155	175	202	231	263	298
0.33	144	160	180	205	234	266	299
0.34	149	164	184	209	238	269	302
0.35	153	168	187	212	241	272	305
0.36	158	172	191	216	245	275	308
0.37	162	177	196	220	248	278	311
0.38	166	182	200	223	250	281	314
0.39	171	185	203	227	254	285	317
0.40	175	189	207	231	257	288	320

TABLE 2.—CHEMISTRY FACTOR FOR BASE METAL, 'F

Copper, Wt-percent	Nickel, Wt-percent						
	0	0.20	0.40	0.60	0.80	1.00	1.20
0	20	20	20	20	20	20	20
0.01	20	20	20	20	20	20	20
0.02	20	20	20	20	20	20	20
0.03	20	20	20	20	20	20	20
0.04	22	26	26	26	26	26	26
0.05	25	31	31	31	31	31	31
0.06	28	37	37	37	37	37	37
0.07	31	43	44	44	44	44	44
0.08	34	48	51	51	51	51	51
0.09	37	53	58	58	58	58	58
0.10	41	58	65	65	67	67	67
0.11	45	62	72	74	77	77	77
0.12	49	67	79	83	86	86	86
0.13	53	71	85	91	96	96	96
0.14	57	75	91	100	105	106	106
0.15	61	80	99	110	115	117	117
0.16	65	84	104	118	123	125	125
0.17	69	88	110	127	132	135	135
0.18	73	92	115	134	141	144	144
0.19	78	97	120	142	150	154	154

TABLE 2.—CHEMISTRY FACTOR FOR BASE METAL, 'F'—Continued

Copper, Wt-percent	Nickel, Wt-percent						
	0	0.20	0.40	0.60	0.80	1.00	1.20
0.20.....	82	102	125	149	159	164	165
0.21.....	86	107	129	155	167	172	174
0.22.....	91	112	134	161	176	181	184
0.23.....	95	117	138	167	184	190	194
0.24.....	100	121	143	172	191	199	204
0.25.....	104	126	148	176	199	208	214
0.26.....	109	130	151	180	205	216	221
0.27.....	114	134	155	184	211	225	230
0.28.....	119	138	160	187	216	233	239
0.29.....	124	142	164	191	221	241	248
0.30.....	129	146	167	194	225	249	257
0.31.....	134	151	172	198	228	255	266
0.32.....	139	155	175	202	231	260	274
0.33.....	144	160	180	205	234	264	282
0.34.....	149	164	184	209	238	268	290
0.35.....	153	168	187	212	241	272	298
0.36.....	158	173	191	216	245	275	303
0.37.....	162	177	196	220	248	278	308
0.38.....	166	182	200	223	250	281	313
0.39.....	171	185	203	227	254	285	317
0.40.....	175	189	207	231	257	288	320

(v) "F" means the best estimate neutron fluence, in units of  $10^{19}$  n/cm<sup>2</sup> (E greater than 1 MeV), at the clad-base-metal interface on the inside surface of the vessel at the location where the material in question receives the highest fluence for the period of service in question.

(3) For each pressurized water nuclear power reactor for which the value of  $RT_{PTS}$  for any material in the beltline is projected to exceed the PTS screening criterion before the expiration date of the operating license, or the projected expiration date if a change in the license has been requested, or the end of a renewal term if a request for license renewal has been submitted, the licensee shall submit by (9 months after the effective date of this section) an analysis and schedule for implementation of such flux reduction programs as are reasonably practicable to avoid exceeding the PTS screening criterion set forth in paragraph (b)(2) of this section. The schedule for implementation of flux reduction measures may take into account the schedule for submittal and anticipated Commission approval of detailed plant-specific analyses, submitted to demonstrate acceptable risk at values of  $RT_{PTS}$  above the screening limit due to plant modifications, new information or new analysis techniques.

(4) For each pressurized water nuclear power reactor for which the analysis required by paragraph (b)(3) of this section indicates that no reasonably practicable flux reduction program will prevent the value of  $RT_{PTS}$  from exceeding the PTS screening criterion before the expiration date of the

operating license, or the projected expiration date if a change in the operating license has been requested, or the end of a renewal term if a request for license renewal has been submitted, the licensee shall submit a safety analysis to determine what, if any, modifications to equipment, systems, and operation are necessary to prevent potential failure of the reactor vessel as a result of postulated PTS events if continued operation beyond the screening criterion is allowed. In the analysis, the licensee may determine reactor vessel materials properties based on available information, research results, and plant surveillance data, and may use probabilistic fracture mechanics techniques. This analysis must be submitted at least 3 years before the value of  $RT_{PTS}$  as defined in paragraph (b)(2) of this section is projected to exceed the PTS screening criterion or by one year after the effective date of this amendment, whichever is later.

(5) After consideration of the licensee's analyses (including effects of proposed corrective actions, if any) submitted in accordance with paragraphs (b)(3) and (b)(4) of this section, the Commission may, on a case-by-case basis, approve operation of the facility at values of  $RT_{PTS}$  in excess of the PTS screening criterion. The Commission will consider factors significantly affecting the potential for failure of the reactor vessel in reaching a decision.

(6) If the Commission concludes, pursuant to paragraph (b)(5) of this section, that operation of the facility at values of  $RT_{PTS}$  in excess of the PTS

screening criterion cannot be approved on the basis of the licensee's analyses submitted in accordance with paragraphs (b)(3) and (b)(4) of this section, the licensee shall request and receive Commission approval prior to any operation beyond the criterion. The request must be based upon modifications to equipment, systems, and operation of the facility in addition to those previously proposed in the submitted analyses that would reduce the potential for failure of the reactor vessel due to PTS events, or upon further analyses based upon new information or improved methodology.

Dated at Rockville, MD this 12th day of December, 1989.

For the Nuclear Regulatory Commission,

James M. Taylor,

Executive Director for Operations.

[FR Doc. 89-29869 Filed 12-22-89; 8:45 am]

BILLING CODE 7590-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Ch. I

[Summary Notice No. PR-89-12]

#### Petition for Rulemaking—Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

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

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

**DATE:** Comments on petitions received must identify the petition docket number involved and must be received on or before: February 26, 1990.

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

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

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

Issued in Washington, DC, on December 18, 1989.

Denise Donohue Hall,  
Manager, Program Management Staff, Office of the Chief Counsel.

**Docket No.: 26044**

*Petitioner:* Aviation Safety Institute (John B. Galipault and Harry A. Langdon).

*Regulations Affected:* 14 CFR 121.545.

*Description of Petition:* The petitioner proposes to amend Section 121.545, Manipulation of Controls, to specify the conditions under which a second in command pilot may perform takeoffs and landings under operations in this part. These stipulations include total flight time in the type of aircraft, weather and runway conditions in order to perform takeoffs and landings, and mechanical condition of the aircraft.

*Petitioner's Reason for the Request:* The inappropriate pairing of low time pilots in command and seconds in command has greatly intensified public concern for flight safety during takeoffs and landings. The petitioner believes that while some air carriers actively attempt to avoid illogical pairings, there is a pressing need to establish an industry-wide and uniform application of the amendment proposed in this petition.

**Docket No.: 26005**

*Petitioner:* Air Transport Association of America (ATA).

*Regulations Affected:* 14 CFR 91.75.

*Description of Petition:* The ATA, on behalf of its member airlines and other similarly situated air carriers, petitions for an amendment to section 91.75(a) of the FAR to permit a pilot deviation from an ATC clearance in response to a traffic alert and collision avoidance system (TCAS) resolution advisory.

*Petitioner's Reason for the Request:* The petitioner believes that absent such relief, apprehension of the consequences of a violation action will possibly cause the flight crew to delay response or to not respond to a resolution advisory, thus defeating the intended purpose of implementing TCAS.

**Docket No.: 26048**

*Petitioner:* National Test Pilot School (NTPS).

*Regulations Affected:* 14 CFR 21.191.

*Description of Petition:* The petitioner requests a rulemaking to establish a new experimental purpose which would allow the NTPS to train test pilots and flight test engineer students in ex-military and experimental type aircraft owned, operated or leased by NTPS for use in the NTPS flight test training curriculum.

*Petitioner's Reason for the Request:* The petitioner believes that the ability to use ex-military and experimental aircraft in their flight test training program will greatly enhance the knowledge and expertise of the graduate test pilots and flight test engineers of the NTPS such that their training can then be comparable to that of the military and foreign test pilot schools which use military and civilian aircraft in their curriculum.

[FR Doc. 89-29864 Filed 12-22-89; 8:45 am]

BILLING CODE 4910-13-M

**Federal Highway Administration**

**23 CFR Part 658**

[FHWA Docket Nos. 87-5 and 89-12]

RIN 2125-AC30

**Truck Length and Width Exclusive Devices**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** Public comment is requested on what criteria and procedures the Secretary should use to determine if safety or efficiency enhancing devices are to be excluded under sections 411(h) and 416(b) of the Surface Transportation Assistance Act of 1982 (STAA) (Pub. L. 97-424, 96 Stat. 2097) as amended, when measuring the length and width of vehicles for compliance with federally mandated dimensions. The present system does not provide any way for innovators or the States to receive prompt and authoritative guidance about the status of new devices. Therefore, a new approach is proposed.

**DATE:** Comments on this docket must be received on or before March 26, 1990.

**ADDRESS:** Submit written, signed comments, to FHWA Docket No. 89-12, Federal Highway Administration, Room 4232, HCC-10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Commenters may, in addition to submitting "hard copies" of their comments, submit a floppy disk (either 1.2Mb or 360Kb density) in a format that is compatible with word processing programs Word Perfect or WordStar. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

**FOR FURTHER INFORMATION CONTACT:** Mr. Max Pieper, Office of Motor Carrier Information Management and Analysis (202-366-4029) or Mr. Charles Medalen, Office of the Chief Counsel (202-366-1354), Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

**SUPPLEMENTARY INFORMATION:****Width Provisions**

The Federal-Aid Highway Act of 1956 (Pub. L. 84-627, 70 Stat. 374) limited vehicle width to a maximum of 96 inches on Interstate highways and allowed devices to extend beyond this width only if they were allowed by State law or regulation in effect on July 1, 1956. The Federal-Aid Highway Act of 1976 (Pub. L. 94-280, 90 Stat. 425) increased the maximum width to 102 inches for buses on Interstate highways with 12-foot wide lanes.

A June 28, 1979 Notice of Interpretation (NOI) published in the Federal Register at 44 FR 37710 adopted the American Association of State Highway and Transportation Officials' (AASHTO) definition of vehicle width as "the total outside transverse dimension of a vehicle including any load or load-holding devices thereon, but excluding safety devices and tire bulge due to load." In addition to load-induced tire bulge, the only approved safety devices permitted to exceed 96 inches in width were rearview mirrors, turn signal lamps, and hand-holds for cab entry/egress.

In a Notice of Interpretation (NOI) published in the Federal Register at 46 FR 32 on January 2, 1981, the FHWA held that States could exclude additional safety devices from the 96-inch vehicle width limit, provided the overall width did not exceed 102 inches, i.e., the safety devices could extend 3 inches on either side of the vehicle.

The STAA, as amended, extended the 102-inch width to all commercial vehicles, including buses, on the National Network (NN), which consists of the Interstate System and other Federal-aid primary highways designated in 23 CFR part 658, Appendix A. Hawaii was allowed to keep its 108-inch maximum vehicle width limit.

**Length Provisions**

In addition to this width limit, the STAA established length limits for semitrailers and trailers. The minimum length limit for a semitrailer in a truck tractor semitrailer combination is 48 feet unless a longer semitrailer was in use in a State on December 1, 1982. In this case, the longer length is grandfathered

and the State must continue to allow the use of semitrailers up to this length on the NN.

The length limit established for each semitrailer or trailer in a double or twin-trailer combination is 28 feet (28½ feet for existing semitrailers or trailers which were actually and lawfully operating in a State on December 1, 1982 within a 65-foot overall length limit). Neither the tractor semitrailer nor the tractor twin-trailer combination is subject to overall length limits on the NN.

Pursuant to its authority under section 411(d) of the STAA, the FHWA designated automobile and boat transporters "specialized equipment" and established minimum overall length limits for their operation on the NN. The limits are a 65-foot minimum overall length (75-foot if stinger-steered), plus cargo overhangs of 3 feet to the front and 4 feet to the rear.

There are no Federal laws or regulations regarding the length of buses or straight trucks. Any length limitations on such vehicles are set by the individual States.

The STAA also gave the Secretary of Transportation authority to determine what safety and energy conservation devices, necessary for safe and efficient operation of commercial motor vehicles, would be excluded when measuring vehicle length (section 411(h)) (49 U.S.C. App. 2311(h)) and what safety devices necessary for the safe and efficient operation of motor vehicles would be excluded when measuring vehicle width (section 416(b)) (49 U.S.C. App. 2316(b)). Section 411(h) also provided that no device excluded from length measurement by the Secretary could have, by design or use, the capability to carry cargo.

**Current Regulations and Interpretations**

A final rule implementing sections 411(h) and 416(b), among other provisions, was published in the Federal Register at 49 FR 23302 on June 5, 1984 and codified at 23 CFR part 658. It reiterated the policy of permitting States to exclude from vehicle width measurements those safety devices that do not extend more than 3 inches from either side. It also provided that farm tractors and similar equipment are exempt from Federal width limitations on the NN, leaving regulation to the individual States, and permitted the

vehicle width limit of 102 inches to extend to its approximate metric equivalent of 2.6 meters (102.36 inches). In addition, this rule defined length exclusive devices as all noncargo carrying appurtenances at the front or rear of a commercial motor vehicle semitrailer or trailer whose function is related to the safe and efficient operation of the semitrailer or trailer.

Another NOI, concerning length exclusive devices, was published in the Federal Register at 51 FR 1367 on January 13, 1986. It specifically excluded 6- and 8-inch front locking devices (bolsters) and a 12-inch (in the "up" position) rear lift tailgate from length measurements. The NOI declined to exclude a 7-foot front trailer frame extension from length measurements on grounds that it was load bearing but reiterated that this did not necessarily preclude its use because it could be recognized as a length exclusive device by the States.

The latest NOI, published in the Federal Register at 52 FR 7834 on March 13, 1987 held that lift gates (not over 24 inches from the rear of the trailer in the "up" position), B-train assemblies and about 35 other devices qualified as length or width exclusive devices as defined in 23 CFR 658.5(e) and (g). It also provided that the width of a trailer be measured across the sidemost load carrying structures, support members, and structural fasteners and that the length of a semitrailer be measured from the front vertical plane of the foremost transverse load carrying structure to the rear vertical plane of the rearmost transverse load carrying structure.

The March 13, 1987, NOI also opened a docket (Docket No. 87-5) to which the public could submit technical comments on the interpretations. In case of inaccuracies, the interpretations would be modified. A total of 54 responses were received, from 29 carriers, 10 shippers, 4 States and the District of Columbia, 2 trailer manufacturers, 2 associations (American Trucking Associations—ATA, and Truck Trailer Manufacturers Association—TTMA), 2 State legislators, a truck manufacturer, a port authority, a law firm, and an individual. Table 1 summarizes the comments received, the number and type of commenters, and the FHWA response.

TABLE 1.—SUMMARY OF COMMENTS ON MAR. 13, 1987 NOTICE OF INTERPRETATION FHWA DOCKET NO. 87-5

Comments	Type of commenters	Number of comments	Response
1. Indicated that there was a discrepancy between this NOI and a notice of proposed rulemaking (NPRM) published on February 26, 1987 in FHWA Docket No. MC-127 (52 FR 5892) in regard to how trailers were to be measured and favored the provisions in the NPRM.	Carriers..... Shippers..... Law Firm..... Individual.....	28 8 1 1	There was no discrepancy because the NPRM concerned the appropriate location of placards and other safety equipment and not vehicle length or width limits.
2. Non-structural rub rails and structural fasteners not to exceed 3/4 inches should be exempt from width measurements.	Carriers..... Shippers..... Truck Manufacturer..... Law Firm.....	27 9 1 1	Non-structural components will be covered in the proposed new approach, but structural components will not be exempted.
3. Non-structural protrusions should be exempt from length measurements.....	Carriers..... Shippers..... Association..... Legislators.....	24 9 1 2	This will be covered in the proposed new approach.
4. Manufacturing deviations up to 3/4 inches should be exempt from width measurements.....	Carriers..... Shippers.....	27 7	If applied to a structural component, it would increase the width beyond the legal limit.
5. Special reinforcement at rear and side door and kingpin locations should be exempt from length and width measurements.	Carriers..... Shippers.....	25 9	Reinforcements are structural and therefore are included in length or width measurements.
6. There should be a grandfather clause to exempt devices on trailers manufactured between 1983 and 1987.	Carriers..... Shippers..... Legislators..... Law Firm.....	21 8 2 1	This is being considered in this rulemaking.
7. Trailer side-wall bulge due to bulk products should be exempt.....	Carriers..... Shippers..... Trlr. Manufacturer..... Association.....	22 8 1 1	Addressed in proposal.
8. Automobile transporter load carrying devices should be exempt when also used as tie-downs.	Carriers.....	3	No consideration is being given to exempting load carrying devices.
9. Trailers should be measured from load-bearing-wall to load-bearing-wall.....	Individual.....	1	How to measure trailers is being considered in this rulemaking.
10. Manufacturing deviations up to 1/2 inches should be exempt from length measurements.....	Trailer Manufacturer.....	1	If applied to a structural component, it would increase the length of the vehicle beyond the legal limit.
11. Steps should be exempt from length measurements.....	Truck Manufacturer.....	1	Addressed in proposal.
12. One half inch in overall width should be exempt when measuring trailer width from a point on one side to a point directly across on the opposite side.	Trailer Manufacturer.....	1	This would increase the width of the vehicle beyond the legal limit.
13. The present exemption, "wall variations from true flat," should be explained.....	Carrier..... State.....	1 1	Addressed in proposal.
14. Questioned the safety of a 5-foot rear aerodynamic device.....	State.....	1	No safety problems have been reported.
15. Objected to allowing devices to extend up to 3 inches from the sides of vehicles.....	State.....	1	The STAA authorized the Secretary to exclude devices necessary for the safe and efficient operation of motor vehicles from width measurements.
16. Exempt safety devices on sides of trailers should be of hinged or breakaway design.....	State.....	1	Devices must be sufficiently sturdy for their intended use.
17. One commenter asked if there was a conflict between the existing 12- and 24-inch lift tailgate.	Port Authority.....	1	There is no conflict. Lift tailgates may extend up to 24 inches from the rear of the vehicle.
18. One commenter recommended that front couplers for road-and-rail semitrailers not be allowed to exceed the swing radius of the trailer.	Association.....	1	They may not extend beyond the swing radius of the trailer under the existing interpretation.

## Issue

If nothing else, the above table illuminates the problems of enforcement and identifying devices that should be excluded from measurements of vehicle length or width. Contributing to these problems are the vagueness of statutory guidelines and the ingenuity of vehicle

innovators seeking to utilize new devices to improve safety or productivity of vehicles covered by the STAA. As a result, the process for determining which devices qualify as length or width exclusive has become a burden both to the industry and the FHWA.

FHWA's interpretations have described devices excluded from length and width measurements in both generic and specific terms. Examples of generic descriptions are aerodynamic devices and electrical connectors. Examples of specific descriptions are resilient bumper blocks, lift gates, handholds,

pintle hooks, ladders, steps, stake pockets, etc. This illustrates the difficulty of trying to make a comprehensive list of devices that are included or excluded in the measurement of a vehicle's length or width. Generic descriptions are not inclusive enough and specific descriptions are too exclusive. Thus, even though four rulemakings and notices of interpretations have identified some 55 devices as length or width exclusive to date, consideration of others is pending with more, no doubt, to follow.

FHWA believes that a simpler approach is needed for administering the STAA provisions allowing certain devices to be excluded when a vehicle is measured for compliance with Federal length and width limits. An approach that reduces the number and the complexity of the decisions should help vehicle manufacturers, carriers, and State enforcement officials.

#### Proposed Resolution

To address this issue, the FHWA is considering an approach that would exclude from length and width measurement all devices that extend no more than 3 inches beyond the structural components of the vehicle. For semitrailers and trailers, the components to be included in length or width measurements are the structural elements of the floor, walls or top, including stiffeners and fasteners and all load-carrying elements.

For other commercial motor vehicles, the components to be included in the width measurement are less easy to specify. That is particularly true of truck tractors (including the power units of automobile and boat transporters) but also applies to buses and straight trucks. Many of the basic components of a tractor (cab, fenders, bumpers, wind deflectors, mud flaps) vary significantly in shape, placement and size depending on the manufacturer and type of vehicle. One possibility is to define the components to be included in the width measurement as those not specifically excluded by law, regulation, or notice published in the *Federal Register*. FHWA would prefer a definition closer to common usage or industry standards. We encourage the States and industry to suggest a simple, workable method to measure the width of tractors, straight trucks and buses.

Existing policy assumes that it is necessary to review devices that extend vehicle length and width to ensure highway safety. However, any device extending beyond the 102-inch width or vehicle length dimensions, whether for purposes of safety or efficiency,

presents some risk to highway safety. The proposed approach acknowledges this fact. Further it will neither render vehicles less safe nor stifle innovation. Also, it will provide for more uniform interpretation by the States and industry of devices to be included or excluded from length or width measurements.

Previous regulations that excluded from width measurements devices not extending more than 3 inches from the side of a vehicle would be superseded by this proposal. Such regulations would, therefore, be without further force or effect.

We are considering whether a limit should be imposed on devices which, under 23 CFR 658.5(g), may extend more than 3 inches from each side of a vehicle (i.e., rearview mirrors, turn signal lamps, handholds for cab entry and egress, and splash and spray suppressant devices), and if so, what the limit for each device should be.

Referring to table 1, comment numbers 2 (in part), 4, 5, 10, and 12 concern exemptions for minor structural features or tolerances for manufacturing deviations. Comment number 8 concerns load carrying components. Under the proposed approach these structural features or tolerances would not be considered length or width exclusive.

Comment numbers 2 (in part), 3, and 11 concern nonstructural components and, therefore, would be considered length or width exclusive under the proposed approach if they do not extend beyond 3 inches.

Comment numbers 6, 7, and 9 are being addressed in this rulemaking. Responses to the remaining comments are adequately covered in table 1.

#### Request for Comments

The FHWA solicits comments from all interested persons on this proposal. Specific comments are sought in regard to the following:

1. What are the safety and enforcement implications of (1) requiring that certain categories of vehicle components be included in a length or width measurement; and (2) allowing a blanket exclusion for other devices extending no more than 3 inches beyond the outer dimensions of the components that must be included in length and width measurements?

2. What other alternatives are there for simplifying the present process for determining which devices should be included or excluded when measuring the length or width of a vehicle?

3. The following are possible categories for components of trailers: (1) Structural (needed to support or convey the load), (2) load protection, (3) protection of trailer components, and (4)

vehicle safety. Are there any other categories that would be useful for determining whether a device should be included or excluded from a length or width measurement?

4. How would the proposed approach or an approach offered in response to question number 2 impact:

- Vehicle manufacturers?
- Motor carriers?
- Shippers?
- Highway operations?

5. Under existing Federal regulations, States must exempt specified devices from the measurement of vehicle length and width. They may exempt safety devices that do not extend more than 3 inches from the side of a vehicle. Does the problem of determining what new devices should be exempted from length and width measurements warrant further preemption of State authority by requiring them to allow a blanket 3-inch exemption?

6. Current regulations provide that the length of a semitrailer and a full trailer is to be measured from the front vertical plane of the foremost transverse load carrying structure to the rear vertical plane of the rearmost transverse load carrying structure. Current regulations also provide that the width of a trailer is measured across the sidemost load carrying structures, support members, and structural fasteners. Should these regulations be clarified and if so, how?

7. There are no regulations on how buses or other commercial vehicles are to be measured. Are they needed? If so, how should they read?

8. Should there be a limit on how far a width exclusive device may extend, if more than 3 inches, from the side of a vehicle (i.e., rearview mirrors, turn signal lamps, hand-holds for cab entry and egress, and splash and spray suppressant devices)? If so, what should the limit be?

9. Are there any devices on trailers manufactured between 1983 and 1987 that would be eliminated by the proposed regulations? If so, what are they? Should they be grandfathered? What should the grandfather date be?

Comments on this advance notice of proposed rulemaking will be available for public inspection both before and after the closing date at the above address. All comments received during the comment period will be considered before further rulemaking action is undertaken.

#### Regulatory Impact

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a

significant regulation under the regulatory policies and procedures of the Department of Transportation. This determination will be reevaluated and a draft regulatory evaluation will be prepared if necessary, based upon the data received in response to this notice.

Based upon the information available to FHWA at this time the action taken in this rulemaking will not have a significant economic impact on a substantial number of small entities.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

(Secs. 411 and 416 of Pub. L. 97-424, 96 Stat. 2097, 2150; 23 U.S.C. 315; 49 CFR 1.48)

#### List of Subjects in 23 CFR Part 658

Grant programs-transportation, Highways and roads, Motor carrier—size and weight.

Issued on: December 15, 1989.

T. D. Larson,  
Administrator.

[FR Doc. 89-29913 Filed 12-22-89; 8:45 am]

BILLING CODE 4910-22-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[CC:CO-10-89]

RIN 1545-AN76

#### Limitations on Corporate Net Operating Loss Carryforwards

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** Temporary regulations at §§ 1.382-1T and 1.382-2T were published in the Federal Register on August 11, 1987, 52 FR 29663, to provide guidance regarding what constitutes an "ownership change" under section 382, after which certain corporate attributes, such as net operating loss

carryforwards, are limited. In the Rules and Regulations portion of this issue of the Federal Register, the Internal Revenue Service is amending the temporary regulations under section 382 of the Internal Revenue Code (Code) to grant the Service authority to issue revenue rulings (or other guidance in the Internal Revenue Bulletin) to provide additional exceptions under § 1.382-2T(h)(4)(x) to the operation of the option attribution rules at § 1.382-2T(h)(4)(i) to loss corporations. This amendment of the regulations will give the Treasury Department greater flexibility in providing additional exceptions to the attribution rules of § 1.382-2T(h)(4)(i), as circumstances justifying those exceptions are identified. The text of the temporary regulations also serves as the comment document for this notice of proposed rulemaking.

**DATES:** Written comments and requests for a public hearing must be mailed by February 28, 1990. The regulations are proposed to be effective on the date the final regulations are published in the Federal Register.

**ADDRESS:** Send comments or requests for a public hearing to: Internal Revenue Service, Attention: CC:CORP:T:R [CO-10-89], Room 4429, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Keith E. Stanley of the Office of Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:CORP:1) or telephone 202-566-3367 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The Rules and Regulations portion of this issue of the Federal Register contains temporary regulations that amend the temporary regulations at § 1.382-2T by adding a new paragraph (h)(4)(x)(Z). The final regulations which are proposed to be based on the temporary regulations would be added to part 1 of Title 26 of the Code of Federal Regulations. As proposed, the final regulations would grant the Service the authority to designate in the Internal Revenue Bulletin additional options that would be excepted from the option attribution rules of § 1.382-2T(h)(4)(i).

For the text of the temporary regulations, see T.D. [8277] published in the Rules and Regulations portion of this issue of the Federal Register. The preamble to the temporary regulations explains the amended regulations.

#### Special Analyses

It has been determined that these proposed regulations are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

#### Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing will be held upon written request by any person who has submitted written comments. If a public hearing is held, notice of time and place will be published in the Federal Register.

#### Drafting Information

The principal author of these regulations is Keith E. Stanley, Office of the Assistant Chief Counsel (Corporate), Internal Revenue Service. However, other personnel from the Service and Treasury Department participated in their development.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 89-29794 Filed 12-22-89; 8:45 am]

BILLING CODE 9830-01-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 913

#### Illinois Abandoned Mine Land Reclamation Plan

**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:** On September 6, 1989, the State of Illinois submitted to OSM a

proposed amendment to its Abandoned Mine Land Reclamation Plan (hereinafter referred to as the Illinois AMLR plan). The proposed amendment allows the Illinois Abandoned Mined Lands Reclamation Council (the Council) to perform non-coal reclamation within prescribed limitations.

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

**DATES:** Written comments must be received by 4:00 p.m. on January 25, 1990. If requested, a public hearing on the proposed amendment will be held on January 22, 1990. Requests to present testimony at a hearing must be received on or before 4:00 p.m. on January 10, 1990.

**ADDRESSES:** Written comments should be mailed or hand delivered to: Mr. James F. Fulton, Director, OSM Springfield Field Office, at the address listed below.

Copies of the Illinois AMLR plan, 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, free of charge, one copy of the proposed amendment by contacting OSM's Springfield Field Office.

Office of Surface Mining Reclamation and Enforcement, Springfield Field Office, 600 E. Monroe, Room 20, Springfield, IL 62701, Telephone: (217) 492-4495

Illinois Abandoned Mined Lands Reclamation Council, 928 S. Spring, Springfield, IL 62704, Telephone: (217) 782-0588.

**FOR FURTHER INFORMATION CONTACT:** James F. Fulton, Director, Springfield Field Office, (217) 492-4495.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Secretary of the Interior approved the Illinois AMLR plan effective June 1, 1982. Information pertinent to the general background of the Illinois AMLR plan submission, as well as the Secretary's findings and the disposition of comments can be found in the June 1, 1982, Federal Register (47 FR 23883 *et seq.*). A subsequent program amendment approved on June 11, 1984 can be found

in the June 11, 1984, Federal Register (49 FR 24021 *et seq.*).

Information concerning the previously approved plan and the proposed amendments may be obtained from the agency offices listed under "ADDRESSES."

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR part 884). The regulations provide that a State may submit to OSM proposed amendments or revisions to an approved reclamation plan. If the amendments or revisions change the scope or major policies followed by the State in the conduct of its reclamation program, the Deputy Director must follow the procedures set out in 30 CFR 884.14 in approving or disapproving an amendment or revision.

**II. Discussion of Proposed Amendment**

By letter dated September 6, 1989, the State of Illinois submitted an amendment to its AMLR plan. The proposed amendment consists of the addition of section 2.11 to the Abandoned Mined Lands and Water Reclamation Act (Ill. Rev. Stat. 1987, Ch. 96 1/2, par. 8001.01 *et seq.*, as amended by P.A. 86-175). This new Section provides for the reclamation of non-coal sites involving the protection of the public health and safety. It recognizes that open and abandoned tunnels, shafts, and entryways and abandoned and deteriorating equipment, structures, and facilities resulting from non-coal mining operations constitute a hazard to the public health and safety.

The amendment to the Illinois AMLR plan also proposes certain funding limitations. Expenditures are not to exceed 2 percent of the Council's annual budget and all non-coal expenditures are to be made within the next 5 years.

**III. Public Comments Procedures**

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the amendment is consistent with SMCRA, and no less effective than the Secretary's implementing regulations. If approved by OSM, the amendment will become part of the Illinois AMLR plan.

**Written Comments**

Written comments should be specific, pertain only to the issue 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 OSM

Springfield Field Office will not necessarily be considered or included in the Administrative Record for the final rulemaking.

**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. on January 10, 1990. The location and time of the hearing will be announced to those persons requesting the hearing. If no one requests an opportunity to testify at a public hearing, none will 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 start on the specified date and time and will continue until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who may wish to do so, will be heard following those who have been scheduled. The hearing will end after all those 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 by contacting the person 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 under "ADDRESSES". A written summary of each meeting will be made a part of the Administrative Record.

**List of Subjects in 30 CFR Part 913**

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

Dated: December 19, 1989.

**W. Hord Tipton,**

Deputy Director, Operations and Technical Services.

[FR Doc. 89-29865 Filed 12-22-89; 8:45 am]

BILLING CODE 4310-05-M

**30 CFR Part 936****Oklahoma Permanent Regulatory Program**

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

**ACTION:** Proposed rule; reopening and extension of comment period.

**SUMMARY:** OSM is announcing receipt of additional explanatory information and revisions pertaining to a previously proposed amendment to the Oklahoma permanent regulatory program (hereinafter, the "Oklahoma program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The additional explanatory information and revisions pertain to general provisions; restrictions on financial interests of State employees; designating lands unsuitable for mining; coal exploration; requirements for permits; revision, renewal, transfer and assignment or sale of permit rights; administrative and judicial review; minimum requirements for permit applications for surface and underground mining; requirements for permits for special categories of mining; small operators assistance program; bonding and insurance requirements; permanent program performance standards for surface and underground mining; prime farmland; coal preparation plants; in situ processing; State inspectors; State enforcement; civil penalties; and blasters certification. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards and to clarify ambiguities.

This notice sets forth the times and locations that the Oklahoma program and 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 proposed amendment.

**DATES:** Written comments must be received by 4:00 p.m., c.s.t. January 10, 1990.

**ADDRESSES:** Written comments should be mailed or hand delivered to James H. Moncrief at the address listed below.

Copies of the Oklahoma 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 Tulsa Field Office.

James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 550, Tulsa, OK 74135, Telephone: (918) 581-7927; Oklahoma Department of Mines, 4040 North Lincoln, Suite 107, Oklahoma City, OK 73105, Telephone: (405) 521-3859.

**FOR FURTHER INFORMATION CONTACT:** James H. Moncrief, Director, Tulsa Field Office, (918) 581-7927.

**SUPPLEMENTARY INFORMATION:****I. Background on the Oklahoma Program**

On January 19, 1981, the Secretary of the Interior conditionally approved the Oklahoma program. General background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Oklahoma program, can be found in the January 19, 1981, Federal Register (46 FR 4910). Subsequent actions concerning the Oklahoma program and program amendments can be found at 30 CFR 936.15 and 936.30.

**II. Proposed amendment**

Oklahoma initially submitted an amendment to OSM on May 18, 1988, and subsequently revised it on June 8, 1988, November 14, 1988, June 22, 1989, and August 8, 1989 (administrative record Nos. OK-843, OK-847, OK-868, OK-888, and OK-890). OSM announced receipt of the original amendment and the subsequent revisions in the June 28, 1988, January 9, 1989, July 7, 1989, and August 24, 1989, publications of the Federal Register (53 FR 24321, 54 FR 633, 54 FR 29583, and 54 FR 35208), and invited public comment on the adequacy of the proposed amendment. The last public comment period ended September 25, 1989.

During its review of the August 8, 1989, revision to the amendment, OSM identified issues relating to part 700, General; part 701, Permanent Regulatory Program; part 705, Restriction on Financial Interest of State Employees; part 761, Areas Designated by Act of Congress; part 762, Criteria for Designating Land Unsuitable; part 764, Process for Designating Areas Unsuitable; part 772, Coal Exploration Operations; part 773, Requirements for Permits and Permit Processing; part 774, Revision, Renewal, Transfer, and Assignment or Sale of Permit Rights; part 775, Administrative and Judicial Review; part 778, Minimum Requirements for Legal and Financial Information; part 779, Minimum Requirements for Environmental

Resources; part 780, Minimum Requirements for Reclamation and Operation; part 783, Underground Mining—Minimum Requirements for Environmental Resources; part 784, Underground Mining—Minimum requirements for Reclamation and Operation; part 785, Minimum Requirements for Permits for Special Categories of Mining; part 795, Small Operators Assistance Program; part 800, Bonding and Insurance Requirements; part 810, Permanent Program Performance Standards—General Provisions; parts 816 and 817, Permanent Program Performance Standards—Surface and Underground Mining; part 823, Prime Farmland; part 827, Coal Preparation Plants; part 828, In Situ Processing; part 842, State Inspectors; part 843, State Enforcement; part 845, Civil Penalties; part 846, Individual Civil Penalties; and part 850, Standards for Certification of Blasters.

OSM notified Oklahoma of the issues by letter dated December 11, 1989 (administrative record No. OK-902). Oklahoma responded in a letter dated December 15, 1989, by submitting a revised amendment (administrative record No. OK-903). In this amendment, Oklahoma proposes to revise its rules for items that OSM identified as issues in its December 11, 1989, letter.

**III. Public Comment Procedures**

OSM is reopening the comment period on the proposed Oklahoma program amendment to provide the public an opportunity to reconsider the adequacy of the amendment in light of the additional materials submitted. 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 Oklahoma 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 Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

**List of Subjects in 30 CFR Part 936**

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

Dated: December 15, 1989.

Raymond L. Lowrie,  
Assistant Director, Western Field Operations.  
[FR Doc. 89-29847 Filed 12-22-89; 8:45 am]  
BILLING CODE 9310-05-M

### 30 CFR Part 950

#### Wyoming Regulatory Program

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

**ACTION:** Notice of disapproval of proposed amendment.

**SUMMARY:** OSM is announcing its decision to disapprove a proposed amendment to the Wyoming permanent regulatory program (hereinafter referred to as the Wyoming program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The amendment would have allowed the retention of highwall remnants as final reclamation features where such features would benefit wildlife and livestock.

**EFFECTIVE DATE:** December 26, 1989.

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

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Wyoming Program.
- II. Submission of Proposed Amendment.
- III. Director's Findings and Decision.
- IV. Summary and Disposition of Comments.

#### I. Background on the Wyoming Program

The Secretary of the Interior conditionally approved the Wyoming program on November 26, 1980. General background information on the Wyoming program, including the Secretary's findings, disposition of comments and conditions of approval 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. Submission of Proposed Amendment

By letter dated December 13, 1988 (Administrative Record No. WY-11-1), Wyoming submitted a proposed amendment to its program (specifically, to Chapters I, II, IV and XIII of the Rules and Regulations of the Land Quality Division of the Department of Environmental Quality) to allow retention of bluffs as final reclamation features if they would enhance the postmining land use. OSM published a notice in the January 13, 1989, *Federal Register* (54 FR 13899) announcing receipt of the amendment and inviting

public comment on its adequacy. This comment period ended February 13, 1989.

Following a review of the proposed amendment, OSM, by letter dated March 29, 1989 (Administrative Record No. WY-11-11), notified Wyoming of its concerns with certain provisions of the proposed rules and statement of justification. On August 21, 1989, Wyoming submitted a revised amendment package and additional explanatory information (Administrative Record No. WY-11-15). OSM solicited public comment on the resubmission in a September 7, 1989, notice in the *Federal Register* (54 FR 37128). This comment period closed on October 10, 1989.

#### III. Director's Findings and Decision

As submitted on August 21, 1989, the proposed Wyoming amendment would establish criteria and procedures under which last-cut highwalls or portions thereof could be retained in modified form as bluffs when beneficial to wildlife. The operator would be required to demonstrate, as verified by the State Game and Fish Department, that the bluff would functionally replace wildlife habitat or other environmental values which otherwise would be lost to mining. Bluffs also would be allowed if they would substantially increase wildlife habitat above premining levels or if they would significantly enhance other environmental values.

The State's arguments for approval center on the fact that, in the Northern Great Plains, lack of topographical diversity is a critical factor limiting many wildlife populations, especially raptors. Mining destroys the existing diversity provided by natural features such as incised streambeds and badlands, and, because of their erosionally unstable nature, it is usually both impracticable and undesirable to restore such features in their premining form. Substitute features such as rock piles and artificial raptor nesting platforms have proven to be of limited value in terms of function, aesthetics and permanence. Under these conditions, the State argues, requiring the elimination of all vestiges of highwalls seriously diminishes SMCRA's wildlife protection provisions by limiting the extent to which diverse landforms and the resultant biological diversity can be created or replaced.

The Director agrees that, under certain conditions, highwall remnants could restore or enhance premining wildlife habitat and related environmental values. However, after extensive review of the proposal and analysis of the comments received from

the public, he cannot agree that these benefits provide a legal basis sufficient to override the statutory requirement to eliminate all highwalls and restore the approximate original contour (AOC). There is no support in SMCRA, its legislative history or the implementing Federal regulations for such an interpretation. (See the response to Comment No. 17, 44 FR 15228, March 13, 1979).

Section 515(b)(3) of SMCRA requires that an operator backfill and grade the mined area to "restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated." Although the Act authorizes several exemptions from the AOC restoration requirement, the language of each exemption also specifies that all highwalls must be eliminated (see paragraphs (b)(3), (c) and (e) of section 515). Where the two requirements are in conflict, i.e., where the premining topography includes sheer cliffs or bluffs, as is common in New Mexico's San Juan Basin, the Secretary previously determined that highwalls could be retained only to the extent that they closely resemble premining features in both form and function (Finding 4(b), 45 FR 86464, December 31, 1980). Except for a narrow exemption for highwalls created prior to the effective date of SMCRA, the courts have repeatedly ruled that the highwall elimination requirement is a fundamental principle of SMCRA (In re Permanent Surface Mining Regulation Litigation, No. 79-1144, D.D.C. 1980, 1984, 1985; *NWF v. Hodel*, 839 F.2d 694 (D.C. Cir. 1988)).

The Director recognizes the potential benefits of the Wyoming proposal and the extensive efforts and sincere intentions of the parties involved in its preparation. However, for the reasons outlined above, he finds that it is less stringent than SMCRA and therefore cannot be approved. This decision shall not be construed as preventing the creation of bluffs when necessary to restore the approximate original contour, provided such bluffs closely resemble premining features in extent and function. Also, as discussed below, Wyoming already has authority under its existing program to accomplish the wildlife enhancement aspects of this proposal (absent the retention of highwalls) since such features would be limited in both extent and frequency of occurrence. All plans for the restoration and enhancement of fish, wildlife and related environmental values should be developed in consultation with the appropriate State and Federal agencies concerned with wildlife management

and, under the State program equivalents to 30 CFR 780.16(c) and 784.16(c), will have to be provided to the U.S. Fish and Wildlife Service for review upon request. By letter dated November 7, 1988, OSM has notified the State of the program changes needed to effect this review process.

The Director also recognizes, as stated in OSM Directive INE-26 ("Approximate Original Contour," Transmittal No. 338, May 26, 1987), that there likely will be some differences between the primining and postmining topography. The reclamation of any minesite must take into consideration and accommodate site-specific characteristics of the surrounding terrain and postmining land uses, with all highwalls eliminated in a manner that blends with the surrounding terrain. While the general surface configuration of the land must resemble that existing prior to mining, premining features, including rock outcrops, need not be restored in precisely the same form and location or to the same extent as they formerly existed. In addition, section 515(b)(3) of SMCRA authorizes variances from approximate original contour in situations involving thin or thick overburden, provided all highwalls are eliminated. Given the thickness of the coal seams found in Wyoming, such variances may be appropriate. Within these constraints, the Director encourages the creation of structural wildlife enhancement features.

#### *Effect of Director's Decision*

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, regardless of their status under State law, any changes to the Wyoming program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In his oversight of the Wyoming program, the Director will recognize only the statutes, regulations and other materials approved by OSM, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Wyoming of only such provisions.

#### **IV. Summary and Disposition of Comments**

As noted in the portion of this notice entitled "Submission of Proposed Amendment," the Director twice solicited comments from the public on

the adequacy of the proposed amendment. No public hearing was held because no one requested an opportunity to testify. Pursuant to 30 CFR 732.17(h)(11)(i), OSM also solicited comments on both versions of the proposal from various Federal agencies with an actual or potential interest in the Wyoming program.

The nature and disposition of all comments received are summarized below:

1. Most commenters, including the U.S. Soil Conservation Service and Bureau of Land Management, expressed support for the proposal, either repeating or amplifying upon the arguments advanced by the State as part of the submission. For the reasons set forth in his findings, the Director cannot concur that these arguments provide a legally sufficient basis for approval.

2. Several commenters urged approval on the basis that the practice could and would be restricted to Wyoming. SMCRA and the Federal regulations do not accord the Director this discretion. All decisions on program submittals must be based on a determination of whether or not the submittal is no less stringent than SMCRA and no less effective than the Federal regulations. Section 101(f) of the Act provides States with some latitude in developing regulations, but this latitude does not include a waiver of statutory requirements such as highwall elimination.

3. The Wyoming Chapter of The Wildlife Society recommended that applications for bluffs be evaluated to the target species and anticipated benefits. The Society also stated that across-the-board highwall retention is not always in the best interest of wildlife and that input on the design, size and final appearance of the highwall should be sought from appropriate regulatory agencies. Since the Director is disapproving the proposed amendment, these recommendations are now moot.

4. The Wyoming Game and Fish Department (WGFD) requested that the amendment be modified to require WGFD approval (not just review) of the bluff habitat design as a precondition to Department of Environmental Quality approval of the bluff application. Since the Director is disapproving the proposed amendment, this comment is now moot. However, he notes that, while the current Federal rules at 30 CFR 780.16 and 784.21 encourage WGFD involvement in the fish and wildlife aspects of permit application

preparation and review, they do not require prior WGFD approval.

5. The U.S. Fish and Wildlife Service (FWS) strongly supported the December 13, 1988, proposal since rockpiles, the chief wildlife enhancement alternative have proven unattractive as raptor nest sites; however, it prefers that rockpile construction also be encouraged to provide habitat for small mammals and birds. The FWS also states that bluff features should be permitted only in situations where they would maximize wildlife habitat and are designed to do so. The FWS reiterated this support in its comments on the August 21, 1989, resubmission, stating that the revisions addressed most of its concerns. However, it also encouraged additional emphasis on the creation of ledges, cavities, talus slopes and other microsite features. As noted in the findings, the Director agrees that the proposal offers significant potential wildlife habitat benefits; however, he cannot agree that this alone justifies approval. He remains committed to other structural and nonstructural means of habitat enhancement short of highwall retention.

6. The U.S. Forest Service supported the proposal, but requested that it be modified to specifically require that all proposed bluffs receive prior approval from the Federal land management agency where applicable. Since the Director is disapproving the proposal, this comment is now moot.

7. The Wyoming Wildlife Federation, originally a copetitioner for the State rule changes, reiterated its belief that the proposal is environmentally meritorious, but also stated that the Federation now finds it legally flawed. Specifically, it notes that the proposal:

- (a) Does not meet the highwall elimination requirements of SMCRA;
- (b) Could initiate destructive competition among States to lower standards not only for highwall elimination but also for other seemingly ironclad provisions of SMCRA;
- (c) Should be revised to clarify that bluffs are not appropriate mitigation measures in all cases, e.g., they cannot compensate for the loss of big game winter range; and
- (d) Lacks hard data on the likely effect of landform changes on wildlife in general.

As set forth in the findings, the Director is in general agreement with the Federation and he is disapproving the proposal.

8. The Powder River Basin Resource Council, after a cautiously favorable initial response, now opposes highwall retention in all cases except where it is

necessary for restoration of the approximate original contour. The Council also calls for an independent study of the potential effects of bluff creation on the regional ecology and expresses doubt as to the feasibility of bluff creation in the flat terrain of the Powder River Basin. (Arch Mineral Corporation's Seminole Mine experimental practice involved retention of a modified highwall remnant, but it is located in the Hanna Basin, a region with far different geology and topography.) Since the Director is disapproving the proposed amendment, this comment is now moot.

9. The Western Organization of Resource Councils (WORC) opposes the proposal as being inconsistent with SMCRA. WORC also objects to the lack of factual data or other supporting evidence for the statements Wyoming includes in its statement of justification. As an alternative to bluff creation, WORC suggests prohibiting mining of the relatively small areas of existing erosional features (chiefly badlands and incised streambeds) which are of exceptional value to wildlife. The organization is not opposed to some flexibility, but the current proposal would allow "too many highwalls to be left with too little regulatory control and too little justification."

In response, the Director notes that his disapproval of the proposed amendment renders this comment largely moot. However, with respect to the suggestion to prohibit mining of the erosional features valuable to wildlife, there is no statutory mandate to do so unless threatened or endangered species are present, the area cannot be reclaimed to applicable program standards, or the area has been designated as unsuitable for mining pursuant to the processes set forth in paragraphs (a) through (d) of section 522 of the Act. Otherwise, section 515(b)(24) of SMCRA requires only that adverse impacts on fish, wildlife and related environmental resources be minimized to the extent possible, using the best technology currently available.

10. The National Wildlife Federation stated that the proposal is flatly inconsistent with SMCRA. It suggested that wildlife habitat enhancement be achieved through other means such as increasing shrub stocking requirements. As set forth in the findings, the Director is disapproving the proposal to the extent that it would allow incomplete elimination of highwalls, and he is encouraging the State to pursue other means of wildlife habitat enhancement.

11. Congressman Morris Udall of Arizona opposed the proposed amendment as a violation of two of

SMCRA's basic requirements: Highwall elimination and restoration of approximate original contour. As stated in the findings, the Director agrees and is therefore disapproving the proposal to the extent that it would do so.

12. The following agencies expressed no opposition to approval based on a finding that the proposal did not conflict with any laws or regulations under their jurisdiction:

Mine Safety and Health Administration  
U.S. Environmental Protection Agency  
U.S. Geological Survey  
Wyoming State Historic Preservation Officer.

Dated: December 18, 1989.

Raymond L. Lowrie,  
Assistant Director, Western Field Operations.  
[FR Doc. 89-29915 Filed 12-22-89; 8:45 am]  
BILLING CODE 4310-05-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 110

[CGD14-89-01]

#### Anchorage Regulations; Apra Harbor, Guam, Mariana Islands

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Coast Guard proposes to:

a. Establish a second Apra Harbor special anchorage area northeast of Naval Anchorage B and south of Drydock Point.

b. Redefine the general anchorage at 33 CFR 110.238(a)(1) to exclude the existing special anchorage area presently found at 33 CFR 110.129a.

c. Update the description of all the general anchorages in 33 CFR 110.238(a) utilizing the World Geodetic System 1984 Datum (WGS 84) in lieu of the Guam 1963 Datum.

**DATES:** Comments must be received on or before February 26, 1990.

**ADDRESSES:** Comments should be mailed to USCG Marine Safety Office, 1026 Cabras Hwy., Suite 102, Piti, Guam 96925-4610. The comments and other materials referenced in this notice will be available for inspection and copying at the Marine Safety Office, Guam. Normal office hours are between 7 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to the Marine Safety Office, Guam.

**FOR FURTHER INFORMATION CONTACT:** LT Kenneth Parris, telephone (671) 477-3340 or FTS 550-7314.

#### SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD14-89-01) and the specific section of the proposal to which the comments apply, and give reasons for each comment.

The regulations may be changed in light of comments received. All comments received before the end of the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid in the rulemaking process.

#### Drafting Information

The drafters of this regulation are LT Kenneth Parris, project officer and CDR M. J. Williams, Jr., project attorney, Fourteenth Coast Guard District Legal Office, Honolulu, Hawaii.

#### Discussion of Proposed Regulations

The Marianas Yacht Club has requested that a second Apra Harbor special anchorage area be established. Members of the Marianas Yacht Club are the primary users of the existing Apra Harbor special anchorage area. The additional anchorage area is requested due to the movement of the club from the vicinity of the Mobil Oil Tank Farm on Cabras Island to Drydock Point. The new location is northeast of Naval Anchorage B south of Drydock Point. The exact location is described in the proposed regulation. The proposed special anchorage area will contain 50 mooring buoys. The anchorage area will be marked by 10 private aid to navigation daybeacons maintained by the Marianas Yacht Club. The area presently designated as an Apra Harbor special anchorage area will remain as presently configured. The proposed special anchorage area in the vicinity of Drydock Point will double the number of anchorages where boats less than 65 feet in length may anchor without showing lights or sounding signals. The Marianas Yacht Club has requested that a new special anchorage be established as soon as possible and that the existing special anchorage remain unchanged to benefit the boating public. The existing special anchorage area will now be described in § 110.129a(a). The proposed special anchorage area will be described in § 110.129a(b).

The general anchorage in 33 CFR 110.238(a)(1) will be redescribed to exclude the Apra Harbor Special Anchorage currently described at 33 CFR 110.129a. This change will correct an inconsistency between the designated special anchorage area (33 CFR 110.129a) and the general anchorage (33 CFR 110.238(a)(1)).

On July 8, 1989, the National Ocean Service issued an updated Apra Harbor Chart 81054 using World Geodetic System 1984 Datum (WGS 84). The anchorage descriptions in 33 CFR 110.238(a) are being revised to reflect the new charting datum.

This regulation is issued pursuant to 33 U.S.C. 471, 2030, 2035, and 2071 as set out in the authority citation for all of Part 110.

#### Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be minimal that a full regulatory evaluation is unnecessary. The users of the port of Guam fall into six main categories; Naval Combatants, Deep Draft Commercial Shipping, Commercial Fishing Vessels, Small Passenger Boats, Dive Boats and Pleasure Boats. Since the new special anchorage will not extend into a shipping channel, encompass commercial fishing grounds, diving, tourists, or pleasure boat areas there should be no adverse impact on harbor use. The proposed new special anchorage encompasses an area seldom transited by recreational boaters and never transited by Naval or commercial vessels. The new special anchorage does not encompass any existing naval or general anchorage areas. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

#### Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### List of Subjects in 33 CFR Part 110

Anchorage regulations.

#### Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 110 of Title 33, Code of Federal Regulations, as follows:

#### PART 110—[AMENDED]

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05-1(g). Sec. 110.1a and each section listed in 110.1a is also issued under 33 U.S.C. 1223 and 1231.

2. Section 110.129a is revised to read as follows:

#### § 110.129a Apra Harbor, Guam (Datum: WGS 84).

(a) The waters bounded by a line connecting the following points:

Latitude	Longitude
13°27'45.5" N	144°39'34.8" E
13°27'32.0" N	144°39'36.3" E

and thence along the shoreline to the point of beginning.

(b) The waters bounded by a line connecting the following points:

Latitude	Longitude
13°26'53.6" N	144°40'03.8" E
13°27'04.0" N	144°40'04.8" E
13°27'04.0" N	144°40'09.8" E
13°27'10.0" N	144°40'09.8" E
13°27'10.0" N	144°40'23.8" E
13°26'51.0" N	144°40'23.8" E
13°26'51.0" N	144°40'06.0" E

and thence to the point of beginning.

3. Section 110.238(a) is revised to read as follows:

#### § 110.238 Apra Harbor, Guam.

(a) The anchorage grounds (Datum: WGS 84). (1) General Anchorage. The waters bounded by a line connecting the following points:

Latitude	Longitude
13°27'32.0" N	144°39'36.8" E
13°27'21.0" N	144°39'22.8" E
13°27'12.5" N	144°39'25.4" E

and thence along the shoreline

13°27'45.5" N 144°39'34.8" E

and thence to the point of beginning.

(2) Explosives Anchorage 701. The water in Naval Anchorage A bounded by the arc of a circle with a radius of 350 yards and located at:

Latitude	Longitude
13°26'54.0" N	144°37'53.5" E

(3) Naval Explosives Anchorage 702. The waters in the General Anchorage bounded by the arc of a circle with a radius of 350 yards and with the center located at:

Latitude	Longitude
13°27'29.9" N	144°38'13.0" E

(4) Naval Anchorage A. The waters bounded by a line connecting the following points:

Latitude	Longitude
13°26'47.3" N	144°37'42.6" E
13°27'02.0" N	144°37'42.6" E
13°27'10.6" N	144°39'00.8" E
13°27'59.6" N	144°39'00.8" E
13°28'59.6" N	144°39'08.6" E
13°28'59.6" N	144°39'08.6" E
13°26'54.3" N	144°39'08.6" E
13°26'54.3" N	144°39'24.2" E
13°26'42.2" N	144°39'24.2" E
13°26'40.4" N	144°38'01.8" E

and thence to the point of beginning.

(5) Naval Anchorage B. The waters bounded by a line connecting the following points:

Latitude	Longitude
13°26'43.7" N	144°39'53.3" E
13°26'53.6" N	144°40'03.8" E
13°26'51.0" N	144°40'06.0" E
13°26'41.0" N	144°39'56.0" E

and thence along the shoreline to the point of beginning.

\* Dated: December 12, 1989.

W.P. Kozlovsky,

Rear Admiral, U.S. Coast Guard Commander,  
14th Coast Guard District.

[FR Doc. 89-29754 Filed 12-22-89; 8:45 am]

BILLING CODE 4910-14-M

#### 33 CFR Part 117

[CGD8-89-13]

#### Drawbridge Operation Regulations; Gulf Intracoastal Waterway, LA

AGENCY: U.S. Coast Guard, DOT.

ACTION: Proposed rule.

**SUMMARY:** At the request of the Louisiana Department of Transportation and Development, the Coast Guard is considering a change to the regulation governing the operation of the swing span bridge on State Route 319 over the Gulf Intracoastal Waterway, mile 134.0, near Cypremort, St. Mary Parish, Louisiana, by permitting the draw to remain closed to navigation from 6:55 to 7:25 a.m. and 3:50 to 4:20 p.m. Presently the draw is permitted to remain closed to navigation from 6:55 to 7:10 a.m. and 3:50 to 4:05 p.m. Monday through Friday, except holidays, from 15 August to 5 June. The draw opens on signal at all other times. This proposal is being made to further aid school bus traffic during the school year, and the increased vehicular traffic to the nearby recreational area at Cypremort Point State Park during the non-school season. This proposed 30-minute closure in the morning and afternoon should accommodate the needs of vehicular traffic and still provide for the reasonable needs of navigation.

**DATE:** Comments must be received on or before February 9, 1990.

**ADDRESS:** Comments should be mailed to Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130-3396. The comments and other materials referenced in this notice will be available for inspection and copying in room 1115 at this address. Normal office hours are between 8:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

**FOR FURTHER INFORMATION CONTACT:** John Wachter, Bridge Administration Branch, at the address given above, telephone (504) 589-2965.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. This proposed regulation may be changed in the light of comments received.

#### Drafting Information

The drafters of this notice are John Wachter, project officer, and Commander J. A. Unzicker, project attorney.

#### Discussion of Proposed Regulation

Vertical clearance of the bridge in the closed position is 4 feet above mean high water. Navigation through the bridge consists of all types of recreation traffic including outboard and inboard powered vessels, large and small, and an occasional sailing vessel. Commercial traffic on the waterway includes considerable barge traffic transporting petroleum products, chemicals, cement, shells, manufactured industrial goods, and miscellaneous food products. Vessel operators should be able to easily adjust their speed and arrival time at the bridge to avoid the 30-minute closure periods and thereby avoid any need to stand by the bridge to await an opening.

#### Federal Implications

This action has been analyzed in accordance with the principles and

criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulation policies and procedures (44 FR 11034: February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that the duration of the proposed closures is so minimal that vessels can easily schedule passages to avoid the proposed 30-minute closures. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Proposed Regulation

In consideration of the foregoing, the foregoing, the Coast Guard proposes to amend part 117 of Title 33, Code of Federal Regulations, as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Section 117.451 is revised to read as follows:

#### § 117.451 Gulf Intracoastal Waterway

\* \* \* \* \*

(d) The draw of the SR319 (Louisa) bridge across the Gulf Intracoastal Waterway, mile 134.0 near Cypremort, shall open on signal; except that, the draw need not open from 6:55 to 7:25 a.m. and from 3:50 to 4:20 p.m.

\* \* \* \* \*

Dated: 1 December 1989.

W. F. Merlin,  
Rear Admiral, U.S. Coast Guard Commander,  
Eighth Coast Guard District.

[FR Doc. 89-29822 Filed 12-22-89; 8:45 am]

BILLING CODE 4910-14-M

#### FEDERAL EMERGENCY MANAGEMENT AGENCY

#### 44 CFR Part 67

[Docket No. FEMA-6977]

#### Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed modified base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

**DATES:** The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** See table below.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency gives notice of the proposed determinations of modified base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed modified elevations will also be used to calculate the appropriate flood insurance premium rates for new

buildings and their contents and for the second layer of insurance on existing buildings and their contents. Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the District, Federal Emergency Management Agency, hereby certifies that the proposed modified flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section

1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribed how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new

requirement; or itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Food insurance, Floodplains.

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Alabama	City of Demopolis, Marengo County.	Whitfield Canal	About 535 feet downstream of U.S. Highway 80.	None	*148
		Falling Creek	About 1650 feet upstream of U.S. Highway 80....	None	*157
			About 4.2 miles upstream of mouth.....	None	*150
		Tombigbee River	About 4.7 miles upstream of mouth.....	None	*154
Just upstream of Demopolis Lock and Dam .....	*92		*94		
		About 1.5 miles upstream of confluence of Whitfield Canal.	*93	*95	

Maps available for inspection at the City Hall, Demopolis, Alabama.

Send comments to The Honorable Austin Caldwell, Mayor, City of Demopolis, City Hall, P.O. Box 580, Demopolis, Alabama 36732.

Colorado	City of Aurora Adams and Arapahoe Counties.	West Toll Gate Creek	Just upstream of East Mexico Avenue.....	*5,501	*5,501
			At the confluence with Cherry Creek Spillway Drain.	*5,508	*5,507
			At the confluence with West Toll Gate Tributary.	*5,522	*5,519
			Just upstream of Buckley Road .....	*5,530	*5,530
		West Toll Gate Tributary.....	Approximately 500 feet upstream of the confluence with West Toll Gate Creek.	*5,525	*5,520
		Cherry Creek Spillway Drain.....	At East Iliff Avenue .....	*5,536	*5,536
			At the confluence with West Toll Gate Creek.....	*5,508	*5,507
	At East Iliff Avenue .....	*5,555	*5,555		

Maps available for review at the City Engineering Department, 1470 South Havana Street, Aurora, Colorado

Send comments to The Honorable Paul Tauer, Mayor, City of Aurora, 1470 South Havana Street, Aurora, Colorado 80012.

Colorado	City and County of Denver.	Cherry Creek	Approximately 500 feet upstream of Centennial Footbridge.	*5,179	*5,180
			Upstream side of Burlington Northern Railroad Bridge, approximately 1,740 feet downstream of Blake Street Bridge.	*5,181	*5,181
			Lakewood Gulch	Approximately 350 feet downstream of Canosa Court.	*5,195
		Lakewood Gulch Overflow	Upstream side of Canosa Court.....	*5,199	*5,199
			At mouth, downstream of Associated Railroad Bridge.	*5,195	*5,197
			Approximately 430 feet downstream of Decatur Street.	*5,199	*5,199
			Harvard Gulch	At mouth.....	None
		West Harvard Gulch	At mouth.....	*5,259	*5,260
			Approximately 430 feet upstream of mouth.....	*5,264	*5,264
		Sanderson Gulch	At mouth.....	*5,239	*5,241
			Approximately 390 feet upstream of mouth.....	*5,244	*5,244
		South Platte River	Approximately 570 feet downstream of Franklin Street Bridge.	None	*5,137
			Downstream side of Franklin Street Bridge.....	None	*5,141
			Downstream side of westbound exit from Interstate Highway 70 Bridge.	None	*5,149
			Approximately 170 feet upstream of East 38th Street Bridge.	None	*5,152
			Approximately 150 feet upstream of East 31st Street Bridge.	None	*5,157
			Upstream side of Fox Street Viaduct.....	None	*5,164
			Upstream side of West 20th Street Viaduct.....	None	*5,170
			Downstream side of westbound Speer Boulevard.	None	*5,183

## PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Centerline of northbound Interstate Highway 25 Bridge.	None	*5,191
			Upstream side of West 13th Avenue Bridge.....	None	*5,198
			Upstream side of eastbound West 6th Avenue Bridge.	None	*5,207
			Upstream side of West Alameda Avenue Bridge.	None	*5,223
			Downstream side of West Mississippi Avenue Bridge.	None	*5,235
			Upstream side of West Florida Avenue Bridge....	None	*5,242
			Upstream side of West Evans Avenue Bridge.....	None	*5,254
			Approximately 1,550 feet downstream of centerline of West Dartmouth Avenue Bridge.	None	*5,263
		South Platte River, West Bank Split Flow (56th Avenue upstream to 47th Avenue).	Just upstream of Franklin Street.....	None	*5,131
			At East 51st Avenue.....	None	*5,138
			At Platte River Drive West.....	None	*5,139
			At Pennsylvania Street.....	None	*5,145
		South Platte River, West Bank Split Flow (West Jewell Avenue upstream to West Iliff Avenue).	At West Evans Avenue.....	None	*5,252
			Along Kalamath Street, approximately 250 feet upstream of West Warren Avenue.	None	*5,253
			Approximately 400 feet upstream of West Iliff Avenue.	None	*5,254
		South Platte River, East Bank Split Flow (Lawrence Street upstream to 8th Avenue).	At Lawrence Street.....	None	*5,191
			At Colfax Avenue.....	None	*5,192
			At West 14th Avenue.....	None	*5,193
			At West 12th Avenue.....	None	*5,196
			Intersection of Wyandot Street and West 8th Avenue.	None	*5,201
		Weir Gulch.....	Approximately 500 feet downstream of West Alameda Avenue.	*5,325	*5,325
			Approximately 220 feet upstream of West Alameda Avenue.	*5,344	*5,333
			Approximately 120 feet downstream of West Virginia Avenue.	*5,344	*5,340
			Approximately 200 feet downstream of West Custer Place.	*5,354	*5,348
			Approximately 120 feet upstream of South Wolff Street.	*5,357	*5,355
			Approximately 370 feet downstream of Sheridan Boulevard.	*5,361	*5,363
			At Sheridan Boulevard.....	*5,374	*5,374

Maps are available for review at the Department of Public Works, Wastewater Management Division, City and County of Denver, 3840 York Street, Building G, Denver, Colorado.

Send comments to the Honorable Federico Pena, Mayor, City and County of Denver, 1437 Bannock, Denver, Colorado.

Georgia.....	Unincorporated Areas of Cherokee County.	Little River.....	About 800 feet upstream of confluence of Rocky Creek.	*885	*88
			About 0.89 mile upstream of confluence of Rocky Creek.	*888	*890
			About 1.16 miles upstream of confluence of Rocky Creek.	*891	*891
		Rocky Creek.....	About 1,400 feet upstream of mouth.....	*884	*884
			About 900 feet downstream of Cox Road.....	*888	*885
			About 1,400 feet upstream of Cox Road.....	*894	*894

Maps available for inspection at the Cherokee County Planning Commission, 140 North Street, Canton Georgia.

Send comments to The Honorable Gene Hobgood, County Commissioner, Cherokee County, 100 North Street, Canton, Georgia 30114.

Louisiana.....	Iberia Parish Unincorporated Areas.	Vermilion Bay.....	South of the Southern-Pacific Railroad, east of State Route 329 and west of State Route 83.	None	*9
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Maps available for inspection at the Iberia Parish Government Building, 300 Iberia Street, Suite 400, New Iberia, Louisiana.

Send comments to The Honorable Craig F. Romero President of the Iberia Parish Council, 300 Iberia Street, Suite 400, New Iberia, Louisiana 70560-4587.

Missouri.....	City of Brentwood, St. Louis County.	Deer Creek.....	At confluence of Black Creek.....	*450	*451
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## PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			About 1750 feet upstream of Brentwood Boulevard.	*456	*459
			About 3000 feet upstream of Brentwood Boulevard.	*461	*461
		Black Creek.....	At confluence with Deer Creek .....	*450	451
			Just downstream of Swim Club Road .....	*462	*455
			About 500 feet upstream of Agnes Avenue .....	*467	*464
Maps available for inspection at the City Planning Office, City Hall, 2348 South Brentwood Boulevard, Brentwood, Missouri.					
Send comments to The Honorable Karen Kinz, Mayor, City of Brentwood, City Hall, 2348 South Brentwood Boulevard, Brentwood, Missouri 63144.					
Missouri.....	City of Clayton, St. Louis County.	Black Creek.....	Just downstream of Clayton Road.....	*485	*483
			Just upstream of Clayton Road.....	*488	*488
			About 650 feet upstream of Wenlou Drive.....	*496	*497
Maps available for inspection at the City Hall, 10 North Beameston, Clayton, Missouri.					
Send comments to The Honorable Hugh Scott, Mayor, City of Clayton, 10 North Beameston, Clayton, Missouri 63105.					
Missouri.....	City of Kansas City, Clay, Platte, and Jackson Counties.	Little Blue River.....	About 300 feet downstream of Lees Summit Road.	*784	*773
			Just downstream of Little Blue Road.....	*797	*787
			Just downstream of Longview Lake Dam.....	*824	*809
		White Oak Creek.....	At mouth.....	*808	*798
			About 0.6 mile upstream of Military Club Road....	*808	*798
		Little Cedar Creek.....	At mouth.....	*800	*792
			About 950 feet upstream of Rhinehart Road.....	*800	*792
		Brush Creek.....	Just downstream of Troost Avenue.....	*809	*809
			About 300 feet upstream of Troost Avenue.....	*813	*818
			At Kansas City Public Service .....	*829	*829
		Indian Creek.....	Just downstream of 99th Street.....	*800	*800
			About 550 feet downstream of Wornall Road.....	*807	*809
			Just upstream of Wornall Road.....	*813	*817
			About 2500 feet upstream of 103rd Street.....	*830	*830
Maps available for inspection at the Department of Development Assistance Division, 414 East 12th Street, Kansas City, Missouri.					
Send comments to the Honorable Richard L. Berkley, Mayor, City of Kansas City, City Hall, 414 East 12th Street, Kansas City, Missouri 64106.					
Missouri.....	City of Ladue, St. Louis County.	Deer Creek.....	About 350 feet downstream of Rock Hill Road...	*471	*471
			Just downstream of Log Cabin Lane.....	*483	*487
			Just downstream of Lindberg Boulevard.....	*517	*518
		Two Mile Creek.....	At confluence with Deer Creek .....	*472	*476
			About 3700 feet upstream of Warson Road.....	*508	*514
		Black Creek.....	About 800 feet downstream of Wenlou Drive .....	*490	*489
			About 600 feet upstream of confluence of Country Club Drainage.	*504	*507
		Sebago Drainage.....	At confluence with Deer Creek .....	*471	*472
			Just downstream of Old Warson Road.....	*472	*474
			Just upstream of Old Warson.....	*482	*480
			About 700 feet upstream of Old Warson Road...	*483	*484
Maps available for inspection at the Building Department, 9345 Clayton Road, Ladue, Missouri.					
Send comments to the Honorable Edith J. Spink, Mayor, City of Ladue, City Hall, 9345 Clayton Road, Ladue, Missouri 63124.					
Missouri.....	City of Maplewood, St. Louis County.	Deer Creek.....	About 650 feet downstream of Burlington Northern Railroad.	*432	*434
			About 350 feet downstream of Burlington Northern Railroad.	*433	*436
			At confluence of Black Creek.....	*448	*451
		Black Creek.....	Within community .....	*451	*451
		Hampton Branch.....	At confluence with Black Creek .....	*450	*451
			About 1100 feet upstream of confluence of Black Creek.	*458	*452
			Just downstream of West Bruno Avenue.....	*464	*462
		Claytonia Creek.....	At confluence with Hampton Branch.....	*459	*458
			Just downstream of West Bruno Avenue.....	*464	*460
Maps available for inspection at the City Hall, 7601 Manchester, Maplewood, Missouri.					
Send comments to The Honorable Andrew Hummert, Mayor, City of Maplewood, City Hall, 7601 Manchester, Maplewood, Missouri 63143.					
Missouri.....	City of Richmond Heights, St. Louis County.	Black Creek.....	About 3000 feet downstream of Clayton Road....	*476	*472
			Just downstream of Clayton Road.....	*486	*485

## PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
<p>Maps available for inspection at the Building Department, 1330 South Big Bend, Richmond Heights, Missouri. Send comments to The Honorable James Fingers, Mayor, City of Richmond Heights, 1330 South Big Bend, Richmond Heights, Missouri 63117.</p>					
Missouri	City of Rock Hill, St. Louis County.	Deer Creek	About 850 feet downstream of Manchester Road.	*461	*460
			About 1050 feet upstream of Manchester Road..	*464	*466
			Just upstream of McKnight Road.....	*471	*471
		Sebago Drainage	Just downstream of confluence of Warson Woods Creek.	*483	*483
			At confluence of Warson Woods Creek.....	*483	*484
<p>Maps available for inspection at the City Hall, 9620 Manchester Road, Rock Hill, Missouri. Send comments to The Honorable Jesse Stroup, Mayor, City of Rock Hill, City Hall, 9620 Manchester Road, Rock Hill, Missouri 63119.</p>					
Missouri	City of Webster Groves, St. Louis County.	Just upstream of Big Bend Boulevard.	*443 .....	*445	
			About 1600 feet upstream of confluence of Shady Grove Creek.	*456	*459
		About 2700 feet upstream of confluence of Shady Grove Creek.	*460	*460	
		Shady Grove Creek	At confluence with Deer Creek .....	*454	*455
			Just upstream of Kirham Avenue.....	*465	*463
			Just downstream of North Rock Hill Road .....	*505	*505
<p>Maps available for inspection at the Office of Public Works, City Hall, 4E. Blackwood, Webster Groves, Missouri. Send comments to The Honorable Glenn Sheffield, Mayor, City of Webster Groves, City Hall, 4E. Blackwood, Webster Groves, Missouri 63119.</p>					
Montana	Carbon County Unincorporated Areas.	Approximately 3,400 feet downstream of Meeteetse Foot Bridge.	none .....	*5630	
			Approximately 300 feet upstream of confluence with West Fork.	None	*5760
			Approximately 950 feet downstream of confluence of Rock Creek Ditch.	None	*5850
			Approximately 250 feet downstream of confluence of Wapel Ditch.		
			Approximately 5,880 feet upstream of Piney Dell Foot Bridge.	None	*6258
<p>Maps available for review at the Carbon County Courthouse Annex, 5 East Ninth Street, Red Lodge, Montana. Send comments to The Honorable Mona Nutting, Chairwoman, Carbon County Board of Commissioners, County Courthouse, P.O. Box 879, Red Lodge, Montana 59068.</p>					
North Carolina	Unincorporated Area of Pitt County.	Tar River	About 1.1 miles downstream of confluence of Bear Creek.	None	*10
			About 5.1 miles upstream of confluence of Chicod Creek.	*15	*18
			About 4.1 miles upstream of confluence of Kitten Creek.	None	*33
		Middle Swamp Creek	At mouth .....	None	*44
			About 2.32 miles upstream of U.S. Route 13.....	None	*60
		Contentnea Creek.....	At mouth .....	None	*20
		Little Contentnea Creek	At confluence of Little Contentnea Creek.....	None	*30
			At mouth .....	None	*30
		About 1.0 mile upstream of County Route 1233..	None	*88	
<p>Maps available for inspection at the Engineering Department, 1717 West 5th Street, Greenville, North Carolina. Send comments to The Honorable Eugene James, Chairman, Board of Commissioners, Pitt County, 1717 West 5th Street, Greenville, North Carolina 27834.</p>					
Oklahoma	Oklahoma City, City Canadian, Oklahoma, Cleveland, McClain, Pottawatomie Counties.	Brush Creek of Dry Creek	Approximately 0.44 mile upstream of confluence with Dry Creek of Bluff Creek.	*1,115	*1,114
			Approximately 20 feet downstream of May Avenue.	*1,138	*1,137
		Mustang Creek Tributary 1	Approximately 150 feet upstream of the confluence of Mustang Creek Tributary 1 West Branch.	*1,274	*1,273
			At downstream side of Southwest 59th Street.....	*1,288	*1,289
<p>Maps available for inspection at the City Hall, 200 North Walker, Oklahoma City, Oklahoma. Send comments to The Honorable Ronald J. Norick, Mayor of the City of Oklahoma City, Canadian, Oklahoma, Cleveland, McClain, and Pottawatomie Counties, 200 North Walker, Oklahoma City, Oklahoma 73102.</p>					
Tennessee	City of Red Bank, Hamilton County.	Stringers Branch	Just downstream of Signal Mountain Road.....	None	*659
			Just downstream of State Route 29 Spur.....	*660	*660

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Just upstream of State Route 29 Spur.....	*663	*667
			About 300 feet upstream of Leawood Avenue.....	*739	*738
<p>Maps available for inspection at the City Manager Office, 3117 Dayton Boulevard, P.O. Box 15069, Red Bank, Tennessee.                      Send comments to the Honorable Ronnie E. Moore, Mayor, City of Red Bank, 3117 Dayton Boulevard, P.O. Box 15069, Red Bank, Tennessee 37415.</p>					
Texas.....	Deer Park City, Harris County.	Tributary 1.78 to Willow Springs Bayou (B112-02-00).	Approximately 1,600 feet upstream of Canada Street.	*24	*25
			Approximately .4 mile upstream of Pasadena Boulevard.	*26	*27
		Tucker Bayou.....	Approximately 1,700 feet downstream of Tidal Road.	*11	*12
		Patrick Bayou.....	Approximately .5 mile upstream of Tidal Road ....	*11	*12
			Approximately 1.5 mile downstream of State Route 225.	*11	*12
<p>Maps available for inspection at 710 E. St. Augustine, Deer Park, Texas.                      Send comments to The Honorable Jimmy Burke, Mayor of the City of Deer Park, Harris County, P.O. Box 700, Deer Park, Texas 77536.</p>					
Texas.....	Denton County Unincorporated Areas.	Elm Fork Trinity River.....	Approximately 3.3 miles upstream of the confluence of Dudley Branch.	None	*454
			Approximately 3.9 miles upstream of the confluence of Dudley Branch.	None	*456
		Denton Creek.....	Approximately 0.6 mile upstream of downstream corporate limits.	*470	*469
		Dudley Branch.....	At County boundary .....	*472	*471
			At the confluence with the Elm Fork Trinity River.	*451	*452
			Approximately 600 feet downstream of the upstream corporate limits.		
			*473 .....	*474	
		Indian Creek.....	Approximately 2.2 miles upstream of the confluence with the Elm Fork of the Trinity River.	None	*460
<p>Maps available for inspection at the Courthouse on the Square, 110 West Hickory, Denton, Texas.                      Send comments to The Honorable Vick Burgess, Denton County Judge, 110 West Hickory, Denton, Texas 76201.</p>					
Texas.....	Fort Bend County Municipal Utility District No. 41.	Red Gully.....	At the downstream corporate limits.....	*82	*80
			At upstream corporate.....	*82	*81
<p>Maps available for inspection at the Fort Bend County Courthouse, Richmond, Texas.                      Send comments to The Honorable Gay Hudson, President of the Board of Directors of the District, c/o Schwarz, Page, &amp; Harding, 1300 Post Oak Boulevard, Suite 1400, Houston, Texas 77058.</p>					
Texas.....	Fort Bend County Unincorporated Areas.	Red Gully.....	Approximately 300 feet above confluence with Oyster Creek.	*79	*78
			Approximately 3,400 feet downstream of FM 1464.	*83	*82
<p>Maps available for inspection at the County Engineer's Office, 3403 Avenue F, Rosenberg, Texas.                      Send comments to The Honorable Jodie E. Stavinoha, Fort Bend County Judge, P.O. Box 368, Richmond, Texas 77469.</p>					
Texas.....	Harris County Unincorporated Areas.	Brays Bayou (D100-00-00).....	At the Southern Pacific Railroad.....	*80	*81
			Approximately 1,100 feet upstream of Addicks Clodine Road.....	*87	*86
		Tributary 29.16 to Brays Bayou (D132-00-00).	At confluence with Brays Bayou (D100-00-00)...	*84	*85
		Greens Bayou (P100-00-00)....	At Southern Pacific Railroad.....	*84	*85
			Approximately 400 feet upstream of Tidwell Road.	*36	*35
			Approximately 70 feet upstream of Millbridge Road.	None	*130
		Stream P155-00-00.....	At confluence with Greens Bayou (P100-00-00).	None	*79
			Approximately 1.4 miles upstream of confluence with Greens Bayou (P100-00-00).	None	*79
		Stream P156-00-00.....	At confluence with Greens Bayou (P100-00-00).	None	*82

## PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 1.2 miles upstream of confluence with Greens Bayou (P100-00-00).	None	*82
		North Fork Greens Bayou (P145-00-00).	Approximately 650 feet upstream of Ranking Road.	*92	*94
			Approximately 1,900 upstream of Ranking Road.	*93	*94
		Tributary 32.23 to Greens Bayou (P146-00-00).	at the confluence with Greens Bayou (P100-00-00).	*93	*95
			Approximately 1,900 feet upstream of the confluence with Greens Bayou (P100-00-00).	*94	*95
		Tributary 34.60 to Greens Bayou (P148-00-00).	At the confluence with Greens Bayou (P100-00-00).	*101	*103
			Approximately 300 feet upstream of confluence with Greens Bayou (P100-00-00).	*102	*103
		Tributary 26.64 to Greens Bayou (P140-00-00).	At the downstream side of Aldin-Westfield Road.	*82	*86
			Approximately 1,500 feet upstream of Farrell Road.	None	*99
		Halls Bayou (P118-00-00).....	Approximately 200 feet upstream of Little York Road.	*62	*61
			At Mosielee Road.....	*100	*102
		Turkey Creek (A118-00-00).....	Approximately 1,350 feet upstream of Beamer Road.	*26	*27
			At the upstream corporate limit.....	*31	*30
		Halls Road Ditch (A120-00-00).	Approximately 2,200 feet downstream of Kingspoint Road.	*37	*38
		Cypress Creek (K100-00-00).....	At the downstream side of House Hahl Road.....	*148	*149
			Approximately 1.4 miles upstream of the confluence of channel (K159-00-00).	*152	*153
		Channel A (K159-00-00).....	At the confluence with Cypress Creek (100-00-00).	None	*150
			Approximately 1,300 feet upstream of Mason Road.	None	*155
		Channel D (K159-01-00).....	At the confluence with Channel A (K159-00-00).	None	*153
			Approximately 0.9 mile upstream of the confluence with Channel A (K159-00-00).	None	*165
		Tributary 37.1 to Cypress Creek (K152-00-00).	Approximately 1,300 feet upstream of confluence with Cypress Creek (K100-00-00).	*150	*149
			Approximately 1.2 miles upstream of the confluence with Cypress Creek (K100-00-00).	*155	*154
		Dry Creek (K145-99-00).....	Approximately 550 feet upstream of Jarvis Road.	*143	*142
			Approximately 300 feet downstream of Mueschke Road.	*156	*155
		Garners Bayou (P130-00-00).....	Approximately 500 feet upstream of confluence of Williams Gully (P130-02-00).	*57	*58
			At downstream side of Old Humble Road.....	*65	*66
		Tributary 3.19 to Garners Bayou (P130-03-00).	At the confluence with Garners Bayou (P130-00-00).	*61	*62
			Approximately 1,300 feet upstream of the confluence with Garners Bayou (P130-00-00).	*61	*62
		Taylor Gully (G103-80.1).....	At Hamblen Road.....	None	*65
			Approximately 0.5 mile upstream of Rustling Elvis Drive.	None	*72
		Turkey Creek (K111-00-00).....	Approximately 0.9 mile upstream of the confluence with Cypress.	*77	*76
			Approximately 1,300 feet upstream of North Vista Road.	*105	*106
		Langham Creek (U100-00-00).	Approximately 1,000 feet downstream of Addicks-Satsuma Road.	*111	*108
			Approximately 1.2 miles upstream of West Little York Road.	*118	*117
		Horsepen Creek (U106-00-00).	At the confluence with Langham Creek (U100-00-00).	None	*107
			Approximately 2.4 miles upstream of State Route 6.	*138	*137
		Tributary 10.08 to Clear Creek (A111-00-00).	At the upstream side of 2nd crossing of Forest Park Cemetery Road.	*12	*11
			Approximately 0.8 mile upstream of Jasmine Road.	*24	*25
		Big Island Slough (B106-00-00).	Approximately 1,400 feet downstream of Southern Pacific Railroad.	None	*16
			Approximately 2,000 feet upstream of Southern Pacific Railroad.	None	*17

## PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
		East Fork San Jacinto River .....	Approximately 2,000 feet downstream of the confluence with Orton Gully (just upstream of the Harris-Montgomery County boundary). Approximately 1.6 miles upstream of the confluence of Orton Gully.	None	*74
				None	*78
Maps available for inspection at 301 Main Street, Houston, Texas.					
Send comments to The Honorable Jon Lindsay, Harris County Judge, 1001 Preston Avenue—9th Floor, Houston, Texas 77002.					
Texas .....	Houston, City Harris County.	Turkey Creek (A-119-00-00)....	Just upstream of Ryewater Drive .....	*29	*30
			Approximately 400 feet downstream of Sage-downs Lane.	*31	*30
		Halls Road Ditch (A-120-00-00).	At Hall Road.....	*36	*35
		Garners Bayou (P-130-00-00).	Approximately 400 feet downstream of Fuqua.....	*40	*41
			Just downstream of U.S. Route 59.....	*75	*76
			Approximately 400 feet upstream of west feeder of U.S. Route 59.	*78	*77
		Spring Branch (W140-00-00) ...	Approximately .7 mile upstream of Lee Road .....	*89	*88
			Approximately 150 feet upstream of Long Point Road.	*80	*79
		North Fork Greens Bayou (P145-00-00).	At Campbell Road.....	*85	*81
			At the confluence with Greens Bayou.....	*92	*94
			Approximately 2,850 feet upstream of Rankin Road.	*93	*94
		Brays Bayou (D100-00-00).....	Approximately 1,200 feet upstream of confluence with Buffalo Bayou.	*13	*12
			Approximately 1.07 mile upstream of Eldridge Road.	None	*83
		Tributary 26.20 to Brays Bayou (D129-00-00).	At confluence with Brays Bayou .....	*79	*80
			Approximately 1,200 feet upstream of Piping Rock.	None	*85
		Greens Bayou (P100-00-00) ...	Approximately 800 feet upstream of confluence of Tributary 26.64 to Greens Bayou.	*75	*74
			Approximately 400 feet upstream of Northborough Drive.	*93	*95
		Halls Bayou (P118-00-00) .....	Approximately 200 feet upstream of F.M. 527 .....	*34	*33
			Approximately .4 mile upstream of Sunnywood Street.	None	*85
		Tributary 19.77 to Brays Bayou.	At confluence with Brays Bayou .....	*66	*69
		Tributary 20.88 to Brays Bayou.	Upstream side of South Gessner Road .....	*68	*69
			At confluence with Brays Bayou .....	*68	*70
		Tributary 20.90 to Brays Bayou.	Approximately 100 feet downstream of Beechnut Street.	*69	*70
			At confluence with Brays Bayou .....	*68	*70
		Tributary 21.95 to Brays Bayou.	Approximately 1,300 feet upstream of Club Creek Drive.	*69	*70
			At confluence with Brays Bayou .....	*70	*72
		Tributary 22.69 to Brays Bayou (D124-00-00).	Approximately 200 feet upstream of Boone Road.	*71	*72
			At confluence with Brays Bayou .....	*72	*74
		Tributary 23.53 to Brays Bayou (D126-00-00).	Approximately 700 feet upstream of Southern Pacific Railroad.	*73	*74
		Reinhardt Bayou (P130-05-00).	At confluence with Brays Bayou .....	*73	*75
			At the confluence with Garners Bayou (P130-00-00).	*65	*67
			At approximately 100 feet downstream of Southern Pacific Railroad.	*66	*67
		Taylor Gully (G103-80-03.1)....	Approximately 400 feet upstream of confluence with White Oak Creek (G103-80-03.2).	*56	*57
			At Hamblen Road.....	None	*65
		Turkey Creek (K111-00-00).....	At F.M. 1960 .....	*83	*76
			At Aldine-Westfield Road .....	*86	*82
		Langham Creek (U100-00-00).	Approximately 4,400 feet downstream of the confluence with Horsepen Creek (U106-00-00).	*105	*106
			Approximately 1,000 feet downstream of Ad-dicks-Satsuma Road.	*111	*108
		Horsepen Creek (U106-00-00).	At the confluence with Langham Creek (U100-00-00).	*109	*107

## PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Just upstream of State Route 29 Spur.....	*663	*667
			About 300 feet upstream of Leawood Avenue.....	*739	*738
Maps available for inspection at the City Manager Office, 3117 Dayton Boulevard, P.O. Box 15069, Red Bank, Tennessee.					
Send comments to the Honorable Ronnie E. Moore, Mayor, City of Red Bank, 3117 Dayton Boulevard, P.O. Box 15069, Red Bank, Tennessee 37415.					
		Tributary 9.39 to Armand Bayou (B-111-00-00).	At the upstream corporate limit—300 feet upstream of Addicks Reservoir Boundary.	*110	*107
			Approximately 600 feet upstream of corporate limits.	*20	*19
			Approximately 1.3 miles upstream of corporate limits.	*28	*29
		Tributary 4.51 to Horsepen Bayou.	At confluence with Horsepen Bayou.....	*19	*18
			Approximately 1.4 miles upstream of confluence with Horsepen Bayou.	*21	*22
		Keegans Bayou (D118-00-00).	At the confluence with Brays Bayou (D100-00-00).	*64	*67
			Approximately 1,800 feet upstream of South Braeswood Boulevard.	*66	*67
		Fondren Diversion Channel (D140-00-00).	At the confluence with Brays Bayou (D100-00-00).	*61	*63
			Approximately 400 feet downstream of McLain Boulevard.	*62	*63
		Tributary 17.42 to Brays Bayou (D133-00-00).	At the confluence with Brays Bayou.....	*61	*63
			Approximately 400 feet upstream of Birdwood....	*62	*63
		Chimney Rock Diversion Channel (D139-00-00).	At the confluence with Brays Bayou.....	*56	*57
			Approximately 100 feet upstream of Willow Bend Boulevard.	*56	*57
		Willow Waterhole Bayou (D112-00-00).	At the confluence with Brays Bayou.....	*53	*54
			At the Willowbend Bayou Boulevard (west-bound).	*53	*54
Maps available for inspection at the Department of Public Works, 3500 City Hall Annex, Houston, Texas.					
Send comments to the Honorable Kathryn J. Whitmire, Mayor of the City of Houston, P.O. Box 1562, Houston, Texas 77251-1562.					
Texas.....	Humble, City, Harris County.	Reinhardt Bayou (P130-05-00).	At the confluence with Garners Bayou (P130-00-00).	*64	*67
			At the downstream of U.S. Route 59.....	*72	*70
		Garners Bayou (P130-00-00)....	At confluence of Reinhardt Bayou (P130-05-00).	*64	*67
			Approximately 200 feet downstream of East Feeder of U.S. Route 59.	*76	*75
		Tributary 0.55 to Tributary 3.19 to Garners Bayou (P130-03-01).	At Atascocita Road.....	*68	*67
			Approximately 1 mile upstream of Atascocita Road.	None	*81
Maps available for inspection at 114 West Higgins, Humble, Texas.					
Send comments to The Honorable James P. Baker, Manager of the City of Humble, Harris County, P.O. Box 1627, Humble, Texas 77338.					
Texas.....	Hunters Creek Village, City, Harris County.	Buffalo Bayou (W100-00-00)....	At downstream corporate limits.....	*59	*53
			Approximately 1,000 feet downstream of San Felipe Road	*63.....	*60
		Briar Branch (W140-01-00).....	At the downstream corporate limits.....	None	*52
			At the downstream side of Bingle Road.....	None	*54
		Tributary No. 1 to Buffalo Bayou.	At the confluence with Buffalo Bayou (W100-00-00).	*62	56
			Approximately 700 feet upstream of South Voss Road.	*62	*56
Maps available for inspection at the City Hall, 8333 Katy Freeway, Suite 112, Houston, Texas.					
Send comments to The Honorable Cebe Sue Barnett, Mayor of the City of Hunters Creek Village, Harris County, 8333 Katy Freeway, Suite 112, Hunters Creek Village, Texas 77024.					
Texas.....	Pasadena, City, Harris County.	Horsepen Bayou (B104-00-00).	Approximately 1.4 miles above the confluence with Armand Bayou (B100-00-00).	*14	*13
Maps available for inspection at the City Hall, 1211 E. Southmore, Pasadena, Texas.					
Send comments to The Honorable John Ray Harrison, Mayor of the City of Pasadena, Harris County, P.O. Box 672, Pasadena, Texas.					
Texas.....	Piney Point Village, City, Harris County.	Buffalo Bayou (W-100-00-00)....	Approximately 0.5 mile downstream of San Felipe Road.	*62	*59
Maps available for inspection at the City Hall, 7745 San Felipe, Suite 101, Houston, Texas.					
Send comments to The Honorable A. Lee Smith, Mayor of the City of Piney Point Village, Harris County, 7745 San Felipe, Suite 101, Piney Point, Texas 77063-1616.					

## PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Texas	Spring Valley, City, Harris County.	Spring Branch.....	Approximately 200 feet downstream of Missouri-Kansas-Texas Railroad.	*58	*55
		Briar Branch.....	Approximately .4 mile upstream of Voss Road....	*7F	*76
			At upstream side of Bingle Road.....	*58	*54
			Approximately 300 feet upstream of Missouri Kansas-Texas Railroad.	*58	*57
Texas	Webster, City, Harris County.	Tributary 10.08 to Clear Creek (A100-00-00).	At the confluence with Clear Creek.....	*12	*11
			Approximately 1.1 miles upstream of F.M. 528....	*24	*23
		Cow Bayou.....	Approximately 500 feet upstream of F.M. 528....	*11	*12
		Clear Creek.....	Approximately 1,200 feet upstream of F.M. 528..	*11	*12
			At interstate Route 45 and U.S. Route 75.....	*12	*11
			At the upstream side of Union Pacific Railroad...	*12	*11
Wyoming.....	City of Laramie, Albany County.	Spring Creek.....	At confluence with Laramie River.....	*7,139	*7,139
			At Union Pacific Railroad.....	*7,149	*7,148
			At Ninth Street.....	*7,167	*7,165
			At Seventeenth Street.....	*7,185	*7,183
			At U.S. Highway 30 (Grand Avenue).....	*7,248	*7,247
			Approximately 6,550 feet upstream of U.S. Highway 30 (Grand Avenue), at east corporate limits.	*7,332	*7,332

Maps available for inspection at 1025 Campbell Road, Houston, Texas.

Send comments to The Honorable C. Robert Keeney, Mayor of the City of Spring Valley, Harris County, 1025 Campbell Road, Houston, Texas 77055.

Maps available for inspection at 311 Pennsylvania Avenue, Webster, Texas.

Send comments to The Honorable Dennis J. Waggett, Mayor of the City of Webster, Harris County, 311 Pennsylvania Avenue, Webster, Texas 77598.

Maps are available for review at the City's Engineering Department, 406 Iverson Street, Laramie, Wyoming.

Send comments to The Honorable R. Bruce Johnson, Mayor, City of Laramie, P.O. Box C, Laramie, Wyoming 82070.

Issued December 12, 1989.

Harold T. Duryee,  
Administrator, Federal Insurance  
Administration.

[FR Doc. 89-29874 Filed 12-22-89; 8:45 am]

BILLING CODE 6718-03-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 611

[Docket No. 91290-9290]

#### Fee Schedule for Foreign Fishing

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

**ACTION:** Proposed Rule.

**SUMMARY:** NOAA proposes the 1990 fee schedule for foreign vessels fishing in the exclusive economic zone (EEZ). This proposal is to adopt a fee schedule for species currently available for foreign fishing. Fees for these species would be identical to fees charged under schedules implemented in 1988 and 1989. Under these schedules, owners or operators of foreign vessels paid \$354 per fishing permit application. The poundage fees in foreign directed fisheries were assessed at 44.4% of the exvessel value of the species taken. No surcharge is proposed for the Fishing

Vessel and Gear Damage Compensation Fund. Comments are requested on this fee schedule proposal. This action complies with section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), 16 U.S.C. 1801 *et seq.*

**DATES:** Comments must be received by January 10, 1990.

**ADDRESSES:** Send comments to the Operations Support and Analysis Division, F/CM1, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910 or telex comments to telex no. 467856 US COM FISH CL Mark envelopes "Foreign Fees."

Copies of a regulatory impact review (RIR) related to the impact of fees set at the levels proposed are available at this address.

**FOR FURTHER INFORMATION CONTACT:** Alfred J. Bilik, 301-427-2337.

**SUPPLEMENTARY INFORMATION:** NOAA proposes a schedule of permit application and poundage fees consistent with section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) for fishing in 1990 by foreign vessels in the EEZ. Section 204(b)(10) requires that the fees recover costs of carrying out the purposes of the Magnuson Act which are attributed to foreign fishing. This schedule targets fee collections of about

\$2.2 million in 1990. No additional amounts are proposed to be collected under provisions of section 204(b)(10)(C). This paragraph requires that any fishing nation found to be harvesting anadromous species at a level that is unacceptable to the Secretary or failing to take sufficient action to benefit the conservation and development of the U.S. fisheries shall pay a higher rate of fees. The fee amounts are chosen for the reasons set forth below. NOAA has consulted with the Coast Guard and the Department of State (DOS) on this proposal. Neither agency has objected to its publication.

#### Background

Subparagraph 204(b)(10) of the Magnuson Act addresses the requirements for imposing fees on owners or operators of foreign vessels for fishing in the EEZ. These requirements relate to minimum amounts to be collected and have been described in notices of proposed fees for preceding years. (See, for example, 53 FR 44047, November 1, 1988.) Generally stated, the Magnuson Act requires that the Secretary of Commerce (Secretary) seek to recover a portion of the Federal costs for carrying out the purposes of the Magnuson Act (Magnuson Act costs), determined by the ratio of the foreign catch in the EEZ during the prior year to

the total catch in the EEZ and U.S. territorial waters. United States territorial waters are defined to include the U.S. Territorial Sea and marine internal waters.

Until 1988, NMFS compiled data, for determining the total Magnuson Act costs, by surveying all its field units, other NOAA units, and requesting similar cost data from the Coast Guard and the Department of State. The fee-setting process was changed in the 1989 fee schedule because allocations for directed fishing have been steadily reduced and now are less than two percent of the allocations for foreign fishing in the early 1980s. One result of these reductions is that virtually all foreign fisheries have been phased out of the EEZ and the fee burden now falls almost exclusively on the foreign Atlantic mackerel fishery. Joint ventures (whereby foreign vessels purchase fish such as mackerel at-sea from U.S. fishermen) are an integral part of foreign fishing operations in this fishery and costs of the foreign directed fishery may influence the ability of foreign owners and operators to purchase mackerel at-sea from U.S. fishermen at its current ex-vessel value. Fees set for directed fishing at prohibitively high levels could adversely affect U.S. fishermen engaged in joint ventures and U.S. opportunities to develop a mackerel fishery, for which markets exist only abroad. NOAA has therefore adopted a process designed to set fees which will recover approximately the amount of money estimated as the Federal portion of the Magnuson Act costs related to foreign fishing, but will mitigate the effects of fees on U.S. fisheries development.

Catch statistics indicate that the foreign catch in the EEZ was 1.1 percent of the total catch taken in the EEZ and U.S. territorial waters in 1988. The most recent estimates of the total Federal costs for carrying out the purposes of the Magnuson Act place the costs at under \$200 million. Under the formula contained in paragraph (B) of section 204(b)(10), the fee schedule should be designed to recover \$2.2 million to satisfy provisions of the Magnuson Act.

As noted earlier, only the Atlantic mackerel fishery is currently available for directed foreign fishing, although a possibility exists that a small directed fishing effort may be approved in the Bering Sea snail fishery. NOAA believes that a fee schedule which reasonably seeks to meet the required fee target without adversely affecting U.S. fishery development objectives in the only remaining foreign fishery is the best schedule. Current forecasts are that at least 24,000 metric tons (mt) of Atlantic

mackerel may be available for allocations for foreign fishing. If poundage fees are maintained at the level adopted in the 1988 and 1989 fee schedules, a foreign harvest of the 24,000 mt of Atlantic mackerel at \$68.43/mt would result in fee collections of about \$1.6 million. Mackerel fishing results in a limited bycatch of other species. NOAA has estimated that a directed fishery for 24,000 mt of Atlantic mackerel may result in a bycatch of about 13 percent of the mackerel caught, or 3,120 mt of other species. Assuming an average fee of \$150/mt for the bycatch species, NOAA estimates that an additional \$468,000 may be collected for the bycatch of other species in the mackerel fishery. Together, with application fees of \$129,000, the total expected fees for 1990 amount to \$2.239 million which is sufficiently close to the Magnuson Act fee target of \$2.2 million. Therefore, NOAA concludes that maintaining poundage fees at current levels results in a reasonable expectation of \$2.2 million in fee collections in 1990, an amount sufficient to meet the Magnuson Act objectives to recover costs and yet still promote development of U.S. fisheries.

#### The Fee Target

Based on the above, NOAA proposes that the permit application and poundage fees be maintained at their current levels and has initially determined that this fee target will satisfy requirements of section 204(b)(10) of the Magnuson Act.

#### Provisions of Subparagraph 204(b)(10)(C)

Subparagraph (C) of section 204(b)(10) requires higher fees for nations which meet criteria for such fees related to the taking of anadromous species of U.S. origin and to the conservation and development of U.S. fisheries. The higher fees are determined by assigning costs to foreign fishing as a portion of the total Magnuson Act costs determined by the ratio of the catch taken by foreign vessels in the EEZ to the total catch in the EEZ—that is, by removing the U.S. catch taken in U.S. territorial waters in the denominator of the ratio used in subparagraph (B). The "higher fee" ratio for 1988 is 1.8 percent and increases the costs attributed to foreign fishing to \$3.6 million, as compared to \$2.2 million under the provisions of subparagraph (B). Using the methods applied in prior years for calculating the incremental amount to be paid by nations meeting the above criteria, NOAA has determined that such nations would pay an incremental amount of 78 percent of their poundage

fees in addition to the poundage fees for fish caught by their vessels. However, as in FY 1988 and in FY 1989, NOAA has not found any nation meeting the conditions for paying higher fees. Therefore, no nation will be assessed the higher fees in 1990.

Lastly, NOAA proposes that the surcharge for the Fishing Vessel and Gear Damage Compensation Fund be effectively waived in 1990, at it was in 1988 and in 1989. It also removes poundage fees listed in Table 1. of § 611.22(b)(1) for fisheries in geographic regions in which allocations for foreign fishing are no longer made. This action is taken to avoid an inference that NOAA has recently determined ex-vessel values of those species.

#### Classification

NOAA prepared a regulatory impact review (RIR) for the 1988 fee schedule which discussed the economic consequences and impacts of that fee schedule and alternatives. Copies of the RIR are available at the above address. Based on that RIR, the Administrator, NOAA, determined that the 1988 fee schedule complied with the requirements of section 2 of E.O. 12291. Since the species fees proposed for 1989 were not changed, NOAA anticipated no new economic impacts. It has reached a similar conclusion for the 1990 schedule.

The General Counsel of the Department of Commerce has certified that the proposed fee schedule will not have significant economic impact upon a substantial number of small domestic entities for purposes of the Regulatory Flexibility Act, (U.S.C. 601 *et seq.*). Because the proposed fee schedule will not have a significant economic impact upon a substantial number of small domestic entities, a regulatory flexibility analysis is not required, and has not been prepared.

NOAA Directive 02-10 published at 45 FR 49312 (July 24, 1980) adopts internal procedures to implement the National Environmental Policy Act (NEPA), as amended, (U.S.C. 4321 *et seq.*). Under those procedures, programmatic functions with no potential for significant environmental impacts are generally excluded from NEPA requirements. The proposed fee schedule has no significant environmental impact on the fishery resources in the EEZ. At most, the fee schedule might affect the harvesting strategy of foreign fishing vessels and result in a different species mix being removed from the environment; however, the proposed schedule meets the criterion that fees should minimize

disruption of traditional fishing patterns on target species. The environmental impact of harvesting this very small TALFF is described in the fishery management plan for Squid, Butterfish and Mackerel. Consequently, no further environmental assessment is necessary.

This proposed rule has no information collection provisions covered by the Paperwork Reduction Act, (44 U.S.C. 3501, *et seq.*).

This proposed rule would not directly affect the coastal zone of any state with an approved Coastal Zone Management program. Neither does the proposed rule contain policies with federalism implications sufficient to warrant a federalism assessment under Executive Order 12612.

#### List of Subjects 50 CFR Part 611

Fish, Fisheries, Foreign Relations, Reporting and recordkeeping requirements.

Dated: December 20, 1989.

James E. Douglas, Jr.,

Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

For the reasons above, 50 CFR part 611 is proposed to be amended as follows:

#### PART 611—[AMENDED]

1. The authority citation for part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

#### § 611.22 [Amended]

2. Section 611.22(b)(1), (c) and (d) are revised as follows:

\* \* \* \* \*

(b) *Poundage fees.*—(1) *Rates.* If a nation chooses to accept an allocation, poundage fees must be paid at the rate specified in Table 1, plus the surcharge required by paragraph (d) of this section.

TABLE 1.—SPECIES AND POUNDAGE FEES

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fees
Northwest Atlantic Ocean fisheries:	
1. Butterfish.....	274.61
2. Hake, red.....	163.97
3. Hake, silver.....	174.63
4. Herring, river.....	61.76
5. Mackerel, Atlantic.....	68.43
6. Other groundfish.....	119.09
7. Squid, Illex.....	103.98
8. Squid, Loligo.....	245.73
Alaska fisheries:	
21. Snails.....	128.42

(c) *Incremental amount.* An additional incremental amount will be added to the poundage fee Bill for Collection for fish

harvested by a nation during the first quarter of the next fiscal year following notification under paragraph (10) (C) of section 204(b) of the Magnuson Act (16 U.S.C. 1824(b)(10)(C)). This incremental amount will be added to all subsequent quarterly bills until the quarter specified when the Assistant Administrator notifies that nation that it has taken appropriate corrective action. The incremental amount in 1990 will be 78.0 percent of the total poundage fee in each quarter during which this provision applies.

(d) *Surcharges.* The owner or operator of each foreign vessel who accepts and pays permit application or poundage fees under paragraphs (a) or (b) of this section must also pay a surcharge. The Assistant Administrator may reduce or waive the surcharge if it is determined that the Fishing Vessel and Gear Damage Compensation Fund is capitalized sufficiently. The Assistant Administrator also may increase the surcharge during the year to a maximum level of 20 percent, if needed, to maintain capitalization of the fund. The Assistant Administrator has effectively waived the surcharge on 1990 fees.

\* \* \* \* \*

[FR Doc. 89-29997 Filed 12-22-89; 8:45 am]

BILLING CODE 3510-22-M

# Notices

Federal Register

Vol. 54, No. 246

Tuesday, December 26, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Agricultural Stabilization and Conservation Service

#### Feed Grain Donations for the Pine Ridge Sioux Tribe Indian Reservation in South Dakota

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Pine Ridge Sioux Tribe Reservation in South Dakota has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Pine Ridge Sioux Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation (CCC) for livestock feed for such needy members of the Tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the Tribe to be acute distress areas and authorize the donation of feed grain owned by the CCC to livestock owners who are determined by the Bureau of Indian Affairs, United States Department of the Interior, to be needy members of the Tribe utilizing such lands. These donations by the CCC may commence upon December 15 and shall be made available through May 14, 1990, or such other date as may be stated in a notice issued by the USDA.

Signed at Washington, DC on December 15, 1989.

John A. Stevenson,

*Acting Administrator, Agricultural Stabilization and Conservation Service.*

[FR Doc. 89-29880 Filed 12-22-89; 8:45 am]

BILLING CODE 3410-05-M

## COMMISSION ON CIVIL RIGHTS

### Wisconsin Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 9:00 p.m., on January 17, 1990, at the Concourse Hotel, One West Dayton Street, Director Five Room, Madison, Wisconsin. The purpose of this meeting is to discuss current projects and to plan future activities for FY 1990.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, James L. Baughman, or Farella E. Robinson, Civil Rights Analyst of the Central Regional Division (816) 426-5253, (TDD 816/426-5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 19, 1989.

Melvin L. Jenkins,

*Acting Staff Director.*

[FR Doc. 89-29903 Filed 12-22-89; 8:45 am]

BILLING CODE 6335-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Marine Mammals: Withdrawal of Application; Geochemical and Environmental Research Group (P454)

On August 28, 1989, notice was published in the *Federal Register* (54 FR 35525) that an application had been filed by Dr. Bernd Wursig and Dr. Roger Fay,

Geochemical and Environmental Research Group for a permit to take right whales by harassment for scientific purposes.

Notice is hereby given that on November 3, 1989, the application was withdrawn and the withdrawal request has been acknowledged and accepted without prejudice by 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, Permit Division, National Marine Fisheries Service, 1335 East West Hwy., Suite 7324, Silver Spring, Maryland 20910; Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930; and Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, Florida 33702.

Dated: December 18, 1989.

Nancy Foster,

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 89-29835 Filed 12-22-89; 8:45 am]

BILLING CODE 3510-22-M

#### Marine Mammals; Permit Modification: Gulf World, Inc. (P160D)

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Public Display Permit No. 647 issued to Gulf World, Inc., on October 31, 1988, (53 FR 40115) is modified as follows:

Section B.7 is changed to read:

7. The authority to acquire the marine mammals authorized herein shall extend from the date of issuance through December 31, 1990. The terms and conditions of this Permit (Sections B and C) shall remain in effect as long as one of the marine mammals taken hereunder is maintained in captivity under the authority and responsibility of the Permit Holder.

This modification is effective upon publication in the *Federal Register*.

Documents submitted in connection with the above application are available for review 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, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: December 19, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 89-29833 Filed 12-22-89; 8:45 am]

BILLING CODE 3510-22-M

**Marine Mammals; Permit Modification; NMFS, Southwest Fisheries Center (P77 #33); Modification No. 1 to Permit No. 680**

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Scientific Research Permit No. 680 issued to NMFS, Southwest Fisheries Center, P.O. Box 271, La Jolla, California 92038-0271 on August 16, 1989 (54 FR 35221) is modified as follows:

The following is added to section A.1:

	Maximum total take
Spotted dolphin ( <i>Stenela attenuata</i> ) coastal form.....	240
Spinner dolphin ( <i>Stenella longirostris</i> ) Costa Rican form.....	240

This modification became effective on December 18, 1989.

Documents in connection with the above modification are available for review in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, Room 7324, Silver Spring, Maryland 20910; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 18, 1989.

Nancy Foster,

Director Office of Protected Resources and Habitat Programs, National Marine Fisheries Services.

[FR Doc. 89-29834 Filed 12-22-89; 8:45 am]

BILLING CODE 3510-22-M

**COMMISSION ON RAILROAD RETIREMENT REFORM**

**Meeting**

**ACTION:** Meeting.

**SUMMARY:** The Commission on Railroad Retirement Reform ("the Commission") will hold a meeting on Wednesday, January 10, 1990 in New York City. The Commission was established by Section 2101 of the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, enacted December 22, 1987.

**DATE, TIME, AND PLACE:** January 10, 1990, 9:30 a.m.-3:30 p.m., United States Court of International Trade (Ceremonial Courtroom), One Federal Plaza, New York, New York.

**AGENDA:** The topic of this open meeting is Commuter Railroads.

**FOR ADDITIONAL INFORMATION:** Contact Maureen Kiser, 202-254-3223, Commission on Railroad Retirement Reform, 1111 18th Street, NW., Washington, DC 20036.

**SUPPLEMENTARY INFORMATION:** See Federal Register, Volume 54 FR, No. 40, Thursday, March 2, 1989, Page 8856.

Kenneth J. Zoll,

Executive Director.

[FR Doc. 89-29841 Filed 12-22-89; 8:45 am]

BILLING CODE 6620-63-M

**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**Civilian Health and Medical Program of the Uniformed Services**

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Notice of revised rates.

**SUMMARY:** This notice provides the updated relative weights for the Pediatric-Modified Diagnosis-Related Groups (PM-DRGs) to be used for FY 1990 under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) DRG-based payment system.

**EFFECTIVE DATE:** The weights contained in this notice are effective for admissions occurring on or after April 1, 1989.

**ADDRESS:** Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045-6900.

For copies of the Federal Register containing this notice, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238

The charge for the Federal Register is \$1.50 for each issue payable by check or money order to the Superintendent of Documents.

**FOR FURTHER INFORMATION CONTACT:** Stephen E. Isaacson, Office of Program Development, OCHAMPUS, telephone (303) 361-4005.

To obtain copies of this document, see the "ADDRESS" section above. Questions regarding payment of specific claims under the CHAMPUS DRG-based payment system should be addressed to the appropriate CHAMPUS contractor

**SUPPLEMENTARY INFORMATION:** On October 10, 1989, we published a Notice of Revised Rates (54 FR 41487) for use in the CHAMPUS DRG-based payment system during FY 1990. In the notice we stated that we were calculating updated PM-DRG weights and would publish them within the next few weeks. In the meantime we would continue to use the PM-DRG weights which were published on March 22, 1989 (54 FR 11781). We have completed the calculations and this Notice provides the PM-DRG weights.

**I. Background**

We had sufficient data to calculate actual weights for 21 of the 34 PM-DRGs. For the remaining thirteen (13) PM-DRGs there was insufficient CHAMPUS data to calculate an updated weight. For three of these there was no previous weight, and we will continue to reimburse any claims which group to these PM-DRGs based on the billed charges.

For the remaining ten (10) RM-DRGs, there were previous weights. However, in light of the significant increases in the weights, we believe that the previous weights are unreasonably low, and it would be unfair to hospitals to continue to use them. The previous weights were derived from data provided by the National Association of Children's Hospitals and Related Institutions, and we believe that their relative weights are still reasonable vis-a-vis each other. Therefore, we have increased the ten remaining weights using a factor based on the 21 weights for which we have data. That factor is 1.9 and was calculated by taking the average of the increases for each of the 21 weights (weighted by the number of CHAMPUS admissions for each during the period October 1, 1988, through September 30, 1989.)

**II. Retroactive Adjustments**

As noted in Section I above, we believe that the previous PM-DRG weights are unreasonably low and that payments based on them were

inadequate. We have, therefore, directed our contractors to adjust all claims which were reimbursed using the previous PM-DRG weights. The adjustments will be made using the updated weights contained in this Notice. Hospitals which have received payments based on the previous weights will not be required to take any action—the necessary adjustments will be identified by our contractors.

### III. Updated Weights and Rates

Table 1 provides the weights to be used under the CHAMPUS DRG-based payment system for the PM-DRGs during FY 1990. Except for DRGs 600 and 601, the arithmetic and geometric mean lengths of stay and the outlier thresholds published on October 10, 1989, are to be used for the PM-DRGs. For DRG 600 the geometric mean length of stay is 1.0, and for DRG 601 is 1.7. There are no short-stay or long-stay outlier thresholds for either DRG 600 or DRG 601, since length of stay outliers are not applicable to either.

The implementing regulations for the CHAMPUS DRG-based payment system are in 32 CFR part 199.

Dated: 19 December 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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

TABLE 1.—CHAMPUS WEIGHTS FOR THE PEDIATRIC-MODIFIED DIAGNOSIS-RELATED GROUPS (PM-DRGs)

[Effective for admissions occurring on or after April 1, 1989.]

PM-DRG Number and description	CHAMPUS weight
600 Neonate, died within one day of birth.....	0.8230
601 Neonate, transferred <5 days old.....	0.3263
602 Neonate, birthweight <750G, discharged alive.....	4.5829
603 Neonate, birthweight <750G, died.....	*4.3188
604 Neonate, birthweight 750-899G, discharged alive.....	*11.5406
605 Neonate, birthweight 750-899G, died.....	*5.5550
606 Neonate, birthweight 1000-1499G, with signif OR proc, discharged alive.....	*11.1175
607 Neonate, birthweight 1000-1499G, w/o signif OR proc, discharged alive.....	9.3507
608 Neonate, birthweight 1000-1499G, died.....	*5.4745
609 Neonate, birthweight 1500-1999G, with signif OR proc, with multiple major problems.....	*9.0225
610 Neonate, birthweight 1500-1999G, with signif OR proc, w/o multiple major problems.....	*3.4367
611 Neonate, birthweight 1500-1999G, w/o signif OR proc, with multiple major problems.....	*4.0233

TABLE 1.—CHAMPUS WEIGHTS FOR THE PEDIATRIC-MODIFIED DIAGNOSIS-RELATED GROUPS (PM-DRGs)—Continued

[Effective for admissions occurring on or after April 1, 1989.]

PM-DRG Number and description	CHAMPUS weight
612 Neonate, birthweight 1500-1999G, w/o signif OR proc, with major problem.....	4.1964
613 Neonate, birthweight 1500-1999G, w/o signif OR proc, with minor problem.....	2.8576
614 Neonate, birthweight 1500-1999G, w/o signif OR proc, with other problems.....	1.5516
615 Neonate, birthweight 2000-2499G, with signif OR proc, with multiple major problems.....	*7.1921
616 Neonate, birthweight 2000-2499G, with signif OR proc, w/o multiple major problems.....	*2.2175
617 Neonate, birthweight 2000-2499G, w/o signif OR proc, with multiple major problems.....	3.6560
618 Neonate, birthweight 2000-2499G, w/o signif OR proc, with major problem.....	2.3660
619 Neonate, birthweight 2000-2499G, w/o signif OR proc, with minor problem.....	1.7632
620 Invalid DRG.....	
621 Neonate, birthweight 2000-2499G, w/o signif OR proc, with other problems.....	0.4689
622 Neonate, birthweight >2499G, with signif OR proc, with multiple major problems.....	7.9017
623 Neonate, birthweight >2499G, with signif OR proc, w/o multiple major problems.....	3.4935
624 Neonate, birthweight >2499G, with minor abdom proc.....	0.7756
625 No longer valid.....	
626 Neonate, birthweight >2499G, w/o signif OR proc, with multiple major problems.....	4.2322
627 Neonate, birthweight >2499G, w/o signif OR proc, with major problem.....	1.2595
628 Neonate, birthweight >2499G, w/o signif OR proc, with minor problem.....	0.6562
629 Invalid DRG.....	
630 Neonate, birthweight >2499G, w/o signif OR proc, with other problems.....	0.1930
631 BPD and other chronic respiratory diseases arising in perinatal period.....	3.9010
632 Other respiratory problems after birth.....	1.0482
633 Multiple, other and unspecified congenital anomalies, with CC.....	**
634 Multiple, other and unspecified congenital anomalies, w/o CC.....	**
635 Neonatal aftercare for weight gain.....	**
636 Neonatal diagnosis, age >28 days.....	3.2146

\* Calculated by multiplying previous weight by 1.9.  
\*\* Will be reimbursed based on billed charges.

[FR Doc. 89-29881 Filed 12-22-89; 8:45 am]

BILLING CODE 3810-01-M

### Department of the Navy

### Privacy Act of 1974; Delete and Amend Record Systems

AGENCY: Department of the Navy, DOD.

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

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

**DATES:** The proposed deletions will be effective on December 26, 1989. The proposed amendments will be effective without further notice on or before January 25, 1990, unless comments are received which would result in a contrary determination.

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

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

51 FR 12908 Apr. 16, 1986

51 FR 18086 May 16, 1986 (Compilation, changes follow)

51 FR 19684 Jun 3, 1986

51 FR 30377 Aug 26, 1986

51 FR 30393 Aug 26, 1986

51 FR 45931 Dec 23, 1986

52 FR 2147 Jan 20, 1987

52 FR 2149 Jan 20, 1987

52 FR 8500 Mar 18, 1987

52 FR 15530 Apr 29, 1987

52 FR 22671 Jun 15, 1987

52 FR 45846 Dec 2, 1987

53 FR 17240 May 16, 1988

53 FR 21512 Jun 8, 1988

53 FR 22028 Jun 13, 1988

53 FR 25363 Jul 6, 1988

53 FR 39499 Oct 7, 1988

53 FR 41224 Oct 20, 1988

54 FR 8322 Feb 28, 1989

54 FR 14377 Apr 11, 1989

54 FR 32682 Aug 9, 1989

54 FR 40160 Sep 29, 1989

54 FR 41495 Oct 10, 1989

54 FR 43453 Oct 25, 1989

54 FR 45781 Oct 31, 1989

54 FR 48131 Nov 21, 1989

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

Dated: December 19, 1989.

L.M. Bynum,  
Alternate OSD Federal Register Liaison  
Officer, Department of Defense.

**N01500-4**

**SYSTEM NAME:**

DODCI Student Record System, (51 FR 18111, May 16, 1986).

**REASON:**

This system is now under the cognizance of the Department of the Army (see A1021.01NDU; 54 FR 50268, December 5, 1989).

**N01500-5**

**SYSTEM NAME:**

DODCI Student/Faculty/Senior Staff Biography System, (51 FR 18111, May 16, 1986).

**REASON:**

This system is now under the cognizance of the Department of the Army (see A1021.02NDU; 54 FR 50269, December 5, 1989).

**N01500-6**

**SYSTEM NAME:**

DODCI Course Evaluation System, (51 FR 18112, May 16, 1986).

**REASON:**

This system is now under the cognizance of the Department of the Army (see A1021.03NDU; 54 FR 50270, December 5, 1989).

**N01500-7**

**SYSTEM NAME:**

DODCI Lecture-Instructor Inventory System, (51 FR 18113, May 16, 1986).

**REASON:**

This system is no longer needed.

**N01070-2**

**SYSTEM NAME:**

Naval Attache Files, (51 FR 18094, May 16, 1986).

**CHANGES:**

\* \* \* \* \*

**SYSTEM LOCATION:**

Delete the entire entry and substitute with "Chief of Naval Operations (OP-092L), The Pentagon, Washington, DC 20350-2000."

\* \* \* \* \*

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Delete the entire entry and substitute with National Security Act of 1974, as amended; 5 U.S.C. 301, Departmental

Regulations; 10 U.S.C. 503 and 6011; 44 U.S.C. 3101; E.O. 12356; and E.O. 9397.

\* \* \* \* \*

**SYSTEM MANAGER(S) AND ADDRESS:**

Delete the entire entry and substitute with "Chief of Naval Operations (OP-092L), The Pentagon, Washington, DC 20350-2000."

\* \* \* \* \*

**N01070-2**

**SYSTEM NAME:**

Naval Attache Files.

**SYSTEM LOCATION:**

Chief of Naval Operations (OP-092L), The Pentagon, Washington, DC 20350-2000.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

U.S. Navy and Marine Corps Officers nominated and/or assigned to duty in the Defense Attache System (DAS).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

File contains records concerning the service and personal history of officers nominated and/or assigned to duty in the DAS and their dependents.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

National Security Act of 1974, as amended; 5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 503 and 6011; 44 U.S.C. 3101; and E.O. 12356.

**PURPOSE(S):**

To determine suitability of personnel for security clearances and assignment to the Defense Attache System.

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

To the Department of State to determine suitability of personnel for security clearances and assignment to the Defense Attache System.

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

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

**STORAGE:**

Paper files in folders stored in standard General Services Administration safes.

**RETRIEVABILITY:**

Retrieved by name of officer.

**SAFEGUARDS:**

Records are stored in a controlled access area and are accessible only to a

very limited number of authorized personnel with proper security clearance and demonstrated need for access.

**RETENTION AND DISPOSAL:**

Records are opened on individuals when first nominated for attache duty and retained until six months after completion of attache duty and then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief of Naval Operations (OP-092L), The Pentagon, Washington, DC 20350-2000.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Chief of Naval Operations (Code OP-092L), The Pentagon, Washington, DC 20350-2000.

**RECORD ACCESS PROCEDURE:**

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Chief of Naval Operations (OP-092L), The Pentagon, Washington, DC 20350-2000.

The request should contain the full name and address of the subject individual.

**CONTESTING RECORD PROCEDURE:**

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

**RECORD SOURCE CATEGORIES:**

Data is gained from the subjects of the file, Naval Military Personnel Command and Headquarters Marine Corps files of subject's fitness reports, Defense Investigative Service/Naval Investigative Service (DIS/NIS) background investigations and other sources who are familiar with the subject.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Parts of this system may be exempt under 5 U.S.C. 552a(k)(1), as applicable. An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager.

N10140-2

**SYSTEM NAME:**

Privately-owned Tax-free Vehicle Record Cards, Tax-free Gasoline Record Cards, (51 FR 18207, May 16, 1986).

**CHANGES:**

\* \* \* \* \*

**SYSTEM LOCATION:**

In line two, after "UK", add "Box 60".

\* \* \* \* \*

**SAFEGUARDS:**

In line two, delete the words "Law Center personnel" and replace with "administrative (gasoline records) and security (vehicle records) personnel."

\* \* \* \* \*

**SYSTEM MANAGER(S) AND ADDRESS:**

In line two, delete "(Staff Judge Advocate)" and replace with ", Box 60, FPO New York 09510-5000".

**NOTIFICATION PROCEDURE:**

Delete the entire entry and substitute with "Individuals seeking to determine whether this system of records contains information about themselves should present a valid military identification card or Department of Defense identification card at the Administrative (gasoline records) or Security (vehicle records) Offices, U.S. Naval Activities, United Kingdom."

\* \* \* \* \*

N10140-2

**SYSTEM NAME:**

Privately-Owned Tax-free Vehicle Record Cards, Tax-free Gasoline Record Cards.

**SYSTEM LOCATION:**

Commander, U.S. Naval Activities, United Kingdom, Box 60, FPO New York 09510-5000.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Officers, enlisted and civilian component personnel.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Privately-owned tax-free vehicles and owners are entered on typewritten 5 x 8 cards, which are contained in boxes and maintained alphabetically. Gasoline coupon records are maintained on individually completed 5 x 8 cards (3AF Form 43) and filed alphabetically. I.D. windscreen stickers are registered in a log and show the name of the individual and the sticker number allocated.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

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

**PURPOSE(S):**

To establish strict control over persons entitled to acquire tax-free vehicles; to ensure entitled personnel do not obtain gasoline coupons in excess of their entitlement, and for inspection by officers of Her Majesty's Commissioners of Customs and Excise, United Kingdom, with whom the tax-free vehicle and gasoline program was originally negotiated by the U.S. military authorities. Accredited members of the Naval Investigative Service's Office may have access, upon request.

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

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

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

All vehicle and gasoline records are maintained on 5 x 8 cards. I.D. stickers are listed numerically in a register.

**RETRIEVABILITY:**

Retrieved by name.

**SAFEGUARDS:**

Records are stored in file cabinets in space maintained by administrative (gasoline records) and security (vehicle records) personnel. These cabinets are locked at the end of the day.

**RETENTION AND DISPOSAL:**

Records are maintained for duration of tour of personnel concerned. Once the vehicle is shipped out of the country or is scrapped, the records are destroyed. Gas coupon records are destroyed upon turn-in of unused coupons by departing personnel.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commander, U.S. Naval Activities, United Kingdom, Box 60, FPO New York 09510-5000.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether this system of records contains information about themselves should present a valid military identification card or Department of Defense identification card at the Administrative (gasoline records) or Security (vehicle records) Offices, U.S. Naval Activities, United Kingdom.

**RECORD ACCESS PROCEDURE:**

Individuals seeking access to records about themselves contained in this system of records should present a valid military identification card or Department of Defense identification card at the Administrative (gasoline records) or Security (vehicle records) Offices, U.S. Naval Activities, United Kingdom.

**CONTESTING RECORD PROCEDURE:**

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

**RECORD SOURCE CATEGORIES:**

Application by member.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

12771-2

**SYSTEM NAME:**

Employee Relations Including Discipline, Employee Grievances, Complaints, Etc., (51 FR 18217, May 16, 1986).

**CHANGES:**

\* \* \* \* \*

**SYSTEM LOCATION:**

Delete lines one and two in their entirety and substitute with "Office of Civilian Personnel Management (OCPM), OCPM Regional Offices and Naval Civilian Personnel Center (NCPC)."

In line three, delete "(NCPC), NCPC Field Divisions, \* \* \* \* \*".

\* \* \* \* \*

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

In paragraph two, line three, insert the word "Employment" after the word "Equal".

Add the following paragraph to the end of the entry "Note: Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and

under the circumstances expressly authorized in 42 U.S.C. 290dd-3 and 290ee-3. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The Department of the Navy's "Blanket Routine Uses" do not apply to these records."

\* \* \* \* \*

**SYSTEM MANAGER(S) AND ADDRESS:**

In lines one through three, delete "Chief of Naval Operations (OP-14), Department of the Navy, Washington, DC 20350" and substitute with "Office of Civilian Personnel Management, Department of the Navy, 800 North Quincy Street, Arlington, VA 22203-1998".

\* \* \* \* \*

**NOTIFICATION PROCEDURE:**

Delete the entire entry and substitute with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander/Commanding Officer of the activity where assigned; or to the Director, Office of Civilian Personnel Management, Department of the Navy, 800 North Quincy Street, Arlington, VA 22203-1998. For Marine Corps civilian personnel, the Commandant of the Marine Corps (Code M), HQS, U.S. Marine Corps (Arlington Annex), Washington, DC 20380-0001."

\* \* \* \* \*

**N12771-2**

**SYSTEM NAME:**

Employee Relations Including Discipline, Employee Grievances, Complaints, Etc.

**SYSTEM LOCATION:**

Office of Civilian Personnel Management (OCPM), OCPM Regional Offices and Naval Civilian Personnel Center (NCPC), Navy and Navy Staff Headquarters and Field Activities employing civilians, Commandant of the Marine Corps (Code MPC-30/HQSG), and Marine Corps Field Activities employing civilians. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Navy and Marine Corps civilian employees, paid from appropriated funds servicing under career, career-conditional, temporary and excepted service appointments on whom discipline, grievances, and complaints

records exist. Discrimination complaints of Navy and Marine Corps civilian employees, paid from appropriated and non-appropriated funds, applicants for employment and former employees in appropriated and non-appropriated positions. Appeals of Navy and Marine Corps civilian employees paid from appropriated funds. Filipino employees appeal case files (Filipinos who are lawfully admitted legal residents). Cases reviewed by Commander in Chief Pacific under Filipino Employment Policy Instructions.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information pertaining to discipline, grievances, complaints, and appeals. Management operation record system consisting of manual files maintained by immediate supervisors and high level managers concerning employee performance, capability, informal discipline, attendance leave and tardiness, work assignments, and similar work related employee records.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

E.O. 9830, Amending the Civil Service Rules and Providing for Federal Personnel Administration, amended by E.O. 10577; E.O. 12106; E.O. 12107; E.O. 12564 and 9397; 5 U.S.C. 1205, 1206, 1302, 3301, 3302, 7105, 7512, relevant portions of the Civil Service Reform Act, Pub. L. 95-454; 21 U.S.C. 812; Pub. L. 100-71; 42 U.S.C. 2000e-118 et. seq.; Equal Employment Opportunity Act of 1972; Pub. L. 93-259, amendment to the Fair Labor Standards Act, 29 U.S.C. 201, et. seq.; Age Discrimination and Employment Act, 29 U.S.C. 633a; the Rehabilitation Act of 1978 as amended, 29 U.S.C. 791 and 794a.

**PURPOSE(S):**

To manage civilian employee in the processing, administration, and adjudication of discipline, grievances, complaints, appeals, litigation, and program evaluation.

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

To representatives of the Office of Personnel Management on matters relating to the inspection, survey, audit, or evaluation of Navy and Marine Corps civilian personnel management programs or personnel actions, or such other matters under the jurisdiction of the Office of Personnel Management.

To appeals officers and complaints examiners of the Merit Systems Protection Board and Equal Employment Opportunity Commission for the purpose of conducting hearings in connection with employees appeals

from adverse actions and formal discrimination complaints.

To disclose information on any source from which additional information is requested in the course of processing a grievance or appeal to the extent necessary to identify the individual, to inform the source of the purpose(s) of the request, and identify the type of information requested.

To disclose information on any source from which additional information is requested in the course of processing a grievance or appeal to the extent necessary to identify the individual, to inform the source of the purpose(s) of the request, and identify the type of information requested.

To disclose information to a federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of an investigation of an individual, the classifying of jobs, the letting of a contract of the issuance of a license, grant, or other benefit by the requesting agency, to the extent the information is relevant and necessary.

To the National Archives and Records Administration in records management inspection conducted under authority of 5 U.S.C. 2904 and 2906.

To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in the pending judicial or administrative proceeding.

To officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

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

Note: Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd-3 and 290ee-3. These statutes take precedence over the Privacy act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The Department of the Navy's "Blanket Routine Uses" do not apply to these records.

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

File folders.

**RETRIEVABILITY:**

Filed by last name.

**SAFEGUARDS:**

All records are stored under strict control and are available only to authorized personnel having a need to know.

**RETENTION AND DISPOSAL:**

Records are retained for two years or destroyed upon separation of the employee, whichever is later.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Civilian Personnel Management, Department of the Navy, 800 North Quincy Street, Arlington, VA 22203-1998. For Marine Corps civilian personnel, the Commandant of the Marine Corps (Code M), HQS, U.S. Marine Corps (Arlington Annex), Washington, DC 20380-0001.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander/Commanding Officer of the activity assigned or to the Director, Office of Civilian Personnel Management, Department of the Navy, 800 North Quincy Street, Arlington, VA 22203-1998. For Marine Corps civilian personnel, the Commandant of the Marine Corps (Code M), HQS, U.S. Marine Corps (Arlington Annex), Washington, DC 20380-0001.

**RECORD ACCESS PROCEDURE:**

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commander/Commanding Officer of the activity assigned or to the Director, Office of Civilian Personnel Management, Department of the Navy, 800 North Quincy Street, Arlington, VA 22203-1998. For Marine Corps civilian personnel, the Commandant of the Marine Corps (Code M), HQS, U.S. Marine Corps (Arlington Annex), Washington, DC 20380-0001.

**CONTESTING RECORD PROCEDURE:**

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR

part 701; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Supervisors or other appointed officials designated for this purpose.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 89-29882 Filed 12-22-89; 8:45 am]

BILLING CODE 3810-01

**DEPARTMENT OF EDUCATION****Meeting of the National Board Subcommittee of the Fund for the Improvement of Postsecondary Education**

**AGENCY:** National Board Subcommittee of the Fund for the Improvement of Postsecondary Education.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the proposed agenda of a forthcoming meeting of the National Board Subcommittee of the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

**DATE:** January 26, 1990 beginning at 9:00 a.m. to January 26, 1990 at 5:00 p.m.

**ADDRESS:** U.S. Department of Education, 400 Maryland Avenue SW, Room 3000, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** Charles Karelis, Director, Fund for the Improvement of Postsecondary Education, 7th & D Streets SW, Washington, DC 20202 (202) 732-5750.

**SUPPLEMENTARY INFORMATION:** The National Board of the Fund for the Improvement of Postsecondary Education is established under section 1001 of the Higher Education Amendments of 1980, Title X (20 U.S.C. 1135a-1). The National Board of the Fund is authorized to recommend to the Director of the Fund and the Secretary of Education priorities for funding and approval or disapproval of grants of a given kind.

The meeting of the National Board Subcommittee will be open to the public. The proposed agenda will include:

—Final recommendations of the National Board Subcommittee's "Report on New Directions", which is to be submitted to the National Board at its March, 1990 meeting.

Records are kept of all Board Subcommittee proceedings, and are available for public inspection at the

office of the Fund for the Improvement of Postsecondary Education, Room 3100, Regional Office Building #3, 7th & D Streets SW, Washington, DC 20202 from the hours of 8:00 a.m. to 4:30 p.m.

**Leonard L. Haynes, III**

*Assistant Secretary for Postsecondary Education.*

[FR Doc. 89-29916 Filed 12-22-89; 8:45 am]

BILLING CODE 4000-01-M

**DEPARTMENT OF ENERGY****Intent to Negotiate a Grant with State of Alabama/Geological Survey of Alabama**

**AGENCY:** Bartlesville Project Office, DOE.

**ACTION:** Notice of intent to negotiate a grant with the state of Alabama/geological survey of Alabama (annex II).

**SUMMARY:** "Characterization of Sandstone Heterogeneity in Carboniferous Reservoirs for Increased Recovery of Oil and Gas From Foreland Basins." The U.S. Department of Energy (DOE), Bartlesville Project Office, through the DOE, Idaho Operations Office, intends to negotiate on a noncompetitive basis, a cost-share grant for approximately \$1.6M with the State of Alabama/Geological Survey of Alabama. The DOE cost-share is approximately \$0.8M. All technical and scientific aspects will be conducted by a Research Team consisting of the Geological Survey of Alabama (GSA), with the University of Alabama and Mississippi State University as subgrantees. The action is prompted by the consummation of Annex II to the Memorandum of Understanding between the DOE and the State of Alabama, which defines the research proposal and the participants, and specifies cost sharing. The grant will be used for augmenting the National Reservoir Database, characterizing oil and gas sandstone reservoirs heterogeneity, and increasing reservoirs of foreland basins. Specific objectives of this project are, (1) to augment the National Reservoir Database, (2) to increase our understanding of geologic heterogeneities that affect the recoveries of oil and gas from sandstone reservoirs in foreland basins, (3) to identify those resources in the State of Alabama and Mississippi that are producible at moderate cost, and (4) transfer the learned technologies to oil operators through publications and workshops. The major tasks of the effort include: (1) identification of vertical variations, lithofacies changes, and depositional

sequences in Carboniferous Strata, (2) identification of geologic and engineering characterization of Carboniferous sandstone lithofacies, (3) identification of geologic criteria important in recognizing sandstone reservoir heterogeneities, (4) tabulation of geologic and engineering data acquired, (5) development of reservoir exploitation approaches for strategic infill drilling, (6) evaluation of effectiveness of selected ongoing enhanced recovery projects in Carboniferous sandstone units, and (7) utilization of geostatistical models to determine optimal enhanced recovery operations and economic limits. The learned technologies will be transferred to oil operators through publications and workshops. The Research team will make available to this research project the facilities and software required for this project.

The authority and justification for determination of noncompetitive financial assistance (DNCFA) is DOE Financial Assistance Rules 10 CFR part 600.7(b)(2)(i), (B), (C) & (D). The activities proposed in Annex II to the agreement between the U.S. Department of Energy and the State of Alabama are in support of a public purpose and are as directed by the agreement. This activity would be conducted by the State of Alabama/Geological Survey of Alabama using their own resources, however, DOE support of the activity would enhance the public benefits to be derived by improving reservoir characterization and prediction. DOE knows of no other entity which is conducting or planning to conduct such an activity. The applicant is a unit of Government and the activity to be supported is related to performance of governmental functions within the subject jurisdiction, thereby precluding DOE provisions of support to another entity. The State of Alabama/Geological Survey of Alabama and the subgrantees have exclusive domestic capability to perform the activity successfully based on unique equipment, proprietary data, technical expertise or other such unique qualifications. The applicant's activities will be identified, structured and made available to developers, decision-makers, and researchers.

The grant term is for three years at an estimated value of \$1,590,000 which will be cost shared equally by DOE and the State of Alabama. Public response may be addressed to the contract specialist stated below.

**CONTACT:** U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402,

Trudy A. Thorne, Contract Specialist  
(208) 526-9519.

Dated: December 8, 1989.

J. Roger Gonzales,

Director, Contracts Management Division.

[FR Doc. 89-29885 Filed 12-22-89; 8:45 am]

BILLING CODE 6450-01-M

#### Award of a Cooperative Agreement, Noncompetitive Financial Assistance

**AGENCY:** Nevada Operations Office, DOE.

**ACTION:** Amendment to notice of noncompetitive financial assistance.

**SUMMARY:** As previously published in the Federal Register at 54 FR 30791, July 24, 1989 (FR Doc. 89-1725), DOE, Nevada Operations Office, announced that pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7(b)(2), it intends to award a cooperative agreement on a noncompetitive basis to the University of Nevada-Las Vegas, to facilitate participation in the Yucca Mountain repository program.

The Project Scope as originally published is amended to include at the end the following:

#### Project Scope

\* \* \* \* \*

UNLV will perform research in support of DOE development of a computerized Licensing Support System (LSS) based on OCR technology, as agreed to in negotiations with the NRC for licensing of a potential high-level nuclear waste repository at Yucca Mountain. The research will focus on enhancing existing technology in order to create faster, more efficient, and more effective software. UNLV will design, develop, and execute a research program aimed at increasing the efficiency of the LSS. This plan will be drafted in conjunction with DOE and its contractors to ensure that the focus of the research provides optimal benefits to the LSS. Examples of possible areas include reprocessing of text, improving recognition algorithms, intelligent automation of indexing processes, improving retrieval effectiveness, and researching hardware vs. software solutions to document searching.

The revised total estimated cost of this award is \$8,681,250 over the five year project period.

**FOR FURTHER INFORMATION, CONTACT:** U.S. Department of Energy, Nevada Operations Office, ATTN: Carl P. Gertz, P.O. Box 98518, Las Vegas, NV 89193-8518.

Issued in Las Vegas, Nevada on December 11, 1989.

Nick C. Aquilina,  
Manager.

[FR Doc. 89-29884 Filed 12-22-89; 8:45 am]

BILLING CODE 6450-01-M

#### Office of Fossil Energy

#### Availability of Draft Copies of the Hydrocarbon Geoscience Research Strategy and the Federal Oil and Gas Research Program Implementation Plan

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of availability of draft copies of the Hydrocarbon Geoscience Research Strategy and the Federal Oil and Gas Research Program Implementation Plan for review and comment.

**SUMMARY:** On December 29, 1989, DOE will make available upon request draft copies of the Hydrocarbon Geoscience Research Strategy and the Federal Oil and Gas Research Program Implementation Plan, which identifies proposed research activities in these resource areas for the near-, mid-, and long term.

**DATE:** Comments must be received by the individual indicated below no later than 4:30 p.m. local time, Washington, DC on February 10, 1990.

**CONTACT:** Copies of or information on the draft strategy and implementation plan may be obtained by writing or calling: Mr. Charles Blackburn, FE-1, Department of Energy, Fossil Energy, 1000 Independence Ave., SW., 4G-064, Washington, DC 20585, (202) 586-7751.

A copy of each will be available for public review at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, December 18, 1989.

Michael R. McElwrath,

Acting Assistant Secretary, Fossil Energy.

[FR Doc. 89-29886 Filed 12-22-89; 8:45 am]

BILLING CODE 6540-01-M

[FE Docket No. 89-19-NG]

#### Wisconsin Power and Light Co.; Order Granting Long-Term and Blanket Authorization to Import Natural Gas from Canada

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of an order granting long-term and blanket authorization to import natural gas from Canada.

**SUMMARY:** The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Wisconsin Power and Light (WPL) long-term and blanket authorization to import natural gas from Canada. The order authorizes WPL to import up to 10,718 McF per day of natural gas from TransCanada PipeLines, Limited, commencing on the date of first delivery and continuing through October 31, 1992. WPL is also granted blanket authorization beginning on the date of first delivery to import from Canada up to 100,000 Mcf of natural gas per day on the short-term, spot-market basis for a two-year period.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC., December 18, 1989.

Constance L. Buckley,

*Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.*

[FR Doc. 89-29887 Filed 12-22-89; 8:45 am]

BILLING CODE 6450-01-M

### Federal Energy Regulatory Commission

[Docket No. QF90-32-001]

#### Cyprus Silver Bay Power Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 18, 1989.

On December 4, 1989, Cyprus Silver Bay Power Corporation (Applicant), of P.O. Box 117, 10 Outer Drive, Silver Bay, Minnesota 55614, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located at Silver Bay, in Lake County, Minnesota. The facility consists of two boilers and two steam turbine generators. Thermal energy recovered from the facility is used for slurry heating for the production of taconite pellets and for space heating. The primary energy source of the facility is coal. The maximum net electric power

production capacity of the facility is 115 MW.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

*Secretary.*

[FR Doc. 89-29827 Filed 12-22-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-2002-001, et al.]

#### Iowa Public Service Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

##### 1. Iowa Public Service Company

[Docket No. CP89-2002-001]

December 15, 1989.

Take notice that on August 25, 1989, Iowa Public Service Company (IPS), 401 Douglas, P.O. Box 778, Sioux City, Iowa 51102, filed in Docket No. CP89-2002-000 an application requesting the Commission issue IPS a section 7(f) determination for a service area comprised of Union, Clay, Yankton<sup>1</sup> and Lincoln Counties of South Dakota. Take further notice that on December 11, 1989, IPS filed in Docket No. CP89-2002-001 an amendment to its request for a section 7(f) determination of a service area to include, in addition to the above mentioned counties of South Dakota, the area of Sioux City, Iowa, its environs and Woodbury County, Iowa, all as more fully set forth in the application and the amendment which is on file with the Commission and open to public inspection.

IPS also requests that the Commission make a determination that IPS qualifies as a local distribution company (LDC) in

<sup>1</sup> IPS supplemented its application, by letter filed September 18, 1989, stating that the county of Yankton, South Dakota, should be inserted in the Notice of Application dated August 31, 1989, in place of the County of Turner, South Dakota.

the area proposed as a section 7(f) service area.

IPS states that it owns and operates a pipeline which extends from Sioux City, Iowa, across the South Dakota border (Big Sioux River) providing natural gas service at retail to the communities of North Sioux City and McCook Lake in South Dakota. All the gas transported serves both residential and commercial customers and is not for resale. IPS indicates that it has one arrangement to sell gas for resale off the ANR Pipeline Company (ANR) system whereby it purchases gas from ANR for resale to Great River Gas Company.

*Comment date:* January 5, 1990 in accordance with Standard Paragraph F at the end of the notice.

##### 2. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP90-356-000]

December 12, 1989.

Take notice that on December 11, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP90-356-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Apache Corporation (Apache), a producer, under the blanket certificate issued in Docket No. CP86-435-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern states that pursuant to a transportation agreement dated October 6, 1989, under its Rate Schedule IT-1, it proposes to transport up to 200,000 MMBtu per day equivalent of natural gas for Apache. Northern states that it would transport the gas from multiple receipt points as shown in Appendix "A" of the transportation agreement and would deliver the gas to multiple delivery points also shown in Appendix "A" of the agreement. Northern also states that the proposed service may involve the compression of gas at its Fort Buford Compressor Station for delivery to Northern Border Pipeline Company for the account of Apache.

Northern advises that service under § 284.223(a) commenced October 6, 1989, as reported in Docket No. ST90-241 (filed October 26, 1989). Northern further advises that it would transport 150,000 MMBtu on an average day and 73,000,000 MMBtu annually.

*Comment date:* January 26, 1990 in accordance with Standard Paragraph G at the end of the notice.

### 3. Transwestern Pipeline Company

[Docket No. CP90-325-000]

December 12, 1989.

Take notice that on December 5, 1989, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP90-325-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 284.223) for authorization to transport gas on behalf of Cibola Corporation (Cibola), a marketer of natural gas, under Transwestern's blanket certificate issued in Docket No. CP88-133-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Transwestern proposes to transport on an interruptible basis up to 50,000 MMBtu of natural gas equivalent per day on behalf of Cibola pursuant to a transportation agreement dated July 26, 1989, between Transwestern and Cibola. Transwestern would receive the gas at existing delivery points in Arizona, Oklahoma, Texas and New Mexico and redeliver equivalent volumes at existing delivery points in Arizona, Texas, Oklahoma and New Mexico.

Transwestern states that the estimated average daily and annual quantities would be 37,500 MMBtu and 18,250,000 MMBtu, respectively. Service under § 284.223(a) commenced on October 12, 1989, as reported in Docket No. ST90-429-000, it is stated.

*Comment date:* January 26, 1990 in accordance with Standard Paragraph G at the end of the notice.

### 4. Natural Gas Pipeline Company of America

[Docket No. CP90-358-000]

December 12, 1989.

Take notice that on December 11, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP90-358-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas under its blanket authorization issued in Docket No. CP86-582-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Natural proposes to transport natural gas on an interruptible basis for Entrade

Corporation (Entrade), a marketer of natural gas, pursuant to a transportation service agreement dated September 15, 1989 (#IGP-2036). Natural proposes to transport on a peak day up to 200,000 MMBtu; on an average day up to 25,000 MMBtu; and on an annual basis 9,125,000 MMBtu of natural gas. Natural states that it may accept additional quantities as overrun gas as permitted by Rate Schedule ITS. Natural states that the receipt points would be located in New Mexico, Texas, Offshore Texas, Louisiana, Louisiana, Illinois, Kansas, Wyoming, Iowa and Nebraska. Natural states that the delivery points would be located in Texas, Offshore Texas, Louisiana, and Offshore Louisiana.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. Natural commenced such self-implementing service on October 4, 1989, as reported in Docket No. ST90-346-000.

*Comment date:* January 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

### 5. Transcontinental Gas Pipe Line Corporation

[Docket No. CP90-327-000]

December 12, 1989.

Take notice that on December 5, 1989, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP90-327-000 a request for authorization to transport gas for Union Pacific Resources Company (Shipper) under the prior notice procedure prescribed in § 157.205 and 284.223 of the Commission's Regulations and Transco's blanket certificate issued in CP88-328-000, all as more fully set forth in the request which is on file with the Commission and available for public inspection.

Transco states that the total volume of gas to be transported for Shipper on a peak day will be 1,418,000 dt; on an average day will be 100,000 dt; and on an annual basis will be 54,750,000 dt.

Transco states it will receive the gas at various existing receipt points in Offshore Texas. Transco will deliver the gas at various existing points in onshore Louisiana and onshore Texas.

Transco states that it will construct no new facilities in order to provide this transportation service. Transco will utilize facilities as reflected in Exhibit A of the transportation agreement. Shipper will be required to construct a ten inch pipeline, meter station and

appurtenances from its production sources in High Island Block 178, Offshore Texas, to an existing interconnect with Transco's 24 inch pipeline in High Island Block 178, Offshore Texas, at an approximate cost of \$550,000.

Transco states that there is no agency relationship under which a local distribution company or an affiliate or Shipper will receive gas on behalf of Shipper.

Transco states that service for Shipper commenced October 12, 1989, in Docket No. ST90-205, pursuant to the 120-day automatic provisions of § 284.223(a) of the Commission's Regulations.

*Comment date:* January 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

### 6. Empire State Pipeline

[Docket Nos. CP90-316-000 and CP90-317-000]

December 12, 1989.

Take notice that on December 4, 1989, Empire State Pipeline (Empire State), 500 Renaissance Center, Detroit, Michigan, 48243 has filed pursuant to Section 3 of the Natural Gas Act (NGA), 15 U.S.C. 717(b); § 153.1 *et seq* through 153.12 *et seq* of Commission's Regulations, 18 CFR 153.1 and 153.12; Executive Order No. 10485, as amended by Executive Order No. 12038; and Delegation Order No. 0204-112 of the Secretary of Energy, an application and a request for a Presidential Permit for authority for the siting, construction, connection, operation and maintenance of pipeline facilities at the international border between the United States and Canada. Such facilities will be used for the importation of natural gas into the United States. The natural gas which will be imported using these facilities will originate in the United States and Canada and will be purchased and shipped through Empire State by local distribution companies, end user and marketers of natural gas (known as shippers), all as more fully set forth in the request on file with the Commission and open for public inspection.

Empire State will construct these interconnection facilities under an agreement with TransCanada Pipelines Limited (TCPL). The pipeline facilities will interconnect with the facilities of TCPL under the Niagara River at the point of the international boundary between the United States and Canada, proximate to Grand Island, New York. The Empire State facilities will consist of 155 miles of 24 inch O.D. pipeline from the international border and will terminate in the vicinity of Syracuse, New York.

Empire State will transport gas for shippers for consumption in the State of New York. Empire State will not be a seller of gas and, therefore, will not be responsible for the purchase of natural gas. Empire State's shippers will determine the source or sources of natural gas to be transported by Empire State.

Since Empire State is not a purchaser of natural gas, the individual sellers and producers of the gas to be transported by Empire State are not known to Empire State, but will be the subject of separate filings to be submitted to the Department of Energy, Office of Fossil Energy.

*Comment date:* January 2, 1990, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

#### 7. United Gas Pipe Line Company

[Docket No. CP90-299-000]

December 12, 1989.

Take notice that on December 1, 1989, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-299-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide an interruptible transportation service for Laser Marketing Company (Laser), a marketer, under the blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7(c) of the Natural Gas Act. All as more fully set forth in the request which is on file with the Commission and open to public inspection.

United states that pursuant to a transportation service agreement dated December 21, 1988, as amended on March 2, 1989, March 31, 1989, and September 23, 1989, it proposes to receive up to 600,000 Mcf per day at specified points located in the states of Louisiana and Mississippi and redeliver the gas at other specified points located in the states of Louisiana and Mississippi. United estimates that the peak day and average day volumes would be 618,000 million Btu and that the annual volumes would be 225,570,000 million Btu. It is indicated that on October 5, 1989, United initiated a 120-day transportation service for Laser under § 284.223(a), as reported in Docket No. ST90-325-000.

United further states that no facilities need by constructed to implement the service. United states that the agreement would continue on a month-to-month basis until terminated. United proposes to charge rates and abide by

the terms and conditions of its Rate Schedule ITS.

*Comment date:* January 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

#### 8. ANR Pipeline Company

[Docket No. CP90-346-000]

December 12, 1989.

Take notice that on December 6, 1989, ANR Pipeline Company (ANR) 500 Renaissance Center, Detroit, Michigan 48243 filed in Docket No. CP89-2132-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Elf Acquitaine Operating, Inc. (Acquitaine), under the authorization issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR would perform the proposed interruptible transportation service for Acquitaine, pursuant to a transportation agreement dated September 22, 1989. The term of the transportation agreement is for an initial period of 120 days and thereafter until September 30, 1990, and shall continue in effect month-to-month thereafter unless terminated upon 30 days prior written notice. ANR proposes to transport on a peak day up to 50,000 dekatherm; on an average day up to 50,000 dekatherm; and on an annual basis 18,250,000 dekatherm of natural gas for Acquitaine. ANR states that it would receive the gas at ANR's existing points of receipt located in offshore Louisiana gathering area and redeliver the gas for the account of Acquitaine at existing interconnections located in Louisiana. It is alleged that Acquitaine would pay ANR the effective rate contained in ANR's Rate Schedule ITS and the applicable provisions of the General Terms and Conditions of ANR's FERC Gas Tariff, Original Volume No. 1-A. ANR avers that construction of facilities would not be required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self-implementing provision of § 284.223(a)(1) of the Commission's regulations. ANR commenced such self-implementing service on October 3, 1989, as reported in Docket No. ST90-375-000.

*Comment date:* January 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

#### 9. Transwestern Pipeline Company

[Docket No. CP90-307-000]

December 12, 1989.

Take notice that on December 1, 1989, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP90-307-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Mobil Natural Gas, Inc., (Shipper) under the blanket certificate issued in Docket No. CP88-133-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission.

Transwestern states that it proposes to transport up to 20,000 MMBtu of natural gas for Shipper on a peak day, 15,000 MMBtu on an average day, and 7,300,000 MMBtu annually, under Rate Schedule ITS-1. This service was reported to the Commission in Docket No. ST90-261-000. Transwestern further states that construction of facilities will be required to provide the proposed service.

*Comment date:* January 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

#### 10. Northern Natural Gas Company

[Docket No. CP90-329-000]

December 12, 1989.

Take notice that on December 5, 1989, Northern Natural Gas Company (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP90-329-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Enron Gas Marketing, Inc. (Shipper) under the blanket certificate issued in Docket No. CP88-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission.

Northern states that it proposes to transport up to 10,000 MMBtu of natural gas for Shipper on a peak day, 7,500 MMBtu on an average day, and 3,650,000 MMBtu annually, under Rate Schedule FT-1. This service was reported to the Commission in Docket No. ST90-436-000. Northern further states that construction of facilities will be required to provide the proposed service.

*Comment date:* January 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

**11. United Gas Pipe Line Company**

[Docket No. CP90-344-000]

December 12, 1989.

Take notice that on December 6, 1989, United Gas Pipe Line Company (United) <sup>1</sup> P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-344-000 a request pursuant to §§ 157.205 and 284.223 (18 CFR 157.205 and 284.223) of the Commission's Regulations under the Natural Gas Act for authority to provide interruptible transportation service for Citizens Gas Supply Corporation (Citizens), a marketer of natural gas, under United's blanket transportation certificate which was issued by Commission order on January 15, 1988, in Docket No. CP88-6-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United indicates that it will receive the gas from Citizens at various existing interconnections offshore Louisiana and deliver the gas for the account of Citizens at various interconnections in St. Mary and Ouachita Parishes, Louisiana. United will transport the gas pursuant to its Rate Schedule ITS.

United proposes to transport up to 116,547 MMBtu equivalent of gas on a peak and average day and approximately 42,539,655 MMBtu equivalent of gas annually. United indicates that the transportation service commended under the 120-day automatic authorization of § 284.223(a) of the Commission's Regulations on October 2, 1989, pursuant to a transportation agreement dated October 21, 1988, as amended September 18, 1989. United notified the Commission of the commencement of the transportation service on November 17, 1989, in Docket No. ST90-516-000.

*Comment date:* January 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

**12. United Gas Pipe Line Company**

[Docket No. CP90-342-000]

December 12, 1989.

Take notice that on December 6, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-342-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas on behalf of Phoenix Gas Pipeline Company (Phoenix), an intrastate pipeline, under its blanket authorization issued in Docket No. CP88-6-000 pursuant to

section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United would perform the proposed interruptible transportation service for Phoenix, pursuant to an interruptible transportation service agreement dated December 6, 1988, as amended on September 19, 1989 (Contract No. TI-21-2010). The transportation agreement is effective for a primary term of one month from the date of first delivery thereunder or such date that the parties mutually agree to terminate the agreement. The agreement shall continue for successive one month terms unless terminated by thirty days written notice by either party. United proposes to transport 103,000 MMBtu of natural gas on a peak and average day; and on an annual basis 37,595,000 MMBtu of natural gas for Phoenix. United proposes to receive the subject gas at existing points of interconnection located in the states of Alabama, Louisiana, Mississippi and Texas. Points of delivery are located in the states of Alabama, Florida, Louisiana, Mississippi and Texas. United avers that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self-implementing provision of § 284.223(a)(1) of the Commission's Regulations. United commenced such self-implementing service on October 2, 1989, as reported in Docket No. ST90-654-000.

*Comment date:* January 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

**13. K N Energy, Inc.**

[Docket No. CP90-322-000]

December 12, 1989.

Take notice that on December 5, 1989, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP90-322-000 a request pursuant to § 157.205(b) of the Commission's Regulations under the Natural Gas Act for authorization to provide interruptible transportation service for Eaton Corporation (Eaton) under its blanket certificate issued in Docket No. CP89-1043-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

K N proposes to transport a maximum daily quantity of 843 Mcf for Eaton and an estimated annual quantity of 307,695 Mcf. N K states that the transportation service commenced October 23, 1989,

under the 120-day automatic authorization of § 284.223(a) of the Commission's regulations as reported in Docket No. ST90-498-000.

*Comment date:* January 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

**14. See Robin Pipeline Company**

[Docket No. CP90-350-000]

December 12, 1989.

Take notice that on December 7, 1989, Sea Robin Pipeline Company (Sea Robin), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-350-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide interruptible transportation service for Cornerstone Production Corporation, a producer of natural gas, under Sea Robin's blanket certificate issued in Docket No. CP88-824 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and public inspection.

Sea Robin states that the interruptible gas transportation agreement T1-99-149, dated December 16, 1988, proposes to transport a maximum daily quantity of 103,000 MMBtu equivalent of natural gas for Cornerstone, and that service commenced on October 1, 1989, as reported in Docket No. ST90-935-000, pursuant to § 284.223(a) of the Commission's Regulations.

It is also stated that on an average basis, Sea Robin estimates a volume of 103,000 MMBtu equivalent of natural gas and on an annual basis 37,595,000 MMBtu equivalent of natural gas.

*Comment date:* January 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

**15. El Paso Natural Gas Company**

[Docket No. CP90-331-000]

December 13, 1989.

Take notice that on December 6, 1989, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed a request at Docket No. CP90-331-000, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide interruptible transportation service for Phillips 66 Natural Gas Company (Phillips), a gas marketer, under its blanket certificate issued at Docket No. CP88-433-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request for authorization on file with the Commission and open for public inspection.

<sup>1</sup> United supplemented the request on February 21, 1989 in Docket No. CP89-795-001.

Pursuant to a transportation agreement dated September 18, 1989, El Paso requests authority to transport up to 1,545 MMBtu of natural gas per day for Phillips. El Paso states that the agreement provides for it to receive the gas at a various existing points of receipt along its system and to redeliver the gas to an existing point of delivery in Andrews County, Texas. Phillips has informed El Paso that it expects to have only 1,236 MMBtu transported on an average day and, based thereon, El Paso estimates that 451,140 MMBtu would be transported annually. El Paso advises that the transportation service commenced on October 6, 1989, as reported at Docket No. ST90-233-000, pursuant to Section 284.223(a) of the Commission's Regulation.

*Comment date:* January 29, 1990, in accordance with Standard Paragraph G at the end of this notice.

#### 16. El Paso Natural Gas Company

[Docket No. CP90-332-000]

December 13, 1989.

Take notice that on December 6, 1989, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP90-332-000 a request pursuant to 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88-433-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

El Paso proposes to transport gas on an interruptible basis for Texaco Gas Marketing Inc. (Texaco). El Paso explains that service commenced November 1, 1989 under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90-544-000. El Paso further explains that the peak day quantity would be 2,060 MMBtu, the average daily quantity would be 1,030 MMBtu and that the annual quantity would be 375,950 MMBtu. El Paso explains that it would receive natural gas for the account of Texaco from any point of receipt on El Paso's system for redelivery to an existing delivery point in Maricopa County, Arizona.

*Comment date:* January 29, 1990, in accordance with Standard Paragraph G at the end of this notice.

#### 17. Williams Natural Gas Company

[Docket No. CP90-348-000]

December 13, 1989.

Take notice that on December 6, 1989, Williams Natural Gas Company (Williams), Post Office Box 3288, Tulsa,

Oklahoma 74101, filed in Docket No. CP90-348-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Amoco Production Company (Amoco), a producer, under Williams' blanket certificate issued in Docket No. CP86-631-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Williams proposes to transport on an interruptible basis up to 2,000,000 dt equivalent of natural gas on a peak day, 2,000,000 dt equivalent on an average day, and 730,000,000 dt equivalent on an annual basis for Amoco. Williams states that it would perform the transportation service for Amoco under Williams' Rate Schedule ITS. Williams indicates that it would receive the gas at various points in Kansas, Missouri, Oklahoma, Texas and Wyoming for delivery to various points in Kansas, Missouri, Oklahoma, Texas and Wyoming.

It is explained that the service commenced January 27, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-2417. Williams explains that it originally filed in Docket No. CP89-973-000 to continue the transportation of gas for Amoco but this application was protested by Oklahoma Natural Gas (ONG). It is stated that ONG cited potential by-pass and Williams agreed to withdraw the application. Williams states that Amoco subsequently submitted a new Exhibit B deleting the offending delivery points and Williams now seeks authorization herein to resume the transportation service for Amoco. Williams indicates that no new facilities would be necessary to provide the subject service.

*Comment date:* January 29, 1990, in accordance with Standard Paragraph G at the end of this notice.

#### 18. Tennessee Gas Pipeline Company

[Docket No. CP90-351-000]

December 13, 1989.

Take notice that on December 7, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed a request with the Commission in Docket No. CP90-351-000 pursuant to § 284.223 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to transport natural gas for Central Soya Company, Inc. (Central Soya), an end-user, under its blanket certificate issued in Docket No. CP87-115-000 pursuant to Section 7 of the

NGA, all as more fully set forth in the request which is open to public inspection.

Tennessee proposes an interruptible transportation service of up to 7,000 dekatherms of natural gas on peak and average days and 840,000 dekatherms annually for Central Soya. Tennessee states that it commenced transporting natural gas for Central Soya on November 2, 1989, under § 284.223(a) of the Regulations, as reported in Docket No. ST90-890. Tennessee also states that it would receive natural gas for Central Soya's account at various existing receipt points on its pipeline system in Louisiana, offshore Louisiana, Texas, and offshore Texas, with ultimate delivery for Central Soya's account at various existing delivery points in Illinois, Indiana, Ohio, and Tennessee.

*Comment date:* January 29, 1990, in accordance with Standard Paragraph G at the end of this notice.

#### 19. Natural Gas Pipeline Company

[Docket No. CP90-352-000]

December 13, 1989.

Take notice that on December 8, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP90-352-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Midcon Marketing Corporation (Midcon), a marketer of natural gas, under Natural's blanket certificate issued in Docket No. CP86-582-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Pursuant to a transportation agreement dated March 31, 1989, Natural requests authority to transport up to 10,000 MMBtu of gas per day (plus any additional volumes accepted pursuant to the overrun provisions of its Rate Schedule ITS), on an interruptible basis, for Midcon. Natural states that the agreement provides for it to receive the gas at various existing points of receipt along its system and to redeliver the gas to various existing points of delivery located in Texas, offshore Texas, Louisiana, offshore Louisiana and Illinois. Midcon has informed Natural that it expects to have only 5,000 MMBtu of gas transported on an average day and, based thereon, Natural estimates that 1,825,000 MMBtu of gas would be transported annually. Natural advises that the transportation service commenced on October 23, 1989, as

reported in Docket No. ST90-194-000 pursuant to § 284.223 of the Commission's Regulations.

*Comment date:* January 29, 1989, in accordance with Standard Paragraph G at the end of this notice.

#### 20. Columbia Gulf Transmission Company

[Docket No. CP90-354-000]

December 13, 1989.

Take notice that on December 8, 1989, Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, filed in Docket No. CP90-354-000 a request pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport gas on behalf of Texaco Gas Marketing, Inc. (Texaco), a producer of natural gas, under Columbia Gulf's blanket certificate issued in Docket No. CP86-239-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia Gulf proposes to transport on a firm basis up to 25,000 dekatherms (dt) of natural gas equivalent per day on behalf of Texaco pursuant to a transportation agreement dated November 1, 1989, between Columbia Gulf and Texaco. Columbia Gulf would receive the gas at an existing delivery point in Louisiana and redeliver equivalent volumes, less fuel used and unaccounted for line loss, at an existing delivery point in Louisiana.

Columbia Gulf further states that the estimated average daily and annual quantities would be 25,000 dt and 9,125,000 dt respectively. Service under § 284.223(a) commenced on November 1, 1989, as reported in Docket No. ST90-510-000, it is stated.

*Comment date:* January 29, 1990, in accordance with Standard Paragraph G at the end of this notice

#### 21. Trunkline Gas Company

[Docket No. CP90-361-000]

December 13, 1989.

Take notice that on December 11, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-1779-000 a request pursuant to § 157.205(b) and 284.223 of the Commission's Regulations under the Natural Gas Act of authorization to transport natural gas on an interruptible basis for NGC Transportation, Inc. (N.G.C.), a shipper and marketer of natural gas, under its blanket certificate

issued in Docket No. CP86-586-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Trunkline states that the maximum daily, average daily and annual quantities that it would transport for N.G.C. would be 50,000 dt equivalent of natural gas, 2,000 dt equivalent of natural gas and 730,000 dt equivalent to natural gas, respectively.

Trunkline states that it would transport natural gas for N.G.C. from various receipt points in Illinois, Louisiana, Tennessee, Texas, the Panhandle receipt point in Douglas County, Illinois, offshore Louisiana, and offshore Texas to a delivery point in Beauregard Parish, Louisiana.

Trunkline indicates that in a filing made with the Commission in Docket ST90-504, it reported that transportation service for N.G.C. commenced on October 28, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

*Comment date:* January 29, 1989, in accordance with Standard Paragraph G at the end of this notice.

#### 22. K N Energy, Inc.

[Docket No. CP90-364-000]

December 13, 1989.

Take notice that on December 12, 1989, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP90-364-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Plains Petroleum Operating Company (Plains), under K N's blanket certificate issued in Docket No. CP89-1043-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

K N requests authorization to transport, on an interruptible basis up to a maximum of 8,500 Mcf of natural gas per day for Plains from existing receipt points along its Buffalo Wallow pipeline system to various points of interconnection with other pipelines along its Buffalo Wallow pipeline system in Oklahoma and Texas. K N anticipates transporting an annual volume of 3,102,500 Mcf.

K N states that the transportation of natural gas for Plains commenced November 15, 1989, as reported in Docket No. ST90-913-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to K N in Docket No. CP89-1043-000.

*Comment date:* January 29, 1990, in accordance with Standard Paragraph G at the end of this notice.

#### 23. Southern Natural Gas Company

[Docket No. CP90-363-000]

December 13, 1989.

Take notice that on December 11, 1989, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP90-363-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Texican Natural Gas Company (Texican), marketer, under the blanket certificate issued in Docket No. CP88-316-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Southern states that pursuant to a service agreement dated October 17, 1989, under its Rate Schedule IT, it proposes to transport up to 25,000 MMBtu per day equivalent of natural gas for Texican. Southern states that it would transport the gas from various receipt points in Texas, Louisiana, offshore Texas, offshore Louisiana, Mississippi and Alabama, and would deliver the gas to a point in Georgia.

Southern advises that service under § 284.223(a) commenced October 18, 1989, as reported in Docket No. ST90-321. Southern further advises that it would transport 10,000 MMBtu on an average day and 3,650,000 MMBtu annually.

*Comment date:* January 29, 1990, in accordance with Standard Paragraph G at the end of this notice.

#### 24. Transwestern Pipeline Company

[Docket No. CP90-305-000]

December 14, 1989.

Take notice that on December 1, 1990, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP90-305-000, an application pursuant to § 157.205 and 284.223 of the Commission's Regulations for authority to transport natural gas on behalf of Coastal Gas Marketing Company (Coastal), a broker of natural gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Transwestern states that the transportation service will be provided pursuant to a transportation agreement dated September 27, 1989. Transwestern states that it would receive the gas at

Transwestern's existing points of receipt in the states of Texas, Oklahoma, New Mexico and Arizona and redeliver the gas at existing interconnections located in the states of Texas, Oklahoma, New Mexico and Arizona.

Transwestern proposes to transport on a peak day up to 400,000 MMBtu, with an estimated average daily quantity of 300,000 MMBtu. On an annual basis, Transwestern could transport up to 146,000,000 MMBtu. Transwestern also states that construction of facilities will not be required to provide the proposed service.

Transwestern states that service for Coastal under § 284.223(a) commenced October 2, 1989, as reported in Docket No. ST90-259-000.

*Comment date:* January 29, 1990, in accordance with Standard Paragraph G at the end of this notice.

#### 25. Transwestern Pipeline Company

[Docket No. CP-324-000]

December 14, 1989.

Take notice that on December 5, 1989, Transwestern Pipeline Company (Transwestern), filed in Docket No. CP90-324-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Enron Gas Marketing, Inc. (Enron), a marketer of natural gas, under Transwestern's blanket certificate issued in Docket No. CP88-133-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transwestern requests authorization to transport, on an interruptible basis, up to a maximum of 100,000 MMBtu of natural gas per day for Enron from receipt points listed by Transwestern in its Transportation Point Catalog, as amended from time to time, which is on file and available for inspection at the offices of Transwestern in Houston, Texas, to delivery points located in Texas, Oklahoma, New Mexico and Arizona. Transwestern anticipates transporting 75,000 MMBtu of natural gas on an average day and an annual volume of 36,500,000 MMBtu.

Transwestern states that the transportation of natural gas for Enron commenced November 1, 1989, as reported in Docket No. ST90-568-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Transwestern in Docket No. CP88-133-000.

*Comment date:* January 29, 1990, in accordance with Standard Paragraph G at the end of this notice.

#### 26. United Gas Pipe Line Company

[Docket No. CP90-371-000]

December 14, 1989.

Take notice that on December 12, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-371-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service on behalf of Chevron USA Inc. (Chevron), a producer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that it would transport a maximum daily quantity of 10,300 MMBtu for Chevron pursuant to an Interruptible Gas Transportation Agreement, dated October 14, 1988, between United and Chevron. United further states that it would receive the natural gas at an existing point of receipt in the state of Louisiana, and would redeliver the natural gas at an existing point of delivery in the state of Louisiana. United indicates that the estimated average day and annual quantities to be transported for Chevron would be 10,300 MMBtu and 3,759,500 MMBtu, respectively.

United states that it commenced the transportation of natural gas for Chevron on October 14, 1989, as reported in Docket No. ST90-553-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations (18 CFR § 284.223(a)).

*Comment date:* January 29, 1989, in accordance with Standard Paragraph G at the end of this notice.

#### 27. ANR Pipeline Company

[Docket No. CP90-377-000]

December 14, 1989.

Take notice that on December 12, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed a request with the Commission in Docket No. CP90-377-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to transport natural gas for Catamount Natural Gas, Inc. (Catamount), a natural gas marketer, under the blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7(c) of the NGA, all as more fully

set forth in the request which is open to public inspection.

ANR proposes an interruptible transportation service of up to 100,000 dekatherms on peak and average days and 36,500,000 dekatherms annually for Catamount. ANR states that it commenced transporting natural gas for Catamount on October 12, 1989, under § 284.223(a) of the Regulations, as reported in Docket No. ST90-376. ANR states that it would receive natural gas at existing receipt points on its pipeline system in Kansas, Louisiana, offshore Louisiana, Oklahoma, Texas, and offshore Texas and deliver equivalent natural gas volumes for Catamount's account at existing interconnections located in Indiana, Kentucky, Louisiana, Michigan, and Ohio.

*Comment date:* January 29, 1989, in accordance with Standard Paragraph G at the end of this notice.

#### 28. Southern Natural Gas Company

[Docket No. CP90-308-000]

December 14, 1989.

Take notice that on December 1, 1989, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP90-308-000 an application pursuant to section 7(b) of the Natural Gas Act requesting an order permitting and approving the abandonment of a portion of the contract demand allocated to Alabama Gas Corporation (Alagasco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern states that it is currently authorized to sell and deliver to Alagasco an aggregate contract demand of 394,441 Mcf per day in accordance with a service agreement between the parties dated September 19, 1969, which service agreement expired by its own terms on November 1, 1989. It is averred that the Commission originally authorized such service by order issued in Docket No. G-296, 3 FPC 822 (1942).

Further, Southern states that pursuant to Alagasco's request, Southern and Alagasco have executed a new service agreement dated September 15, 1989, which provides for an aggregate contract demand for Alagasco of 344,441 Mcf per day. Thus, Southern requests authority to abandon the 50,000 Mcf per day of firm sales service relinquished by Alagasco to be effective November 1, 1989.

*Comment date:* January 4, 1990, in accordance with Standard Paragraph F at the end of this notice.

**29. K N Energy, Inc..**

[Docket No. CP90-365-000]

December 14, 1989.

Take notice that on December 12, 1989, K N Energy, Inc. (KN), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP90-365-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for Anadarko Trading Company (Anadarko), under the blanket certificate issued in Docket No. CP89-1043-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

KN states that it proposes to transport natural gas for Anadarko from existing receipt points along its Buffalo Wallow pipeline system to various existing points of interconnection with other pipelines along its Buffalo Wallow pipeline system.

KN further states that the maximum daily, average daily and annual quantities that it would transport for Anadarko would be 30,000 Mcf of natural gas, 30,000 Mcf of natural gas and 10,950,000 Mcf of natural gas, respectively.

KN indicates that in Docket No. ST90-914 it reported that transportation service for Anadarko commenced on November 1, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

*Comment date:* January 29, 1990, in accordance with Standard Paragraph G at the end of this notice.

**30. United Gas Pipe Line Company**

[Docket No. CP90-372-000]

December 14, 1989

Take notice that on December 12, 1989, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-372-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Total Minatome Corporation (TMC), a producer, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport on an interruptible basis up to 103,000 MMBtu of natural gas on a peak day, 103,000 MMBtu on an average day, and 37,595,000 MMBtu on an annual basis for TMC. United states that it would

perform the transportation service for TMC under United's Rate Schedule ITS. United indicates that it would receive the gas at various points in Webster Parish, Louisiana for delivery to various points in Texas and Louisiana.

It is explained that the service commenced November 1, 1989, under the automatic authorization provisions of §§ 284.223 of the Commission's Regulations, as reported in Docket No. ST90-894. United indicated that no new facilities would be necessary to provide the subject service.

*COMMENT DATE:* January 29, 1989, in accordance with Standard Paragraph G at the end of this notice.

**31. Florida Gas Transmission Company**

[Docket Nos. CP87-560-002 and CP88-242-004]

December 14, 1989.

Take notice that on December 6, 1989, Florida Gas Transmission Company (Florida Gas), P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket Nos. CP87-560-002 and CP88-242-004, a petition to amend the order issued January 17, 1989, in Docket Nos. CP87-560-000 and CP88-242-000 to authorize Florida Gas to transport natural gas for Enron Gas Marketing, Inc. (EGM) and Air Products and Chemicals, Inc. (Air Products), for the remaining term specified in the agreements between Florida Gas and EGM, and between Florida Gas and Air Products, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Florida Gas states that on August 25, 1987, Florida Gas and EGM entered into an agreement (EGM agreement) which provides for the interruptible transportation of up to 250,000 MMBtu equivalent of natural gas per day for EGM for a term of 10 years from the date of initial deliveries and year to year thereafter. Florida Gas further states that on February 8, 1988, as amended April 4, 1988, Florida Gas and Air Products entered into an agreement (Air Products agreement) which provides for the interruptible transportation of up to 35,000 MMBtu equivalent of natural gas per day for Air Products for a term of 5 years from the date of initial deliveries and year to year thereafter.

Florida Gas states that by letter agreements with EGM and with Air Products dated November 1, 1989, EGM and Air Products agreed to request extensions of authorization to continue the transportation service for EGM and Air Products in accordance with Rate Schedule X-31 and X-33 for the remaining term specified in the EGM

agreement and the Air Products agreement.

Florida Gas states that no additional points of receipt or delivery are proposed; therefore, Florida Gas is not requesting authorization to construct any new facilities.

Florida Gas indicates that, since the transportation services are fully interruptible and are contingent upon the availability of capacity sufficient to provide the services without detriment or disadvantage to Florida Gas' existing customers, the transportation services proposed herein cannot have an adverse impact on Florida Gas' existing customers.

*Comment date:* January 4, 1990, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

**Standard Paragraphs**

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-29824 Filed 12-22-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-2-20-001, TM90-6-20-001]

#### Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

December 18, 1989.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on December 12, 1989, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1, as set forth in the revised tariff sheets:

*Proposed to be effective December 1, 1989*

Substitute Alternate Thirty-seventh Revised Sheet No. 201

Substitute Alternate Thirty-eighth Revised Sheet No. 203

Substitute Alternate Thirty-Fourth Revised Sheet No. 204

Substitute Alternate Thirty-first Revised Sheet No. 205

*Proposed to be effective January 1, 1990*

Substitute Thirty-eighth Revised Sheet No. 201

Substitute Thirty-ninth Revised Sheet No. 203

Substitute Thirty-fifth Revised Sheet No. 204

Substitute Thirty-second Revised Sheet No. 205

Substitute Eighth Revised Sheet No. 223

Substitute Eighth Revised Sheet No. 224

Substitute Thirteenth Revised Sheet No. 324

Algonquin states that on November 9, 1989, in Docket No. TQ90-2-20-000, Algonquin filed its Quarterly Purchased Gas Adjustment ("PGA") proposed to be effective on December 1, 1989.

Algonquin states that its Quarterly PGA was predicated upon the acceptance of the underlying filings in Docket Nos. RP89-199-000, RP90-13-000 and RP86-41-000 and that should the Commission

reject or modify those filings, Algonquin would refile to reflect the Commission's actions. The Commission accepted Algonquin's filing in Docket Nos. RP89-199-000 and RP90-13-000 by its Letter Order of November 16, 1989, subject to conditions. Furthermore, the Commission issued an "Order Accepting, Suspending and Rejecting Tariff Sheets" on November 24, 1989 in Docket Nos. RP86-41-005 and RP87-14-006.

Algonquin further maintains that on November 27, 1989 the Commission issued a Letter Order ("November 27 Letter Order") accepting Algonquin's Quarterly PGA subject to conditions. The Commission's acceptance of the Quarterly PGA was subject to the outcome and all orders issued in Docket No. RP86-41-000, and subject to Algonquin filing within fifteen days of the date of the November 27 Letter Order, revised rates consistent with the November 16 Letter Order.

Algonquin states that the listed tariff sheets which are proposed to be effective December 1, 1989, are filed in compliance with the Commission's November 27 Letter Order reflecting the conditions set forth in the Commission's Letter Order of November 16, 1989 and the November 24 Order in Algonquin's Docket Nos. RP86-41-005 and RP87-14-006 compliance filing.

Algonquin states that on December 1, 1989, in Docket No. TM90-6-20-000, Algonquin filed to track the Gas Research Institute's Surcharge for the 1990 calendar year pursuant to Opinion No. 334 and to remove the Surcharge adjustment as required by the Commission's PGA Transition rules, § 154.310. Algonquin states that it made the GRI filing with the condition that should the Commission change any of the underlying filings, Algonquin would refile to reflect such Commission action. Algonquin states that such tariff sheets which are proposed to be effective on January 1, 1990, are tendered to reflect the Commission's actions, *supra* and are proposed to be effective on January 1, 1990.

Algonquin notes that copies of the filing were served upon each of the affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 26, 1989. Protests will be considered by the Commission in

determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-29829 Filed 12-22-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TF90-1-24-001, TQ90-3-24-000]

#### Equitrans, Inc., Proposed Changes in FERC Gas Tariff

December 18, 1989.

Take notice that Equitrans, Inc. (Equitrans) on December 11, 1989, tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1.

*Docket No. TF90-1-24-001, effective November 1, 1989*

Substitute Twelfth Revised Sheet No. 10  
Substitute Eleventh Revised Sheet No. 14  
Substitute Fifth Revised Sheet No. 34

*Docket No. TQ90-3-24-000, effective November 1, 1989*

Second Substitute Twelfth Revised Sheet No. 10  
Second Substitute Eleventh Revised Sheet No. 14  
Second Substitute Fifth Revised Sheet No. 34

Equitrans states that the foregoing tariff sheets are being filed in compliance with the Commission's Letter Order issued on November 15, 1989 in Docket No. TF90-1-24-000. The Order directed Equitrans to refile its tariff sheets to eliminate the standby charges. Also Equitrans is exercising its options to file an out of cycle PGA to recover standby costs under Texas Eastern Transmission Corporation's (TETCO) Rate Schedule CD-1 and firm transportation costs under TETCO's Rate Schedule FT-1.

Equitrans states that a copy of its filing has been served upon its purchasers, interested state commissions, and upon each party on the service list of Docket No. CP86-676-000.

Pursuant to § 154.51 of the Commission's regulations, Equitrans requests that the Commission grant any waivers necessary to permit the tariff sheets contained herein to become effective on November 1, 1989.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 26, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-29830 Filed 12-22-89; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. RP90-51-000]

#### ARCO Oil & Gas et al. Order Initiating Complaint Proceeding

(Issued December 18, 1989).

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler, and Jerry J. Langdon.

On September 19, 1989, Transcontinental Gas Pipe Line Corporation (Transco) filed revised tariff sheets in Docket No. RP82-55-046 to supplement its July 6, 1989 compliance filing in Docket No. PR82-55-044. ARCO Oil and Gas Company (ARCO), Texaco Inc. and Texaco Producing Inc. (Texaco), Shell Gas Trading Company and Shell Offshore Inc. (Shell) file protests relating to a provision included on Substitute Ninth Revised Sheet No. 19 of that filing, which states that "[t]he commodity rate(s) above shall be increased by 2.1¢ per dt where applicable, for quantities transported through production and gathering facilities." The Commission accepted Transco's filing, but deferred consideration of ARCO's, Texaco's, and Shell's protests as to the applicability of the production and gathering charge.

ARCO, Texaco, and Shell argue that nothing in Transco's filing in Docket No. PR82-55-046 indicated that the charge would apply to all transportation gas delivered at every major receipt point in Transco's production area, or that Transco considered all the major receipt points in its production area to be production or gathering facilities. They argue that the only notice of the applicability of this charge has been on Transco's electronic bulletin board,

which they contend does not constitute the statutorily required notice. They also argue that the charge is an access fee or surcharge on Transco's transportation rates and that Transco provides no service for the fee. Accordingly, they urge the Commission to reject the charge or set it for hearing.

Since the separate production and gathering charge was previously approved in Transco's cost of service settlement in Docket No. PR87-7-030,<sup>1</sup> the provision was properly reflected in Transco's compliance filing in Docket No. PR82-55-046. However, the issues raised in the complaint as to the appropriate application of the charge require further examination. Therefore, the Commission is initiating an investigation of the allegations under section 5 of the Natural Gas Act. The protests are being construed as a complaint pursuant to Rule 206 of the Commission's Rules of Practice and Procedure (18 CFR § 385.206 (1989)), and Transco will be provided an opportunity to file an answer to the complaint. In such a proceeding, the parties can provide more information about the circumstances involved so that it can be determined whether the production and gathering charge is being properly applied. In this regard, ARCO, Texaco, and Shell are directed to augment their filings on or before January 16, 1990 to provide the Commission with more specific information as to the issues raised in their filings.

Any person desiring to be heard with respect to said complaint should file a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211 (1989)). All such motions should be filed on or before February 15, 1990. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint shall be due on or before February 15, 1990.

#### The Commission orders:

(A) ARCO, Shell, and Texaco are directed to augment their September 29, 1989 filings on or before January 16, 1990.

(B) Transco is directed to file an answer to the complaint on or before February 15, 1990. Replies should be filed on or before March 2, 1990.

<sup>1</sup> 44 FERC 61,111 (1988).

(C) The Secretary is directed to cause their order to be published in the Federal Register to provide notice of the complaint proceeding initiated herein.

By the Commission.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-29826 Filed 12-22-89; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. RP88-45-000, et al.]

#### Arkla Energy Resources, a Division of Arkla, Inc.; Informal Settlement Conference

December 18, 1989.

Take notice that a settlement conference will be convened in this proceeding on January 16, 1990, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First St., NE., Washington, DC, 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact J. Carmen Gastilo (202) 357-8410 or John P. Roddy (202) 357-8560.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-29831 Filed 12-22-89; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. CP89-470-000, et al.]

#### Tennessee Gas Pipeline Co.; Technical conference

December 18, 1989.

Based on a review of the filings submitted by the parties to date, the Commission staff is convening a technical conference to explore the positions of the parties concerning certain aspects of the proposal by Tennessee Gas Pipeline Company (Tennessee) to restructure its services and assess a gas inventory charge. More specifically, a technical conference will be convened in this proceeding to clarify (1) the parties' positions regarding access to capacity and allocation of capacity at receipt points on Tennessee's mainline and on interconnecting pipelines; (2) the advantages and disadvantages of the "pooling point" system advocated by

some parties and how such a system would operate on Tennessee's pipeline; (3) whether the terms, conditions and timing of Tennessee's proposed future release of storage capacity may be more clearly defined; (4) the extent to which Tennessee can structure firm transportation service comparable to its existing firm sales service without its customers obtaining additional contract storage service; and (5) other issues concerning the terms and conditions of transportation service on Tennessee's system. At the conference that staff will attempt to determine the issues on which the parties now agree or on which agreement can be reached. The conference will be held on Tuesday, January 9, 1990 at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons are permitted to attend.

Lois D. Cashell,  
Secretary.

[FR Doc. 89-29828 Filed 12-22-89; 8:45 am]

BILLING CODE 6717-01-M

## Western Area Power Administration

### Pick-Sloan Missouri Basin Program-Western Division; Order Confirming and Approving an Extension of Transmission Service Rates

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice is given of Rate Order No. WAPA-43 by the Deputy Secretary of Energy extending until September 30, 1990, the Rate Schedules P-S WD-T3 and P-S WD-T4 for firm and nonfirm transmission service over the Western Area Power Administration (Western) Pick-Sloan Missouri Basin Program-Western Division (P-SMBP-WD) transmission system.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen A. Fausett, Area Manager, Loveland Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539, (303) 490-7201.

**SUPPLEMENTARY INFORMATION:** By Delegation Order No. 0204-108, effective December 14, 1983 (48 FR 55664), as amended May 30, 1986 (51 FR 19744), the Secretary of Energy delegated the authority to develop long-term power and transmission rates to the Administrator of Western; the authority to confirm, approve, and place in effect on an interim basis to the Under Secretary of the Department of Energy; and the authority to confirm, approve, and place in effect on a final basis, to

remand; or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). On September 20, 1989, the Secretary issued notice SEN-10A-89, which has the effect of amending Delegation Order No. 0204-108 by transferring authority to place rates in effect on an interim basis from the Under Secretary of the Department of Energy to the Deputy Secretary by the Department of Energy (Attachment A of this Notice). Existing Department of Energy Procedures for public participation in power and transmission rate adjustments (10 CFR part 903) became effective on September 18, 1985 (50 FR 37835).

Pursuant to Delegation Order No. 0204-108, FERC, in the order issued June 4, 1985, in docket No. EF85-5031-000, confirmed and approved Rate Schedules P-S WD-T3 and P-S WD-T4 for firm and nonfirm transmission service in the P-SMBP-WD administered by Western's Loveland Area Office. The rates were approved for the period from the first day of the first full billing period after January 1, 1985, to the last day of the first full billing period after December 1, 1989.

To allow time for continuation of the ongoing study of cost of service over the transmission system and to control costs associated with rate adjustment procedures, Western proposes to delay the implementation of a new P-SMBP-WD transmission rate until that rate adjustment coincides with other currently proposed rate adjustments. This coordination could reduce Western's, as well as the customer's, travel and administrative costs.

The purpose of Rate Order No. WAPA-43 is to extend the Rate Schedules P-S WD-T3 and P-S WD-T4 until September 30, 1990, to allow for coordination with other studies and rate adjustment processes.

Issued at Washington, DC, December 12, 1989.

W. Henson Moore,  
Deputy Secretary.

[Rate Order No. WAPA-43]

### Order Confirming and Approving an Extension of the Pick-Sloan Missouri Basin Program-Western Division Firm and Nonfirm Transmission Rates

December 12, 1989.

Pursuant to section 302(a) of the Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*, the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation (Reclamation), under the Reclamation Act of 1902, 43 U.S.C. 372, *et seq.*, as amended and supplemented

by subsequent enactments, and particularly by section 9(c) of the Reclamation Act of 1939, 43 U.S.C. 485h(c), and acts specifically applicable to the Pick-Sloan Missouri Basin program (P-SMBP), were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-108, effective December 14, 1983 (48 FR 55664), as amended May 30, 1986 (51 FR 19744), the Secretary of Energy delegated the authority to develop long-term power and transmission rates to the Administrator of Western; the authority to confirm, approve, and place in effect on an interim basis to the Under Secretary of the Department of Energy; and the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). On September 20, 1989, the Secretary issued notice SEN-10A-89, which was the effect of amending Delegation Order No. 0204-108 by transferring authority to place rates in effect on an interim basis from the Under Secretary of the Department of Energy to the Deputy Secretary of the Department of Energy. Existing Department of Energy procedures for public participation in power and transmission rate adjustments (10 CFR Part 903) became effective on September 18, 1985 (50 FR 37835).

#### Background

Pursuant to Delegation Order No. 0204-108, FERC, in the order issued June 4, 1985, in docket No. EF85-5031-000, confirmed and approved Rate Schedules P-S WD-T3 and P-S WD-T4 for firm and nonfirm transmission service in the P-SMBP-Western Division (P-SMBP-WD) administered by Western's Loveland Area Office. The rates were approved for the period from the first day of the first full billing period after January 1, 1985, to the last day of the first full billing period after December 1, 1989.

#### Discussion

To allow time for continuation of the ongoing study of cost of service over the transmission system and to control costs associated with rate adjustment procedures, Western proposes to delay the implementation of a new P-SMBP-WD transmission rate until that rate adjustment coincides with other currently proposed rate adjustments. This coordination could reduce Western's, as well as the customer's, travel and administrative costs.

**Order**

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve for a period effective with the first day of the first full billing period after January 1, 1990, an extension until September 30, 1990, of the existing Rate Schedules P-S WD-T3 and P-S WD-T4 for firm and nonfirm transmission service over the P-SMBP-WD transmission system.

Issued at Washington, DC, December 12, 1989

W. Henson Moore,  
Deputy Secretary

[Schedule P-S WD-T3, Revised 1/7/85,  
(Supersedes Schedule P-S WD-T1)]

**Schedule of Rates for Firm Transmission Service****Effective**

The first day of the first full billing period beginning after January 1, 1985.

**Available**

In the area served by the Pick-Sloan Missouri Basin Program, Western Division.

**Applicable**

To firm transmission service customers where power and energy are supplied to the Western Division systems at points of interconnection with other systems and transmitted and delivered, less losses, to points of delivery on the Western Division system specified in the service contract.

**Character and Conditions of Service**

Transmission service for 3-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery specified in the service contract.

**Rate**

**Transmission Service Charge:** 1.3 mills per kilowatthour delivered at the point of delivery or \$11.40 per kilowatt per year for each kilowatt contracted for at the point of delivery, as specified in the service contract; payable monthly at the rate of 1.3 mills per kilowatthour or \$0.95 per kilowatt of effective contract rate of delivery.

**Adjustments**

**For Reactive Power:** None. There shall be no entitlement to transfer of reactive kilovoltamperes at delivery points, except when such transfers may be mutually agreed upon by Contractor and Contracting Officer or their Authorized Representatives.

**For Losses:** Power and energy losses incurred in connection with the transmission and delivery of power and energy under this rate schedule shall be supplied by the customer in accordance with the service contract.

[Schedule P-S WD-T4, (Supersedes Schedule P-S WD-T2)]

**Schedule of Rates for Nonfirm Transmission Service****Effective**

The first day of the first full billing period beginning after January 1, 1985.

**Available**

In the area served by Pick-Sloan Missouri Basin Program, Western Division.

**Applicable**

To nonfirm transmission service customers where power and energy are supplied to the Western Division systems at points of interconnection with other systems and transmitted and delivered subject to the availability of transmission capacity, less losses, to points of delivery on the Western Division Systems specified in the service contract.

**Character and Conditions of Service**

Transmission service on an intermittent basis for 3-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery specified in the service contract.

**Rate**

**Transmission Service Charge:** 1.3 mills per kilowatthour delivered at the point of delivery for each kilowatthour scheduled; payable monthly.

**Adjustments**

**For Reactive Power:** None. There shall be no entitlement to transfer of reactive kilovoltamperes at delivery points, except when such transfers may be mutually agreed upon by Contractor and Contracting Officer or their Authorized Representatives.

**For Losses:** Power and energy losses incurred in connection with the transmission and delivery of power and energy under this rate schedule shall be supplied by the customer in accordance with the service contract.

[FR Doc. 89-29888 Filed 12-22-89; 8:45 am]

BILLING CODE 6450-01-M

**ENVIRONMENTAL PROTECTION AGENCY**

[OPTS-211024; FRL 3683-5]

**Response to Petition to Adopt Rules Setting Standards for Ground-water Monitoring Well Construction Materials**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Denial of TSCA Section 21 Petition.

**SUMMARY:** This notice responds to a citizen's petition submitted by Browning-Ferris Industries (BFI) under section 21 of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2620) to delineate technical performance standards for selecting appropriate materials for the construction of ground-water monitoring wells. EPA is denying the petition under section 21 of TSCA because the concerns that BFI raises in connection with PCB disposal facilities are a part of the larger issue of well construction for all monitoring under EPA programs, which is the subject of an extensive review currently being undertaken by EPA's Office of Solid Waste and Emergency Response (OSWER).

**ADDRESSES:** Copies of the petition and all related information are located in the TSCA Public Docket Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room NE-C004, 401 M St., SW., Washington, DC, 20460. They are available for review and copying from 8 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

**SUPPLEMENTARY INFORMATION:****I. Background****A. TSCA Section 21**

Section 21 of TSCA provides that any person may petition the Administrator of EPA to initiate a proceeding for the issuance, amendment, or repeal of, among other things, rules imposing substantive controls on chemical substances or mixtures under section 6 of TSCA. Section 21(b)(3) requires that EPA grant or deny a petition within 90 days of its filing.

If EPA grants a section 21 petition, EPA must promptly commence an appropriate proceeding. If EPA denies

the petition, the reasons for denial must be published in the *Federal Register*.

If EPA denies a petition within 90 days of the filing date, or fails to grant or deny within the 90-day period, the petitioner may commence a civil action in federal district court to compel EPA to initiate the requested action. This suit must be filed within 60 days of the denial, or within 60 days of the expiration of the 90-day period if EPA fails to grant or deny the petition within that period.

#### B. Summary of Petition

On September 14, 1989, BFI petitioned EPA under section 21 of TSCA and section 7004(a) of the Resource Conservation and Recovery Act (RCRA) to promulgate rules that would delineate technical performance standards for selecting appropriate materials for the construction of ground-water monitoring wells. Because the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Safe Drinking Water Act (SDWA) programs require comparable monitoring, BFI proposes that equivalent rules be established under these statutes as well. Pending promulgation of rules, BFI suggests that EPA make parallel changes in its primary guidance document, the RCRA Ground-Water Monitoring Technical Enforcement Guidance Document (TEGD), to reflect current data and to explain its policy pending new rules. Finally, BFI requests that EPA establish a permanent body to answer questions and resolve disputes regarding appropriate ground-water monitoring well construction materials and disseminate this information to regional and state permit writers. In its petition, BFI renews a request for negotiated rulemaking on this issue which it made by letter dated March 17, 1989. That request is still pending.

BFI states that its petition should be granted because the current EPA rules and the TEGD cannot ensure that ground-water monitoring wells are constructed of materials that produce reliable sample data. BFI claims that the existing regulations and guidance are now outmoded because EPA has failed to amend them in accordance with a growing body of scientific data on proper monitoring and well construction techniques. BFI also argues that the absence of predictable standards in the existing rules and guidance allows EPA to reject aspects of a proposed monitoring system while affording regulated entities little basis for challenging these decisions. BFI claims that implementation of the TEGD among EPA's ten regional offices is inconsistent and frequently inflexible.

Of special concern to BFI is the alleged exclusive reliance by some EPA regions on the TEGD's specific recommendations as to use of fluorocarbon resins or stainless steel well casing in certain circumstances, despite the TEGD's status as merely a guidance document. BFI claims that reliance on the TEGD by some regulators is forcing the use of inappropriate well materials and that new data demonstrate that rigid polyvinylchloride (PVC) well materials are less likely to bias samples and are more durable than previously believed by EPA.

#### II. EPA's Decision

This notice addresses only the TSCA section 21 portion of BFI's petition. BFI's requests with respect to RCRA, CERCLA and SDWA requirements are still under review and will be addressed at a later time. EPA is denying the portion of the petition filed under section 21 of TSCA for the following reasons:

1. OSWER is currently undertaking an extensive review of its existing rules and guidance concerning ground-water monitoring. As part of this review, OSWER is revising chapters 9 and 11 of its "Test methods for Evaluating Solid Waste" (SW-846), addressing ground-water monitoring and quality assurance procedures, to add standards for selecting appropriate materials for the construction of ground-water monitoring wells. These revised standards will update and supersede the TEGD, OSWER's existing regulatory guidance. The revised standards will reflect the current state of scientific knowledge and EPA experience regarding the appropriateness of various well construction materials for different hydrogeologic conditions and chemical monitoring purposes. OSWER expects to complete its revision of SW-846 by the fourth quarter of FY 1990. After completion, OSWER intends to publish chapters 9 and 11 of SW-846 in the *Federal Register* for public comment. OSWER also intends to propose in a companion rulemaking to incorporate chapters 9 and 11 of SW-846 by reference into the rules governing general ground-water monitoring requirements at hazardous waste sites. EPA will respond to that portion of BFI's petition submitted under RCRA in the context of these rulemakings.

2. The only TSCA rules affected by BFI's section 21 petition are the PCB disposal rules in 40 CFR part 761 issued under authority of TSCA section 6(e). Those rules require ground-water monitoring for certain PCB disposal facilities (§ 761.75) but do not specify

what materials are to be used in constructing monitoring wells. There are only 10 commercial landfills authorized under TSCA to receive PCBs, and all are regulated under RCRA, as well. EPA does not anticipate approving any TSCA-only landfills. In reviewing ground-water monitoring proposals in connection with approval of PCB disposal facilities, EPA utilizes the same criteria as it uses for ground-water monitoring of hazardous waste facilities under RCRA, such as SW-846.

3. In light of OSWER's pending revision of SW-846 to include standards for the selection of appropriate ground-water monitoring well construction materials, EPA believes it is neither necessary nor productive for it to develop TSCA rules that would apply only to approval of PCB disposal facilities. Such duplicative EPA effort would do nothing to prevent unreasonable risk of injury to health or the environment since any matters likely to be addressed in rulemaking under TSCA are already being considered by OSWER in its revision of SW-846 and anticipated rulemakings. Indeed, parallel rulemaking under TSCA would undercut EPA's ability to protect the environment against unreasonable risks by diverting scarce resources from other pressing environmental problems to issues already being addressed by OSWER. Even if EPA were to initiate proceedings to amend its PCB rules to include well construction materials standards, such proceedings would quickly be overtaken by OSWER's efforts. Given that fact, and the relatively minor role (compared to OSWER) of ground-water monitoring under TSCA, EPA believes it is unnecessary to commence proceedings to amend 40 CFR part 761.

4. To prevent inconsistent EPA decisions with respect to well construction materials allowed to be used at TSCA (as opposed to RCRA) permitted landfills, EPA's Office of Toxic Substances (OTS) intends to direct its headquarters and regional personnel to use the performance standards for well construction materials contained in revised SW-846 as guidance. OTS and EPA's other offices with ground-water monitoring responsibilities will also consider incorporating the revised SW-846 into their own ground-water monitoring regulations once SW-846 has been issued in its final form.

5. BFI's requests that EPA (i) issue interim guidance to the regions and states pending completion of its revision of SW-846 and (ii) establish a permanent review panel to disseminate

information and issue interpretations are denied on the grounds that neither request falls within the meaning of the phrase "petition the Administrator to initiate a proceeding for the issuance, amendment, or repeal" of a rule, as that phrase is used in section 21.

Additionally, EPA does not believe that granting either request is necessary to protect against unreasonable risks to health or the environment, especially in light of the EPA's expected proposal of its revised SW-846 within the next 12 months.

### III. Public Record

#### A. Supporting Documentation

EPA has established a record for its response to this petition under section 21 of TSCA (docket number OPTS-211024). The public record contains the basic information considered by EPA in reaching this decision.

#### B. References

(1) Letter from Browning-Ferris Industries to William K. Reilly, Administrator, EPA (September 14, 1989).

(2) Letter from Browning-Ferris Industries to Charles Elkins, Director, Office of Toxic Substances, EPA (September 14, 1989).

(3) Section 21 Petition From Browning-Ferris Industries to the EPA, with attachments (September 14, 1989).

(4) RCRA Ground-Water Monitoring Technical Enforcement Guidance Document (September 1986).

### IV. Conclusion

For the above reasons, EPA is denying BFT's petition filed under section 21 of TSCA.

Authority: 15 U.S.C. 2620.

Dated: December 13, 1989.

William K. Reilly,  
Administrator.

[FR Doc. 89-29896 Filed 12-22-89; 8:45 am]

Billing Code 6560-50-D

### FEDERAL COMMUNICATIONS COMMISSION

[DA 89-1612]

#### Nebraska Regional Public Safety Plan; Comments Invited

December 18, 1989.

The Commission has received the public safety radio communications plan for the Nebraska area (Region 26).

In accordance with the Commission's Report and Order in General Docket 87-112 implementing the Public Safety National Plan, parties are hereby given thirty days from the date of Federal Register publication of this public notice to file comments and fifteen days to reply to any comments filed. (See Report and Order, General Docket 87-112, 3 FCC Rcd 905 (1987), at paragraph 54.)

In accordance with the Commission's Memorandum Opinion and Order in General Docket 87-112, Region 26 consists of the State of Nebraska. General Docket 87-112, 3 FCC Rcd 2113 (1988).

Comments should be clearly identified as submissions to General Docket 89-608, Nebraska—Region 26, and commenters should send an original and five copies to the Secretary, Federal Communications Commission, Washington, DC 20554.

Questions regarding this public notice may be directed to Maureen Cesaitis, Private Radio Bureau, (202) 632-6497, or Fred Thomas, Office of Engineering and Technology, (202)-653-8112.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-29852 Filed 12-22-89; 8:45 am]

BILLING CODE 6712-01-M

### FEDERAL MARITIME COMMISSION

#### Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Special Expeditions, Inc., and Wilderness Cruises, Inc., 720 Fifth Avenue, New York, New York 10019, Vessel: SEA LION.

Dated: December 19, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-29816 12-22-89; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 89-27]

#### AMG Services, Inc.; Order of Investigation and Hearing

Oasis Express Line, Javelin Line and Trans Africa Line, have vessel operating common carrier tariffs on file with the Commission. Coast Container Line, Buccaneer Line, and Union Exportadora Lines have non-vessel operating common carrier tariffs on file with the Commission. AMG Services, Inc.<sup>1</sup> is an agent representing the above common carriers. Martyn Merritt is the president of AMG Services, Inc.

In Docket No. 84-38, Ariel Maritime Group, Inc., et al., the Commission found, *inter alia*, that Martyn Merritt, Ariel Maritime Group, Inc., Oasis Express Line, and Javelin Line violated Section 16 Initial Paragraph, Shipping Act, 1916 ("1916 Act"), 46 U.S.C. app. § 815, Initial Paragraph, by obtaining transportation at less than the applicable tariff rates and that Martyn Merritt violated section 18(b)(3) of the 1916 Act, 46 U.S.C. app. § 817(b)(3), by failing to charge rates specified in a tariff on file with the Commission. As a part of its findings, the Commission found that: all the corporate respondents were directed and controlled by Martyn Merritt, the various corporations were used by Martyn Merritt to conceal the violations, and Martyn Merritt was the principal beneficiary of the violations. Martyn Merritt was thus found to have violated the 1916 Act in an individual capacity and civil penalties totalling \$335,000 were ordered to be paid by Martyn Merritt and the corporate respondents jointly and severally.<sup>2</sup> Mr. Merritt, Ariel Maritime Group, Inc., Oasis Express Line, Javelin Line and the other respondents in the proceeding were ordered to cease and desist from violating sections 10(a)(1) and 10(b)(1) of Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. §§ 1709(a)(1) and 1709(b)(1).<sup>3</sup>

Nevertheless, it appears that Martyn Merritt, AMG Services, Inc., Oasis Express Line, Javelin Line, Coast Container Line, and Trans Africa Line engaged in at least 3 violations of section 10(a)(1) of the 1984 Act by

<sup>1</sup> Formerly Ariel Maritime Group, Inc. AMG Services Inc. does business as Ariel Maritime Group and Ariel Maritime.

<sup>2</sup> Martyn Merritt and the corporate respondents failed to pay the civil penalties and the Commission and the Department of Justice are attempting to obtain payment through a suit in the United States District Court for the Southern District of New York.

<sup>3</sup> The violations were committed prior to the passage of the 1984 Act. However, the Commission found that it had the authority to order the respondents to cease and desist from future violations of the 1984 Act based upon findings of violations of the 1916 Act.

obtaining or attempting to obtain transportation for less than the applicable tariff rates or charges during the period May 1988 through August 1988. This appears to be the same malpractice which Martyn Merritt, Ariel Maritime Group, Inc., Oasis Express Line and Javelin Line were found to have engaged in in Docket No. 84-38.<sup>4</sup> In addition it appears that Martyn Merritt, AMG Services, Inc., Trans Africa Line, Oasis Express Line, Javelin Line, Coast Container Line, Buccaneer Line, and Union Exportadora Lines have routinely disregarded statutory requirements and engaged in at least 65 violations of section 10(b)(1) of the 1984 Act by charging rates for the transportation of property other than the rates set forth in tariffs on file with the Commission during the period October 1987 through October 1988. This is despite the fact that the Commission found in Docket No. 84-38 that Martyn Merritt and an NVOCC controlled by Martyn Merritt, Interlink Lines, failed to charge rates specified in Interlink Lines' tariff and despite the fact that all the respondents in Docket No. 84-38 were ordered by the Commission to cease and desist from future violations of section 10(b)(1) of the 1984 Act.

Now therefore it is ordered, That pursuant to sections 10, 11, and 13 of the 1984 Act, 46 U.S.C. app. 1709, 1710 and 1712, an investigation is hereby instituted to determine:

(1) Whether Martyn Merritt, AMG Services, Inc., Oasis Express Line, Javelin Line, Coast Container Line, or Trans Africa Line violated section 10(a)(1) of the 1984 Act by obtaining or attempting to obtain ocean transportation of property for less than applicable rates or charges by means of a false classification or any other unjust or unfair device or means during the period from May 1988 through August 1988;

(2) Whether Martyn Merritt, AMG Services, Inc., Trans Africa Line, Oasis Express Line, Javelin Line, Coast Container Line, Buccaneer Line, and Union Exportadora Lines violated section 10(b)(1) of the 1984 Act by charging, demanding, collecting or receiving greater, less or different compensation than the rates and charges specified in the applicable tariff on file with the Commission during the period from October 1987 through October 1988;

<sup>4</sup> In Docket 84-38, the Commission found Martyn Merritt, Ariel Maritime Group, Inc., Oasis Express Line, and Javelin Line violated section 16, Initial Paragraph of the 1916 Act, through the device of obtaining lower rates under connecting carrier agreements when the shipments were not eligible to move under the agreement.

(3) Whether, in the event Martyn Merritt, AMG Services, Inc., Trans Africa Line, Oasis Express Line, Javelin Line, Coast Container Line, Buccaneer Line, or Union Exportadora Lines are found to have violated section 10(a)(1) or section 10(b)(1) of the 1984 Act, civil penalties should be assessed and, if so, the amount of such penalties;

(4) Whether, in the event Trans Africa Line, Oasis Express Line, Javelin Line, Coast Container Line, Buccaneer Line, or Union Exportadora Lines are found to have violated section 10(b)(1) of the 1984 Act, their tariffs should be suspended pursuant to section 13 of the Act; and

(5) Whether, in the event, Oasis Express Line, Javelin Line, Trans Africa Line, Coast Container Line, Buccaneer Line, Union Exportadora Lines, AMG Services, Inc. or Martyn Merritt are found to have violated section 10(a)(1) or section 10(b)(1) of the 1984 Act, an appropriate cease and desist order should be issued.

It is further ordered, That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Administrative Law Judge in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Administrative Law Judge only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That Oasis Express Line, Javelin Line, Trans Africa Line, Coast Container Line, Buccaneer Line, Union Exportadora Lines, AMG Services, Inc. and Martyn Merritt are designated Respondents in this proceeding;

It is further ordered, That the Commission's Bureau of Hearing Counsel is designated a party to this proceeding;

It is further ordered, That notice of this Order be published in the Federal Register, and a copy be served on parties of record;

It is further ordered, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the

Commission's Rules of Practice and Procedure, 46 CFR 502.72;

It is further ordered, That all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on parties of record;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573, in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502.118, and shall be served on parties of record;

It is further ordered, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, the initial decision of the Administrative Law Judge shall be issued by December 18, 1990, and the final decision of the Commission shall be issued by April 18, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 89-29817 Filed 12-22-89; 8:45 am]

BILLING CODE 6730-01-M

#### Privacy Act of 1974; Publication of Notice of Systems of Records

AGENCY: Federal Maritime Commission.

ACTION: Notice of Systems of Records.

SUMMARY: This notice meets the requirement of the Privacy Act of 1974 (5 U.S.C. 552a), regarding the publication of an agency's notice of systems of records.

#### FOR FURTHER INFORMATION CONTACT:

Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: This notice describes the character and gives notice of the systems of records maintained by the Federal Maritime Commission. This agency previously notified its systems of records by publication in the Federal Register at 42 FR 48131, September 22, 1977, as amended by additional systems of records at 44 FR 5941, January 30, 1979; 44 FR 10629, February 22, 1979; 47 FR 13214, March 29, 1982; and 52 FR 10802, April 3, 1987.

Previously notice system FMC-27 has been deleted from this publication because the system is no longer maintained and all records formerly included in the system have been destroyed. To eliminate duplication, a number of other systems were deleted or omitted from the 1987 publication

because they are included under the government-wide systems of records notices published by the Office of Personnel Management (OPM) or the Office of Equal Employment Opportunity. These systems are FMC-8, FMC-9, FMC-14, FMC-16, FMC-19 and FMC-28. In order to more accurately reflect the systems of records actually maintained by the Commission, these are being reinstated or added to the list and reference is made to the appropriate government-wide systems notice that applies in each case. Also, FMC-29, Employee Performance File System Records, which was previously covered under FMC-8, is being added to the list as a separate system to more closely conform with OPM's government-wide systems notice.

This notice also includes the addition of certain exemptions under subsections (k) (2) and (5) of the Privacy Act for various systems of records, specifically, FMC-1, FMC-7, FMC-22, FMC-24, FMC-25 and FMC-26. A report on the addition of these exemptions was filed on May 30, 1989. Amendments are also being made to the FMC-25 to reflect the expansion of the role of the Commission's Inspector General necessitated by passage of Public Law 100-504, the Inspector General Act Amendments of 1988.

Finally, this document includes non-substantive, editorial changes to some existing systems; and one new system, FMC-30. This new system, as well as amendments to FMC-25 are concurrently being noticed as proposed changes to be effective in 60 days unless an announcement to the contrary is published by this agency. A new and altered systems report for these two systems was filed on December 19, 1989.

By the Commission.

Joseph C. Polking,  
Secretary.

FMC-1 Personnel Security File  
FMC-2 Non-Attorney Practitioner File  
FMC-7 Licensed Ocean Freight Forwarders File  
FMC-8 Official Personnel Folder  
FMC-9 Training Program Records  
FMC-10 Desk Audit File  
FMC-14 Medical Examination File  
FMC-15 Service Control File  
FMC-16 Classification Appeals File  
FMC-18 Travel Orders/Vouchers File  
FMC-19 Statement of Employment and Financial Interests  
FMC-21 Payroll Records  
FMC-22 Investigatory Files  
FMC-23 Parking Applications  
FMC-24 Informal Inquiries and Complaints Files  
FMC-25 Inspector General File  
FMC-26 Administrative Grievance File  
FMC-28 Equal Employment Opportunity Complaints Files

FMC-29 Employee Performance File System Records  
FMC-30 Procurement Integrity Certification Files

#### FMC-1

##### SYSTEM NAME:

Personnel Security File-FMC.

##### SYSTEM LOCATION:

Bureau of Investigations, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Employees of the Federal Maritime Commission. 2. Applicants for employment with the Federal Maritime Commission.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

Results of name checks, inquiries, and investigations to determine suitability for employment with the U.S. Government, and to determine whether employment or continued employment of an individual can reasonably be expected to be clearly consistent with national security interests.

##### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450

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

The records in this system of records are used or may be used: 1. By Commission officials to make a determination that the employment of an applicant or retention of employment of a current employee within the Commission is clearly consistent with the interests of national security. 2. To refer, where there is an indication of a violation or potential violation of law, whether civil or criminal or regulatory in nature, information to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto. 3. To request from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information, data relevant to a Commission decision concerning the hiring or retention of an employee or the issuance of a security clearance. 4. To provide or disclose information to a Federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting

agency, to the extent that the information is relevant and necessary to the requesting agency's decision on that matter. 5. By a court of law or appropriate administrative board or hearing having review or oversight authority.

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

##### STORAGE:

Records are maintained in file folders.

##### RETRIEVABILITY:

Records are indexed alphabetically by name.

##### SAFEGUARDS:

Records are maintained in a combination safe in the custody of the personnel security officer and access is limited to the personnel security officer and his duly authorized representatives.

##### RETENTION AND DISPOSAL:

Return record copies of reports furnished by Office of Personnel Management after information has been reviewed and maintain other FMC records on file until termination of employee from agency. Destroy within 30 days after employee leaves.

##### SYSTEM MANAGER(S) AND ADDRESS:

Security Officer, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

##### NOTIFICATION PROCEDURE:

All inquiries regarding this system of records should be addressed to: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

##### RECORD ACCESS PROCEDURE:

Requests for access to a record should be directed to the Secretary listed at the above address. Requests may be in person or by mail and shall meet the requirements set out in § 503.65 of Title 46 of the Code of Federal Regulations.

##### CONTESTING RECORD PROCEDURES:

An individual desiring to amend a record shall direct such request to the Secretary at the above listed address. Such requests shall specify the desired amendments and the reasons therefor, and shall meet the requirements of § 503.66 of title 46 of the Code of Federal Regulations.

##### RECORD SOURCE CATEGORIES:

Office of Personnel Management report, and reports from other Federal agencies.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

This system is exempt from the provisions of 5 U.S.C. 552a (c)(3) and (d) which otherwise require the Commission to provide the individual named in the records an accounting of disclosures and access to and opportunity to amend the records. All information about individuals that meets the criteria of 5 U.S.C. 552a(k)(5), regarding suitability, eligibility or qualifications for Federal civilian employment or for access to classified information, to the extent that disclosure would reveal the identity of a source who furnished information to the Commission under a promise of confidentiality is exempt from disclosure. Exemption from disclosure is required to honor promises of confidentiality.

**FMC-2****SYSTEM NAME:**

Non-Attorney Practitioner File-FMC.

**SYSTEM LOCATION:**

Office of Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Persons, not attorneys, who apply for and/or are granted permission to practice before the Commission.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Application forms and letters of reference in relation to non-attorney practitioners.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

46 CFR 502.27.

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

The records in this system of records are used or may be used: 1. By personnel of the Secretary's Office to determine whether a non-attorney should be admitted to practice before the Commission. 2. To refer, where there is an indication of a violation or potential violation of law, whether civil or criminal or regulatory in nature, information to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto. 3. To request from a Federal, State or local agency maintaining civil, criminal, or other relevant enforcement information, data relevant to a Commission decision

concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. 4. To provide or disclose information to a Federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

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

Records are maintained in file folders.

**RETRIEVABILITY:**

Records are indexed alphabetically by name.

**SAFEGUARDS:**

Records are maintained in file cabinets under the control of personnel in the Secretary's Office.

**RETENTION AND DISPOSAL:**

Records are maintained in the Office of the Secretary for 10 years after applicant ceases to practice and then are transferred to the Federal Records Center. Records are destroyed 20 years thereafter.

**SYSTEM MANAGER(S) AND ADDRESS:**

Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**NOTIFICATION PROCEDURE:**

All inquiries regarding this system of records should be addressed to: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**RECORD ACCESS PROCEDURES:**

Request for Access to a record should be directed to the Secretary listed at the above address. Requests may be in person or by mail and shall meet the requirements set out in § 503.65 of Title 46 of the Code of Federal Regulations.

**CONTESTING RECORD PROCEDURES:**

An individual desiring to amend a record shall direct such a request to the Secretary at the above listed address. Such requests shall specify the desired amendments and the reasons therefor, and shall meet the requirements of § 503.66 of Title 46 of the Code of Federal Regulations.

**RECORD SOURCE CATEGORIES:**

Applicants.

**FMC-7****SYSTEM NAME:**

Licensed Ocean Freight Forwarders File-FMC.

**SYSTEM LOCATION:**

Bureau of Domestic Regulation, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Records are maintained on sole proprietorships, partnerships and corporate licensees, exlicensees, and applicants for licenses.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system contains freight forwarder names and addresses, as well as the names and addresses of the stockholders, officers, and directors of individual freight forwarders; descriptions of the relationships the freight forwarder may have with other business entities; credit references; a record of the forwarder's past experience in forwarding; and any financial information and/or criminal convictions pertinent to the licensing of the forwarder.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 553; secs. 3, 8, 10, 11, 13, 15, 17 and 19, Shipping Act of 1984 (46 U.S.C. App. 1702, 1707, 1709, 1710, 1712, 1714, 1716 and 1718).

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

Records in this system of records are used or may be used: 1. By Commission staff for evaluation of applications for licensing. 2. By Commission staff for monitoring the activities of licensees to ensure they are in compliance with Commission regulations. 3. To refer, where there is an indication of a violation or potential violation of law whether civil, criminal or regulatory in nature, information to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rules, regulations, or orders issued pursuant thereto. 4. To request from a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information, data relevant to a Commission decision concerning the hiring or retention of an employee, the issuance of a security clearance, the

letting of a contract, or the issuance of a license, grant, or other benefit. 5. To provide or disclose information to a Federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

**STORAGE:**

Records are maintained in file folders and in a personal computer.

**RETRIEVABILITY:**

Records are indexed by name and license or application number.

**SAFEGUARDS:**

Records are maintained in an area of restricted accessibility.

**RETENTION AND DISPOSAL:**

Applicant and licensee files are kept as long as the application and/or license is active. Files for withdrawn and denied applicants, and revoked licenses remain in the Record Location Center for two years after final action and are then transferred to the Federal Records Center. Then, after ten years the files are destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Bureau of Domestic Regulation, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**NOTIFICATION PROCEDURE:**

All inquiries regarding this system of records should be addressed to: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**RECORD ACCESS PROCEDURES:**

Requests for access to a record should be directed to the Secretary listed at the above address. Request may be in person or by mail and shall meet the requirements set out in § 503.65 of Title 46 of the Code of Federal Regulations.

**CONTESTING RECORD PROCEDURES:**

An individual desiring to amend a record shall direct such request to the Secretary at the above listed address. Such requests shall specify the desired amendments and the reasons therefor, and shall meet the requirements of § 503.66 of Title 46 of the Code of Federal Regulations.

**RECORD SOURCE CATEGORIES:**

1. Information submitted by applicants and licensees. 2. Commission

District Offices. 3. General Public (e.g., complaints). 4. Surety companies.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

This system is exempt from the provisions of 5 U.S.C. 552a (c)(3) and (d) which otherwise require the Commission to provide the individual named in the records an accounting of disclosures and access to and opportunity to amend the records. All information that meets the criteria of 5 U.S.C. 552a(k)(2) regarding investigatory material compiled for law enforcement purposes is exempt. Exemption is appropriate because disclosure might compromise ongoing investigations, reveal the identity of confidential sources or constitute unwarranted invasions of personal privacy of third parties.

**FMC-8****SYSTEM NAME:**

Official Personnel Folder-FMC.

**SYSTEM LOCATION:**

Office of Personnel, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

Note: This system is covered by the Office of Personnel Management's government-wide system notice, OPM/GOVT-1.

**FMC-9****SYSTEM NAME:**

Training Program Records-FMC.

**SYSTEM LOCATION:**

Office of Personnel, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

Note: This system is covered by the Office of Personnel Management's government-wide system notice, OPM/GOVT-1.

**FMC-10****SYSTEM NAME:**

Desk Audit File-FMC.

**SYSTEM LOCATION:**

Office of Personnel, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former employees of the Federal Maritime Commission.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Each record consists of the position classification specialist's notes of conversations, evaluation reports, background papers, and/or research material used to support the audit.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

44 U.S.C. 3101 et seq., 5 U.S.C. 1302 and the regulations issued pursuant thereto.

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

Information in this system of records is used or may be used: 1. By Commission officials to support decisions on the proper classification of a position. 2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, information to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto. 3. To request from a Federal, State or local agency maintaining civil, criminal, or other relevant enforcement information, data relevant to a Commission decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. 4. To provide or disclose information to a Federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on that matter. 5. By the Office of Personnel Management in the course of an investigation, or evaluating for statistical or management analysis purposes.

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

Records Management Policy and Practice.

**STORAGE:**

Records are maintained in file folders.

**RETRIEVABILITY:**

Records are indexed alphabetically by name.

**SAFEGUARDS:**

Records are maintained in locked file cabinets.

**RETENTION AND DISPOSAL:**

Records are maintained as long as the position audited remains essential,

current, and accurate, after which they are shredded.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Personnel, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**NOTIFICATION PROCEDURE:**

All inquiries regarding this system of records should be addressed to: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**RECORD ACCESS PROCEDURES:**

Requests for access to a record should be directed to the Secretary listed at the above address. Requests may be in person or by mail and shall meet the requirements set out in § 503.65 of Title 46 of the Code of Federal Regulations.

**CONTESTING RECORD PROCEDURES:**

An individual desiring to amend a record shall direct such a request to the Secretary at the above listed address. Such requests shall specify the desired amendments and the reasons therefor, and shall meet the requirements of § 503.66 of Title 46 of the Code of Federal Regulations.

**RECORD SOURCE CATEGORIES:**

Personnel specialists of the Commission.

FMC-14

**SYSTEM NAME:**

Medical Examination File—FMC.

**SYSTEM LOCATION:**

Office of Personnel, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

Note: This system is covered by the Office of Personnel Management's government-wide system notice, OPM/GOVT-10.

FMC-15

**SYSTEM NAME:**

Service Control File—FMC.

**SYSTEM LOCATION:**

Office of Personnel, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees of the Federal Maritime Commission.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system consists of Service Record Cards (Standard Forms 7 and 7-B), and a Position Identification Strip (Standard Form 7D). This file provides summary information of organizational structure, budgeted positions, and

historical and current status data on employees only for the time they have been with the Commission. The service record of each employee who leaves the agency is filed separately and retained for historical reference.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

44 U.S.C. 3101 et seq., 5 U.S.C. 1302 and the regulations issued pursuant thereto.

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

The records in this system of records are used or may be used: 1. By appropriate Commission officials for personnel actions such as within grade increases, conversions to career tenure, probationary ratings, terminations of limited assignments, and expiration of authorized absences. 2. By the Office of Personnel Management in the course of an investigation of a particular employee of the Commission, or for management analysis and statistical purposes. 3. To request from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information, data relevant to a Commission decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, the issuance of a license, grant or other benefit. 4. To provide or disclose information to a Federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

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

Records are maintained on index cards.

**RETRIEVABILITY:**

Records are indexed alphabetically by name.

**SAFEGUARDS:**

Records are maintained in locked file cabinets.

**RETENTION AND DISPOSAL:**

Records are maintained while the individual is employed by the Commission and are destroyed by shredding three years after separation or transfer of employee.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Personnel, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**NOTIFICATION PROCEDURE:**

All inquiries regarding this system of records should be addressed to: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**RECORD ACCESS PROCEDURES:**

Requests for access to a record should be directed to the Secretary listed at the above address. Requests may be in person or by mail and shall meet the requirements set out in § 503.65 of Title 46 of the Code of Federal Regulations.

**CONTESTING RECORD PROCEDURES:**

An individual desiring to amend a record shall direct such a request to the Secretary at the above listed address. Such requests shall specify the desired amendments and the reasons therefore, and shall meet the requirements of § 503.66 of Title 46 of the Code of Federal Regulations.

**RECORD SOURCE CATEGORIES:**

Personnel specialists of the Federal Maritime Commission.

FMC-16

**SYSTEM NAME:**

Classification Appeals File-FMC.

**SYSTEM LOCATION:**

Office of Personnel, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

Note: This system is covered by the Office of Personnel Management's government-wide system notice, OPM/GOVT-9.

FMC-18

**SYSTEM NAME:**

Travel Orders/Vouchers File-FMC.

**SYSTEM LOCATION:**

Office of Budget and Financial Management, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees of the Federal Maritime Commission.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The record consists of the initial travel order for the individual and the subsequent travel voucher prepared from information supplied by the individual which includes hotel bills.

subsistence breakdown, cab fares and air fares.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Federal Travel Regulations FPMR 101-7 and Travel Expense Amendments Act of 1975 (5 U.S.C. 5701-5709). 44 U.S.C. 3101. 5 U.S.C. 301.

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

Records in this system of records are used or may be used: 1. By the Commission for the authorization of travel performed by personnel of the Commission. 2. By the Commission to prepare travel vouchers for submission to the Federal Home Loan Bank Board and to maintain internal control of travel expenses within this agency. 3. To refer, where there is an indication of a violation or potential violation of law, whether civil or criminal in nature, information to the appropriate agency, whether Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

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

**STORAGE:**

Records are maintained in file folders.

**RETRIEVABILITY:**

Records are indexed by name or bureau.

**SAFEGUARDS:**

Records are maintained in locked file cabinets and monitored by the Director of the Office of Budget and Financial Management.

**RETENTION AND DISPOSAL:**

The records are maintained for three years and are then destroyed by shredding.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Budget and Financial Management, Federal Maritime Commission, 1100 L Street, N.W., Washington, DC 20573-0001.

**NOTIFICATION PROCEDURE:**

All inquiries regarding this system of records should be addressed to: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**RECORD ACCESS PROCEDURE:**

Requests for access to a record should be directed to the Secretary listed at the above address. Requests may be in

person or by mail and shall meet the requirements set out in § 503.65 of Title 46 of the Code of Federal Regulations.

**CONTESTING RECORD PROCEDURES:**

An individual desiring to amend a record shall direct such a request to the Secretary at the above listed address. Such requests shall specify the desired amendments and the reasons therefor, and shall meet the requirements of § 503.66 of Title 46 of the Code of Federal Regulations.

**RECORD SOURCE CATEGORIES:**

Individual to whom the record pertains, hotel bills, individual's subsistence record, and Travel Requests (Airline or train).

**FMC-19**

**SYSTEM NAME:**

Statement of Employment and Financial Interests-FMC.

**SYSTEM LOCATION:**

Office of the General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573-0001.

Note: This system is covered by the Office of Personnel Management's government-wide systems notices, OPM/GOVT-4 and OPM/GOVT-8.

**FMC-21**

**SYSTEM NAME:**

Payroll Records-Federal Maritime Commission.

**SYSTEM LOCATION:**

Office of Thrift Supervision ("OTS"), U.S. Department of the Treasury; copies held by the FMC. (OTS holds records for the Federal Maritime Commission under contract.)

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Varied payroll records, including, among other documents: time and attendance cards, payment vouchers, comprehensive listing of employees, health benefits records, requests for deduction, tax forms, W-2 forms, overtime requests, leave data, retirement records. Records are used by FMC and OTS employees to maintain adequate payroll information for FMC employees, and otherwise by the FMC and OTS employees who have a need for the record in the performance of their duties.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

31 U.S.C. generally.

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

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a "routine use," to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use":

1. To a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of any employee, the issuance of a security clearance, the letting of a contract or the issuance of a license grant or other benefit.

2. To a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

3. To an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the Office of Personnel Management in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

4. To officers and employees of a Federal agency for purposes of audit.

5. To a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

6. To officers and employees of the Office of Thrift Supervision in

connection with administrative services provided to this agency under agreement with OTS.

7. To GAO for audit; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, also is disclosed to the state, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the state, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, and 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Secretary at the above address.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with section 7 of the Privacy Act, Pub. L. 93-579.

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

**STORAGE:**

Paper and microfilm records are stored at the FMC. The Office of Thrift Supervision maintains computerized records.

**RETRIEVABILITY:**

Social Security Number.

**SAFEGUARDS:**

Stored in guarded building; released only to authorized personnel.

**RETENTION AND DISPOSAL:**

Disposition of records shall be in accordance with the OTS Records Maintenance and Disposition System.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Budget and Financial Management, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**NOTIFICATION PROCEDURE:**

All inquiries regarding this system of records should be addressed to: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**RECORD ACCESS PROCEDURES:**

Requests for access to a record should be directed to the Secretary listed at the above address. Requests may be in person or by mail and shall meet the requirements set out in § 503.65 of Title 46 of the Code of Federal Regulations.

**CONTESTING RECORD PROCEDURES:**

An individual desiring to amend a record shall direct such a request to the Secretary at the above listed address. Such requests shall specify the desired amendments and the reasons therefor, and shall meet the requirements of § 503.66 of Title 46 of the Code of Federal Regulations.

**RECORD SOURCE CATEGORIES:**

The subject individual; the Commission.

**FMC-22**

**SYSTEM NAME:**

Investigatory Files-FMC.

**SYSTEM LOCATION:**

Bureau of Investigations, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Records may be maintained on individuals involved in investigations and enforcement actions instituted by the Federal Maritime Commission. These individuals could include employees, owners, officers and directors of steamship companies, ocean freight forwarders, shippers, consignees, brokers and other entities associated with ocean transportation. Included would be individuals alleged to have violated the Shipping Act of 1984; the Intercoastal Shipping Act, 1933; the Shipping Act, 1918; and Public Law 89-777. Also included would be individual applicants routinely investigated in connection with licenses and certificates issued by the FMC pursuant to its statutory authority.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Investigative and intelligence data; documented violations; warning letters and information regarding applications

for certification and licensing, if appropriate; and reports from investigative/law enforcement agencies.

Includes any information on alleged or proven violations of the statutes or parts thereof over which the FMC has jurisdiction.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Shipping Act of 1984, Intercoastal Shipping Act, 1933 (46 U.S.C. 801 and 843), and Shipping Act, 1916.

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

1. In the event that a system of records maintained by the FMC to carry out its functions indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. A record from this system of records may be disclosed, as a routine use, to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an FMC decision concerning the assignment, hiring or retention of an individual, the issuance of a security clearance, or the issuance of a license, grant or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a Federal, State, local or international agency, in response to its request, in connection with the assignment, hiring or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court magistrate or administrative tribunal, including disclosures to

opposing counsel in the course of settlement negotiations.

5. A record in this system or records may be disclosed as a routine use to either House of Congress, or to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of such joint committee.

6. A record in this system of records may be disclosed, as a routine use, to the Department of Justice in connection with determining whether disclosure thereof is required by the Freedom of Information Act (5 U.S.C. 552).

7. A record in this system may be transferred, as a routine use, to the Office of Personnel Management for personnel research purposes; as a data source for management information; for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained; or for related manpower studies.

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

**STORAGE:**

Records are maintained in paper form in filing cabinets and in a Lektriever, Series 80. Statistical data taken from record forms are maintained in a personal computer

**RETRIEVABILITY:**

Information filed by case of subject file. Records pertaining to individuals are accessed by reference to the Bureau of Investigation's name-relationship index system.

**SAFEGUARDS:**

Records are located in locked metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access. The Lektriever files are locked with a key and the key is secured in a locked file cabinet. Computer information is safeguarded with an access code. Files are maintained in buildings that have 24 hour security guards.

**RETENTION AND DISPOSAL:**

(a) Bureau of Investigations-Records are retained for 7 years after case is closed, and then transferred to the Federal Records Center. Records are destroyed 14 years after case is closed.  
(b) Field Offices-Records are destroyed 7 years after case is closed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Bureau of Investigations, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**NOTIFICATION PROCEDURE:**

All inquiries regarding this system of records should be addressed to: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**RECORD ACCESS PROCEDURES:**

Requests for access to a record should be directed to the Secretary listed at the above address. Requests may be in person or by mail and shall meet the requirements set out in § 503.65 of Title 46 of the Code of Federal Regulations.

**CONTESTING RECORD PROCEDURES:**

An individual desiring to amend a record shall direct such a request to the Secretary at the above listed address. Such requests shall specify the desired amendments and the reasons therefor, and shall meet the requirements of § 503.66 of Title 46 of the Code of Federal Regulations.

**RECORD SOURCE CATEGORIES:**

Individual shippers, carriers, freight forwarders, those authorized by the individual to furnish information, trade sources, investigative agencies, investigative personnel of the Bureau of Investigations and other sources of information.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

This system is exempt from the provisions of 5 U.S.C. 552a(c)(3) and (d) which otherwise require the Commission to provide the individual named in the records an accounting of disclosures and access and opportunity to amend the records. All information that meets the criteria of 5 U.S.C. 552a(k)(2) regarding investigatory material compiled for law enforcement purposes is exempt. Exemption is appropriate because disclosure might compromise ongoing investigations, reveal the identity of confidential sources or constitute unwarranted invasions of personal privacy of third parties.

**Appendix**

Los Angeles District, U.S. Customs House Building, 300 S. Ferry Street, Room 2040A, P.O. Box 3184, Terminal Island Station, San Pedro, CA 90731

Miami District, 1001 North America Way, Room 115, Miami, FL 33132

New Orleans District, 600 South Maestri Place, Room 1035, P.O. Box 30550, New Orleans, LA 70190-0550

New York District, 6 World Trade Center, Suite 614, New York, NY 10048-0949

Houston District, 4141 East Beltway 8, Suite 102, Houston, TX 77032

Puerto Rico District, U.S. District Courthouse, Federal Office Building, Room 762, Carlos Chardon Street, Hato Rey, PR 00918-2254.

San Francisco District, 525 Market Street, 35th Floor, Suite 3510, San Francisco, CA 94105

**FMC-23**

**SYSTEM NAME:**

Parking Applications-FMC.

**SYSTEM LOCATION:**

Office of Administrative Services, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees and their carpool members desiring agency controlled parking.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Names; office locations and telephone numbers; home addresses; make, year, model, and license number of vehicles; carpool usage; handicap and special designation; signatures.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Federal Property Management Regulations §§ 101-20.111 and 101-20.117.

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

Used by Agency employees responsible for allocation and control of parking spaces, and to assist in creating carpools.

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

**STORAGE:**

Records are maintained in file folders.

**RETRIEVABILITY:**

By applicant name or space assignment.

**SAFEGUARDS:**

Records are maintained in a file cabinet in a locked room, with 24 hour building security guards.

**RETENTION AND DISPOSAL:**

Records voided upon update or parking permit cancellation. Files destroyed after second overall reallocation of permits.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Administrative Services, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573-0001.

**NOTIFICATION PROCEDURE:**

All inquiries regarding this system of records should be addressed to: Secretary, Federal Maritime

Commission, 1100 L Street NW.,  
Washington, DC 20573-0001.

**RECORD ACCESS PROCEDURES:**

Requests for access to a record should be directed to the Secretary listed at the above address. Requests may be in person or by mail and shall meet the requirements set out in § 503.65 of Title 46 of the Code of Federal Regulations.

**CONTESTING RECORD PROCEDURES:**

An individual desiring to amend a record shall direct such a request to the Secretary at the above listed address. Such requests shall specify the desired amendments and the reasons therefor, and shall meet the requirements of § 503.66 of Title 46 of the Code of Federal Regulations.

**RECORD SOURCE CATEGORIES:**

Individuals to whom the records pertain.

**FMC-24**

**SYSTEM NAME:**

Informal Inquiries and Complaints Files-FMC.

**SYSTEM LOCATION:**

Office of Informal Inquiries and Complaints, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Consumers complaining against business entities regulated by the Commission.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Copies of complaints and correspondence developed in their resolution, complaint tracking logs.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Executive Order 12160, September 26, 1979.

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

Information in this system of records is used or may be used: 1. To determine whether a complaint can be resolved by staff in various bureaus and offices. 2. To determine whether a complaint can be resolved by a business entity regulated by the Commission. 3. To determine whether the complaint can be resolved by reference to another agency at the Federal, State or local level. 4. To provide information to the Commission on developments or trends in the character of complaints which might suggest policy directions, proposed rules or programs.

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

**STORAGE:**

Records are maintained in file folders.

**RETRIEVABILITY:**

Records are serially numbered and indexed by complainant and defendant.

**SAFEGUARDS:**

Records are maintained in locked file cabinets.

**RETENTION AND DISPOSAL:**

Records are maintained by the Federal Maritime Commission for one year, then transferred to the National Records Center. They are destroyed when four years old.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Informal Inquiries and Complaints, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573-0001.

**NOTIFICATION PROCEDURE:**

All inquiries regarding this system of records should be addressed to: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001

**RECORD ACCESS PROCEDURE:**

Requests for access to a record should be directed to the Secretary listed at the above address. Requests may be in person or by mail and shall meet the requirements set out in § 503.65 of Title 46 of the Code of Federal Regulations.

**CONTESTING RECORD PROCEDURES:**

An individual desiring to amend a record shall direct such a request to the Secretary at the above listed address. Such requests shall specify the desired amendments and the reasons therefor, and shall meet the requirements of § 503.66 of Title 46 of the Code of Federal Regulations.

**RECORD SOURCE CATEGORIES:**

Consumers who have filed complaints.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

This system is exempt from the provisions of 5 U.S.C. 552a (c)(3) and (d) which otherwise require the Commission to provide the individual named in the records an accounting of disclosure and access and opportunity to amend the records. All information that meets the criteria of 5 U.S.C. 552a(k)(2) regarding investigatory material compiled for law enforcement purposes is exempt. Exemption is appropriate because disclosure might

compromise ongoing investigations, reveal the identity of confidential sources or constitute unwarranted invasions of personal privacy of third parties.

**FMC-25**

**SYSTEM NAME:**

Inspector General File-FMC.

**SYSTEM LOCATION:**

Office of The Inspector General ("OIG"), Federal Maritime Commission ("FMC"), 1100 L Street, NW., Washington, DC 20573-0001.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals and entities who are or have been the subjects of audits and/or investigations conducted by the OIG, including present and former FMC employees; consultants, contractors, and subcontractors and their employees; and other individuals and entities doing business with the FMC.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

A. *Case Index.* Selected information from each case file indexed by case file number, and case title which may include names of subjects of audits and investigations.

B. *Hard Copy Files*—1. *Investigative Case Files.* Case files developed during investigations of known or alleged fraud, abuse, irregularities, and violations of laws and regulations. Cases relate to agency personnel and programs and operations administered by the agency, including contractors and others having a relationship with the agency. This includes investigative files relating to employee and hotline complaints, and other miscellaneous complaint files. Files consist of investigative reports and related documents, such as correspondence, notes, attachments, and working papers.

a. Files containing information or allegations which are of an investigative nature but do not relate to a specific investigation. They include anonymous or vague allegations not warranting an investigation, matters referred to constituents or other agencies for handling, and support files providing general information which may prove useful in Inspector General investigations.

b. All other investigative case files.

2. *Audit Case Files.* Case files of internal audits of agency programs, operations, and procedures, and of external audits of contractors. Consists of audit reports, correspondence, memoranda, and supporting working papers.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The Inspector General Act of 1978, (5 U.S.C. App. 3), as amended by Pub. Law 100-504; 44 U.S.C. 3101 et seq.; Commission Order No. 113.

**PURPOSE(S):**

The records maintained in the system are used by the OIG in furtherance of the responsibilities of the Inspector General, pursuant to the Inspector General Act of 1978, as amended, to conduct and supervise audits and investigations relating to programs and operations of the FMC; to promote economy, efficiency, and effectiveness in the administration of such programs and operations; and to prevent and detect fraud and abuse in such programs and operations.

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

The records in the system may be used and disseminated to further the purposes described above. The following routine uses apply to the records maintained in this system:

A. A record may be disclosed to an individual, or to a Federal, State, local, or international agency when necessary to further the ends of a legitimate investigation or audit.

B. A record which indicates either by itself or in combination with other information within the agency's possession, a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation, or order issued pursuant thereto, or which indicates a violation or potential violation of a contract, may be disclosed to the appropriate agency, whether Federal, State, local, or international, charged with the responsibility of investigating or prosecuting such violation, or of enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, or of enforcing the contract.

C. A record may be disclosed to a Federal, State, local, or international agency, in response to its request, in connection with the assignment, hiring, or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

D. A record may be disclosed to a Member of Congress who submits an

inquiry on behalf of an individual, when the Member of Congress informs the FMC that the individual to whom the record pertains has authorized the Member of Congress to have access to the record. In such cases, the Member of Congress has no more right to the record than does the individual.

E. A record may be disclosed to the Office of Government Ethics for any purpose consistent with that Office's mission, including the compilation of statistical data.

F. A record may be disclosed to the U.S. Department of Justice in order to obtain that Department's advice regarding an agency's disclosure obligation under the Freedom of Information Act.

G. A record may be disclosed to the Office of Management and Budget in order to obtain that Office's advice regarding an agency's obligations under the Privacy Act.

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

The case index is stored on a hard disk on a standalone, lockable, personal computer. The hard copy files are stored in file folders. All records are stored under secured conditions.

**RETRIEVABILITY:**

Records in the case index are retrieved by case title which may include the name of the subject of an investigation and by case number. Records in the hard copy files are retrieved by case numbers.

**SAFEGUARDS:**

Direct access is limited to authorized staff of the OIG. Additional access within FMC is limited to authorized officials on a need-to-know basis. All records, when not in a possession of an authorized individual are stored in locked cabinets or a locked, standalone, personal computer in a locked room.

**RETENTION AND DISPOSAL:**

1. (a) Files containing information or allegations which are of an investigative nature but do not relate to a specific investigation are retained for five years.

(b) Other investigative case files are retained for ten years.

2. Audit case files are retained for eight years after case is closed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Inspector General, Office of the Inspector General, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**NOTIFICATION PROCEDURE:**

All inquiries regarding this system of records should be addressed to: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001. However, see Exemption section below.

**RECORD ACCESS PROCEDURES:**

Requests for access to a record should be directed to the Secretary listed at the above address. Requests may be in person or by mail and shall meet the requirements set out in § 503.65 of Title 46 of the Code of Federal Regulations. However, see Exemption section below.

**CONTESTING RECORD PROCEDURES:**

An individual desiring to amend a record shall direct such a request to the Secretary at the above listed address. Such requests shall specify the desired amendments and the reasons therefor, and shall meet the requirements of § 503.66 of Title 46 of the Code of Federal Regulations. However, see Exemption section below.

**RECORD SOURCE CATEGORIES:**

Agency employees, reports and contracts from other agencies, and internal and external documents.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

This system is exempt from the provisions of 5 U.S.C. 552a(c)(3) and (d) which otherwise require the Commission to provide the individual named in the records an accounting of disclosures and access to and opportunity to amend the records. The scope of the exemption follows:

1. All information that meets the criteria of 5 U.S.C. 552a(k)(2) regarding investigatory material compiled for law enforcement purposes. Exemption is appropriate because disclosure might compromise ongoing investigations, reveal the identity of confidential sources or constitute unwarranted invasions of personal privacy of third parties.

2. All information about individuals that meets the criteria of 5 U.S.C. 552a(k)(5), regarding suitability, eligibility or qualifications for Federal civilian employment or for access to classified information, to the extent that disclosure would reveal the identity of a source who furnished information to the Commission under a promise of confidentiality. Exemption from disclosure is required to honor promises of confidentiality.

**FMC-26****SYSTEM NAME:**

Administrative Grievance File-FMC.

**SYSTEM LOCATION:**

Office of Personnel, Federal Maritime Commission, 1100 L Street NW, Washington, DC 20573-0001.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Any employee of the Federal Maritime Commission including any former employee for whom a remedy can be provided (subject to the exclusions in 5 CFR 771.206(b)) who has filed a grievance with the agency (alleging that coercion, reprisal, or retaliation has been practiced against him or her).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Administrative Grievance Files contain all documents related to a particular grievance, including but not limited to any statements of witnesses, records or copies thereof, the report of the hearing when one is held, statements made by the parties to the grievance, and the decision.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 1302, 3301, 3302, 7301, E.O. 9830, 3 CFR 1943-1948 Comp., pp. 606-624; E.O. 11222, 3 CFR 2964-2969 Comp., p. 306., 5 CFR 293.202.

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

Information in this system of records is used or may be used: 1. By Commission officials designated as grievance examiners for the purpose of adjudication, by the Director of EEO in the event of an investigation when the EEO complaint relates to the grievance, or for information concerning the outcome of the grievance. 2. By the Office of Personnel Management in the course of an investigation of a particular employee of the Commission, for statistical analysis purposes, or for program compliance checks. 3. By the Merit Systems Protection Board if necessitated by an appeal. 4. By the appropriate District Court of the United States to render a decision when the Commission has refused to release a current or former employee's record under the Freedom of Information Act. 5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, information to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or

implementing the statute, rules, regulation or order issued pursuant thereto. 6. To request from a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information, data relevant to a Commission decision concerning the hiring or retention of an employee. 7. To provide or disclose information to a Federal agency in response to its request in connection with the hiring or retention of an employee, to the extent that the information is relevant and necessary to the requesting agency's decision on that matter. 8. By the employee or his/her designated representative in order to gather or provide information necessary to process the grievance.

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

Records are maintained in file folders.

**RETRIEVABILITY:**

Records are indexed alphabetically by name.

**SAFEGUARDS:**

Records are stored in locked file cabinets.

**RETENTION AND DISPOSAL:**

The Administrative Grievance File is maintained for three years after the decision is issued and is then shredded.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director of Personnel, Federal Maritime Commission, 1100 L Street NW, Washington, DC 20573-0001.

**NOTIFICATION PROCEDURE:**

All inquiries regarding this system of records should be addressed to: Secretary, Federal Maritime Commission, 1100 L Street NW, Washington, DC 20573-0001

**RECORD ACCESS PROCEDURES:**

Requests for access to a record should be directed to the Secretary, listed at the above address. Requests may be in person or by mail and shall meet the requirements set out in § 503.65 of Title 46 of the Code of Federal Regulations.

**CONTESTING RECORD PROCEDURES:**

An individual desiring to amend a record shall direct such a request to the Secretary at the above listed address. Such requests shall specify the desired amendments and the reasons therefor, and shall meet the requirements of § 503.66 of Title 46 of the Code of Federal Regulations.

**RECORD SOURCE CATEGORIES:**

Information is supplied by the individual to whom the record pertains and/or by his or her representative, personnel specialists, grievance examiners, and any parties providing information bearing directly on the grievance.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

This system is exempt from the provisions of 5 U.S.C. 552a(c)(3) and (d) which otherwise require the Commission to provide the individual named in the records an accounting of disclosures and access and opportunity to amend the records. (1) All information that meets the criteria of 5 U.S.C. 552a(k)(2) regarding investigatory material compiled for law enforcement purposes is exempt. Exemption is appropriate because disclosure might compromise ongoing investigations, reveal the identity of confidential sources or constitute unwarranted invasions of personal privacy of third parties. (2) All information about individuals that meets the criteria of 5 U.S.C. 552a(k)(5), regarding suitability, eligibility or qualifications for Federal civilian employment or for access to classified information, to the extent that disclosure would reveal the identity of a source who furnished information to the Commission under a promise of confidentiality is exempt. Exemption from disclosure is required to honor promises of confidentiality.

**FMC-28****SYSTEM NAME:**

Equal Employment Opportunity Complaint Files-FMC.

**SYSTEM LOCATION:**

Office of Equal Employment Opportunity, Federal Maritime Commission, 1100 L Street NW, Washington, D.C. 20573-0001.

Note: This system of records is covered by the Equal Employment Opportunity Commission's Government-wide systems notice, EEOC/GOVT-1.

**FMC-29****SYSTEM NAME:**

Employee Performance File System Records-FMC.

**SYSTEM LOCATION:**

Office of Personnel, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

Note: This system of records is covered by the Office of Personnel Management's Government-wide systems notice, OPM/GOVT-2.

**FMC-30****SYSTEM NAME:**

Procurement Integrity Certification Files-FMC.

**SYSTEM LOCATION:**

Bureau of Administration, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former officials and employees of the Federal Maritime Commission and relevant outside contractors.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records include certifications by affected individuals that they will not engage in activities prohibited by applicable statutes, regulations and contracts. Records include information on individuals, including name and title. This system does not include official personnel files covered by the Office of Personnel Management's systems of records OPM/GOVT-1 through 10.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Office of Federal Procurement Policy Act Amendments of 1988 (Pub. L. 100-679), (41 U.S.C. 423); and the Federal Acquisition Regulations (FAR). Effective December 1, 1989, Section 27 of Pub. L. 100-679 and implementing sections of the FAR were suspended for one (1) year, i.e., until November 30, 1990. See section 507 of the Ethics Reform Act of 1989 (Pub. L. 101-194) and Federal Acquisition Circular 84-54 of December 8, 1989 (54 FR 50718). Records maintained under the "Procurement Integrity Certification Files", however, include certifications made before December 1, 1989, as well as certifications not involving the suspended matter.

**PURPOSE(S):**

The system is established to maintain records on officials and employees affected by the Office of Federal Procurement Policy Act Amendments of 1988, specifically Section 27 dealing with Procurement Integrity; the non-disclosure provisions of the FAR; and the contract for development of the Commission's Automated Tariff Filing and Information (ATFI) system.

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

Records in this system of records may be used to disclose information to:

1. A Federal, state, local, or foreign agency responsible for investigating, prosecuting, enforcing, or carrying out a

statute, rule, regulation, or other, where the Federal Maritime Commission becomes aware of a violation or potential violation of civil or criminal law or regulation.

2. Another Federal agency or a court when the Government is party to a judicial proceeding.

3. A requesting Federal agency in connection with hiring or retaining an employee; issuing a security clearance; reporting an employee investigation; clarifying a job; letting a contract; or issuing a license, grant or other benefit by the requesting agency where the information is relevant and necessary for a decision.

4. The Merit Systems Protection Board officials, including the Office of Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission in performing their duties.

5. An appeal, grievance, or formal complaints examiner, equal employment opportunity investigator, arbitrator, exclusive representative, or other official engaged in investigating, or settling a grievance, complaint, or appeal filed by an employee.

6. The Office of Personnel Management (OPM) under the agency's responsibility for evaluating Federal personnel management. When official personnel records in the custody of the FMC are covered in systems of records published by the Office of Personnel Management as Government-wide records, they are considered part of the system. Other official personnel records covered by notices published by the FMC are separate systems of records and may be transferred to OPM under official personnel programs and activities as a routine use.

7. A record may be disclosed to a Member of Congress who submits an inquiry on behalf of an individual, when the Member of Congress informs the FMC that the individual to whom the record pertains has authorized the Member of Congress to have access to the record. In such cases, the Member of Congress has no more right to the record than does the individual.

8. An expert, a consultant, or contractor of the FMC in performing a Federal duty.

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

Paper records in file folders.

**RETRIEVABILITY:**

Filed at the described location by name.

**SAFEGUARDS:**

Records stored in lockable file cabinets, lockable desk drawers, and/or secured rooms.

**RETENTION AND DISPOSAL:**

The period the record is to be retained is pending National Archives and Records Administration approval. No copies of records are kept in this system after the original or any copies are purged. When an employee leaves the agency through transfer or separation, the records are immediately forwarded to the office maintaining the official folder.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Bureau of Administration, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573-0001.

**NOTIFICATION PROCEDURE:**

All inquiries regarding this system of records should be addressed to: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**RECORD ACCESS PROCEDURES:**

Requests for access to a record should be directed to the Secretary, listed at the above address. Requests may be in person or by mail and shall meet the requirements set out in § 503.65 of Title 46 of the code of Federal Regulations.

**CONTESTING RECORD PROCEDURES:**

An individual desiring to amend a record shall direct such a request to the Secretary at the above listed address. Such requests shall specify the desired amendments and the reasons therefor, and shall meet the requirements of § 503.66 of Title 46 of the Code of Federal Regulations.

**RECORD SOURCE CATEGORIES:**

Individuals, supervisors, or personnel records.

[FR Doc. 89-29879 Filed 12-22-89; 8:45 am]

BILLING CODE 6730-01-M

**Privacy Act of 1974; Proposed New and Altered Systems of Records**

**AGENCY:** Federal Maritime Commission.

**ACTION:** Notice of proposed new and altered systems of records.

**SUMMARY:** This notice proposes the establishment of a new system of records relating to procurement integrity certifications of certain Commission officials and competing contractors during the conduct of any Federal agency procurement; and amendments

to an existing system of records, the Inspector General File. These systems contain information necessary to comply with the Office of Federal Procurement Policy Act Amendments of 1988 (Pub. L. 100-679), the Federal Acquisition Regulations (FAR); and the Inspector General Act Amendments of 1988 (Pub. L. 100-504).

**DATES:** Comments must be submitted on or before January 25, 1990. If no comments are received the proposed systems will become effective on February 26, 1990.

**ADDRESSES:** Comments may be mailed to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573.

**FOR FURTHER INFORMATION CONTACT:** Joseph C. Polking, Secretary, (202) 523-5725.

**SUPPLEMENTARY INFORMATION:** Notice is given that, pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, the Commission proposes to adopt a new system of records (FMC-30), and amendments to an existing system (FMC-25), as follows. Interested parties may participate by filing with the Secretary, Federal Maritime Commission, an original and 15 copies of their views and comments pertaining to the notice. All suggestions for changes in the text should be accompanied by drafts of the language thought necessary to accomplish the desired changes and should be accompanied by supportive statements and arguments. If no comments are received within the prescribed time the proposed changes will become effective within 60 days of publication of this notice, unless an announcement to the contrary is published by the Commission. A new and altered systems report for these two systems was filed on December 19, 1989.

By the Commission.

Joseph C. Polking,  
Secretary.

#### FMC-25

#### SYSTEM NAME:

Inspector General File-FMC.

#### SYSTEM LOCATION:

Office of The Inspector General ("OIG"), Federal Maritime Commission ("FMC"), 1100 L Street NW., Washington, DC 20573-0001.

#### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities who are or have been the subjects of audits and/or investigations conducted by the OIG, including present and former FMC employees; consultants, contractors, and

subcontractors and their employees; and other individuals and entities doing business with the FMC.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

**A. Case Index.** Selected information from each case file indexed by case file number, and case title which may include names of subjects of audits and investigations.

**B. Hard Copy Files—1. Investigative Case Files.** Case files developed during investigations of known or alleged fraud, abuse, irregularities, and violations of laws and regulations. Cases relate to agency personnel and programs and operations administered by the agency, including contractors and others having a relationship with the agency. This includes investigative files relating to employee and hotline complaints, and other miscellaneous complaint files. Files consist of investigative reports and related documents, such as correspondence, notes, attachments, and working papers.

**a.** Files containing information or allegations which are of an investigative nature but do not relate to a specific investigation. They include anonymous or vague allegations not warranting an investigation, matters referred to constituents or other agencies for handling, and support files providing general information which may prove useful in Inspector General investigations.

**b.** All other investigative case files.

**2. Audit Case Files.** Case files of internal audits of agency programs, operations, and procedures, and of external audits of contractors. Consists of audit reports, correspondence, memoranda, and supporting working papers.

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Inspector General Act of 1978 (5 U.S.C. App. 3), as amended by Pub. L. 100-504; 44 U.S.C. 3101 et seq.; Commission Order No. 113.

#### PURPOSE(S):

The records maintained in the system are used by the OIG in furtherance of the responsibilities of the Inspector General, pursuant to the Inspector General Act of 1978, as amended, to conduct and supervise audits and investigations relating to programs and operations of the FMC; to promote economy, efficiency, and effectiveness in the administration of such programs and operations; and to prevent and detect fraud and abuse in such programs and operations.

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

The records in the system may be used and disseminated to further the purposes described above. The following routine uses apply to the records maintained in this system:

**A.** A record may be disclosed to an individual, or to a Federal, State, local, or international agency when necessary to further the ends of a legitimate investigation or audit.

**B.** A record which indicates either by itself or in combination with other information within the agency's possession, a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation, or order issued pursuant thereto, or which indicates a violation or potential violation of a contract, may be disclosed to the appropriate agency, whether Federal, State, local, or international, charged with the responsibility of investigating or prosecuting such violation, or of enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, or of enforcing the contract.

**C.** A record may be disclosed to a Federal, State, local or international agency, in response to its request, in connection with the assignment, hiring, or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

**D.** A record may be disclosed to a Member of Congress who submits an inquiry on behalf of an individual, when the Member of Congress informs the FMC that the individual to whom the record pertains has authorized the Member of Congress to have access to the record. In such cases, the Member of Congress has no more right to the record than does the individual.

**E.** A record may be disclosed to the Office of Government Ethics for any purpose consistent with that Office's mission, including the compilation of statistical data.

**F.** A record may be disclosed to the U.S. Department of Justice in order to obtain that Department's advice regarding an agency's disclosure obligation under the Freedom of Information Act.

**G.** A record may be disclosed to the Office of Management and Budget in

order to obtain that Office's advice regarding an agency's obligations under the Privacy Act.

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

**STORAGE:**

The case index is stored on a hard disk on a standalone, lockable, personal computer. The hard copy files are stored in file folders. All records are stored under secured conditions.

**RETRIEVABILITY:**

Records in the case index are retrieved by case title which may include the name of the subject of an investigation and by case number. Records in the hard copy files are retrieved by case numbers.

**SAFEGUARDS:**

Direct access is limited to authorized staff of the OIG. Additional access within FMC is limited to authorized officials on a need-to-know basis. All records, when not in a possession of an authorized individual are stored in locked cabinets or a locked, standalone, personal computer in a locked room.

**RETENTION AND DISPOSAL:**

1. (a) Files containing information or allegations which are of an investigative nature but do not relate to a specific investigation are retained for five years.

(b) Other investigative case files are retained for ten years

2. Audit case files are retained for eight years after case is closed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Inspector General, Office of The Inspector General, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**NOTIFICATION PROCEDURE:**

All inquiries regarding this system of records should be addressed to: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001. However, see Exemption section below.

**RECORD ACCESS PROCEDURE:**

Requests for access to a record should be directed to the Secretary listed at the above address. Requests may be in person or by mail and shall meet the requirements set out in § 503.65 of Title 46 of the Code of Federal Regulations. However, see Exemption section below.

**CONTESTING RECORD PROCEDURES:**

An individual desiring to amend a record shall direct such a request to the Secretary at the above listed address. Such requests shall specify the desired

amendments and the reasons therefor, and shall meet the requirements of § 503.66 of Title 46 of the Code of Federal Regulations. However, see Exemption section below.

**RECORD SOURCE CATEGORIES:**

Agency employees, reports and contracts from other agencies, and internal and external documents.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

This system is exempt from the provisions of 5 U.S.C. 552a (c)(3) and (d) which otherwise require the Commission to provide the individual named in the records an accounting of disclosures and access to and opportunity to amend the records. The scope of the exemption follows:

1. All information that meets the criteria of 5 U.S.C. 552a(k)(2) regarding investigatory material compiled for law enforcement purposes. Exemption is appropriate because disclosure might compromise ongoing investigations, reveal the identity of confidential sources or constitute unwarranted invasions of personal privacy of third parties.

2. All information about individuals that meets the criteria of 5 U.S.C. 522a(k)(5), regarding suitability, eligibility or qualifications for Federal civilian employment or for access to classified information, to the extent that disclosure would reveal the identity of a source who furnished information to the Commission under a promise of confidentiality. Exemption from disclosure is required to honor promises of confidentiality.

**FMC-30**

**SYSTEM NAME:**

Procurement Integrity Certification files-FMC

**SYSTEM LOCATION:**

Bureau of Administration, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former officials and employees of the Federal Maritime Commission and relevant outside contractors.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records include certifications by affected individuals that they will not engage in activities prohibited by applicable statutes, regulations and contracts. Records include information on individuals, including name and title. This system does not include official

personnel files covered by the Office of Personnel Management's systems of records OPM/GOVT-1 through 10.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Office of Federal Procurement Policy Act Amendments of 1988 (Pub. L. 100-679), (41 U.S.C. 423); and the Federal Acquisition Regulations (FAR). Effective December 1, 1989, Section 27 of Pub. L. 100-679 and implementing sections of the FAR were suspended for one (1) year, i.e., until November 30, 1990. See section 507 of the Ethics Reform Act of 1989 (Pub. L. 101-194) and Federal Acquisition Circular 84-54 of December 8, 1989 (54 FR 50718). Records maintained under the "Procurement Integrity Certification Files", however, include certifications made before December 1, 1989, as well as certifications not involving the suspended matter.

**PURPOSE(S):**

The system is established to maintain records on officials and employees affected by the Office of Federal Procurement Policy Act Amendments of 1988, specifically Section 27 dealing with Procurement Integrity; the non-disclosure provisions of the FAR, and the contract for development of the Commission's Automated Tariff Filing and Information (ATFI) system.

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

Records in this system of records may be used to disclose information to:

1. A Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or carrying out a statute, rule, regulation, or order, where the Federal Maritime Commission becomes aware of a violation or potential violation of civil or criminal law or regulation.

2. Another Federal agency or a court when the Government is party to a judicial proceeding.

3. A requesting Federal agency in connection with hiring or retaining an employee; issuing a security clearance; reporting an employee investigation; clarifying a job; letting a contract; or issuing a license, grant or other benefit by the requesting agency where the information is relevant and necessary for a decision.

4. The Merit Systems Protection Board officials, including the Office of Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission in performing their duties.

5. An appeal, grievance, or formal complaints examiner, equal employment opportunity investigator, arbitrator, exclusive representative, or other official engaged in investigating or settling a grievance, complaint, or appeal filed by an employee.

6. The Office of Personnel Management (OPM) under the agency's responsibility for evaluating Federal personnel management. When official personnel records in the custody of the FMC are covered in systems of records published by the Office of Personnel Management as Government-wide records, they are considered part of that system. Other official personnel records covered by notices published by the FMC are separate systems of records and may be transferred to OPM under official personnel programs and activities as a routine use.

7. A record may be disclosed to a Member of Congress who submits an inquiry on behalf of an individual, when the Member of Congress informs the FMC that the individual to whom the record pertains has authorized the Member of Congress to have access to the record. In such cases, the Member of Congress has no more right to the record than does the individual.

8. An expert, a consultant, or contractor of the FMC in performing a Federal duty.

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

**STORAGE:**

Paper records in file folders.

**RETRIEVABILITY:**

Filed at the described location by name.

**SAFEGUARDS:**

Records stored in lockable file cabinets, lockable desk drawers, and/or secured rooms.

**RETENTION AND DISPOSAL:**

The period the record is to be retained is pending National Archives and Records Administration approval. No copies of records are kept in this system after the original or any copies are purged. When an employee leave the agency through transfer or separation, the records are immediately forwarded to the office maintaining the official folder.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Bureau of Administration, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573-0001.

**NOTIFICATION PROCEDURE:**

All inquiries regarding this system of records should be addressed to: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573-0001.

**RECORD ACCESS PROCEDURES:**

Requests for access to a record should be directed to the Secretary, listed at the above address. Requests may be in person or by mail and shall meet the requirements set out in § 503.65 of Title 46 of the Code of Federal Regulations.

**CONTESTING RECORD PROCEDURES:**

An individual desiring to amend a record shall direct such a request to the Secretary at the above listed address. Such requests shall specify the desired amendments and the reasons therefor, and shall meet the requirements of § 503.66 of Title 46 of the Code of Federal Regulations.

**RECORD SOURCE CATEGORIES:**

Individuals, supervisors, or personnel records.

[FR Doc. 89-29878 Filed 12-22-89; 8:45 am]

BILLING CODE 6730-01

**FEDERAL RESERVE SYSTEM**

**Booke Holdings, Inc., 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 January 17, 1990.

**A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:**

1. *Booke Holdings, Inc.*, Jewell; to engage *de novo* in any insurance agency activities other than the sale of life insurance or annuities as permitted for a bank holding company with less than \$50 million in consolidated assets pursuant to § 225.25(b)(8)(vi) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 19, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-29843 Filed 12-22-89; 8:45 am]

BILLING CODE 6210-01-M

**Central National Bank Corp., et al; Formations of, Acquisitions by, and Mergers of Bank Holding Companies**

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute

and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 11, 1990.

**A. Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 100 Marietta Street, N.W., Atlanta, Georgia 30330:

1. *Central National Bank Corporation*, Winter Park, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Central National Bank, Winter Park, Florida.

**B. Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois, 60690:

1. *First Mutual Bancorp of Illinois, Inc.*, Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bancorp of Harvey, Harvey, Illinois, and thereby indirectly acquire Mutual Trust & Savings Bank, Harvey, Illinois. Comments on this application must be received by January 9, 1990.

**C. Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Southern Bancorp, Inc.*, Tulsa, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Southern National Bank Tulsa, Oklahoma.

2. *Yutan Bancorp, Inc.*, Yutan, Nebraska; to become a bank holding company by acquiring 92.55 percent of the voting shares of Bank of Yutan, Yutan, Nebraska.

Board of Governors of the Federal Reserve System, December 19, 1989.

Jennifer J. Johnson,

*Associate Secretary of the Board.*

[FR Doc. 89-29844 Filed 12-22-89; 8:45 am]

BILLING CODE 6210-01-M

#### William H. Henson; Correction

This Notice corrects a previous Federal Register Notice (FR Doc. 89-29245) published at page 51496 of the issue for Friday, December 15, 1989.

Under the Federal Reserve Bank of Kansas City, the entry for William H. Henson is amended to read as follows:

1. **William H. Henson**, Maysville, Oklahoma, to acquire an additional 6.71 percent for a total of 46.76 percent; and Ross McKnight, Throckmorton, Texas, to acquire 30 percent of the voting shares of H. Pat Henson Company, Maysville, Oklahoma, and thereby indirectly acquire Farmers and Merchants Bank, Maysville, Oklahoma.

Comments on this application must be received by January 9, 1990.

Board of Governors of the Federal Reserve System, December 19, 1989.

Jennifer J. Johnson,

*Associate Secretary of the Board.*

[FR Doc. 89-29848 Filed 12-22-89; 8:45 am]

BILLING CODE 6210-01-M

#### James R. Scott; 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 January 9, 1990.

**A. Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. **James R. Scott**, to acquire 13.6 percent of the voting shares of First Interstate BancSystem of Montana, Inc., Billings, Montana, and thereby indirectly acquire First Interstate Bank of Billings, N.A., Billings, Montana; first Interstate Bank of West Billings, Billings, Montana; First Interstate Bank of Billings Heights, Billings, Montana; First Interstate Bank of Colstrip, Colstrip, Montana; First Interstate Bank of Hardin, Hardin, Montana; First Interstate Bank of Miles City, Miles City, Montana; First Interstate Bank of Missoula, N.A., Missoula, Montana; and Security Mortgage Corporation, Billings Montana.

Board of Governors of the Federal Reserve System, December 19, 1989.

Jennifer J. Johnson,

*Associate Secretary of the Board.*

[FR Doc. 89-29845 Filed 12-22-89; 8:45 am]

BILLING CODE 6210-01-M

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Food and Drug Administration

##### Advisory Committee; Meeting

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

**ACTION:** Notice.

**SUMMARY:** This notice announces a future meeting of a subcommittee of a public advisory committee of the Food and Drug Administration (FDA) to discuss guidance for bioequivalence studies for conjugated estrogen tablets.

**Meeting:** The following advisory committee meeting will be announced at a future date:

##### Subcommittee Meeting of the Fertility and Maternal Health Drugs Advisory Committee

Available bioequivalence guidance documents are listed in FDA's "Approved Drug Products with Therapeutic Equivalence Evaluations." Comments and suggestions concerning these bioequivalence guidance documents are encouraged and asked to be sent to the Division of Bioequivalence (HFD-650), Food and Drug Administration, Rm. 17B-06, 5600 Fishers Lane, Rockville, MD 20857. On June 16, 1989, the Division of Bioequivalence in FDA's Center for Drug Evaluation and Research (the Center) released a revised draft document entitled "Guidance for the *in vivo* Bioequivalence Study for Conjugated Estrogens Tablets" for public comment. In the draft guidance, it is recommended that product bioequivalence be established on the basis of comparative blood estrogen concentrations as opposed to urine estrogen concentrations.

Due to the complex and controversial nature of the issues surrounding the determination of bioequivalence of conjugated estrogens, the Center sought written critiques of this proposed bioequivalence study guidance. Fourteen comments have been submitted and are being considered by the Center. Copies of the 14 comments received are available from the Freedom of Information Staff (HFI-35), Food and Drug Administration, Rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857. However, the Center has determined that even after consideration of these comments and after internal discussion, several issues have been raised on which the Center needs to seek guidance from members of the Fertility and Maternal Health Drugs Advisory Committee and other experts. A special

subcommittee of the Fertility and Maternal Health Drugs Advisory Committee and relevant consultants will meet early in 1990 and will report its findings to the agency and full committee. The time and place of the subcommittee meeting will be announced in a future issue of the *Federal Register*. Therefore, a final guidance will not be available by the end of 1989 as the Center has previously anticipated.

For further information on this notice contact Jack Gertzog (HFD-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5455.

Dated: December 19, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-29870 Filed 12-22-89; 8:45 am]

BILLING CODE 4160-01-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### San Juan Pueblo Liquor Ordinance; Certification of Adoption

December 18, 1989.

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that the San Juan Pueblo Liquor Ordinance adopted on August 30, 1989, Relating to the Use and Distribution of Liquor was duly adopted by the San Juan Pueblo Council by Resolution 89-71. The Ordinance provides for the regulation of possession, consumption and importation of alcohol into the area of the Pueblo of San Juan and the surrounding Indian Country under the jurisdiction of the San Juan Reservation.

**EFFECTIVE DATE:** December 26, 1989.

**FOR FURTHER INFORMATION CONTACT:** Maria Mendoza, Management Analyst, Branch of Judicial Services, Office of Tribal Government Services, 18 & C Streets, NW., Washington, DC 20240; telephone (202) 343-1400 or FTS 343-1400. Copies of the San Juan Pueblo Tribal Liquor Ordinance, Resolution No. 89-71, can be obtained by contacting the above address.

**SUPPLEMENTARY INFORMATION:** The San Juan Pueblo Tribal Council declares that it is in the best interest of the San Juan

Indian Tribe that alcoholic beverages and fermented malt beverages shall be sold within the exterior boundaries of the San Juan Reservation only by persons licensed as provided in this title. The Tribal Council adopted this Resolution on the 30th day of August, 1989. The introduction, sale and possession of these beverages within the reservation must also be in conformity with the laws of the State of New Mexico as a matter of Federal law. This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Walter R. Mills,

Assistant Secretary Indian Affairs.

[FR Doc. 89-29813 Filed 12-20-89; 8:45 am]

BILLING CODE 4310-02-M

### National Park Service

#### Supplement to the General Management Plan for Manzanita Lake Lassen Volcanic National Park; Availability of Draft Supplemental Environmental Impact Statement

**Summary:** Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the National Park Service, Lassen Volcanic National Park, has prepared a draft supplemental environmental impact statement, to the 1981 Final Environmental Statement for the General Management Plan, to assess the impacts of reopening the Manzanita Lake area for day use.

The proposed action would amend the 1981 General Management Plan by allowing for retention and adaptive use of the remaining historic structures in the Manzanita Lake area, the reopening of two trails and a picnic area, and the permanent closure of the lower two loops of the Manzanita Lake campground. Alternatives evaluated include (1) conformance with the 1981 General Management Plan by removing the remaining historic structures, keeping the trails and picnic area closed, and reopening the lower two loops of the campground; and (2) retaining the historic structures with no adaptive use, keeping the trails and picnic area closed and not reopening the lower two loops of the campground.

Comments on the draft supplemental environmental statement should be directed to: Superintendent, Lassen Volcanic National Park, P.O. Box 100, Mineral, California 96093-0100, telephone number (916) 595-4444. Comments must be received no later than February 23, 1990. Requests for additional information and/or copies of

the statement should also be directed to the above address.

Copies of the draft statement are available for inspection at the park headquarters in Mineral, California, in libraries located in the park vicinity, and at the following address: Western Regional Office, National Park Service, Attn: Division of Planning, Grants and Environmental Quality, P.O. Box 36063, 450 Golden Gate Ave., Room 14033, San Francisco, CA 94102.

Dated: November 21, 1989.

Lewis Albert,

Acting Regional Director, Western Region.

[FR Doc. 89-29815 Filed 12-22-89; 8:45 am]

BILLING CODE 4310-70-M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Quotas for Controlled Substances in Schedules I and II

**AGENCY:** Drug Enforcement Administration, Justice.

**ACTION:** Notice of established 1990 aggregate production quotas.

**SUMMARY:** This notice establishes 1990 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act.

**EFFECTIVE DATE:** This order is effective December 26, 1989.

**FOR FURTHER INFORMATION CONTACT:** Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307-7183.

**SUPPLEMENTARY INFORMATION:** Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for all controlled substances listed in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration (DEA) by § 0.100 of title 28 of the Code of Federal Regulations.

On Wednesday, September 20, 1989, a notice of the proposed 1990 aggregate production quotas for certain controlled substances in Schedules I and II was published in the *Federal Register* (54 FR 38755). All interested parties were invited to comment on or object to those proposed aggregate production quotas on or before October 20, 1989. No comments and no requests for a hearing were received.

Pursuant to sections 3(c)(3) and 3(e)(2)(C) of Executive Order 12291, the Director of the Office of Management

and Budget has been consulted with respect to these proceedings.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the

meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Therefore, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970

(21 U.S.C. 826) and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that the 1990 aggregate production quotas for Schedules I and II controlled substances, expressed as grams of anhydrous acid or base, be established as follows:

**Basic Class and Established 1990 Quotas**

<i>Schedule I</i>	
2,5-Dimethoxyamphetamine.....	15,300,000
Lysergic Acid Diethylamide.....	11
3,4-Methylenedioxyamphetamine.....	7
3,4-Methylenedioxymethamphetamine.....	12
Tetrahydrocannabinols.....	13,000
Psilocyn.....	2
Psilocybin.....	2
4-Methylaminorex.....	5
Methaqualone.....	2
N-Hydroxy-3,4-Methylenedioxyamphetamine.....	2
N-Ethylamphetamine.....	5
<i>Schedule II</i>	
Alfentanil.....	5,000
Amobarbital.....	596,000
Amphetamine.....	279,000
Cocaine.....	600,000
Codeine (for sale).....	53,518,000
Codeine (for conversion).....	5,093,000
Desoxyephedrine.....	1,252,000
1,252,000 grams of levodesoxyephedrine for use in a noncontrolled, nonprescription product and 0.0 grams for methamphetamine.	
Dextropropoxyphene.....	79,955,000
Dihydrocodeine.....	435,000
Diphenoxylate.....	892,000
Ecgonine (for conversion).....	650,000
Fentanyl.....	25,900
Hydrocodone.....	3,026,000
Hydromorphone.....	223,000
Levorphanol.....	10,700
Meperidine.....	10,019,000
Methadone.....	1,441,000
Methadone Intermediate (4-Cyano-2-dimethylamino-4,4-diphenylbutane).....	1,802,000
Methamphetamine (for conversion).....	1,206,000
Methylphenidate.....	2,262,000
Mixed Alkaloids of Opium.....	7,000
Morphine (for sale).....	3,841,000
Morphine (for conversion).....	59,243,000
Opium (tinctures, extracts, etc. expressed in terms of USP powdered opium).....	1,337,000
Oxycodone (for sale).....	2,427,000
Oxycodone (for conversion).....	5,600
Oxymorphone.....	2,500
Pentobarbital.....	11,296,000
Phencyclidine.....	25
Phenylacetone (for conversion).....	684,000
1-Piperidinocyclohexanecarbonitrile (for conversion).....	40
Secobarbital.....	583,000
Sufentanil.....	400
Thebaine.....	6,125,000

DEA will review the above established quotas early in 1990 to take into consideration actual 1989 sales and actual December 31, 1989 inventories as well as other information which might be available to DEA.

Dated: November 30, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-29809 Filed 12-22-89; 8:45 am]

BILLING CODE 4410-09-M

### Office of Juvenile Justice and Delinquency Prevention

#### Juvenile Justice Statistics and Systems Development Program; Solicitation of Applications

**AGENCY:** Office of Juvenile Justice and Delinquency Prevention, Justice.

**ACTION:** Notice of changes to the solicitation for applications to conduct the Juvenile Justice Statistics and Systems Development Program.

**SUMMARY:** Notice of: extension of the deadline for solicitation, section IX. Submission of Applications; errata; and availability of meeting summary.

#### SUPPLEMENTARY INFORMATION:

(1) *Notice of Extension.* This notice announces a change in section IX of the Federal Register, Vol. 52 No. 188, Friday, September 29, 1989. The new deadline for applications is Thursday, February 1, 1990. Applications must be received by mail or hand delivered to the OJJDP by 5:00 p.m. e.s.t. on Thursday, February 1, 1990;

(2) *Meeting of Prospective Applicants,* who had formally expressed an intent to apply, was held on December 4, 1989, to respond to questions concerning the solicitation. For copies of the meeting summary and responses to questions, please contact Marilyn Silver, Research and Program Development Division, (202) 724-5929, OJJDP, 633 Indiana Avenue NW., Washington, DC 20531.

(3) *Notification of Errors:* Section IV. Program Strategy, Systems Development Track, Stage 3, Training and Technical Assistance, paragraph 1, second sentence should read: "Funds for this stage will be provided in the second budget period".

Section VII. Application requirements, paragraph 1, second sentence should read: "Applications must include the information outlined in this section of the solicitation (Section VII) in Part IV., Program Narrative of the application (SF-424)".

#### FOR FURTHER INFORMATION CONTACT:

Barbara Allen-Hagen, Research and Program Development Division, (202)

724-5929, or Douglas Dodge, Acting Director, Special Emphasis Division, (202) 724-5914, OJJDP, 633 Indiana Avenue NW., Washington, DC 20531.

Terrence S. Donahue,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 89-29906 Filed 12-22-89; 8:45 am]

BILLING CODE 4410-18-M

### NATIONAL SCIENCE FOUNDATION

#### Committee Management; Establishment of Mathematical Sciences Postdoctoral Research Fellowship Panel

The Assistant Director for Mathematical and Physical Sciences has determined that the establishment of the Mathematical Sciences Postdoctoral Research Fellowship Panel is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), and other applicable law. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

*Name of Committee:* Mathematical Sciences Postdoctoral Research Fellowship Panel.

*Purpose:* The panel consists of a group of distinguished mathematical scientists which represents the American Mathematical Society, the Society for Industrial and Applied Mathematics, and the Institute of Mathematical Statistics. Its objective is to provide advice concerning the merit of proposals submitted to the National Science Foundation for Mathematical Sciences Postdoctoral Research Fellowships.

*Balanced Membership Plan:* The panel will be composed of mathematical scientists who have been chosen by their respective professional societies for their accomplishments and perspectives on the field. The members will represent a variety of subdisciplines to ensure appropriate technical evaluation of the proposals. In addition, every effort will be made to ensure the participation of under-represented groups on this panel.

*Responsible NSF Official:* Dr. Bernard R. McDonald, Deputy Division Director and Head, Office of Special Projects, Division of Mathematical Sciences, National Science Foundation, Room 339, 1800 G Street, NW., Washington, DC 20550, (202) 357-9669.

Waiver: Because of the necessity for this Panel to meet in early January, GSA has waived to 15-day Notice of Establishment requirement. The Meeting Notice is published below.

Dated: December 19, 1989.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-29811 Filed 12-22-89; 8:45 am]

BILLING CODE 7555-01-M

#### Meeting of the Mathematical Sciences; Postdoctoral Research Fellowship Panel

The National Science Foundation announces the following meeting:

*Name:* Mathematical Sciences Postdoctoral Research Fellowship Panel.

*Date and Time:* January 5, 1990 (8:30 a.m. to 10:00 p.m.) and January 6, 1990 (8:30 a.m. to noon).

*Place:* American Mathematical Society, 201 Charles Street, Providence, RI 02904.

*Type of Meeting:* Closed.

*Contact Person:* Dr. Deborah F. Lockhart, Program Director, Special Projects, Division of Mathematical Sciences, National Science Foundation, Room 339, 1800 G Street, NW., Washington, DC 20550, (202) 357-3453.

*Minutes:* May be obtained from contact person listed above.

*Purpose of Meeting:* To evaluate proposals and provide recommendations on those proposals as part of the selection process for the NSF Mathematical Sciences Postdoctoral Research Fellowship program.

*Agenda:* Discussion and evaluation of and recommendations for proposals for Mathematical Sciences Postdoctoral Research Fellowships.

*Reason for Closing:* The proposals being reviewed include information of a confidential nature, including technical information and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

Dated: December 19, 1989.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-29810 Filed 12-22-89; 8:45 am]

BILLING CODE 7555-01-M

### NUCLEAR WASTE TECHNICAL REVIEW BOARD

#### Meeting; Containers and Transportation Panel

Notice is hereby given that a meeting of the Containers and Transportation Panel of the Nuclear Waste Technical Review Board will be held January 18-19, 1990, at the Sheraton Pleasanton, Amador Room, 5115 Hopyard Road, Pleasanton, CA, for the purpose of a

technical exchange with Lawrence Livermore National Laboratory personnel to discuss their canister materials program. The agenda will be as follows:

Thursday, January 18, 1990, 8:30 a.m. to 12:00 noon (open to public). During the morning session, the Lawrence Livermore National Laboratory staff will discuss their activities in the area of waste package environment. During the afternoon, a tour of the Lawrence Livermore National Laboratory Facilities will be conducted for NWTRB Board members and staff only. Following the tour, the Panel will meet (closed to public) to discuss information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of privacy.

Friday, January 19, 1990, 8:30 a.m. to 4:00 p.m. (open to public). During this meeting, the presentations will cover the canister development program including: strategy for canister material selection, candidate material performance, corrosion properties, and alternative materials and concepts. Following these presentations the Panel will meet (closed to the public) to discuss information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of privacy.

The public is invited to attend the open meetings as indicated above only as observers. The meeting will be transcribed, and procedures to obtain transcripts will be provided at the meeting. To ensure that adequate facilities are provided for public attendance, persons planning to attend the meetings should contact Helen Eimersen on (202) 254-4792 by January 16, 1990, 4:30 p.m. (EST).

Further information on these meetings can be obtained from Paula N. Alford, Director of External Affairs, Nuclear Waste Technical Review Board, 1111 18th Street, NW., Suite 801, Washington, DC 20036, (202) 254-4792.

Dated: December 5, 1989.

William W. Coons,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 89-29825 Filed 12-22-89; 8:45 am]

BILLING CODE 6820-AM-M

## PENSION BENEFIT GUARANTY CORPORATION

**Exemption from the Bond/Escrow Requirement Relating to the Sale of Assets by an Employer Who Contributes to a Multiemployer Plan; The Orioles, Inc.**

**AGENCY:** Pension Benefit Guaranty Corporation.

### **ACTION:** Notice of exemption.

**SUMMARY:** This notice advises interested persons that the Pension Benefit Guaranty Corporation has granted a request from the Orioles, Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. A notice of the request for exemption from the requirement was published on September 7, 1989 (54 FR 37175). The effect of this notice is to advise the public of the decision on the exemption request.

**ADDRESSES:** The request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** J. Ronald Goldstein, Senior Counsel, Office of the General Counsel (22510), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; Telephone 202-778-8850 (202-778-8859 for TTY and TDD). These are not toll-free numbers.

### **SUPPLEMENTARY INFORMATION:**

#### **Background**

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1) (A)-(C), are that—

(A) The purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred (the amount of the bond or escrow is doubled if the plan is in reorganization in the year in which the sale occurred); and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller

shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the bond/escrow requirement does not constitute a finding by the PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1).

Under the PBGC's regulation on variances for sales of assets (29 CFR part 2643), a request for a variance or waiver of the bond/escrow requirement under any of the tests established in the regulation (§§ 2643.12-2643.14) is to be made to the plan in question. The PBGC will consider waiver requests only when the request is not based on satisfaction of one of the four regulatory tests or when the parties assert that the financial information necessary to show satisfaction of one of the regulatory tests is privileged or confidential financial information within the meaning of section 552(b)(4) of the Freedom of Information Act.

Under § 2643.3 of the regulation, the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the *Federal Register*, and to provide interested parties with an

opportunity to comment on the proposed variance or exemption.

#### The Decision

On September 7, 1989 (51 FR 41713), the PBGC published a notice of pendency of a request pertaining to the sale of the Baltimore Orioles baseball team. No comments were received from the public concerning this request. Specifically, The Orioles, Inc. ("the Buyer"), a corporation formed under the laws of Maryland, sought an exemption from the requirements of section 4204(a)(1)(B) with respect to its purchase of the Baltimore Orioles baseball team from The Baltimore Orioles, Inc. (the "Seller"). The Seller was a participating employer in the Major League Baseball Players Benefit Plan (the "Plan"), which is established and maintained pursuant to a collective bargaining agreement between the 26 professional major league baseball teams and the Major League Baseball Players Association.

The major league clubs have established the Major League's Central Fund (the "Central Fund") pursuant to the "Major League's Agreement in re Major League's Central Fund". Under this Agreement contributions to the Plan for all participating employers are paid by the Office of the Commissioner of Baseball from the Central Fund on behalf of the clubs in satisfaction of their pension liability arising under the Plan's funding agreement. The monies in the Fund are derived directly from All-Star game gate receipts and radio and television rights to certain other events.

In 1988, the major league clubs contributed the sum of \$33 million to cover both pension and welfare benefits, approximately \$28 million of which was remitted to the Plan. Each major league club is responsible for 1/26th of that amount. In 1988, the Central Fund paid approximately \$1 million as pension contributions to the Plan on behalf of the Seller.

Payment of employer contributions is made directly to the Plan from the Central Fund and the revenue of the Fund comes directly from certain gate receipts and radio and television rights. Therefore, a change in team ownership has no direct effect on the Plan's funding and does not create any risk to the plan that there will be difficulty in collecting Plan contributions.

Based on the facts of this case and the representations and statements made in connection with the request for an exemption, the PBGC has determined that an exemption from the bond/escrow requirement is warranted, in that it would more effectively carry out the purposes of title IV of ERISA and would not significantly increase the risk of

financial loss to the Plan. Therefore, the PBGC hereby grants the request for an exemption from the bond/escrow requirement.

The granting of an exemption or variance from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by the PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the plan sponsor.

Issued at Washington, DC., on this 20th day of December 1989.

**James B. Lockhart III,**

*Executive Director.*

[FR Doc. 89-29902 Filed 12-22-89; 8:45 am]

BILLING CODE 7708-01-M

#### PRESIDENTIAL COMMISSION ON CATASTROPHIC NUCLEAR ACCIDENTS

##### Meeting

The Presidential Commission on Catastrophic Nuclear Accidents, pursuant to its authority under subsection 170(1), of Public Law 100-408, the Price-Anderson Amendments Act of 1988, will hold a meeting on January 11, 1990, from 10:00 a.m.-5:00 p.m., at the Quality Hotel Capitol Hill, 415 New Jersey Ave., NW., Washington, DC 20001, and on January 12 from 9:00 a.m. to 12:00 p.m. at the Commission office, 600 E St., NW., Room 660, Washington, DC 20004. The Commission was created to conduct a comprehensive study of appropriate means of fully compensating victims of a catastrophic nuclear accident and to submit a final report to Congress no later than August 20, 1990.

At the January 11 meeting, Daniel Berger, plaintiff's attorney, will discuss the Three Mile Island Class Action, and Radiation Management Consultant's Dr. Roger Linnemann will provide information on medical monitoring. In addition, Pamela Gilbert will discuss the views of Congress Watch. There may be other speakers. On January 12, the Commission will conduct working sessions.

The public is permitted to attend both meetings, and there will be time during each session for brief statements. Members of the public planning to attend the January 12 meeting at the Commission office will be required to show photo identification to enter the building. Transcripts or minutes of the meeting will be available at the Commission office, 600 E St., NW., Room 660.

For further information, contact Jerome Saltzman at 600 E St., NW., Room 660, Washington, DC 20004, (202) 272-5695. Members of the public planning to attend the Commission meeting should contact Mr. Saltzman at (202) 272-5695 at least two days before the meeting date.

Dated: December 20, 1989.

**Jerome Saltzman,**

*Executive Director, Presidential Commission on Catastrophic Nuclear Accidents.*

[FR Doc. 89-29897 Filed 12-22-89; 8:45 am]

BILLING CODE 6820-SP-M

#### RAILROAD RETIREMENT BOARD

##### Calendar Year 1990 Contribution Rate Under the Railroad Unemployment Insurance Act

Pursuant to Public Law 100-647, except for commuter railroads, the contribution rate to finance the railroad unemployment insurance program for calendar year 1990 shall be 8.0 percent of an employee's monthly wages calculated on the basis of section 1 (i) of the Act. In calendar year 1990, the monthly compensation base under section 1 (i) is \$745. Public commuter railroads will be informed of their individual contributions directly by the Railroad Retirement Board. Such contributions shall be based on the amount of benefits paid by the Board to the employees of each commuter railroad, plus an amount equal to 0.65 percent of the monthly compensation paid for services rendered by each employee in a calendar month up to the monthly compensation base of \$745.

Dated: December 12, 1989.

By Authority of the Board.

**Beatrice Ezerski,**

*Secretary to the Board.*

[FR Doc. 89-29849 Filed 12-22-89; 8:45 am]

BILLING CODE 7905-01-M

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-27546; File No. SR-NYSE-89-21]

##### Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Listing Fees for Bonds

On October 25, 1989, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act

of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to revise its listing fees for bonds in two categories: (1) Outstanding issues and (2) debt American Depository Receipts ("ADRs").

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1982).

<sup>2</sup> 17 CFR 240.19b-4 (1989).

The proposed rule change was noticed in Securities Exchange Act Release No. 27442 (November 13, 1989), 54 FR 48174 (November 21, 1989). No comments were received on the proposal.

Under the Exchange's fee program for listing currently outstanding debt of NYSE issuers,<sup>3</sup> the fee for listing

<sup>3</sup> See File No. SR-NYSE-87-50. This program was

outstanding issues is based upon the remaining life of the bond issue, its par value size, and the initial listing fee schedule. The fees for such issues are half of the calculated dollar amount determined from the following table:

effective for an 18 month period ending on July 31, 1989. See Securities Exchange Act Release No. 25313 (February 4, 1986), 53 FR 4088.

#### BOND LISTING FEES

(Rates Per \$ Million)

Maturity range	Issue size (\$ million par value) <sup>1</sup>			
	Base		Additive	
	\$0-\$500	\$501-\$750	\$751-\$1,000	\$1,000+
1-5.....	\$115	\$80	\$55	\$30
6-14.....	230	160	110	60
15-25.....	260	180	130	110
26+.....	290	210	160	130

<sup>1</sup> To determine the initial listing fee, begin with the maturity range and multiply the appropriate fee for the first \$0-\$500 million ("mm") par value. Remaining par values at each level are charged at the next par value range rate.

Under the proposed program, the Exchange will allow an issuer to total par values and average maturities of outstanding issues where more than one issue is being listed, thereby availing issuers of existing size discounts for larger issues and lower listing rates for shorter maturities.<sup>4</sup> As previously required, to be eligible for this reduced listing fee, the bond issue must have been outstanding at least one year prior to application and must meet standard eligibility requirements. This proposed program will be open to all eligible debt until January 31, 1991. Moreover, the Exchange indicates that the proposed program will be made available to any equity issuer listing on the NYSE for the first time after January 31, 1991 for 18 months from the stock's listing date (provided the bond issue meets standard eligibility requirements).

Furthermore, the Exchange proposes to establish a new fee structure for debt ADRs which is based on a percentage of the total issue. Where ADRs representing the debt of a foreign company or sovereign are listed on the Exchange, listing fees are to be based on the above table after applying the following calculation to determine the ratable par value: 10% of the U.S. dollar value of the worldwide outstanding float for an issue available through a single offering; or 12.5% of the U.S. dollar value of the worldwide outstanding float for an issue that may be added to through future offerings.<sup>5</sup>

<sup>4</sup> For an example of a fee calculation using the proposed program, See Securities Exchange Act Release No. 27442 (November 13, 1989), 54 FR 48174.

<sup>5</sup> For an example of the fee calculation for debt

After careful review, the Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes that the proposal is consistent with the Section 6(b)(4) requirement that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.<sup>6</sup> The proposed fee is equitable because it allows issuers to take advantage of economies of scale, thereby providing incentives to list outstanding debt. In addition, the Exchange's proposed program of reduced fees for outstanding unlisted debt and debt ADRs should enable issuers with outstanding bond issues to list such debt on the NYSE at lower costs.

Moreover, the Commission finds that the proposal is consistent with the section 6(b)(5) requirement that the rules of an exchange be designed to " \* \* \* promote just and equitable principles of trade \* \* \* (and) to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest \* \* \*".<sup>7</sup> By lowering the fee payable for listing outstanding debt and debt ADRs, the proposed program

ADRs, See Securities Exchange Act Release No. 27442 (November 13, 1989), 54 FR 48174.

<sup>6</sup> 15 U.S.C. 78f(b)(4) (1982).

<sup>7</sup> 15 U.S.C. 78f(b)(5) (1982).

enhances the opportunity for debt participation, through listing, in the Exchange's public secondary market for debt. Accordingly, the Commission finds that it is appropriate to approve the proposed rule change.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change is approved for a period ending on January 31, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

Dated: December 18, 1989.

Jonathan G. Katz,  
Secretary.

[FR Doc. 89-29812 Filed 12-22-89; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 34-27545; File No. SR-DTC-89-15]

#### Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the Depository Trust Company Regarding the International Institutional Delivery System

On August 10, 1989, the Depository Trust Company ("DTC") filed a proposed rule change (File No. SR-DTC-89-15) with the Commission under section 19 of the Securities Exchange Act of 1934 ("Act"). The proposed rule change expands participation in DTC's International Institutional Delivery ("IID") system to include non-U.S.

<sup>8</sup> 15 U.S.C. 78s(b)(2) (1982).

<sup>9</sup> 17 CFR 200.30-3(a)(12) (1989).

entities. Notice of the proposal was published in the *Federal Register* on September 8, 1989.<sup>1</sup> No comments were received. This order approves the proposed rule change.

### I. Description of the Proposed Rule Change

Under the proposed rule change, DTC will permit participation in the IID System by any combination of parties—both U.S. and non-U.S. Currently, the IID System permits input of trade data only by U.S. broker-dealers. Under the expanded system, DTC may accept trade data for input into IID from a U.S. broker-dealer or from a non-U.S. broker-dealer. The institution involved in the transaction may be a U.S. or non-U.S. entity, such as a foreign money manager. The agent bank/global custodian involved in the transaction likewise may be a U.S. entity or a non-U.S. entity. Under the terms of this proposed rule change, a transaction in IID may occur even where all parties to the transaction are foreign. According to DTC, a recent DTC sample indicated that more than half of foreign trades made by U.S. investment managers are executed with foreign broker-dealers. DTC expects that broker-dealers not registered with the Commission under the Act may wish to participate in the IID System as a result of this expansion of the system's use to foreign entities.<sup>2</sup>

DTC's International Institutional Delivery System began operating on a pilot basis in late 1988.<sup>3</sup> The IID System was approved on a permanent basis in March, 1988.<sup>4</sup> Generally, the IID System provides a centralized, automated method of communication of information about institutional trades among the parties to such trades.<sup>5</sup>

Unlike DTC's domestic ID System, the IID System does not provide a mechanism for automated, book-entry settlement of transactions. In IID, DTC accepts trade data from broker-dealers, and generates and distributes confirmations based on that trade data to the broker-dealer, institution, and agent bank/global custodian involved in the transaction. Among the required trade data input is the identity of both the sub-custodians involved in the transactions: the broker-dealer's sub-custodian and the agent bank/global custodian's sub-custodian. Upon receipt of an affirmation from the institution, DTC issues deliver and receive instructions to the broker-dealer and the agent bank/global custodian. In addition, DTC passes along to the agent bank/global custodian payment and settlement instructions where those instructions have been communicated by the institution in the affirmation process.

All of these communications take place over DTC's Participant Terminal System ("PTS") or by dial-in or CCF (computer-to-computer) transmission. The broker-dealer and agent bank/global custodian forward the deliver and receive instructions to their respective foreign sub-custodians over their existing communications networks, outside of DTC. Settlement of an IID trade takes place outside of DTC, presumably between the two sub-custodians.<sup>6</sup>

### II. DTC's Rationale for the Proposal

DTC states in its filing that, in order to achieve the goal of greater efficiency and standardization in processing international trades, it is necessary to develop a "critical mass" of participation in the IID System. In order to develop the necessary critical mass, DTC must open the IID System to foreign entities who may be parties to an institutional trade. These entities must be able to input as well as receive data.

DTC believes that proposed rule change is consistent with the Act and the rules and regulations thereunder because the proposed rule change will increase efficiency in processing many trades in foreign securities by expanding

which provides an automated, centralized mechanism for the communication of trade confirmations and affirmations to the parties to an institutional trade. In addition to communications, the domestic ID system provides a mechanism for automated, book-entry settlement of these transactions.

<sup>6</sup> A complete description of the IID process may be found in Securities Exchange Act Release Nos. 26374 and 26626. See notes 3 and 4, *supra*.

participation in and making more trades eligible for processing in the IID System.

### III. Discussion

As discussed below, the Commission believes the proposed rule change is consistent with the Act. For the reasons discussed in Securities Exchange Act Release No. 26626,<sup>7</sup> the Commission believes DTC's IID System will promote the prompt and accurate clearance and settlement of securities transaction by enabling earlier and centralized communications about securities settlement among the parties to an international, institutional trade. Fast, efficient communications and same-day turnaround of trade information can contribute to improved clearance and settlement, and thus reduced risks in cross-border trading.

The Commission also believes the IID System is consistent with the Act's requirement to safeguard securities and funds because it has the capacity to expedite customer-side settlement. By enabling earlier and standardized communications, brokers potentially can avoid instances where a trade is prevented from settling on time because of delays in communicating trade details (confirmation) to the institution's money manager and the money manager's response (affirmation) to the institution's agent bank.

If the transaction settles between the two brokers on time but customer-side settlement is delayed by slow communications between the broker and its customer (or the customer and the customer's agent bank), the broker may be forced to finance the transaction until the problem is resolved. The IID System, by providing for earlier communication of trade confirmations and affirmations, potentially will reduce the risks that a broker will be forced to finance a transaction because of delayed customer settlement.

The benefits of the IID System currently are available only where the party inputting the data to DTC is a U.S. broker-dealer participating in the IID System. DTC asserts that, without a critical mass of participation in the System, neither DTC nor institutional investors will achieve the goal of greater efficiency and standardization in processing international trades. DTC cites a recent sample indicating that more than half of foreign trades made by U.S. investment managers are executed with foreign broker-dealers. The Commission believes that including international, institutional trades that involve a non-U.S. entity in the IID

<sup>1</sup> See Securities Exchange Act Release No. 27198 (August 30, 1989), 54 FR 37394.

<sup>2</sup> While use of the IID System to process trades may not be itself constitute activity requiring registration with the Commission as a broker-dealer under Section 15(a) of the Act, foreign broker-dealers effecting transactions with U.S. customers may otherwise engage in activity that does necessitate such registration. See Securities Exchange Act Release No. 27017 (July 11, 1989), 54 FR 30013. For this reason, DTC has included in the agreement to be signed by all IID System only to process securities transactions that comply with U.S. securities laws, particularly the broker-dealer registration requirements of Section 15(a) of the Act or the exemptions from registration in Rule 15a-6 of thereunder. The Commission will receive information from DTC regarding use of the IID System that will assist in monitoring for compliance with these requirements.

<sup>3</sup> See Securities Exchange Act Release No. 26374 (December 20, 1988), 53 FR 52283, and Securities Exchange Act Release No. 26577 (February 28, 1989), 54 FR 9954.

<sup>4</sup> See Securities Exchange Act Release No. 26626 (March 14, 1989), 54 FR 11468.

<sup>5</sup> The IID System was developed from DTC's domestic Institutional Delivery ("ID") System.

<sup>7</sup> See note 4, *supra*.

System will contribute to processing efficiency by enabling current IID System users to have one processing stream for all international, institutional trades. The greater volume also should help make the IID System more cost efficient for DTC to operate.

Moreover, in a world of increasing internationalization of the securities markets, a service such as the IID System will improve cross-border trading for all market participants, both U.S. and non-U.S. Indeed, the Group of Thirty, in its March 1989 report on international clearance and settlement issues, recommended that indirect market participants such as institutional investors should, by 1992, be members of a trade comparison system that achieves positive affirmation of trade details.<sup>8</sup> The Group of Thirty considers the lack of such a system as adding a significant element of risk and inefficiency into the securities processing cycle. The Group of Thirty report did not endorse any specific system for affirmation of institutional trades, and suggested that each market should decide what method would be the best inducement to indirect market participants to participate in such a system. The Commission believes that DTC's IID System offers global securities market participants just such a service on an immediate basis.

DCT has not developed participation standards for the IID System because DTC has no responsibility for the settlement of transactions processed through the IID System. The Commission recognizes that the IID System is only a communications service for those who wish to participate. DTC is not liable in the IID System for securities or money settlement of transactions. For this reason, the Commission believes that DTC need not prepare formal standards for participation in the IID System.

Nonetheless, the Commission recognizes that, in facilitating the confirmation and affirmation of transactions between unregistered foreign broker-dealers and U.S. investors, the IID System may be facilitating activities that require compliance with U.S. broker-dealer registration requirements. For this reason, the IID agreement includes a representation of compliance with U.S. requirements. In addition, the Commission intends to monitor closely the conduct of participating unregistered foreign broker-dealers involving U.S. investors.

<sup>8</sup> Group of Thirty, Clearance and Settlement in the World's Securities Markets (March 1989).

#### IV. Conclusion

For the reasons stated above, the Commission finds that the proposed rule change is consistent with section 17A of the Act and the rules and regulations thereunder in that it promotes the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that DTC's proposed rule change (File No. SR-DTC-89-15) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30-3(12) (1989):

Dated: December 18, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-29898 Filed 12-22-89; 8:45 am]

BILLING CODE 8010-01-M

#### Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

December 19, 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:

Dreyfus Strategic Municipal Bond Fund, Inc.

Common Stock, \$.001 Par Value (File No. 7-5632)

Midway Airlines, Inc.

Series D Pfd Stock, Common Stock, \$.01 Par Value (File No. 7-5633)

Van Kampen Merritt Investment Grade Municipal Trust

Shares of Beneficial Interest, Common Stock, \$.01 Par Value (File No. 7-5634)

Dow Chemical Company

Contingent Value Rights, No Par Value (File No. 7-5635)

Waxman Industries, Inc.

Common Stock, No Par Value (File No. 7-5636)

Cooper Industries, Inc.

\$.80 Convertible Exch. Pfd Stock, Common Stock, \$1.00 Par Value (File No. 7-5637)

CRI Liquidating Reit, Inc.

Common Stock, \$.01 Par Value (File No. 7-5638)

CRI Mortgage Association, Inc.

Common Stock, \$.01 Par Value (File No. 7-5639)

CMS Enhancements, Inc.

Common Stock, \$.01 Par Value (File No. 7-5640)

Minven Gold Corporation

Common Stock, Without Par Value (File No. 7-5641)

Associated Natural Gas Corp.

Common Stock, \$.10 Par Value (File No. 7-5642)

Prism Entertainment Corporation

Common Stock, \$.01 Par Value (File No. 7-5643)

Superior Industries International, Inc.

Common Stock, \$.50 Par Value (File No. 7-5644)

Turkish Investment Fund, Inc.

Common Stock, \$.01 Par Value (File No. 7-5645)

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 January 11, 1990, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications 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. 89-29899 Filed 12-22-89; 8:45 am]

BILLING CODE 8010-01-M

#### Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

December 19, 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:

Allstate Municipal Income Opportunities Trust

Shares of Beneficial Interest, Common Stock, \$.01 Par Value (File No. 7-5646)

- Bearings, Inc.  
Common Stock, No Par Value (File No. 7-5647)
- Convex Computer Corporation  
Common Stock, \$.01 Par Value (File No. 7-5648)
- Shelby Williams Industries, Inc.  
Common Stock, \$.05 Par Value (File No. 7-5649)
- Landmark Land Company, Inc.  
Common Stock, \$.05 Par Value (File No. 7-5650)
- MFS Special Value Trust  
Shares of Beneficial Interest, Without Par Value (File No. 7-5651)
- NHI Nelson Holdings International, Ltd.  
Common Stock, No Par Value (File No. 7-5652)
- Nuveen California Performance Plus Municipal Fund, Inc.  
Common Stock, \$.01 Par Value (File No. 7-5653)
- Nuveen New York Performance Plus Municipal Fund, Inc.  
Common Stock, \$.01 Par Value (File No. 7-5654)
- Response Technologies, Inc.  
Common Stock, \$.002 Par Value (File No. 7-5655)
- ECI Environmental, Inc.  
Common Stock, \$.01 Par Value (File No. 7-5656)
- Healthsouth Rehabilitation Corp.  
Common Stock, \$.01 Par Value (File No. 7-5657)
- Rhone-Poulenc, S.A.  
Units (File No. 7-5658)
- Arkla Exploration Company  
Common Stock, \$1 Par Value (File No. 7-5659)
- Associated Natural Gas Company  
Common Stock, \$.10 Par Value (File No. 7-5660)
- Dreyfus Strategic Municipal Bond Fund, Inc.  
Common Stock, \$.001 Par Value (File No. 7-5661)
- Van Kampen Merritt Investment Grade Municipal Trust  
Common Shares of Beneficial Interest, Common Stock, \$.01 Par Value (File No. 7-5662)
- Apple Bancorp, Inc. (Holding Company)  
Common Stock, \$1 Par Value (File No. 7-5663)
- British Steel, Plc  
Final Installment American Depositary Receipts (File No. 7-5664)
- Waxman Industries, Inc.  
Common Stock, \$.01 Par Value (File No. 7-5665)

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 January 11, 1990,

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. 89-29900 Filed 12-22-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17267; 812-7438]

**Integrated Capital Appreciation Fund, Inc., et al.; Application**

December 18, 1989.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

**APPLICANTS:** Integrated Capital Appreciation Fund, Inc., Integrated Cash Fund ("ICF"), Integrated Equity Portfolios ("IEP"), Integrated Income Plus Fund, Inc., Integrated Income Portfolios ("IIP"), Integrated Money Market Securities, Inc., Integrated Tax Free Portfolios ("ITF"), Integrated Resources Series Trust ("IRST"), Integrated Multi Asset Portfolios, Inc. ("IMAP"), Home Investors Government Guaranteed Income Fund, Inc. ("HIGGI") (collectively, "Investment Companies"), Integrated Resources Asset Management Corp. ("IRAM" or "Investment Adviser"), and Broad Inc. ("Acquiror").

**RELEVANT 1940 ACT SECTION:** Exemption requested under section 6(c) of the 1940 Act from the provisions of section 15(a) of the 1940 Act.

**SUMMARY OF APPLICATION:** Applicants seek an order (i) permitting the implementation, without formal shareholder approval, of new investment advisory agreements between the Investment Companies and IRAM, and new sub-advisory agreements between IRAM and Wellington Management Company ("Wellington") the sub-adviser to HIGGI, one series of ITF, and each

series of IRST, as approved by the respective Investment Companies' Boards of Directors or Trustees, (ii) permitting IRAM to receive from each Investment Company, subject to shareholder approval, fees earned under the new agreements from the date on which Acquiror first acquires more than 25% of the outstanding voting securities of IRAM until the date the new investment advisory agreements and new sub-advisory agreements are approved or disapproved by shareholders of the respective Investment Companies ("Interim Period"), which period shall not exceed 120 days, and (iii) to permit the sub-adviser to receive, subject to shareholder approval, fees earned under new sub-advisory agreements implemented during the Interim Period, which period shall not exceed 120 days.

**FILING DATES:** The application was filed on December 5, 1989 and amended on December 14, 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 Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 12, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Each of the Investment Companies and IRAM—Integrated Resources Asset Management Corp., 10 Union Square East, Third Floor, New York, NY 10003, Attn: Gary Gardner, Esq.; Acquiror—Broad Inc., 11601 Wilshire Blvd., Los Angeles, CA 90025, Attn: Lorin Fife, Esq.

**FOR FURTHER INFORMATION CONTACT:** Marc Duffy, Staff Attorney, (202) 272-2511 or Max Berueffy, Branch Chief, (202) 272-3016.

**SUPPLEMENTARY INFORMATION:** The 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).

### Applicants' Representations

1. Each Investment Company is organized as a Massachusetts business trust or a Maryland corporation and is registered under the 1940 Act as an open-end management investment company. IRST, IEP, IIP, ITF, ICF, and IMAP are "series companies" as defined in Rule 18f-2 under the 1940 Act.

Acquiror is a financial services company whose life insurance subsidiaries sell tax-deferred long-term products for the pre-retirement market.

2. IRAM, A Delaware corporation, is registered as an investment adviser under the Investment Advisers Act of 1940, and serves as investment adviser to each Investment Company. Advisory fees paid to IRAM range from 0.50% to 1.00% per annum of average daily net assets of the various series of Investment Companies. Integrated Resources Inc. ("Integrated") owns, directly or indirectly through one or more of its subsidiaries, all of the outstanding capital stock of IRAM.

3. Wellington serves as sub-adviser to HIGGI, each series of IRST, and one series of ITF, providing investment advice and managing the day to day investments of those Funds. Under the sub-advisory agreements, IRAM pays to Wellington sub-advisory fees equal to .250% to .150%, .150% to .100%, and .325% to .020% per annum, respectively, depending on asset size, of the average daily net assets of HIGGI and the applicable series of ITF and IRST.

4. In June 1989, Integrated declared a moratorium on payment of principal and interest on holding company debt and has solicited proposals for purchase of its financial service businesses: IRAM; Integrated Life; Integrated Administrative Services Corporation; Resources Variable Annuity Management Corporation; Integrated Resources Capital Services, Inc.; Integrated Resources Fund Services, Inc.; and Royal Alliance Associates, Inc., (collectively, the "Core Companies"). Following intensive negotiations between Integrated and Acquiror beginning in October 1989, a Stock Purchase Agreement was executed on November 1, 1989. The Stock Purchase Agreement, as originally executed, called for the approval by shareholders of new advisory agreements prior to closing of the sale of the Core Companies ("Acquisition"). Shortly after the execution of the Stock Purchase Agreement, the Commissioner of Insurance of the State of Iowa ("Iowa Commissioner"), who exercises regulatory jurisdiction over one of the Core Companies, required a significant restructuring of certain aspects of the

transaction. Specifically, the Iowa Commissioner required a wholly-owned insurance subsidiary of Acquiror to reinsure the policy liabilities of Integrated Life and also threatened to issue an order of rehabilitation with respect to Integrated Life if an agreement was not promptly executed. After intense negotiation, an amendment to the Stock Purchase Agreement was executed on November 13, 1989. The Board of Trustees of each Investment Company was notified within days after execution of the November 13th amendment to the Stock Purchase Agreement. Notification prior to that time would have been premature, since the terms of the transactions had not been finalized and it was uncertain that the transaction would go forward. The November 13 amendment to the Stock Purchase Agreement was subject to significant contingencies which had to be resolved prior to any transaction going forward. A period for resolution of significant contingencies expired on November 27, 1989, at which time Acquiror determined to proceed with the acquisition.

5. Although Applicants intended to obtain shareholder approval prior to closing, the timing requirements imposed by the Iowa Commissioner required an accelerated schedule that does not permit prior solicitation of shareholders. The conditions remaining to consummation of the Stock Purchase Agreement, as amended November 13, 1989 include, among others: (i) Receipt of approvals by insurance regulators in Iowa, Colorado, and California; (ii) receipt of approvals from the National Association of Securities Dealers, Inc.; and (iii) expiration of waiting periods applicable under the Hart-Scott-Rodino Antitrust Improvements Act of 1976. It is anticipated that the Acquisition will be consummated as promptly as possible after all of the conditions to consummation have been fulfilled.

6. Because the Acquisition will result in a change in control of IRAM, the Acquisition may be deemed, within the meaning of section 2(a)(4), to result in an assignment of the existing investment advisory agreements of each of the Investment Companies with IRAM, terminating each investment advisory agreement and sub-advisory agreement pursuant to its terms.

7. At a meeting held on December 1, 1989, the Boards of Trustees of each of the Investment Companies, other than HIGGI, including a majority of the Trustees who are not "interested persons" of the relevant Investment Companies, as defined in section 2(a)(19), met in person and concluded

unanimously, with the advice of independent counsel, that it was in the best interests of each Investment Company and its shareholders to file the application as a necessary step in implementing new advisory and sub-advisory agreements during the Interim Period, so as to minimize the disruption in advisory services to each Investment Company. On December 14, 1989, the Board of Trustees of HIGGI, including a majority of the Trustees who are not "interested persons" of HIGGI, met in person and reached the same conclusion unanimously. The Board of Trustees also considered the advisability of entering into new agreements providing for advisory and sub-advisory services following the acquisition. The Applicants state that the Boards of Trustees of the respective Investment Companies, with the advice of independent counsel, have complied with the requirements of section 15(c).

8. As soon as reasonably practicable, but within the Interim Period in any event, the Investment Companies will present for shareholder approval new agreements providing for advisory and sub-advisory services following the Acquisition. It is not possible for the Investment Companies to obtain such shareholder approval in accordance with Section 15(a) of the 1940 Act prior to the anticipated consummation of the Acquisition. As noted above, the Investment Companies had no advance notice of the proposed transactions. Shares of the Investment Companies are beneficially held by more than 148,000 shareholders. Since a "majority of the outstanding voting securities," as defined in the 1940 Act, of each series of each Investment Company will be required to approve the new advisory arrangements, the Applicants believe that substantial time and effort will be necessary to obtain the required votes. Shareholders' meetings require the preparation of proxy materials and subsequent clearance by the staff of the Commission, as well as a solicitation period that is sufficient to obtain the requisite quorum. Although the Investment Companies are preparing these materials as quickly as possible, it will be impossible to hold special meetings of shareholders before the Acquisition, as there will not be an adequate solicitation period to assure a quorum of shareholders at the meetings.

### Applicants' Legal Conclusions

9. The Applicants state that the requested order is necessary and appropriate, in the public interest, and consistent with the protection of investors and the purposes fairly

intended by the policy and provisions of the 1940 Act for the reasons set forth below, as discussed more fully in the application.

10. The management of Integrated considered and rejected three other ways of dealing with the effect of the proposed Acquisition upon the advisory agreements between IRAM and each of the Investment Companies.

a. First, consummation of the Acquisition might have been conditioned upon the approval of the shareholders of all the Investment Companies. Management rejected this approach because it would have meant a delay of up to two months in consummating the Acquisition, and such a delay would have adversely affected the interests of all parties. The Applicants noted the likelihood, among other things, that protracted uncertainty as to the future of Integrated could cause substantial further defections by the registered representatives of Integrated's broker-dealer subsidiary, Royal Alliance Associates, Inc. ("RAA"). Such defections would adversely affect IRAM.

b. Second, IRAM might have given the appropriate 60 days notice to the Investment Companies, so that the investment advisory agreements would terminate upon the change of control in IRAM. Management rejected this approach because it would have delayed the consummation of the acquisition for at least 60 days. In addition to the adverse consequences of the delay noted above, the Investment Companies would have been required either to reengage IRAM or to find a suitable replacement and to obtain shareholder approval, all within the 60-day period, in order to avoid a potential disruption in investment services.

c. Finally, consummation of the Acquisition could have been made contingent on issuance of the relief requested by the application. However, while Applicants submit that they filed the application as promptly as reasonably possible to permit issuance of the order prior to effectiveness of the Acquisition, the schedule imposed by the Iowa Commissioner, the deteriorating fiscal situation of Integrated, and attendant disruptions to the Core Companies may not permit waiting. Management decided that the interests of the shareholders of each of the Investment Companies and the stockholders of Integrated would best be served if the consummation of the Acquisition were not made contingent upon the receipt of the relief requested by the application.

11. The Applicants state that there will be no diminution in the scope and

quality of services provided to the Investment Companies during the Interim Period. The Applicants assert that this arrangement is in keeping with the provisions of Rule 15a-4 (other than the provisions limiting the ability of persons affiliated with the adviser to profit from the assignment transaction) and the purposes of section 15 of the 1940 Act, since the Trustees of the Investment Companies have approved the new advisory agreements prior to their implementation and no fees will be paid unless the agreements are approved by the Investment Company shareholders.

12. The Applicants submit that the circumstances which have given rise to the request for relief are similar to those of other types of assignments that are not reasonably foreseeable. The extremely rapid evolution of the Integrated-Acquiror negotiations did not present an opportunity to secure prior approval of new advisory and sub-advisory agreements by shareholders of the Investment Companies. The Applicants further submit that to deprive IRAM of its customary fees for the Interim Period because the Acquisition may technically result in an assignment of the Investment Companies' existing investment advisory agreements would be a harsh result and an unreasonable penalty to attach to the transaction. The Applicants believe that the requested 120-day Interim Period will facilitate an orderly consideration of the advisory and sub-advisory agreements by the Investment Companies' shareholders. They assert that such an Interim Period is consistent with the provisions of Rule 15a-4 and the purposes of section 15 of the 1940 Act, as well as the corporate governance objectives of the 1940 Act.

#### Applicants' Conditions

If the requested order is granted, the Applicants agree to the following conditions:

1. The new advisory agreements to be implemented during the Interim Period will have the same terms (except effective dates) and conditions as the existing advisory agreements, and the new sub-advisory agreements will have the same terms (except effective dates) and conditions as the existing sub-advisory agreements.

2. Fees earned by the Investment Adviser and paid by an Investment Company during the Interim Period in accordance with the terms of a new advisory agreement will be maintained in an interest-bearing escrow account, and amounts in the escrow account will be paid (a) to the Investment Adviser only upon approval by the shareholder

of that Investment Company, or (b) in the absence of such approval, to the respective Investment Company.

3. Integrated (or an affiliate of Integrated) will pay the costs of preparing and filing this Application and the costs of holding all special meetings of the Investment Companies' shareholders necessitated by the Acquisition, including the cost of proxy solicitations. Additionally, Integrated (or an affiliate of Integrated) will pay the incremental costs necessitated by the Acquisition in connection with meetings of the Investment Companies' shareholders.

4. IRAM will take all appropriate steps so that the scope and quality of advisory and other services provided to the Investment Companies during the Interim Period will be at least equivalent, in the judgment of the respective Boards of Trustees, including a majority of the Trustees who are not "interested persons," to the scope and quality of services previously provided. In the event of any material change in personnel providing services pursuant to the advisory or sub-advisory agreements, IRAM will apprise and consult with the Board of Trustees of the affected Investment Companies in order to assure that they, including a majority of the Trustees who are not "interested persons," are satisfied that the services provided will not be diminished in scope or quality.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,  
Secretary.

[FR Doc. 89-29901 Filed 12-22-89; 8:45 am]

BILLING CODE 8010-01-M

#### DEPARTMENT OF TRANSPORTATION

##### Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q during the Week ended December 15, 1989

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a

tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* 42603.

*Date filed:* December 14, 1989.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* January 11, 1990.

*Description:* Application of Continental Airlines, Inc., pursuant to sections 401 of the Act and subpart Q of the Regulations requests renewal of its authority to provide foreign scheduled air transportation of persons, property and mail between Houston, Texas, on the one hand and London, England, on the other.

Phyllis T. Kaylor,

*Chief, Documentary Services Division.*

[FR Doc. 89-29855 Filed 12-22-89; 8:45 am]

BILLING CODE 4910-62-M

#### Order Instituting Supplemental Japan Charter Authorization Proceeding (1989/1990)

**AGENCY:** Department of Transportation.

**ACTION:** Institution of the Supplemental Japan Charter Authorization Proceeding (1989/1990); Order 89-12-30, Docket 46681.

**SUMMARY:** Under the terms of an Interim Aviation Agreement dated September 7, 1982, U.S. air carriers can operate 300 one-way charter flights per year between the United States and Japan. The aeronautical authorities of each country allocate the charter flights among their carriers. Under an *ad referendum* Memorandum of Understanding signed by representatives of the United States and Japan on November 6, 1989, U.S. carriers may operate an additional 150 charters during the 1989/1990 charter year. As the Department had already allocated the 300 previously-available charters by Order 89-9-44, it is instituting a supplemental charter proceeding to allocate the newly-available 150 charters for the 1989/1990 charter year. The Department intends to allocate the charters using show-cause procedures. The Department is inviting interested direct air carriers to file applications to operate the Japan charters at issue.

**DATES:** Applications (including service proposals and supporting information) and petitions for reconsideration of Order 89-12-30 are due January 9, 1990; answers are due January 16, 1990.

**ADDRESS:** Applications, supporting information, and petitions for reconsideration should be filed in Docket 46681, addressed to the Documentary Services Division, U.S. Department of Transportation, 400

Seventh Street SW., Room 4107, Washington, DC 20590.

Dated: December 20, 1989.

Jeffrey N. Shane,

*Assistant Secretary for Policy and International Affairs.*

[FR Doc. 89-29914 Filed 12-22-89; 8:45 am]

BILLING CODE 4910-62-M

#### Federal Aviation Administration

[AC No. 120-27B]

#### Proposed Advisory Circular on Aircraft Weight and Balance Control

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

**ACTION:** Request for comments on Advisory Circular (AC) on aircraft weight and balance control.

**SUMMARY:** The proposed AC suggests a method for complying with the part 121 weight and balance control system requirements. In addition, the proposed AC can be used by Part 135 operators who elect to have an approved weight and balance program under the Federal Aviation Regulations.

**COMMENTS INVITED:** Comments are invited on the proposed AC. Commentators must identify file number AC 120-275B.

**DATE:** Comments must be received on or before January 24, 1990.

**ADDRESS:** Send all comments and request for copies of the proposed AC to: Federal Aviation Administration, Aircraft Maintenance Division (Attention: AFS-330), 800 Independence Avenue, SW., Washington, DC 20591.

**FOR FURTHER INFORMATION CONTACT:** Howard Vaughn, AFS-330A, at the above address; telephone: (202) 267-3790 (8:30 a.m. to 5:00 p.m. e.s.t.).

**SUPPLEMENTARY INFORMATION:** The guidance material contained in this AC provides a method for developing weight and balance control systems.

Issued in Washington, DC, on November 27, 1989.

D.C. Beaudette,

*Director, Flight Standards Service.*

[FR Doc. 89-29860 Filed 12-22-89; 8:45 am]

BILLING CODE 4910-13-M

#### Airport Capacity Funding Advisory Committee Establishment

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Airport Capacity Funding Advisory Committee establishment.

**SUMMARY:** Notice is hereby given of the establishment of the Airport Capacity Funding Advisory Committee. The Federal Aviation Administration sponsors this Committee which will consist of members appointed by the Secretary, including but not limited to representatives of airport executives, airport operators, and the airlines. The Committee shall review the issues surrounding repeal of the Federal prohibition against locally imposed surcharges on airline passengers by airport operators for the purpose of providing needed airport capacity. The functions of the Committee are solely advisory.

The Secretary has determined that the information and use of the Committee are necessary in the public interest in connection with the performance of duties imposed on FAA by law.

Meetings of the Committee will be open to the public except as authorized by section 10(d) of the Federal Advisory Committee Act.

#### FOR FURTHER INFORMATION CONTACT:

The Office of the Associate Administrator for Policy, Planning, and International Aviation (API-1), 800 Independence Avenue, SW., Washington, DC 20591, telephone 202-267-3033.

Issued in Washington, DC, on December 15, 1989.

Michael C. Moffet,

*Associate Administrator for Policy, Planning, International Aviation.*

[FR Doc. 89-29859 Filed 12-22-89; 8:45 am]

BILLING CODE 4910-13-M

#### Approval of Noise Compatibility Program; The Birmingham Airport, Birmingham, AL

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Birmingham Airport Authority under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On June 1, 1989, the FAA determined that the noise exposure maps submitted by the Birmingham Airport Authority under Part 150 were in compliance with applicable requirements. On November 22, 1989, the Administrator approved The

Birmingham Airport noise compatibility program. All of the recommendations of the program were approved. No program elements relating to new or revised flight procedures for noise abatement were proposed by the airport operator.

**EFFECTIVE DATE:** The effective date of the FAA's approval of The Birmingham Airport noise compatibility program is November 22, 1989.

**FOR FURTHER INFORMATION CONTACT:** Mr. Elton E. Jay, Civil Engineer, Jackson Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208-2306; telephone ro. (601) 965-4628. Documents reflecting this FAA action may be reviewed at this same location.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA has given its overall approval to the noise compatibility program for The Birmingham Airport, effective November 22, 1989.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act and is limited to the following determinations:

- a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;
- b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;
- c. Program measures would not create an undue burden on interstate or foreign

commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implemented specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District in Jackson, Mississippi.

The Birmingham Airport Authority submitted to the FAA on May 25, 1989, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from June 1985 through May 1989. The Birmingham Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on June 1, 1989. Notice of this determination was published in the *Federal Register* on June 15, 1989.

The Birmingham study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 1992. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on

June 1, 1989, and was required by a provision of the Act to approve or disapprove the program within 180 days. Failure to approve or disapprove such program within the 180-day period shall

be deemed to be an approval of such program.

The submitted program contained seven proposed actions for noise mitigation off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective November 22, 1989.

Outright approval was granted for seven of the specific program elements.

The establishment of an Airport Impact Zone (AIZ) for Tarrant City was approved subject to the City's adopting and implementing the AIZ.

The continued use of aircraft noise abatement takeoff-approach procedures as recommended by the FAA, the Air Transport Association of America, and the National Business Aircraft Association is the only noise abatement measure included and approved in the program.

In addition to the AIZ for Tarrant City, the recommended and approved noise mitigation measures are: (1) Acquisition of noncompatible land within the 75 Ldn contour; (2) acquisition of avigation/noise easements within the 70 Ldn contour after completion of the fee acquisition within the 75 Ldn contour; (3) establishment of an AIZ to assist in assuring compatible land use within the 65 Ldn; (4) revision of the City of Birmingham's building codes to establish building construction guidelines to achieve noise compatibility within the AIZ; (5) a redevelopment plan for compatible use or noise impacted property that has and will be acquired within the 75 Ldn contour, which was completed and approved on August 15, 1989; and (6) redevelopment of the noise impacted property with compatible land uses as determined by the redevelopment plan.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on November 22, 1989. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Birmingham Airport Authority.

Issued in Jackson, Mississippi, December 6, 1989.

Newton L. Taylor,

Manager, Airports District Office.

[FR Doc. 89-29861 Filed 12-22-89; 8:45 am]

BILLING CODE 4910-13-M

**Informal Airspace Meeting**

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

**ACTION:** Notice of informal airspace meeting.

**SUMMARY:** This notice announces an informal airspace meeting to discuss the establishment of an Airport Radar Service Area (ARSA) at Harlingen, TX.

**DATE:** The informal airspace meeting will be held on January 30, 1990.

**ADDRESS:** The informal airspace meeting location is as follows:

Harlingen, TX, ARSA

Date: January 30, 1990.

Time: 7 p.m.

Location: Harlingen City Hall, 118 East Tyler, Harlingen, TX.

**FOR FURTHER INFORMATION CONTACT:**

David J. Souder, System Management Branch, ASW-530, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193-0535; telephone: (817) 624-5530.

Issued in Fort Worth, TX, on November 21, 1989.

Richard J. Cibak,

Manager, System Management Branch.

[FR Doc. 89-29862 Filed 12-22-89; 8:45 am]

BILLING CODE 4910-13-M

**Traffic Alert and Collision Avoidance System (TCAS) Airborne Equipment, TCAS II**

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

**ACTION:** Notice of availability of technical standard order (TSO) and request for comments.

**SUMMARY:** The proposed TSO-C119a prescribes the minimum performance standards that traffic alert and collision avoidance (TCAS) airborne equipment, TCAS II, must meet to be identified with the marking "TSO-C119a."

**DATE:** Comments must identify the TSO file number and be received on or before January 26, 1990.

**ADDRESSES:** Send all comments on the proposed technical standard order to: Technical Analysis Branch, AIR-120, Aircraft Engineering Division Aircraft Certification Service—File No. TSO-C119a, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, Room 335, 800 Independence Avenue, SW., Washington, DC 20591.

**FOR FURTHER INFORMATION CONTACT:** Ms. Bobbie J. Smith, Technical Analysis

Branch, AIR-120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267-9546.

Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 335, FAA Headquarters Building (FOB-10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

**Background**

The Radio Technical Commission for Aeronautics Special Committee 147 has made modifications to improve the safety and effectiveness of the collision avoidance logic for the Traffic Alert and Collision Avoidance System II (TCAS II). These modifications, known as Change 6 to the Minimum Operational Performance Standards (MOPS), eliminate the "Advisory Invalid" indication and reduce the issuance of altitude crossing Resolution Advisories. Other changes guard against maneuvering intruders, correct editorial errors, and generally enhance the performance of the system logic.

The FAA recognized these changes as improving the safety and effectiveness of TCAS II and has incorporated these changes into TSO-C119a.

**How To Obtain Copies**

A copy of the proposed TSO-C119a may be obtained by contacting "For Further Information Contact." TSO-C119a references Radio Technical Commission for Aeronautics Secretariat (RTCA) Document No. DO-185, Change 1 through 6, for minimum performance standards, RTCA/DO-160B for the environmental standard, and RTCA/DO-178A for the computer software requirements; RTCA documents may be purchased from the Radio Technical Commission for Aeronautics Secretariat, One McPherson Square, Suite 500, 1425 K Street, NW., Washington, DC 20005.

Issued in Washington, DC, on December 19, 1989.

Daniel P. Salvano,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 89-29858 Filed 12-22-89; 8:45 am]

BILLING CODE 9910-13-M

**Federal Railroad Administration  
Petitions for Waivers of Compliance;  
Canadian Pacific Limited, et al**

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for waivers of compliance with certain requirements of its safety standards. The individual petitions are described below, including the parties seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

**Canadian Pacific Limited and Norfolk  
Southern Corporation**

Waiver Petition Docket Numbers PB-89-6 and SA-89-12

The Canadian Pacific Limited (CP Rail) and the Norfolk Southern Corporation (NS) (on behalf of its operating subsidiaries) jointly request waivers of compliance with certain provisions of the Railroad Safety Appliance Standards (49 CFR part 231), under Docket No. SA-89-12, and the Railroad Power Brakes and Drawbars Regulations (49 CFR part 232), under Docket No. PB-89-6.

CP Rail and NS seek these waivers of compliance to permit the operation of railroad/highway vehicles which are designated as "RoadRailer" units. CP Rail and NS are negotiating an agreement for CP Rail to operate NS RoadRailer equipment between Detroit, Michigan, and Toronto, Ontario, Canada. CP Rail intends to receive the RoadRailer equipment from the NS subsidiary, Triple Crown Services, Inc., at NS's Oakwood Yard in Detroit. CP Rail will operate the equipment from Oakwood Yard via NS trackage to Ecorse Junction, the Union Belt trackage to Delray, the Consolidated Rail Corporation (Conrail) trackage to the Canadian National Railroad/CP Rail's Case Sub Division, through the Windsor/Detroit tunnel for about one mile and then over CP Rail trackage to Toronto, Canada. The distance traveled in the United States to the Windsor/Detroit Tunnel is approximately eight miles.

The NS is presently operating 1,600 RoadRailer vehicles under a conditional waiver (Docket Numbers SA-87-2 and PB-87-4) issued by FRA on July 23, 1987.

(See notice of waiver petitions, 52 FR 16326, May 4, 1987, for more detailed discussion.) These vehicles are almost identical to the standard semi-trailer presently used to haul cargo over the highway, the only difference being that they are equipped with a special drawbar, railroad running wheels and a special railroad air brake system. The railroad wheels are mounted on a single axle between the tandem highway wheels of the semi-trailer on the Mark IV RoadRailer. The Mark V RoadRailer is carried on a standard 70-ton freight car truck equipped with a suitable adaptor to accommodate and support the vehicle. The Mark IVs and Mark Vs are indiscriminately operated together in NS trains. The RoadRailer vehicles, by design, cannot be subjected to traditional switching procedures conducted in railroad classification yards. The coupler assembly will only couple to another RoadRailer vehicle or to a specially designed adapter car between the locomotive and a RoadRailer train, and the drawbar height is nonstandard.

The conditional waiver granted to the NS permits noncompliance with all the provisions of the Railroad Safety Appliance Standards (49 CFR part 231). These standards include provisions that provide the number, location and dimensional specifications for the handholds, ladders and sill steps that are required for each railroad freight and passenger car. In addition, the NS waiver permits noncompliance with a provision of the Railroad Power Brakes and Drawbars Regulations (49 CFR 232.2) which regulates height of drawbars. It was for these reasons that the NS applied for relief from these provisions of parts 231 and 232. It is for the same reasons that CP Rail is seeking conditional waivers similar to those that were granted to the NS. One of the conditions of the NS waiver is that the NS is not permitted to interchange the RoadRailer units with any other railroads, except the operating subsidiaries of the NS Corporation (e.g., Norfolk Western Railway and the Southern Railway). CP Rail and NS are petitioning the FRA to have this condition modified so as to allow interchange of the RoadRailer units between CP Rail and NS to provide the service described in the CP Rail petition. CP Rail and NS would agree to all other terms and conditions that presently exist for the operation of the RoadRailer equipment by the NS.

#### Union Pacific Railroad Company

*Waiver Petition Docket Number Docket Number SA-89-11*

The Union Pacific Railroad Company and the Missouri Pacific Railroad Company (collectively herein "UP") request a waiver of compliance with certain provisions of the Railroad Safety Appliance Standards (49 CFR part 231) for all its locomotives built after March 31, 1977. The UP seeks a waiver of compliance with those provisions of §231.30(c)(6), "Visibility" which require in part that on locomotives used in switching service that were "built after March 31, 1977, switching steps shall be illuminated \* \* \*". The UP collectively owns all of the locomotives presently not equipped with switching step lights and therefore are not in compliance with the regulation.

The UP proposes to issue a General Notice informing all of its employees of the absence of switching step lights on the noncomplying locomotives. The carrier states that these locomotives have operated approximately 12 years without incident.

#### Cheney Railroad Company

*Waiver Petition Docket Numbers RSGM-89-37 and SA-89-10*

The Cheney Railroad Company, Inc. (CHNY) requests a waiver of compliance with certain provisions of the Railroad Safety Appliance Standards (49 CFR part 231) for its one locomotive. The CHNY seeks a waiver of compliance with those provisions of § 231.30, "Locomotives used in switching service," that require that each locomotive used in switching service be equipped with four side switching steps, each of which has a minimum width of twenty-four (24) inches and a minimum depth of twelve (12) inches for locomotives built after March 31, 1977; and for locomotives built prior to April 1, 1977, a minimum width of eighteen (18) inches and the minimum depth of eight (8) inches.

The CHNY also seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR part 223) for the same locomotive.

The CHNY locomotive is a used 65-ton center cab, industrial switcher type locomotive built by the General Electric Company. Prior to acquisition for operation on the CHNY, this locomotive was owned by an industry and used as an industrial switcher. This type of locomotive has a side switching step and ladder configuration located at each of the four corners which are narrower and of less depth than those required by

the Safety Appliance Standards (§ 231.30(c)). The railroad states that the construction of this locomotive does not permit it to be retrofitted with side switching steps different than it currently possesses.

The CHNY is a new railroad which acquired 53 miles of track from CSX Transportation, Inc. (CSXT), on June 16, 1989. The railroad is between Greens and Ivalee, Alabama. The locomotive will be operated at a relatively low speed in a generally rural area. A very light volume of traffic has been handled over this section of railroad over the past several years. The primary traffic which has moved on this line over the last three years has been that of Cheney Lime and Cement Company (Cheney Lime). Both CHNY and Cheney Lime are owned by Alan B. Cheney, and both are headquartered in the same facility in Graystone, Alabama.

#### Celtran, Inc.

*Waiver Petition Docket Number SA-89-9*

On October 24, 1989, the Federal Railroad Administration (FRA) received a petition from Celtran, Inc., a subsidiary of the Hoechst Celanese Corporation, requesting authority to modify 39 of their 6200 series aluminum tank cars by application of side ladders located near the center of the car to provide access to loading or unloading fittings on top of the car, obviating the need to mount the car from the ends and utilize the roof running boards. After due consideration, the FRA took no exception to the modification because the requirements of all the Railroad Safety Appliance Standards were met, and safety was not impeded.

Celtran, Inc. now requests a waiver of compliance with a provision of the Railroad Safety Appliance Standards (49 CFR 231.8) for the same 39 cars, which requires top running board design to be less safe than a center-of-car ladder, especially during winter months. When top running boards are present, workmen walk the length of the car carrying tools, test equipment, sample containers, etc. In the absence of top running boards, workmen will be required to do most of their walking at ground level.

Celtran, Inc. contends that with the application of side-mount ladders and an operating platform with safety railings in accordance with the provisions of 49 CFR 231.21, the cars' safety appliance arrangement will not be jeopardized by removal of the top running boards and end ladders. Celtran, Inc. seeks this waiver so that it

my remove the existing top running boards and end ladders at the same time that the side-mount ladders and platform are installed.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number PB-88-2) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Communications received before February 28, 1990, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m. to 5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC on December 14, 1989.

J.W. Walsh,

*Associate Administrator for Safety.*

[FR Doc. 89-29823 Filed 12-22-89; 8:45 am]

BILLING CODE 4910-06-M

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

[Department Circular—Public Debt Series—No. 35-89]

### Treasury Notes of December 31, 1991, Series AH-1991

Washington, December 14, 1989.

#### 1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately \$10,000,000,000 of United States securities, designated Treasury Notes of December 31, 1991, Series AH-1991 (CUSIP No. 912827 YH 9), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of

each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

#### 2. Description of Securities

2.1. The Notes will be dated January 2, 1990, and will accrue interest from that date, payable on a semiannual basis on June 30, 1990, and each subsequent 6 months on December 31 and June 30 through the date that the principal becomes payable. They will mature December 31, 1991, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of \$5,000, \$10,000, \$100,000, and \$1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Notes offered in this circular.

#### 3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500, prior to

1:00 p.m., Eastern Standard Time, Tuesday, December 19, 1989.

Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, December 18, 1989, and received no later than Tuesday, January 2, 1990.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is \$5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than \$1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customer and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted

in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a  $\frac{1}{8}$  of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

#### 4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

#### 5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before

Tuesday, January 2, 1990. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, December 28, 1989. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

#### 6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is

pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

*Fiscal Assistant Secretary.*

[FR Doc. 89-29918 Filed 12-20-89; 3:09 pm]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 36-89]

### Treasury Notes of December 31, 1993, Series R-1993

Washington, December 14, 1989.

#### 1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately \$8,000,000,000 of United States securities, designated Treasury Notes of December 31, 1993, Series R-1993 (CUSIP No. 912827 YJ 5), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks as agents for foreign and international monetary authorities.

#### 2. Description of Securities

2.1. The Notes will be dated January 2, 1990, and will accrue interest from that date, payable on a semiannual basis on June 30, 1990, and each subsequent 6 months on December 31 and June 30 through the date that the principal becomes payable. They will mature December 31, 1993, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of \$1,000, \$5,000, \$10,000, \$100,000, and \$1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Notes offered in this circular.

### 3. Sales Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500, prior to 1:00 p.m., Eastern Standard time, Wednesday, December 20, 1989. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, December 19, 1989, and received no later than Tuesday, January 2, 1990.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is \$1,000, and larger bids must be in multiples of that amount. Competitive tenders must show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than \$1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to

submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central bank and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a  $\frac{1}{8}$  of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the

tender is not accepted in full, or when the price at the average yield is over par.

### 4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

### 5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section § 3.5, must be made or completed on or before Tuesday, January 2, 1990. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, December 28, 1989. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, to the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

## 6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

*Fiscal Assistant Secretary.*

[FR Doc. 89-29919 Filed 12-20-89; 3:09 pm]

BILLING CODE 4810-40-M

## UNITED STATES INFORMATION AGENCY

### Reporting and Information Collection Requirements Under OMB Review

**AGENCY:** United States Information Agency.

**ACTION:** Notice of reporting requirements submitted for OMB review.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the Agency has made such a submission. Revisions have been made to the Youth Exchange Guidelines (IAP-18) because of recent policy changes regarding health/accident insurance and issuance of J-1 visas as well as the signing of IA-1285 Certification Regarding Drug-Free Workplace Requirements, Grantees other Than Individuals; IA-1279 Certification Regarding Debarment, Suspension, and other Responsibility Matters Primary Covered Transactions; and IA-1280 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions. USIA is requesting approval of the revisions and the extension of an information collection

program (OMB 3116-0159), which provides a program of selective assistance through limited grant support to private not-for-profit organizations for the purpose of encouraging increase in level and quality of Youth Exchanges between the United States and other countries to strengthen shared understanding of and commitment to basic democratic value. Respondents will be required to respond only one time.

**DATE:** Comments must be received by January 5, 1990.

**Copies:** Copies of the Request for Clearance (SF-83), supporting statement, transmittal letter and other documents submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments on the items listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also to the USIA Clearance Officer.

**FOR FURTHER INFORMATION CONTACT:** Agency Clearance Officer, Debbie Knox, United States Information Agency, M/ASP, 301 Fourth Street SW., Washington, DC 20547, telephone (202) 485-7503; and OMB review: Mr. Donald Arbuckle, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, telephone (202) 395-7340.

**SUPPLEMENTARY INFORMATION:** Title: "Guidelines for Proposals Submitted to the USIA Youth Exchange Program."

Form Number: IAP-18.

**Abstract:** This information collection is a program of selective assistance through limited grant support to private not-for-profit organizations. The purpose is to encourage increase in level and quality of Youth Exchange between the United States and other countries to strengthen shared understanding of and commitment to basic democratic value.

**Proposed Frequency of Responses:** No. of Respondents—100, Recordkeeping Hours—10, Total Annual Burden—1000.

Dated: December 15, 1989.

Ledra Dildy,

*Federal Register Liaison.*

[FR Doc. 89-29818 Filed 12-22-89; 3:45 am]

BILLING CODE 8230-01-M

## DEPARTMENT OF VETERANS AFFAIRS

### Geriatrics and Gerontology Advisory Committee; Meeting

The Department of Veterans Affairs gives notice under Pub. L. 92-463 that a

meeting of the Geriatrics and Gerontology Advisory Committee (GGAC) will be held January 25-26, 1990 at the Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 in the Omar Bradley Conference Room. The purpose of the Geriatrics and Gerontology Advisory Committee is to advise the Secretary of Veterans Affairs and the Chief Medical Director relative to the care and treatment of the aging veterans, and to evaluate the Geriatric Research, Education and Clinical Centers. The meeting will convene at 8:30 a.m. and adjourn at 5 p.m. on January 25 and will reconvene at 9 a.m. on January 26 and adjourn at 11:30 a.m. The meeting is open to the public up to the seating capacity of the room. For those wishing to attend, contact Jacqueline Holmes, Program Assistant, Office of Assistant Chief Medical Director for Geriatrics and Extended Care (phone 202/233-5983) prior to January 19, 1990.

The purpose of this meeting is to discuss activities of the Office of Geriatrics and Extended Care, and possible legislative proposals to broaden the eligibility of aging veterans for continual quality care.

Dated: December 19, 1989.

By direction of the Secretary.

Sylvia Chavez Long,

*Committee Management Officer.*

[FR Doc. 89-29876 Filed 12-22-89; 3:45 am]

BILLING CODE 8320-01-M

### Veterans Health Services and Research Administration Scientific Review and Evaluation Board for Health Services Research and Development; Meetings

The Department of Veterans Affairs, Veterans Health Services Research Administration, gives notice under Public Law 92-463 that an advisory committee meeting of the Scientific Review and Evaluation Board for Health Services Research and Development will be held at the Vista International Hotel, 1400 M Street, NW., Washington, DC, on January 11-12, 1990. The meetings will convene at 8:30 a.m. on January 11 and 12 and adjourn at 4:30 p.m. on January 11 and at noon on January 12, 1990. The purpose of the meetings will be to review research and development applications concerned with the measurement and evaluation of health care systems and with testing new methods of health care delivery and management. Applications are reviewed for scientific and technical merit and recommendations regarding their funding are prepared for the

Assistant Chief Medical Director for Research and Development.

The meeting will be open to the public (to the seating capacity of the room) at the start of the January 11th session for approximately one hour to cover administrative matters and to discuss the general status of the program.

The closed portion of the meetings involves: Discussion, examination, reference to, and oral review of staff and consultant critiques of research protocols, and similar documents. During this portion of the meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. As provided by subsection 10(d) of Public Law 92-463, as amended by Public Law 94-409, closing portions of these meetings is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

Due to the limited seating capacity of the room, those who plan to attend the open session should contact Mrs. Carolyn Smith, Program Analyst, Health Services Research and Development Service, 810 Vermont Avenue, NW., Washington, DC, 20420, [phone: 202/233-6935] at least 5 days before the meetings.

Dated: December 19, 1989.

By direction of the Secretary.

Sylvia Chavez Long,

Committee Management Officer.

[FR Doc. 89-29877 Filed 12-22-89; 8:45 am]

BILLING CODE 8320-01-M

#### Advisory Committee on Environmental Hazards; Meeting

The Department of Veterans Affairs gives notice under Public Law 92-463, section 10(a)(2), that a meeting of the Veterans' Advisory Committee on Environmental Hazards will be held at the Department of Veterans Affairs Central Office, 810 Vermont Avenue, NW., Room 119, Washington, DC 20420 on January 30-31, 1990. The Committee will review scientific and medical literature relating to the issue of whether there exists a significant statistical association between exposure to a herbicide containing dioxin and the subsequent development of soft-tissue sarcomas and other cancers.

The meeting will convene at 9:00 a.m. both days in Room 119. This meeting will be open to the public up to the

seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Ms. Sylvia Arrington, Department of Veterans Affairs Central Office (phone 202/233-2115) prior to January 23, 1990.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. Frederic L. Conway, Deputy Assistant General Counsel, Room 1078, Department of Veterans Affairs Central Office. Submitted material must be received at least five days prior to the meeting. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Dated: December 6, 1989.

By direction of the Secretary.

Sylvia Chavez Long,

Committee Management Officer.

[FR Doc. 89-29838 Filed 12-22-89; 8:45 am]

BILLING CODE 8320-01-M

#### Privacy Act of 1974; Amended System of Records

Notice is hereby given that the Department of Veterans Affairs (VA) is amending a system of records entitled "Applicants for Employment under Title 38, USC-VA" (02VA135) which is set forth on page 766 of the *Federal Register* publication, "Privacy Act Issuances," 1987 Copilation, Volume V. The system is being amended by revising the paragraphs for System Location; Categories of Individuals Covered by the System; Categories of Records in the System; Authority for Maintenance of the System; Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses; Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System; System Manager(s) and Address; Notification Procedure; Record Access Procedures; and Record Source Categories.

The purpose of this amendment is to allow the VA to maintain drug testing records under Executive Order 12564 for Title 38 applicants and to ensure that these records are maintained in accordance with the Privacy Act. For this reason the following paragraphs are being revised: Categories of Records in the System; Authority for Maintenance of the System; Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses; and Policies and Practices for Storing, Accessing, Retaining, and

Disposing of Records in the System. The Office of Personnel Management has made similar changes to its system of records entitled "Recruiting, Examination, and Placement Records" (OPM/GOVT-5). The OPM Governmentwide system, however, does not cover VA Title 38 applicants. Therefore, we are altering by amendment VA's "Applicants for Employment under Title 38, USC-VA" (02VA135) by adding routine use 8 to "Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses." Such records shall be disclosed only to a very limited number of officials within the Agency, generally only to the VA Medical Review Official (MRO), the administrator of the VA Employee Assistance Program, and any supervisory or management official within VA having authority to take a disciplinary or adverse personnel action against the employee. Additionally, changes will amend the system to make it consistent with other routine use disclosures in other personnel systems of records. Minor editorial changes also are being made.

The amended system will provide effective safeguards to protect these highly sensitive records. Employees who are authorized access to the system are limited to only that information in the file which is needed in the performance of their official duties.

Records in this system are maintained to assure that applicants have proper credentials and licensure of certification and to ensure proper and accurate operation of the VA's drug-free workplace program under Executive Order 12564.

A "Report of Altered System" and an advance copy of the revised system notice have been provided to the Chairman of the House Committee on Government Operations, the Chairman of the Senate Committee on Government Affairs, and the Office of Management and Budget (OMB), as required by the provisions of 5 U.S.C. 552a (r), guidelines issued by (50 FR 52730), December 24, 1985, and Pub. L. 100-503.

Interested persons are invited to submit written comments, suggestions, or objections regarding the routine uses in this system of records to the Secretary, Department of Veterans Affairs (271A), 810 Vermont Avenue, NW., Washington, DC 20420. All relevant material received before January 25, 1990, will be considered. All written comments received will be available for public inspection only in Room 132 of the above address only between the hours of 8:00 a.m. and 4:30

p.m., Monday through Friday (except holidays), until.

If no public comment is received during the 30-day review period allowed for public comment, or unless otherwise published in the *Federal Register* by the Department of Veterans Affairs, the routine uses in this system are effective January 25, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

#### Notice of Amendment to System of Records

The following data elements in the system identified as 02VA135, "Applicants for Employment under Title 38, USC-VA," appearing on page 766 of the *Federal Register* publication, "Privacy Act Issuances," 1987 Compilation, Volume V, are revised as follows:

02VA135

#### SYSTEM NAME:

Applicant for Employment under Title 38, USC VA.

#### SYSTEM LOCATION:

VA health care facilities to which the applicant applied (address locations are listed in VA Appendix at the end of this document), except that, for physician, dentist, pharmacist, licensed physical therapist, and occupational therapist applicants, records may also be retained by the VA Delegated Examining Unit, 1201 Broad Rock Road, Richmond, Virginia 23224-0269. For Canteen Management Training Program applicants, records will be retained only at the Veterans Canteen Service (133A1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Records resulting from drug testing may be retained by the VA (e.g., by the VA Medical Review Official) and/or by a contractor laboratory.

#### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for appointments under authority of 38 U.S.C. Chapter 73 are covered by this system. This includes candidates such as physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants, expanded-function dental auxiliaries, pharmacists, certified respiratory therapy technicians, registered respiratory therapists, licensed physical therapists, occupational therapists, and licensed practical or vocational nurses. Applicants for appointment under 38 U.S.C. Chapter 75 in the Veterans Canteen Service are also covered.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained in this system include: (1) Records of persons who have applied for Federal employment relating to their education and training; licensure, registration or certification by State licensing boards and/or national certifying bodies, including any finding of facts, evidence and any other related documents, relating to a disciplinary action; prior and/or current clinical privileges; employment history, appraisals of past performance; medical records; convictions of offenses against the law; appraisals of potential; honors, awards or fellowships; military service; veteran preference; birthplace; birth date; social security number; and home address. (2) Records resulting from the testing of the applicant for use of illegal drugs under Executive Order 12564. Such records may be retained by the VA (e.g., by the VA Medical Review Official) or by a contractor laboratory. This includes records of negative results, confirmed or unconfirmed positive test results, and lists of who have been tested, who failed to report for testing, and related documents.

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12564; Urgent Relief for the Homeless Supplemental Appropriations Act of 1987, Pub. L. No. 100-71, Section 503, 101 Stat. 468 (1987); and Title 38, United States Code, Chapter 3, Section 210(c)(1); Chapter 73, Section 4108 and Chapter 75, Section 4202.

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

Except for Routine Use 8, no other Routine Use for this system of records applies to records included in Item (2) in the Categories of Records in the System section of this notice. Drug test results may not be released under any other routine use.

\* \* \* \* \*

6. Disclosures may be made to National Archives and Records Administration (NARA) and General Services Administration (GSA) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

\* \* \* \* \*

8. To disclose the results of a drug test of a Title 38 applicant pursuant to an order of a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action.

9. To disclose relevant information to the Department of Justice and United

States Attorneys in defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

10. To disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

11. To disclose information to any source when necessary to obtain information relevant to a conflict-of-interest investigation or determination.

12. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

13. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena. Information is also made available pursuant to a court order directing production of personnel records.

14. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

15. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discrimination practices, examination of Federal affirmative employment programs, compliance with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

16. To disclose information to the Federal Labor Relations Authority (including its General Counsel) when requested in connection with investigation and resolution of allegations of unfair labor practices, in connection with the resolution of exceptions to arbitrator awards when a question of material fact is raised and

matters before the Federal Service Impasses Panel.

17. To disclose information to a State or local government entity which has the legal authority to make decisions concerning the issuance, retention or revocation of licenses, certifications or registrations required to practice a health care profession, when requested in writing by an investigator or supervisory official of the licensing entity for the purpose of making a decision concerning the issuance, retention or revocation of the license, certification or registration of a named health care professional.

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

\* \* \* \* \*

**RETRIEVABILITY:**

Records are indexed by name or by name within geographic location preference. Drug testing records are retrieved by name or social security number, or name or social security number by geographic location preference.

**SAFEGUARDS:**

Records are stored in locked file cabinets or locked rooms. Strict control measures are enforced to ensure that access to and disclosure from these records are limited to a "need-to-know basis." In VA Central Office and in the

Delegated Examining Unit these records are maintained in staffed rooms during working hours. During nonworking hours, there is limited access to the building with visitor control by security personnel. Drug testing records will be maintained in accordance with the Urgent Relief for the Homeless Supplemental Appropriations Act of 1987, Pub. L. No. 100-71, Section 503, 101 Stat. 468 (1987), as well as any Governmentwide guidance concerning the protection of these records. Employee drug testing records will be maintained and used with the highest regard for employee privacy. Contractor laboratories are subject to the same restrictions as VA employees.

**RETENTION AND DISPOSAL:**

Records are retained in accordance with records retention standards approved by the Archivist of the United States, the National Archives and Records Administration, and published in VA Records Control Schedules. Records arising in connection with employee drug testing under Executive Order 12564 are generally retained for up to 2 years. Records are destroyed by shredding or burning.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Office of Personnel and Labor Relations (05), VA Central Office, 810 Vermont Avenue, NW., Washington DC 20420.

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system of records contains records on them should contact the local facility to which they applied or the Physician and Dentist Placement Service. Individuals submitting requests should furnish identifying information as required by VA for their records to be located and identified: (1) Full name, (2) date of birth, (3) social security number, (4) name and location of VA facility or Physician and Dentist Placement Service where application was submitted, (5) date of application, and (6) signature.

**RECORD ACCESS PROCEDURES:**

(See Notification Procedures above.)

**CONTESTING RECORD PROCEDURES:**

(See Notification Procedures above.)

**RECORD SOURCE CATEGORIES:**

Records in this system are obtained from VA officials and from individuals and organizations regarding the individual's qualifications, credentials and suitability for employment, including prior employers, education providers, state licensing boards and/or national certifying bodies, law enforcement entities, and health care providers. Drug testing records may be obtained from the Medical Review Official.

[FR Doc. 89-29837 Filed 12-22-89; 8:45 am]

BILLING CODE 8320-01-M

# Sunshine Act Meetings

Federal Register

Vol. 54, No. 246

Tuesday, December 26, 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 DEPOSIT INSURANCE CORPORATION

### Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:02 p.m. on Tuesday, December 19, 1989, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters:

Administrative enforcement proceedings.

Recommendations regarding the liquidation of a depository institution's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,461—Various Banks, Knoxville Consolidated Office;

Case No. FL-89-0011—Various FSLIC Resolution Fund Receiverships.

Matters relating to the possible closing of certain insured banks.

Matters relating to the Corporation's corporate activities.

Application of Southeast Bank, National Association, Miami, Florida, a national bank whose deposits are insured by the Bank Insurance Fund, for consent to participate in the conversion of deposits from the Savings Association Insurance Fund to the Bank Insurance Fund.

Personnel matter.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did

not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Dated: December 20, 1989.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Deputy Executive Secretary.*

[FR Doc. 89-29996 Filed 12-21-89; 12:59 pm]

BILLING CODE 6714-01-M

## RESOLUTION TRUST CORPORATION

### Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:24 p.m. on Friday, December 15, 1989, the Board of Directors of the Resolution Trust Corporation met in closed session to consider certain matters relating to (1) the resolution of a thrift institution and (2) internal corporate matters.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred by Director M. Danny Wall, (Director of the Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2) (c)(8) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) (c)(8) and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Dated: December 20, 1989.

Resolution Trust Corporation.

**John M. Buckley, Jr.,**

*Executive Secretary.*

[FR Doc. 89-29941 Filed 12-20-89; 4:47 pm]

BILLING CODE 6714-01-M

## RESOLUTION TRUST CORPORATION

### Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:05 p.m. on Tuesday, December 19, 1989, the Board of Directors of the Resolution Trust Corporation met in closed session to consider certain matters relating to (1) the resolution of a thrift institution and (2) internal corporate matters.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred by Director M. Danny Wall, (Director of the Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(8) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Dated: December 20, 1989.

Resolution Trust Corporation.

**John M. Buckley, Jr.,**

*Executive Secretary.*

[FR Doc. 89-29942 Filed 12-20-89; 4:47 p.m.]

BILLING CODE 6714-01-M

## Corrections

Federal Register

Vol. 54, No. 246

Tuesday, December 26, 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.

### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

#### Establishment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Thailand

##### Correction

In notice document 89-28621 appearing on page 50797 in the issue of Monday, December 11, 1989, make the following corrections:

In the second column, in the table, the first entry of the table should read "313.....11,712,810 square meters" and the second entry should read "315.....15,375,452 square meters".

BILLING CODE 1505-01-D

### COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

#### Procurement List 1990; Additions

##### Correction

In notice document 89-28688 appearing on page 50633 in the issue of Friday, make the following correction:

In the third column, the first and second entries under "sweatpants" should read "8415-00-268-8178" and "8415-00-268-8179" respectively.

BILLING CODE 1505-01-D

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Social Security Administration

#### Revised Delegations of Authorities Concerning Social Security Coverage for Employees of State/Local Governments and Interstate Instrumentalities

##### Correction

In notice document 89-27682 beginning on page 48815 in the issue of Monday, November 27, 1989, make the following corrections:

1. On page 48816, in the first column, in the second complete paragraph, in the fourth line, "Redelegations" was misspelled.

2. In the same column, in the paragraph designated as "4" in the third line "interstate" was misspelled.

3. On the same page, in the second column, in the paragraph designated as "6" in the second line, insert the word "for" between "time" and "filings" and in the third line "period" should read "periods".

4. On the same page, in the same column, in paragraph (7)(c) "or" should read "of".

5. On the same page, in the same column, in the paragraph designated as "9" in the third line insert "of" after the word "notices". In the eighth line "earning" should read "earnings".

BILLING CODE 1505-01-D

### DEPARTMENT OF THE INTERIOR

#### Bureau of Land Management

[AZ-040-41-5410-10-ZACD; A 21817, A 21818, A 21820, A 21821, A 21822]

#### Receipt of Conveyance of Mineral Interest Applications in Coffee County, Arizona

##### Correction

In notice document 89-28016 beginning on page 49364 in the issue of Thursday, November 30, 1989, make the following corrections:

1. On page 49364, in the second column, under ACTION, in the third line, "A 28120" should read "A 21820".

2. On the same page, in the third column, in the third line from the

bottom, "Wayne W. Klump" should read "Wayne D. Klump".

BILLING CODE 1505-01-D

### NUCLEAR REGULATORY COMMISSION

#### 10 CFR Part 2

#### Informal Hearing Procedures for Materials Licensing Adjudications

##### Correction

In rule document 89-4601 beginning on page 8269 in the issue of Tuesday, February 28, 1989, make the following corrections:

##### § 2.1213 [Corrected]

1. On page 8278, in the third column, in § 2.1213, in the ninth line, "offer" should read "order".

##### § 2.1235 [Corrected]

2. On page 8279, in the third column, in § 2.1235(a), in the last line, insert "to" before "a witness".

3. On the same page, in the same column, in § 2.1235(b), in the second line, "relief" should read "relied".

##### § 2.1251 [Corrected]

4. On page 8280, in the first column, in § 2.1251(b), in the fifth line, "fiding" should read "finding".

BILLING CODE 1505-01-D

### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

#### Increase in Level of Permissible Imports of Certain Articles From the European Community

##### Correction

In notice document 89-29149 appearing on page 51277 in the issue of Wednesday, December 13, 1989, make the following correction:

In the second column, in the first entry in the table, in the second column the figure "26.159,450" should read "26,195,450".

BILLING CODE 1505-01-D

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 91**

[Docket No. 18334; Amdt. No. 91-211]  
RIN 2120-AA13

**Revision of General Operating and Flight Rules***Correction*

In the issue of Thursday, October 5, 1989, on page 41211 in the second column, a correction to FR Doc. 89-18775 appeared. In the third column amendatory instruction 5 was inaccurately printed and should be

corrected as follows: In the third line, "of 5%" should read "of  $\pm$  5%".

BILLING CODE 1505-01-D

**DEPARTMENT OF THE TREASURY****31 CFR Part 103****Amendments to the Bank Secrecy Act Regulations Regarding the International Transportation and Receipt of Monetary Instruments***Correction*

In rule document 89-15617 beginning on page 28416 in the issue of Thursday,

July 6, 1989, make the following correction:

**§ 103.11 [Corrected]**

On page 28418, in the second column, in § 103.11, insert "\*\*\* \*\* \*" in the space between the section heading and the first line of paragraph (a).

BILLING CODE 1505-01-D

# Reader Aids

Federal Register

Vol. 54, No. 246

Friday, December 26, 1989

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## CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (\*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is \$620.00 domestic, \$155.00 additional for foreign mailing.

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Title	Price	Revision Date	Title	Price	Revision Date
1, 2 (2 Reserved)	\$10.00	Apr. 1, 1989	140-199	10.00	Jan. 1, 1989
3 (1988 Compilation and Parts 100 and 101)	21.00	<sup>1</sup> Jan. 1, 1989	200-1199	21.00	Jan. 1, 1989
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<b>5 Parts:</b>			<b>15 Parts:</b>		
1-699	15.00	Jan. 1, 1989	0-299	12.00	Jan. 1, 1989
700-1199	17.00	Jan. 1, 1989	300-799	22.00	Jan. 1, 1989
1200-End, 6 (6 Reserved)	13.00	Jan. 1, 1989	800-End	14.00	Jan. 1, 1989
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0-26	15.00	Jan. 1, 1989	0-149	12.00	Jan. 1, 1989
27-45	12.00	Jan. 1, 1989	150-999	14.00	Jan. 1, 1989
46-51	17.00	Jan. 1, 1989	1000-End	19.00	Jan. 1, 1989
52	23.00	<sup>2</sup> Jan. 1, 1988	<b>17 Parts:</b>		
53-209	18.00	Jan. 1, 1989	1-199	15.00	Apr. 1, 1989
210-299	24.00	Jan. 1, 1989	200-239	16.00	Apr. 1, 1989
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1200-1499	20.00	Jan. 1, 1989	1-199	26.00	Apr. 1, 1989
1500-1899	10.00	Jan. 1, 1989	200-End	9.50	Apr. 1, 1989
1900-1939	11.00	Jan. 1, 1989	<b>20 Parts:</b>		
1940-1949	21.00	Jan. 1, 1989	1-399	13.00	Apr. 1, 1989
1950-1999	22.00	Jan. 1, 1989	400-499	24.00	Apr. 1, 1989
2000-End	9.00	Jan. 1, 1989	500-End	28.00	Apr. 1, 1989
8	13.00	Jan. 1, 1989	<b>21 Parts:</b>		
<b>9 Parts:</b>			1-99	13.00	Apr. 1, 1989
1-199	20.00	Jan. 1, 1989	100-169	15.00	Apr. 1, 1989
200-End	18.00	Jan. 1, 1989	170-199	17.00	Apr. 1, 1989
<b>10 Parts:</b>			200-299	6.00	Apr. 1, 1989
0-50	19.00	Jan. 1, 1989	300-499	28.00	Apr. 1, 1989
51-199	17.00	Jan. 1, 1989	500-599	21.00	Apr. 1, 1989
200-399	13.00	<sup>3</sup> Jan. 1, 1987	600-799	8.00	Apr. 1, 1989
400-499	14.00	Jan. 1, 1989	800-1299	17.00	Apr. 1, 1989
500-End	28.00	Jan. 1, 1989	1300-End	6.50	Apr. 1, 1989
11	10.00	<sup>2</sup> Jan. 1, 1988	<b>22 Parts:</b>		
<b>12 Parts:</b>			1-299	22.00	Apr. 1, 1989
1-199	12.00	Jan. 1, 1989	300-End	17.00	Apr. 1, 1989
200-219	11.00	Jan. 1, 1989	23	17.00	Apr. 1, 1989
220-299	19.00	Jan. 1, 1989	<b>24 Parts:</b>		
300-499	15.00	Jan. 1, 1989	0-199	19.00	Apr. 1, 1989
500-599	20.00	Jan. 1, 1989	200-499	28.00	Apr. 1, 1989
600-End	14.00	Jan. 1, 1989	500-699	11.00	Apr. 1, 1989
13	22.00	Jan. 1, 1989	700-1699	23.00	Apr. 1, 1989
<b>14 Parts:</b>			1700-End	13.00	Apr. 1, 1989
1-59	24.00	Jan. 1, 1989	25	25.00	Apr. 1, 1989
60-139	21.00	Jan. 1, 1989	<b>26 Parts:</b>		
			§§ 1.0-1-1.60	15.00	Apr. 1, 1989
			§§ 1.61-1.169	25.00	Apr. 1, 1989
			§§ 1.170-1.300	18.00	Apr. 1, 1989
			§§ 1.301-1.400	15.00	Apr. 1, 1989
			§§ 1.401-1.500	28.00	Apr. 1, 1989
			§§ 1.501-1.640	16.00	Apr. 1, 1989
			§§ 1.641-1.850	19.00	Apr. 1, 1989
			§§ *1.851-1.1000	31.00	Apr. 1, 1989
			§§ 1.1001-1.1400	17.00	Apr. 1, 1989
			§§ 1.1401-End	23.00	Apr. 1, 1989
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			30-39	14.00	Apr. 1, 1989
			40-49	13.00	Apr. 1, 1989
			50-299	16.00	Apr. 1, 1989
			300-499	16.00	Apr. 1, 1989
			500-599	7.00	Apr. 1, 1989
			600-End	6.50	Apr. 1, 1989
			<b>27 Parts:</b>		
			1-199	24.00	Apr. 1, 1989
			200-End	14.00	Apr. 1, 1989
			28	27.00	July 1, 1989

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500-899.....	26.00	July 1, 1989	201-End.....	13.00	July 1, 1989
900-1899.....	12.00	July 1, 1989	<b>42 Parts:</b>		
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1900 (§§ 1910.1000 to end).....	13.00	July 1, 1989	*61-399.....	6.50	Oct. 1, 1989
1911-1925.....	9.00	July 1, 1989	400-429.....	22.00	Oct. 1, 1988
1926.....	11.00	July 1, 1989	430-End.....	22.00	Oct. 1, 1988
1927-End.....	25.00	July 1, 1989	<b>43 Parts:</b>		
<b>30 Parts:</b>			1-999.....	15.00	Oct. 1, 1988
0-199.....	21.00	July 1, 1989	1000-3999.....	26.00	Oct. 1, 1988
200-699.....	14.00	July 1, 1989	4000-End.....	11.00	Oct. 1, 1988
*700-End.....	20.00	July 1, 1989	44.....	20.00	Oct. 1, 1988
<b>31 Parts:</b>			<b>45 Parts:</b>		
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200-End.....	18.00	July 1, 1989	200-499.....	9.00	Oct. 1, 1988
<b>32 Parts:</b>			500-1199.....	24.00	Oct. 1, 1988
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<b>33 Parts:</b>			200-499.....	20.00	Oct. 1, 1988
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200-End.....	20.00	July 1, 1989	<b>47 Parts:</b>		
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81-85.....	11.00	July 1, 1989	400-999.....	24.00	Oct. 1, 1988
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*100-149.....	27.00	July 1, 1989	1200-End.....	18.00	Oct. 1, 1988
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<sup>1</sup> Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

<sup>2</sup> No amendments to this volume were promulgated during the period Jan. 1, 1988 to Dec. 31, 1988. The CFR volume issued January 1, 1988, should be retained.

<sup>3</sup> No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1988. The CFR volume issued January 1, 1987, should be retained.

<sup>4</sup> The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

<sup>5</sup> The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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